

THE NATIONAL ARCHIVES
LITTERA SCRIPTA MANET
OF THE UNITED STATES

FEDERAL REGISTER

VOLUME 25 1934 NUMBER 82

Washington, Wednesday, April 27, 1960

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Codification Guide

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Announcement**CFR SUPPLEMENTS**

(As of January 1, 1960)

The following Supplement is now available:

Title 50..... \$0.70

Previously announced: Title 3 (\$0.60); Titles 4-5 (\$1.00); Title 7, Parts 1-50 (\$0.45); Parts 51-52 (\$0.45); Parts 53-209 (\$0.40); Title 8 (\$0.40); Title 9 (\$0.35); Titles 10-13 (\$0.50); Title 18 (\$0.55); Title 20 (\$1.25); Titles 22-23 (\$0.45); Title 25 (\$0.45); Title 26 (1939), Parts 1-79 (\$0.40); Parts 80-169 (\$0.35); Parts 170-182 (\$0.35); Parts 300 to End (\$0.40); Title 26, Part 1 (§§ 1.01-1.499) (\$1.75); Parts 1 (§ 1.500 to End)-19 (\$2.25); Parts 20-169 (\$1.75); Parts 170-221 (\$2.25); Part 300 to End (\$1.25); Titles 28-29 (\$1.75); Titles 30-31 (\$0.50); Title 32, Parts 700-799 (\$1.00); Parts 800-999, Revised (\$3.75); Part 1100 to End (\$0.60); Title 33 (\$1.75); Title 36, Revised (\$3.00); Title 38 (\$1.00); Title 43 (\$1.00); Title 46, Parts 1-145 (\$1.00); Parts 146-149, Revised (\$6.00); Part 150 to End (\$0.65); Title 47, Parts 1-29 (\$1.00); Part 30 to End (\$0.30); Title 49, Parts 1-70 (\$1.75); Parts 91-164 (\$0.45); Part 165 to End (\$1.00).

Order from the Superintendent of Documents, Government Printing Office, Washington 25, D.C.

FEDERAL REGISTER
Extension 3261

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Rules and Regulations

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

The Renegotiation Board

Effective upon publication in the FEDERAL REGISTER, paragraph (a) of § 6.359 is amended as set out below.

§ 6.359 The Renegotiation Board.

(a) One special Assistant to the Chairman and one Special Assistant to each of the other four Renegotiation Board Members.

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

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] MARY V. WENZEL,
Executive Assistant.

[F.R. Doc. 60-3806; Filed, Apr. 26, 1960; 8:51 a.m.]

Title 6—AGRICULTURAL CREDIT

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

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[1958 C.C.C. Grain Price Support Extended Reseal Loan Bulletin]

PART 421—GRAINS AND RELATED COMMODITIES

Subpart—1958-Crop Extended Reseal Loan Programs for Barley, Corn, Grain Sorghums, Oats and Wheat

An extended resealed loan program has been announced for the 1958 crops of barley, corn, grain sorghums, oats and wheat. The 1958 C.C.C. Grain Price Support Bulletin 1 and amendments thereto (23 F.R. 2663, 5257 and 8043) issued by Commodity Credit Corporation and containing the general requirements with respect to price support operations for grains and related commodities produced in 1958, supplemented for barley, corn, grain sorghums, oats and wheat containing the specific requirements for the 1958-crop price support programs for these commodities are hereby further supplemented as follows:

- Sec.
- 421.3551 Applicable sections of 1958 C.C.C. Grain Price Support Bulletin 1 and commodity supplements.
- 421.3552 Availability.
- 421.3553 Eligible producer.
- 421.3554 Eligible commodity.

- Sec.
- 421.3555 Approved storage.
- 421.3556 Quantity eligible for extended resealed loan.
- 421.3557 Service charges.
- 421.3558 Transfer of producer's equity.
- 421.3559 Storage and track-loading payments.
- 421.3560 Maturity and satisfaction.
- 421.3561 Support rates, premiums and discounts.

AUTHORITY: §§ 421.3551 to 421.3561 issued under sec. 4, 62 Stat. 1070, as amended; 15 U.S.C. 714b. Interpret or apply sec. 5, 62 Stat. 1072, secs. 101, 301, 401, 63 Stat. 1051, 1054, sec. 308, 70 Stat. 206; 15 U.S.C. 714c; 7 U.S.C. 1421, 1441, 1442, 1447.

§ 421.3551 Applicable sections of 1958 C.C.C. Grain Price Support Bulletin 1 and commodity supplements.

The following sections of the 1958 C.C.C. Grain Price Support Bulletin 1, as amended, published (in 23 F.R. 2663, 5257 and 8043) shall be applicable to the 1958 extended resealed loan programs for barley, corn, grain sorghums, oats and wheat: §§ 421.3001, 421.3008, 421.3010, 421.3011, 421.3013, 421.3014, 421.3015, 421.3016, 421.3017, 421.3019. Applicable sections of the individual commodity supplements are as follows: for barley, §§ 421.3080 and 421.3081 (23 F.R. 3492); for corn, §§ 421.3140 and 421.3141 (23 F.R. 5141); for grain sorghums §§ 421.3230 and 421.3231 (23 F.R. 4401); for oats, §§ 421.3280 and 421.3281 (23 F.R. 3425); and for wheat, §§ 421.3040 and 421.3041 (23 F.R. 3485 and 6551). Other sections of the 1958 C.C.C. Grain Price Support Bulletin 1 and supplements thereto for barley, corn, grain sorghums, oats and wheat shall be applicable to the extent indicated in this subpart.

§ 421.3552 Availability.

(a) *Area and scope.* The extended resealed loan program will be available in the following areas where ASC State committees determine that the commodity can be safely stored on farms for the period of the extended resealed loan and that it will be advantageous to producers and CCC to permit producers to obtain extended resealed loans, except that in the case of oats this program will be available only in States where the Executive Vice President, CCC, on the basis of recommendations from the ASC State committee approves such program:

Name of Commodity and Area

Barley, grain sorghums, oats and wheat: Arizona, California, Colorado, Idaho, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Ohio, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wisconsin, and Wyoming.

Corn: In all counties in the continental United States where 1958-crop corn is under resealed loan except in angoumois moth areas designated by the ASC State committee.

Neither warehouse-storage loans nor purchase agreements will be available to

producers under the extended resealed loan program.

(b) *Time and source.* The producer who has a resealed loan and who desires to extend such loan must make application to the office of the county committee which approved his resealed loan before the final date for delivery specified in the delivery instructions issued to him by the office of the county committee.

(c) *New forms.* Where required by State law a new producer's note and chattel mortgage shall be completed when a farm-storage loan is extended. Where new forms are not completed extension of the farm-storage loan shall not affect the rights of CCC including its right to accelerate the maturity date of the note and the rights and responsibilities of the producer as set forth in this subpart and in the original forms completed by the producer.

§ 421.3553 Eligible producer.

An eligible producer shall be an individual, partnership, association, corporation, estate, trust, or other business enterprise, or legal entity, and wherever applicable, a State, political subdivision of a State, or any agency thereof producing barley, corn, grain sorghums, oats or wheat in 1958 as landowner, landlord, tenant, or sharecropper, who has in effect a farm-storage resealed loan on such crop. Executors, administrators, trustees or receivers who represent an eligible producer or his estate may qualify to participate in this program provided the resealed documents executed by them are legally valid. Where the county committee has experienced difficulties in settling farm-storage loans with a producer the county committee shall determine that he is not eligible for an extension of his resealed loan under this program.

§ 421.3554 Eligible commodity.

(a) *Requirements of eligibility.* The commodity (1) must be in farm storage presently under resealed loan and (2) must meet the following quality eligibility requirements:

Name of Commodity and Eligibility Requirements

Barley: The barley (1) must meet the requirements set forth in § 421.3078 (a) and (b); (2) must be of any class grading No. 4 or better (or No. 4 Garlicky or better) except that Western Barley shall have a test weight of not less than 40 pounds per bushel; (3) must not grade Tough, Weevily, Stained if Western Barley, Blighted, Bleached, Ergoty or Smutty; and (4) must not contain mercurial compounds or other substances poisonous to man or animals.

Corn: The corn (1) must meet the requirements set forth in § 421.3138 (a), (b), (c), and (d); (2) must grade No. 3 or better or No. 4 on the factor of test weight only but otherwise No. 3 or better; (3) must contain not in excess of 16.0 percent moisture in the case of ear corn nor in excess of 14.0 percent moisture in the case of shelled corn; and (4) must not grade Weevily.

Grain Sorghums: The grain sorghums (1) must meet the requirements set forth in § 421.3228 (a) and (b); (2) must be of any class grading No. 4 or better, No. 4 Smutty or better, or No. 4 Discolored or better; (3) must not grade Weevily or contain mercurial compounds or other substances poisonous to man or animals; and (4) must not be in excess of 13 percent moisture.

Oats: The oats (1) must meet the requirements set forth in § 421.3278 (a) and (b); (2) must grade No. 3 or better or No. 3 Garlicky or better under the Official Grain Standards of the United States for oats effective prior to June 1, 1959; (3) must not be Feed Oats or Mixed Feed Oats; (4) must not grade Tough, Weevily, Smutty, Ergoty, Bleached or Thin; and (5) must not contain mercurial compounds or other substances poisonous to man or animals.

Wheat: The wheat (1) must meet the eligibility requirements set forth in § 421.3038 (a), (b), and (d); (2) must be of any class grading No. 3 or better or any class grading No. 4 or 5 on the factor of test weight and/or because of containing Durum and/or Red Durum, but otherwise grading No. 3 or better; (3) may be wheat of the class Mixed Wheat consisting of mixtures of grades of eligible wheat as stated above provided such mixtures are the natural products of the field; and (4) must not grade Tough, Weevily, Ergoty or Treated.

(b) **Inspection.** If a producer makes application to extend his resale loan, the commodity loan inspector shall inspect the commodity and the storage structure in which the commodity is stored, obtain a sample of the commodity if the commodity and structure appear eligible and submit it for grade analysis, except that in the case of ear corn a sample need be taken and submitted for grade analysis only if recommended by either the commodity loan inspector or the producer.

§ 421.3555 Approved storage.

The commodity must be stored in structures which meet the requirements for farm-storage loans as provided in § 421.3006(a). Consent for storage for any loans extended must be obtained by the producer for a period of 60 days following the applicable maturity date of the extended resale loan for the commodity, if the structure is owned or controlled by someone other than the producer or if the lease expires prior to 60 days following the maturity date of the extended resale loan.

§ 421.3556 Quantity eligible for extended resale loan.

The quantity of the commodity eligible for an extended resale farm-storage loan shall be the quantity shown on the original note and chattel mortgage less (a) any quantity delivered not including the quantity represented by overdelivery for which overrun payment is made and (b) the quantity redeemed.

§ 421.3557 Service charges.

When a resale loan is extended, the producer will not be required to pay an additional service charge.

§ 421.3558 Transfer of producer's equity.

The producer shall not transfer either his remaining interest in or his right to redeem the commodity mortgaged as se-

curity for an extended resale loan nor shall anyone acquire such interest or right. Subject to the provisions of § 421.3017 regarding partial redemption of loans, a producer who wishes to liquidate all or part of his loan by contracting for the sale of the commodity must obtain written prior approval of the county committee on Commodity Loan Form 12 to remove the commodity from storage when the proceeds of the sale are needed to repay all or any part of the loan. Any such approval shall be subject to the terms and conditions set out in Commodity Loan Form 12, copies of which may be obtained by producers or prospective purchasers at the office of the county committee.

§ 421.3559 Storage and track-loading payments.

(a) **Storage payment for 1959-60 storage period.** (1) A producer who extended his farm-storage loan will at the time of extension of the resale loan receive a payment for storage earned during the resale loan 1959-60 storage period. This payment will be disbursed by the ASC county office and will be computed as follows:

Name of commodity	Area	Amount
Barley and corn	All States.....	16 cents per bu.
Oats.....	do.....	12 cents per bu.
Grain sorghums	States comprising Area I under UGSA.	28 cents per cwt.
Do.....	States comprising Area II under UGSA.	29 cents per cwt.
Do.....	States comprising Area III under UGSA.	30 cents per cwt.
Do.....	States comprising Area IV under UGSA.	31 cents per cwt.
Wheat.....	States comprising Areas I and II under UGSA.	16 cents per bu.
Do.....	States comprising Areas III and IV under UGSA.	17 cents per bu.

(2) Upon delivery of 1958-crop barley, corn, grain sorghums, oats or wheat to CCC the actual quantity of such commodity held in farm storage under the extended resale loan program will be determined by weighing. A storage payment previously made to the producer at the time the resale loan was extended covering the 1959-60 storage period will then be recomputed on the basis of actual quantity determined to have been covered by the extended resale loan. Any amount due the producer for such storage on the quantity delivered in excess of the quantity stated in the extended resale loan documents will be regarded as an additional credit in effecting settlement with the producer. The amount of any overpayment which is determined to have been made to the producer at the time the resale loan was extended shall be collected from the producer.

(3) No storage payment will be made for the 1959-60 resale loan period (i) where the producer has made any false representation in the loan documents or in obtaining the loan, (ii) where during or prior to the 1959-60 resale loan period, the commodity has been abandoned or the commodity was damaged or other-

wise impaired due to negligence on the part of the producer, or (iii) where during or prior to the 1959-60 resale loan period the commodity was converted by the producer or at any time subsequent thereto there was conversion of the commodity by the producer with intent to defraud CCC.

(b) **Storage payment for 1960-61 storage period.** A storage payment for the 1960-61 extended resale storage period will be made as follows:

(1) **Storage payment for full extended resale period.** A storage payment will be made to the producer on the quantity involved if he (i) redeems the commodity from the loan on or after the maturity date of the extended resale loan, (ii) delivers the commodity to CCC on or after the maturity date of the extended resale loan, or (iii) delivers the commodity to CCC prior to the maturity date of the extended resale loan pursuant to demand by CCC for repayment of the loan solely for the convenience of CCC. Such storage payment will be in line with the rates paid under the Uniform Grain Storage Agreement (to be announced later).

(2) **Prorated storage payment.** A storage payment determined by prorating the yearly rate (to be announced later) according to the length of time the commodity was in store for the period beginning 60 days subsequent to the maturity date applicable to the resale loan (March 31, 1960, for wheat and grain sorghums; April 30, 1960, for barley and oats, except for barley in Arizona and California March 10, 1960; and July 31, 1960, for corn) will be made to the producer, (i) in the case of loss assumed by CCC under the provisions of the loan program, (ii) in the case of the commodity redeemed from extended resale loan prior to the maturity date for such loan and (iii) in the case of the commodity delivered to CCC prior to the maturity date of the extended resale loan pursuant to CCC's demand and not solely for the convenience of CCC or upon the request of the producer and with the approval of CCC. In the case of losses assumed by CCC the period for computing the storage payment will end on the date of the loss; and in the case of redemptions, on the date of repayment.

(3) **No storage payments.** Notwithstanding the foregoing provisions of this paragraph, in no case will any storage payment be made for the 1960-61 extended resale loan storage period where the producer has made any false representation in the loan documents or in obtaining the loan or where during or prior to such period, (i) the commodity has been abandoned, (ii) there has been conversion on the part of the producer, or (iii) the commodity was damaged or otherwise impaired due to negligence on the part of the producer.

(c) **Track-loading payment.** A track-loading payment of 3 cents per bushel will be made to the producer on barley, corn, oats and wheat, and 6 cents per 100 pounds for grain sorghums delivered to CCC in accordance with instructions of the county committee, on track at a country point.

§ 421.3560 Maturity and satisfaction.

Loans will mature on demand but not later than March 31, 1961, for wheat and grain sorghums; April 30, 1961, for barley and oats (March 10, 1961 for barley in Arizona and California); and July 31, 1961, for corn. The producer must pay off his loan, plus interest, on or before the maturity of the loan or deliver the mortgaged commodity in accordance with the instructions of the county office. If the producer desires to deliver the commodity he should, prior to maturity, give the county office notice in writing of his intention to do so. The producer may, however, pay off his extended resale loan and redeem his commodity at any time prior to the delivery of the commodity to CCC or removal of the commodity by CCC. Credit will be given at the applicable settlement value according to the grade and quality for the total quantity eligible for delivery. Delivery of the commodity will be accepted only from the structure(s) in which the commodity under extended resale loan is stored. The provisions of § 421.3018 (a) and (d) shall be applicable to all commodities. The provisions for barley in § 421.3086 (a) (1), (b) (2), (3) and (4) and (e) and (g); for corn in § 421.3146 (a) (1), (d) and (f); for wheat in § 421.3046 (a) (1), (b) (2), (3), (4), and (5), (e) and (g); for oats in § 421.3286 (a) (1), (d) and (f); and for grain sorghums in § 421.3236 (a) (1), (b), (2), (3) and (4), (e) and (g), shall apply.

§ 421.3561 Support rates, premiums and discounts.

(a) The support rate for an extended farm-storage loan shall remain the same as for the original loan.
 (b) For a commodity which at the time of settlement meets the eligibility requirements as provided in § 421.3554 the applicable discounts or premiums established for variation in quality as shown for barley in § 421.3083 (d) and (e); for corn in § 421.3143(b) and § 421.3147(b) (1) and (3); for oats in § 421.3283 (b) and (c) (1) and (3); for wheat in § 421.3043(d) (3) and (4); and for grain sorghums in § 421.3233 (d) and (e) shall apply.

Issued this 22d day of April 1960.

CLARENCE D. PALMBY,
Acting Executive Vice President,
Commodity Credit Corporation.

[F.R. Doc. 60-3812; Filed, Apr. 26, 1960; 8:53 a.m.]

[1960 C.C.C. Grain Price Support Bulletin 1, Supp. 1, Oats]

PART 421—GRAINS AND RELATED COMMODITIES

Subpart—1960-Crop Oats Loan and Purchase Agreement Program

A price support program has been announced for 1960-crop oats. The 1960 C.C.C. Grain Price Support Bulletin 1 (25 F.R. 2380) issued by the Commodity Credit Corporation and containing the regulations of a general nature with respect to price support operations for certain grains and other commodities

produced in 1960 is supplemented as follows:

- | | |
|----------|--|
| Sec. | |
| 421.5276 | Purpose. |
| 421.5277 | Availability of price support. |
| 421.5278 | Eligible oats. |
| 421.5279 | Warehouse receipts. |
| 421.5280 | Determination of quantity. |
| 421.5281 | Determination of quality. |
| 421.5282 | Maturity of loans. |
| 421.5283 | Determination of support rates. |
| 421.5284 | Warehouse charges. |
| 421.5285 | Inspection of oats under purchase agreement. |
| 421.5286 | Settlement. |

AUTHORITY: §§ 421.5276 to 421.5286 issued under sec. 4, 62 Stat. 1070, as amended; 15 U.S.C. 714b. Interpret or apply sec. 5, 62 Stat. 1072, sec. 105, 401, 63 Stat. 1051 as amended, Title II, 73 Stat. 178, 15 U.S.C. 714c; 7 U.S.C. 1421, 1441, 1442.

§ 421.5276 Purpose.

Sections 421.5276 to 421.5286 state additional specific requirements which, together with the general regulations contained in the 1960 C.C.C. Grain Price Support Bulletin 1 (§§ 421.5001 to 421.5022), apply to loans and purchase agreements under the 1960-Crop Oats Price Support Program.

§ 421.5277 Availability of price support.

(a) *Method of support.* Price support will be available through farm-storage and warehouse-storage loans and through purchase agreements.

(b) *Area.* Farm-storage and warehouse-storage loans and purchase agreements will be available wherever oats are grown in the United States, except that farm-storage loans will not be available in areas where the State committee determines that oats cannot be safely stored on the farm.

(c) *Where to apply.* Application for price support should be made at the office of the county committee which keeps the farm program records for the farm.

(d) *When to apply.* Loans and purchase agreements will be available from the time of harvest through January 31, 1961, and the applicable documents must be signed by the producer and delivered to the office of the county committee not later than such date. Applicable documents referred to herein include the producer's Note and Loan Agreement for warehouse-storage loans, the Producer's Note and Supplemental Loan Agreement and the Commodity Chattel Mortgage for farm-storage loans, and the Purchase Agreement for purchase agreements.

§ 421.5278 Eligible oats.

Oats, to be eligible for price support, must meet all of the applicable requirements set forth in this section:

(a) The oats must have been produced in the United States in 1960 by an eligible producer.

(b) (1) At the time the oats are placed under loan or delivered under a purchase agreement the beneficial interest in the oats must be in the eligible producer tendering the oats for loan or for delivery under a purchase agreement and must always have been in him, or must have been in him and a former producer whom he succeeded before the

oats were harvested. Any producer who is in doubt as to whether his interest in the commodity complies with the requirements of this subpart should make available to the county committee all pertinent information, prior to filing an application, which will permit a determination to be made by CCC as to his eligibility for price support.

(2) To meet the requirements of succession to a former producer, the rights, responsibilities and interests of the former producer with respect to the farming unit on which the oats were produced shall have been substantially assumed by the person claiming succession. Mere purchase of the crop prior to harvest, without acquisition of any additional interest in the farming unit, shall not constitute succession. The county committee shall determine whether the requirements with respect to succession have been met.

(c) Oats, at the time they are placed under loan, and oats under purchase agreements which are in approved warehouse storage prior to notification by a producer of his intention to sell to CCC, must meet the following requirements:

(1) The oats must grade No. 3 or better or No. 4 on the factor of test weight only but otherwise No. 3 or better. Oats meeting the above eligibility requirements which grade Garlicky will also be eligible.

(2) Oats grading Tough, Weevily, Smutty, Ergoty, Bleached, or Thin, or containing mercurial compounds or other substances poisonous to man or animals, or oats otherwise of low quality will not be eligible, except that oats represented by warehouse receipts grading "Tough" will be eligible if the warehouseman certifies on the supplemental certificate or on a statement attached to the warehouse receipt substantially as follows: "On oats grading Tough, delivery will be made of the same country run quality, quantity and grade, not Tough, and no lien for processing will be claimed by the warehouseman from Commodity Credit Corporation or any subsequent holder of the warehouse receipt."

(3) If offered as security for a farm-storage loan, the oats must have been stored in the granary at least 30 days prior to their inspection for measurement, sampling and sealing, unless otherwise approved by the State committee.

(d) Except as otherwise provided in § 421.5285 (a), oats under purchase agreement stored in other than approved warehouse storage shall not be eligible for sale to CCC if they do not meet the requirements of paragraph (c) (1) and (2) of this section on the basis of a pre-delivery inspection performed by a representative of the county committee, unless the producer complies with the conditions specified in § 421.5285 (a) and the oats on the basis of the inspection made at the time of delivery meet the requirements set forth in paragraph (c) (1) and (2) of this section.

§ 421.5279 Warehouse receipts.

Warehouse receipts representing oats in approved warehouse storage to be placed under a warehouse-storage loan or delivered in satisfaction of a farm-

storage loan or acquired under a purchase agreement, must meet the following requirements of this section:

(a) Warehouse receipts presented for warehouse-storage loans must be issued in the name of the producer and for deliveries under farm-storage loans or purchase agreements, in the name of the producer or CCC, and must be properly endorsed in blank when issued in the name of the producer so as to vest title in the holder. The receipts must be issued by a warehouse for which a Uniform Grain Storage Agreement is in effect and which is approved by CCC for price support purposes, or must be receipts issued on warehouses operated by Eastern common carriers under tariffs approved by the Interstate Commerce Commission for which custodian agreements are in effect.

(b) Each warehouse receipt, or the warehouseman's supplemental certificate (in duplicate), properly identified with the warehouse receipts must show: (1) Gross weight and net bushels, (2) class, (3) grade, (4) test weight, and (5) any other grading factor(s) when such factor(s) and not test weight determine the grade.

(c) A separate warehouse receipt must be submitted for each grade of oats.

(d) The warehouse receipt may be subject to liens for warehouse charges only to the extent indicated in § 421.5284.

(e) If the warehouseman has furnished a statement as provided in § 421.5278(c) (2), the supplemental certificate must show the numerical grade and the grading factors of the oats to be delivered. Where the grade and grading factors shown on the supplemental certificate do not agree with the warehouse receipt, the factors shown on the supplemental certificate shall take precedence.

(f) If the receipt is issued for grain of which the warehouseman is the producer and the owner either solely, jointly, or in common with others, the fact of such ownership shall be stated on the receipt. Such receipts shall also be registered or recorded with appropriate State or local officials when required by State law. In States where the pledge of warehouse receipts by a warehouseman on his own oats is not valid under State law and the warehouseman elects to deliver oats to CCC under a purchase agreement for which he is eligible under this program, the warehouse receipt shall be issued in the name of CCC.

(g) Each warehouse receipt or accompanying supplemental certificate representing grain stored in an approved warehouse operating under the Uniform Grain Storage Agreement shall indicate that the oats are insured, in accordance with such Agreement. Each warehouse receipt or accompanying supplemental certificate issued on warehouses operated by Eastern common carriers and representing oats to be placed under loan shall indicate that the oats are insured at the full market value against loss or damage by fire, lightning, inherent explosion, windstorm, cyclone and tornado. The cost of such insurance shall not be for the account of CCC.

§ 421.5280 Determination of quantity.

(a) The quantity of oats placed under farm-storage loan may be determined either by weight or by measurement. The quantity of oats delivered under a farm-storage loan or under a purchase agreement shall be determined by weight. The quantity of oats on which a warehouse-storage loan shall be made and the quantity delivered to or acquired by CCC in an approved warehouse under a farm-storage loan or purchase agreement shall be the net weight of the oats represented by the warehouse receipt or on the supplemental certificate if applicable.

(b) When the quantity is determined by weight, a bushel shall be 32 pounds of oats. In determining the quantity of sacked oats by weight, a deduction of three-fourths of a pound for each sack shall be made.

(c) (1) To determine the quantity in bushels of oats in a bin by measurement, divide the cubic feet of oats by 1.25. The quantity so determined shall be adjusted for test weight by applying the applicable percentage as shown in the following table.

For oats testing:	Percent
40 pounds or over.....	125
39 pounds or over, but less than 40 pounds	121
38 pounds or over, but less than 39 pounds	118
37 pounds or over, but less than 38 pounds	115
36 pounds or over, but less than 37 pounds	112
35 pounds or over, but less than 36 pounds	109
34 pounds or over, but less than 35 pounds	106
33 pounds or over, but less than 34 pounds	103
32 pounds or over, but less than 33 pounds	100
31 pounds or over, but less than 32 pounds	96
30 pounds or over, but less than 31 pounds	93
29 pounds or over, but less than 30 pounds	90
28 pounds or over, but less than 29 pounds	87
27 pounds or over, but less than 28 pounds	84

(2) If the State committee determines that a pack factor should be used to arrive at the quantity of oats eligible for loan, the following shall be applicable:

(i) Multiply the quantity of oats as provided above by a pack factor of 1.15 if the quantity adjusted for test weight is 4,000 bushels or less, and by a pack factor of 1.25 if the quantity adjusted for test weight exceeds 4,000 bushels.

(ii) Multiply the quantity of oats by the pack factor of 1.15 regardless of the number of bushels in the bin if the minimum height of the oats in the bin is five feet or less.

(d) Since the percentage of dockage is not a grade factor in the case of oats, the quantity of oats will be determined without reference to dockage.

§ 421.5281 Determination of quality.

The grade, grading factors, and all other quality factors shall be determined in accordance with the methods set forth in the Official Grain Standards of

the United States for Oats, whether or not such determinations are made on the basis of an official inspection.

§ 421.5282 Maturity of loans.

Nonrecourse loans mature on demand but not later than February 28, 1961, on oats stored in the States of Alabama, Arkansas, Delaware, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, New Jersey, North Carolina, Pennsylvania, South Carolina, Tennessee, Virginia, and West Virginia, and not later than April 30, 1961, on oats stored in all other States. Recourse loans mature on January 31, 1962.

§ 421.5283 Determination of support rates.

(a) Basic county support rates, and the schedule of premiums and discounts, for oats will be set forth in 1960 C.C.C. Grain Price Support Bulletin 1, Supplement 2, Oats. Both warehouse-storage and farm-storage loans and purchases under purchase agreements will be made on the basis of the rate established for the county in which the oats are produced.

(b) Where the State committee determines that State, district or county weed control laws, as administered, affect the oats crop the support rate in the case of farm storage shall be 10 cents below the applicable county support rate unless the producer obtains a certificate from the appropriate weed control official indicating that the oats comply with the weed control laws. In the case of warehouse storage, whenever the State committee of the State in which the oats are stored determines that State, district or county weed control laws, as administered, affect oats stored in approved warehouses, the rate shall be 10 cents below the applicable support rate unless the producer obtains a certificate from either the appropriate State, county or district weed control official or the storing warehouseman that the oats comply with the weed control laws, and in the case of the warehouseman, that he will save CCC harmless from loss or penalty because of the weed control laws. The certificate of the warehouseman may be in substantially the following form:

CODIFICATION

This is to certify that the grain evidenced by warehouse receipt No. ----- issued to ----- is not subject to seizure or other action under weed control laws or regulations in effect at point of storage. It is further certified and agreed that should such grain be taken over by CCC in settlement of a loan or be purchased under the purchase agreement program that the undersigned will save CCC from loss or penalty under weed control laws or regulations in effect at the point the grain was stored under the above warehouse receipt.

(Signature)

(Address)

(Date)

§ 421.5284 Warehouse charges.

(a) (1) Warehouse receipts and oats represented thereby stored in approved warehouses operating under the Uni-

form Grain Storage Agreement may be subject to liens for warehouse handling and storage charges at not to exceed the Uniform Grain Storage Agreement rates from the date the grain is deposited in the warehouse for storage: *Provided*, That the warehouseman shall not be entitled to satisfy the lien by sale of the commodity when CCC is holder of the warehouse receipt. Where the date of deposit (the date of the warehouse receipt if the date of deposit is not shown) on warehouse receipts representing oats stored in warehouses operating under the Uniform Grain Storage Agreement is on or before the applicable maturity date to be determined in accordance with § 421.5282, there shall be deducted in computing the amount of the loan or purchase price the storage charges per bushel, to be announced later by an amendment to this paragraph, unless written evidence has been submitted with the warehouse receipt that all warehouse charges, except receiving and loading out charges, have been prepaid through the applicable date to be determined in accordance with § 421.5282. In the case of recourse loans, there shall also be deducted the receiving and loading out charges per bushel, to be announced later by an amendment to this paragraph, unless written evidence has been submitted with the warehouse receipt that such charges have been prepaid.

(2) Notwithstanding the foregoing provisions of this paragraph, if the date the storage charges start against the holders of the warehouse receipt is shown on the warehouse receipt or supplemental certificate and such date is prior to the maturity date of loans for the commodity but subsequent to the date of deposit of the commodity in the warehouse, the deduction for storage in computing the amount of loan or purchase price shall be for the period from the date storage charges start against holders of the warehouse receipt through the applicable maturity date to be determined in accordance with § 421.5282.

(b) Warehouse receipts and the oats represented thereby stored in approved warehouses operated by Eastern common carriers may be subject to liens for warehouse elevation (receiving and delivering) and storage charges from the date of deposit at rates approved by the Interstate Commerce Commission: *Provided*, That, the warehouseman shall not be entitled to satisfy the lien by sale of the commodity if CCC is holder of the warehouse receipt. There shall be deducted in computing the loan or purchase price, the amount of the approved tariff rate for storage (not including elevation), which will accumulate from the date of deposit through the applicable maturity date to be determined in accordance with § 421.5282, and in the case of recourse loans the approved tariff rate for elevation charges, unless written evidence is submitted with the warehouse receipt that such charges have been prepaid. The county committee shall request the CSS commodity office to determine the amount of such charges. Where the producer presents evidence showing that elevation charges have been prepaid, the amount of the storage

charges to be deducted in the case of nonrecourse price support shall be reduced by the amount of the elevation charges prepaid by the producer.

§ 421.5285 Inspection of oats under purchase agreement.

(a) *Predelivery inspection.* Where the producer has given written notice within the 30-day period prior to the nonrecourse loan maturity date of his intent to sell his oats stored in other than an approved warehouse under purchase agreement to CCC, the county office shall make an inspection of the oats and obtain a sample of the oats and submit it for grade analysis prior to delivery of the oats. If the oats on the basis of the predelivery inspection are of a quality which meets the requirements for a farm-storage loan, the county office shall issue delivery instructions on or after the date of inspection. The producer must then complete delivery within a 15-day period immediately following the date the county office issued delivery instructions unless the county office determines that more time is needed for delivery. The producer whose oats are stored in other than an approved warehouse and whose oats are not of a quality eligible for a loan at the time of the predelivery inspection, shall be notified in writing by the county office that his oats are not eligible for purchase by CCC. If, nevertheless, the producer informs the county office that he will condition the oats or otherwise take action to make the oats eligible and insists upon delivery of the oats, the county office shall issue delivery instructions. In such cases the producer shall be further informed that if such oats, upon delivery and before purchase, do not meet the eligibility requirements of § 421.5278(c) (1) and (2) as determined on the basis of a sample taken at the time of delivery, the oats will not be accepted for purchase by CCC. A predelivery inspection shall not be made on oats stored commingled in warehouses not approved for storage or on oats in an approved warehouse which are stored so that the identity of the producer's oats are maintained but a predelivery inspection is not possible. When a predelivery inspection is not made, such oats at the time of delivery must meet the eligibility requirements of § 421.5278(c) (1) and (2).

(b) *Inspection of oats stored by producer, after maturity date.* The producer may be required without any cost to CCC to retain the oats stored in other than approved warehouse storage under purchase agreement for a period of 60 days after the nonrecourse loan maturity date for the State where the oats are stored. CCC will not assume any loss in quantity or quality of the oats covered by a purchase agreement occurring prior to delivery to CCC, except for quality deterioration under the following circumstances: If a producer has properly requested delivery instructions for oats which were determined to be of an eligible grade and quality at the time of the predelivery inspection, and CCC cannot accept delivery within the 60-day period following the loan maturity date, the producer may notify the county office at

any time after such 60-day period that the oats are going out of condition or are in danger of going out of condition. Such notice must be confirmed in writing. If the county office determines that the oats are going out of condition or are in danger of going out of condition and that the oats cannot be satisfactorily conditioned by the producer, and delivery cannot be accepted within a reasonable length of time, the county office shall obtain an inspection and grade and quality determination. When delivery is completed, settlement shall be made on the basis of such grade and quality determination or on the basis of the grade and quality determination made at the time of delivery, whichever is higher, and on the basis of the quantity actually delivered.

§ 421.5286 Settlement.

(a) *Settlement value.* (1) Nonrecourse farm-storage loans. In the case of eligible oats delivered to CCC from farm storage under the nonrecourse loan program, settlement shall be made at the applicable support rate for the county in which the oats were produced. The support rate shall be for the grade and quality of the total quantity of oats eligible for delivery. If, upon delivery, the oats under nonrecourse farm storage loan are of a grade or quality for which no support rate has been established, the settlement value shall be computed at the basic support rate, adjusted for premiums or discounts, if any, applicable to the grade and quality of the oats placed under loan, less the difference, if any, at the time of delivery, between the market price for the grade and quality placed under loan and the market price of the oats delivered, as determined by CCC: *Provided, however*, That if such oats are sold by CCC in order to determine their market price, the settlement value shall not be less than such sales price: *Provided further*, That if upon delivery, the oats contain mercurial compounds or other substances poisonous to man or animals, the oats shall be sold for seed (in accordance with applicable State seed laws and regulations), fuel or industrial uses where the end product will not be consumed by man or animals, and the settlement value shall be the same as the sales price, except that if CCC is unable to sell such oats for the use specified above, the settlement value shall be the market value, as determined by CCC, as of the date of delivery.

(2) Nonrecourse warehouse-storage loans. Settlement for eligible oats under nonrecourse warehouse-storage loans not redeemed on maturity and represented by warehouse receipts issued by an approved warehouse shall be made on the basis of the weight, grade, and other quality factors shown on the warehouse receipts or accompanying documents at the applicable support rate for the county in which the oats were produced.

(3) Purchase agreements. Subject to the provisions of § 421.5019 the following shall apply:

(i) *Delivery from farm storage.* Settlement for oats delivered to CCC from farm storage meeting the eligibility requirements of § 421.5278(c) (1) and (2)

as determined by a reinspection at the time of delivery, shall be made at the applicable support rate for the location where produced and for the grade and quality of the quantity eligible for delivery on the basis of such inspection. If oats which were determined to be eligible at the time of the predelivery inspection are, upon delivery, of a grade or quality for which no support rate has been established, the settlement value shall be computed at the support rate established for the grade and quality of the eligible oats as determined at the time of the predelivery inspection, less the difference, if any, at the time of delivery between the market price for the grade and quality of the oats determined by the predelivery inspection and the market price of the oats delivered, as determined by CCC: *Provided, however*, That if such oats are sold by CCC in order to determine the market price, the settlement value shall not be less than such sales price: *And provided, further*, That if, upon delivery, the oats contain mercurial compounds or other substances poisonous to man or animals, such oats shall be sold for seed (in accordance with applicable State seed laws and regulations), fuel or industrial uses where the end product will not be consumed by man or animals, and the settlement value shall be the same as the sales price, except that if CCC is unable to sell such oats for the use specified above, the settlement value shall be the market value, as determined by CCC as of the date of delivery.

(ii) *Delivery from approved warehouse storage.* In the case of eligible oats stored commingled in an approved warehouse, the producer must, not later than the day following the loan maturity date, or during such period of time thereafter as may be specified by the county committee, submit to the office of the county committee warehouse receipts under which the warehouseman guarantees quality and quantity for the quantity of oats he elects to sell to CCC. Settlement for eligible oats delivered under purchase agreement to CCC by submission of warehouse receipts issued by an approved warehouse shall be on the basis of the weight, grade and other quality factors shown on the warehouse receipt or accompanying documents at the applicable support rate for the county in which the oats were produced.

(iii) *Delivery from unapproved warehouse storage.* The county office will issue instructions on or after the loan maturity date for delivery of oats in an unapproved warehouse which are stored commingled, or which are stored so that the identity of the producer's oats is maintained but a predelivery inspection is not possible, where the producer has properly given the county office written notice of his intent to sell such oats to CCC. Settlement for such oats delivered to CCC which meet the eligibility requirements of § 421.5278(c) (1) and (2), shall be made at the applicable support rate for the grade and quantity eligible for delivery for the county in which the oats were produced. If a predelivery inspection of the producer's oats can be made, the settlement will be the same as for oats delivered under a purchase

agreement from farm storage as provided in subdivision (i) of this subparagraph.

(iv) *Oats ineligible for delivery inadvertently accepted by CCC.* The settlement provisions hereof shall apply to the following categories of oats ineligible for delivery which are inadvertently accepted by CCC and which CCC determines that it is not in a position to reject: (a) oats which were of an ineligible grade or quality both at the time of the predelivery inspection and at the time of delivery as redetermined by a reinspection; (b) oats of an ineligible grade or quality which are delivered to CCC in excess of the maximum quantity stated in the purchase agreement; and (c) oats in other than approved warehouse storage on which a predelivery inspection was not performed and which, at the time of delivery, do not meet the eligibility requirements of § 421.5278(c) (1) and (2). The settlement value shall be the market price for the grade, quality and quantity of such ineligible oats delivered as determined by CCC: *Provided, however*, That if such oats are sold by CCC in order to determine their market price, the settlement value shall not be less than the sales price: *And provided further*, That if upon delivery, the oats contain mercurial compounds or other substances poisonous to man or animals, the oats shall be sold for seed (in accordance with applicable State seed laws and regulations), fuel or industrial uses where the end product will not be consumed by man or animals and the settlement value shall be the same as the sales price, except that if CCC is unable to sell such oats for the use specified above, the settlement value shall be the market value, as determined by CCC as of the date of delivery. If oats delivered are of an eligible grade and quality but in excess of the maximum quantity stated in the purchase agreement and such oats are inadvertently accepted by CCC, the settlement value shall be the sales price if the oats are immediately sold. If the oats are not immediately sold, the settlement value shall be the applicable support rate or the market price as determined by CCC, whichever is lower.

(4) Notwithstanding the foregoing, if a warehouseman has made a certification on the warehouse receipt or supplemental certificate as specified in § 421.5278 (c) (2), settlement for oats delivered to or acquired by CCC in an approved warehouse under a nonrecourse farm-storage loan or purchase agreement shall be based on the quality specified in such certification.

(5) Recourse farm-storage and warehouse-storage loans. Settlement of recourse farm-storage and warehouse-storage loans shall be effected in accordance with the applicable provisions of § 421.5019 of 1960 C.C.C. Grain Price Support Bulletin 1.

(b) *Storage deduction for early delivery.* No deduction for storage shall be made for farm-stored oats under nonrecourse loan or purchase agreement authorized to be delivered to CCC prior to the loan maturity date except where it is necessary to call the loan through

fault or negligence on the part of the producer or where the producer requests early delivery and the county committee approves early delivery and determines such early delivery is solely for the convenience of the producer. The deduction for storage shall be made in accordance with the schedule of deductions for warehouse charges in § 421.5284.

(c) *Refund of prepaid handling charges.* In case a warehouseman charges the producer for the receiving or the receiving and loading out charges on eligible oats under nonrecourse loan or purchase agreement stored in an approved warehouse, the producer shall, upon delivery of the oats to CCC, be reimbursed or given credit by the county office for such prepaid charges in an amount not to exceed the charges specified in the storage agreement, provided the producer furnishes to the county office written evidence signed by the warehouseman that such charges have been paid. In case an approved warehouse operated by an Eastern common carrier charges the producer for the elevation charges on eligible oats under nonrecourse loan or purchase agreement, the producer shall, upon delivery of the oats to CCC, be reimbursed or given credit by the county office for such prepaid charges in an amount not to exceed the charges specified in the applicable approved tariff; provided the producer furnishes to the county committee written evidence signed by the warehouseman that such charges have been paid and CCC has not previously given the producer credit for such charges as provided in § 421.5284(b) hereof.

(d) *Storage payment where CCC is unable to take delivery of oats stored in other than an approved warehouse under nonrecourse loan or purchase agreement.* The producer may be required to retain oats stored in other than an approved warehouse under nonrecourse loan or purchase agreement for a period of 60 days after the nonrecourse maturity date without any cost to CCC. However, if CCC is unable to take delivery of such oats within the 60-day period after maturity, the producer shall be paid a storage payment upon delivery of the oats to CCC: *Provided, however*, That a storage payment shall be paid a producer whose oats are stored in other than an approved warehouse under purchase agreement only if he has properly given notice of his intention to sell the oats to CCC and delivery cannot be accepted within the 60-day period after maturity. The period for earning such storage payment shall begin the day following the expiration of the 60-day period after the maturity date and extend through the final date of delivery, or the final date for delivery as specified in the delivery instructions issued to the producer by the county office, whichever is earlier. The storage payment shall be computed at the storage rates for oats provided for in the Uniform Grain Storage Agreement in effect at the time of such storage.

(e) *Track-loading payment.* A track-loading payment of 3 cents per bushel shall be made to the producer on nonrecourse price support oats delivered to CCC on track at a country point.

(f) *Compensation for hauling.* If the producer is directed by the county office to deliver his nonrecourse price support oats to a point other than his customary shipping point, the producer shall be allowed compensation (as determined by CCC at not to exceed the common carrier truck rate or the rate available from local truckers) for the additional cost of hauling the oats any distance greater than the distance from the point where the oats are stored by the producer to the customary shipping point.

(g) *Method of payment under purchase agreement settlements.* When delivery of oats under purchase agreement is completed, payment will be made by sight draft drawn on CCC by the county office. The producer shall direct, on Commodity Purchase Form 4, to whom payment of the proceeds shall be made.

Issued this 22d day of April 1960.

CLARENCE D. PALMBY,
Acting Executive Vice President,
Commodity Credit Corporation.

[F.R. Doc. 60-3811; Filed, Apr. 26, 1960;
8:53 a.m.]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS AND POULTRY

PART 78—BRUCELLOSIS IN DOMESTIC ANIMALS

Subpart D—Designation of Modified Certified Brucellosis-Free Areas, Public Stockyards, and Slaughtering Establishments

BRUCELLOSIS-FREE AREAS

Pursuant to § 78.16 of the regulations in Part 78, as amended, Title 9, Code of Federal Regulations, containing restrictions on the interstate movement of animals because of brucellosis, under sections 4, 5, and 13 of the Act of May 29, 1884, as amended, sections 1 and 2 of the Act of February 2, 1903, as amended, and section 3 of the Act of March 3, 1905, as amended (21 U.S.C. 111-113, 114a-1, 120, 121, 125), § 78.13 of said regulations designating modified certified brucellosis-free areas is hereby amended to read as follows:

§ 78.13 Modified certified brucellosis-free areas.

The following States, or specified portions thereof, are hereby designated as modified certified brucellosis-free areas:

Alabama: Calhoun, Cherokee, Cleburne, Covington, De Kalb, Etowah, Geneva, Houston, Jackson, Marshall, and Randolph Counties;

Arizona: The entire State.

Arkansas: Baxter, Benton, Boone, Calhoun, Carroll, Clark, Cleburne, Cleveland, Columbia, Conway, Dallas, Faulkner, Franklin, Fulton, Garland, Grant, Hempstead, Hot Spring, Independence, Izard, Johnson, Lafayette, Logan, Madison, Marion, Montgomery, Nevada, Newton, Ouachita, Perry, Pike, Polk,

Pope, Randolph, Saline, Sebastian, Scott, Searcy, Sevier, Sharp, Stone, Union, Van Buren, Washington, White, and Yell Counties;

California: Amador, Alpine, Butte, Calaveras, Colusa, Del Norte, El Dorado, Glenn, Humboldt, Inyo, Lake, Lassen, Marin, Mendocino, Modoc, Mono, Monterey, Nevada, Placer, Sacramento, San Benito, San Francisco, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sutter, Tehama, Trinity, Yuba, and Yolo Counties;

Colorado: Alamosa, Archuleta, Baca, Chaffee, Conejos, Costilla, Custer, Delta, Denver, Dolores, Eagle, Garfield, Gunnison, Hinsdale, La Plata, Lincoln, Logan, Mena, Moffat, Montezuma, Montrose, Ouray, Phillips, Pitkin, Pueblo, Rio Grande, Saguache, San Juan, San Miguel, Sedgwick and Washington Counties; Southern Ute Indian Reservation and Ute Mountain Ute Reservation;

Connecticut: The entire State;

Delaware: The entire State;

Florida: Baker, Bay, Calhoun, Columbia, Dixie, Escambia, Flagler, Franklin, Gadsden, Gilchrist, Gulf, Hamilton, Holmes, Jackson, Jefferson, Lafayette, Leon, Levy, Liberty, Madison, Nassau, Okaloosa, Santa Rosa, Suwannee, Taylor, Union, Wakulla, Walton, and Washington Counties;

Georgia: The entire State;

Idaho: Ada, Adams, Benewah, Bannock, Blingham, Blaine, Boise, Bonner, Boundary, Butte, Camas, Canyon, Caribou, Cassia, Clark, Clearwater, Custer, Elmore, Franklin, Fremont, Gem, Gooding, Idaho, Jefferson, Jerome, Kootenai, Latah, Lemhi, Lewis, Lincoln, Minidoka, Nez Perce, Oneida, Owyhee, Payette, Power, Shoshone, Teton, Twin Falls, Valley, and Washington Counties; and Fort Hill Indian Reservation;

Illinois: Boone, Bond, Bureau, Carroll, Champaign, Clark, Clay, Clinton, Coles, Cook, Cumberland, De Kalb, DuPage, Edgar, Effingham, Fayette, Ford, Franklin, Greene, Grundy, Iroquois, Jackson, Jefferson, Jo Daviess, Johnson, Kane, Kankakee, Kendall, Lake, La Salle, Lawrence, Lee, Livingston, McHenry, McLean, Macon, Monroe, Moultrie, Ogle, Perry, Pulaski, Stephenson, Union, Vermillion, Wabash, Washington, Will, Williamson, Woodford, and Winnebago Counties;

Indiana: Adams, Allen, Benton, Blackford, Boone, Brown, Carroll, Cass, Clark, Clay, Clinton, Crawford, Daviess, Dearborn, Decatur, De Kalb, Delaware, Dubois, Elkhart, Floyd, Franklin, Fulton, Grant, Greene, Hancock, Harrison, Hendricks, Henry, Howard, Huntington, Jackson, Jennings, Jasper, Jay, Jefferson, Johnson, Kosciusko, Lagrange, Lake, La Porte, Madison, Marion, Marshall, Martin, Miami, Morgan, Newton, Noble, Ohio, Orange, Parks, Perry, Pike, Porter, Posey, Pulaski, Randolph, Ripley, Rush, Shelby, St. Joseph, Spencer, Starke, Steuben, Sullivan, Switzerland, Tippecanoe, Tipton, Union, Vanderburgh, Vermillion, Vigo, Wabash, Warlick, Washington, Wayne, Wells, and Whitley Counties;

Iowa: Delaware and Fayette Counties;

Kansas: Decatur, Nemaha, Smith, and Wyandotte Counties;

Kentucky: Anderson, Barron, Boyd, Bracken, Breckinridge, Butler, Calloway, Campbell, Carter, Elliott, Floyd, Fulton, Graves, Greenup, Hickman, Hopkins, Jackson, Johnson, Larue, Lawrence, Lincoln, McLean, Mercer, Metcalf, Morgan, Oldham, Robertson, Rockcastle, Rowan, Simpson, Todd, Trigg, Trimble, Warren and Wolfe Counties;

Louisiana: Assumption, Claiborne, and St. Landry Parishes;

Maine: The entire State;

Maryland: The entire State.

Massachusetts: The entire State;

Michigan: The entire State;

Minnesota: The entire State;

Mississippi: Alcorn, Attala, Benton, Choctaw, Clay, Forrest, Franklin, George, Greene, Hancock, Harrison, Itawamba, Jackson, Jas-

per, Jefferson Davis, Jones, Lamar, Lawrence, Lee, Monroe, Newton, Neshoba, Oktibbeha, Perry, Pike, Pontotoc, Prentiss, Smith, Tippah, Tishomingo, Union, Walthall, Webster, Winston, and Yalobusha Counties;

Missouri: Andrew, Bates, Berry, Bollinger, Boone, Buchanan, Butler, Cape Girardeau, Carroll, Cass, Chariton, Christian, Clinton, Dade, Dallas, Daviess, Dent, Douglas, Franklin, Gasconade, Greene, Henry, Hickory, Iron, Jackson, Jasper, Jefferson, Lafayette, Lawrence, Lincoln, Marie, McDonald, Mercer, Monroe, Montgomery, Morgan, Newton, Oregon, Osage, Perry, Pettis, Phelps, Platte, Polk, Putnam, Ralls, Randolph, Ray, Reynolds, Ripley, St. Charles, St. Francois, St. Genevieve, St. Louis, Shelby, Stoddard, Texas, Warren, Webster, Worth, and Wright Counties;

Montana: Beaverhead, Blaine, Broadwater, Carbon, Carter, Cascade, Chouteau, Daniels, Dawson, Deer Lodge, Fallon, Fergus, Flathead, Gallatin, Garfield, Glacier, Golden Valley, Granite, Hill, Jefferson, Judith Basin, Lake, Lewis and Clark, Liberty, Lincoln, McCone, Madison, Meagher, Mineral, Missoula, Musselshell, Park, Petroleum, Phillips, Pondera, Powell, Prairie, Ravalli, Richland, Roosevelt, Sanders, Silver Bow, Sheridan, Stillwater, Sweet Grass, Teton, Toole, Treasure, Valley, Wheatland, Wibaux, and Yellowstone Counties;

Nebraska: Adams, Burt, Butler, Cass, Cedar, Clay, Dakota, Deuel, Dixon, Dodge, Douglas, Fillmore, Franklin, Furnas, Gage, Hall, Hamilton, Howard, Jefferson, Johnson, Kimball, Lancaster, Madison, Merrick, Nance, Nemaha, Nuckolls, Pawnee, Pierce, Platte, Polk, Richardson, Saline, Sarpy, Saunders, Seward, Stanton, Thayer, Thurston, Wayne, and York Counties;

Nevada: The entire State;

New Hampshire: The entire State;

New Jersey: The entire State;

New Mexico: The entire State;

New York: The entire State;

North Carolina: The entire State;

North Dakota: Adams, Barnes, Benson, Bottineau, Bowman, Burke, Cass, Cavalier, Divide, Dunn, Emmons, Grand Forks, Foster, Grant, Griggs, Hettinger, McHenry, McKenzie, McLean, Mercer, Morton, Mountrail, Nelson, Oliver, Pembina, Pierce, Ramsey, Renville, Rolette, Sheridan, Sioux, Slope, Stark, Steele, Towner, Trall, Walsh, Ward, Wells, and Williams Counties;

Ohio: Athens, Auglaize, Belmont, Carroll, Columbiana, Cuyahoga, Darke, Fulton, Guernsey, Hancock, Henry, Hardin, Hocking, Jackson, Knox, Logan, Lucas, Marion, Mahoning, Meigs, Monroe, Morrow, Morgan, Muskingum, Noble, Ottawa, Paulding, Pike, Putnam, Sandusky, Scioto, Seneca, Shelby, Tuscarawas, Van Wert, Vinton, Washington, Wood, and Wyandot Counties;

Oklahoma: Delaware County;

Oregon: The entire State;

Pennsylvania: The entire State;

Rhode Island: The entire State;

South Carolina: Abbeville, Bamberg, Barnwell, Beaufort, Berkeley, Calhoun, Cherokee, Chester, Chesterfield, Clarendon, Darlington, Dillon, Greenwood, Hampton, Horry, Lancaster, Laurens, Lee, Lexington, McCormick, Marion, Marlboro, Newberry, Pickens, Saluda, Sumter, Union, and York Counties;

South Dakota: Butte, Campbell, Codington, Custer, Deuel, Edmunds, Grant, Hamlin, Harding, Lawrence, Lincoln, Perkins, and Union Counties;

Tennessee: The entire State;

Texas: Borden, Brewster, Coleman, Crane, Jeff Davis, Pecos, Presidio, Terrell, Ward, and Winkler Counties;

Utah: The entire State;

Vermont: The entire State;

Virginia: Accomack, Alleghany, Amelia, Arlington, Bath, Bedford, Bland, Brunswick, Buchanan, Buckingham, Caroline, Carroll, Charles City, Chesterfield, Clarke, Craig, Culpeper, Cumberland, Dickenson, Essex, Fair-

fax, Giles, Gloucester, Greenville, Hanover, Henrico, Highland, Isle of Wight, James City, King & Queen, King George, King William, Lancaster, Lee, Loudoun, Mathews, Middlesex, Nansemond, New Kent, Norfolk, Northampton, Northumberland, Orange, Page, Powhatan, Prince William, Princess Anne, Rappahannock, Richmond, Rockingham, Scott, Southampton, Spotsylvania, Stafford, Surry, Sussex, Warren; Westmoreland, Wise, Wythe, and York Counties, and City of Hampton;

Washington: The entire State;

West Virginia: The entire State;

Wisconsin: The entire State;

Wyoming: Albany, Big Horn, Campbell, Fremont, Lincoln, Park, Uinta, and Weston Counties; and Lower Arapaho Cattle Association, Wind River Indian Reservation in Fremont County, Arapahoe Ranch Tribal Enterprise and Wind River Indian Reservation in Fremont and Hot Springs Counties;

Puerto Rico: The entire area;

Virgin Islands of the United States: The entire area.

(Secs. 4, 5, 23 Stat. 32, as amended, secs. 1, 2, 32 Stat. 791-792, as amended, sec. 3, 33 Stat. 1265, as amended, sec. 13, 65 Stat. 693, 21 U.S.C. 111-113, 114a-1, 120, 121, 125; 19 F.R. 74, as amended; 9 CFR 78.16)

Effective date. The foregoing amendment shall become effective upon publication in the FEDERAL REGISTER.

The amendment deletes Colfax and Washington Counties in Nebraska from the list of areas designated as modified certified brucellosis-free areas, because it has been determined that such counties no longer come within the definition of § 78.1(i), and adds the following additional areas which have been determined to come within such definition: Randolph and Sevier Counties in Arkansas; Mendocino, Monterey, San Benito, San Francisco and Santa Cruz Counties in California; Baca County in Colorado; Bingham and Jefferson Counties in Idaho; Carroll, Clark, Franklin, Jackson, Jefferson, Johnson, Pulaski, Union and Williamson Counties in Illinois; Franklin, Jefferson, Morgan, Newton, Tippecanoe and Tipton Counties in Indiana; Nemaha and Smith Counties in Kansas; Barren, Breckinridge, McLean, Mercer, Oldham, and Robertson Counties in Kentucky; Lawrence County in Mississippi; Buchanan, Clinton, Gasconade, Henry, McDonald, Maries, Mercer, Morgan, Platte, Randolph and St. Louis Counties in Missouri; Golden Valley, Pondera and Roosevelt Counties in Montana; Burt, Gage, Kimball, Lancaster and Pawnee Counties in Nebraska; Auglaize and Pike Counties in Ohio; Beaufort, Berkeley and Calhoun Counties in South Carolina; Deuel, Edmunds and Hamlin Counties in South Dakota; Borden, Coleman, Pecos and Terrell Counties in Texas; Amelia, Carroll, Dickenson, Greenville, Powhatan and Warren Counties in Virginia; and Albany and Campbell Counties in Wyoming.

The amendment imposes certain restrictions necessary to prevent the spread of brucellosis in cattle and relieves certain restrictions presently imposed. It should be made effective promptly in order to accomplish its purpose in the public interest and to be of maximum benefit to persons subject to the restrictions which are relieved. Accordingly, under section 4 of the Administrative Procedure Act (5 U.S.C.

1003), it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and contrary to the public interest, and good cause is found for making the amendment effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 22d day of April 1960.

R. J. ANDERSON,
Director, Animal Disease Eradication Division, Agricultural Research Service.

[F.R. Doc. 60-3810; Filed, Apr. 26, 1960; 8:52 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket 7493 c.o.]

PART 13—PROHIBITED TRADE PRACTICES

Burlington Industries, Inc.

Subpart—Discriminating in price under Sec. 2, Clayton Act—Payment for services or facilities for processing or sale under 2(d): § 13.824 *Advertising expenses.*

(Sec. 6, 38 Stat. 722; 15 U.S.C. 46. Interpret or apply Sec. 2, 49 Stat. 1527; 15 U.S.C. 13) [Cease and desist order, Burlington Industries, Inc., Greensboro, N.C., Docket 7493, March 22, 1960]

The complaint in this case charged a Greensboro, N.C., manufacturer of hosiery and other textiles, with some 17 manufacturing plants located in various States, with making discriminatory allowances to favored retail customers, but not to their competitors, by such practices as deducting up to 94 cents a dozen on some 1,700 dozen pairs of nylon hose sold to a retail chain in the Portland, Ore., area as its contribution to a coupon book promotion run by the chain.

Burlington agreed to a consent order, on the basis of which the hearing examiner made his initial decision and order to cease and desist. On March 22 the initial decision was adopted as the decision of the Commission.

The order to cease and desist is as follows:

It is ordered, That respondent Burlington Industries, 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 of hosiery products, in commerce, as "commerce" is defined in the amended Clayton Act, do forthwith cease and desist from paying, or contracting for the payment of, anything of value to or for the benefit of any customer of respondent as compensation, or in consideration for, any services or facilities furnished by or through such customer in connection with the offering for sale, sale or distribution of any of respondent's products, unless such payment or consideration is affirmatively

offered or otherwise made available on proportionally equal terms to all other customers competing in the resale of such products with the favored customer.

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

It is further ordered, That the respondent, Burlington Industries, Inc., a corporation, 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 to cease and desist contained in the aforesaid initial decision.

Issued: March 22, 1960.

By the Commission.

[SEAL] ROBERT M. PARRISH,
Secretary.

[F.R. Doc. 60-3760; Filed, Apr. 26, 1960; 8:45 a.m.]

[Docket 7531 c.o.]

PART 13—PROHIBITED TRADE PRACTICES

Pearl-Martin Co., Inc., et al.

Subpart—Invoicing products falsely: § 13.1108 *Invoicing products falsely:* § 13.1108-45 *Fur Products Labeling Act.* Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1845 *Composition:* § 13.1845-30 *Fur Products Labeling Act;* § 13.1852 *Formal regulatory and statutory requirements:* § 13.1852-35 *Fur Products Labeling Act;* § 13.1865 *Manufacture or preparation:* § 13.1865-40 *Fur Products Labeling Act;* § 13.1880 *Old, used, or reclaimed as unused or new:* § 13.1880-40 *Fur Products Labeling Act.*

(Sec. 6, 38 Stat. 722; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 8, 65 Stat. 719; 15 U.S.C. 45, 69f) [Cease and desist order, Pearl-Martin Co., Inc., et al., New York, N.Y., Docket 7531, March 16, 1960]

In the Matter of Pearl-Martin Co., Inc., a Corporation, and Murray Perlmutter, and Martin Scharfman, Individually and as Officers of Said Corporation

This proceeding was heard by a hearing examiner on the complaint of the Commission charging New York City furriers with violating the Fur Products Labeling Act by advertising in newspapers which failed to disclose the names of animals producing certain furs, or that certain products were composed of used or artificially colored fur, and to set forth the term "secondhand used fur" where required; and by failing in other respects to comply with advertising and invoicing requirements.

A consent order having been agreed to, the hearing examiner made his initial decision and order to cease and desist which became on March 16 the decision of the Commission.

The order to cease and desist is as follows:

It is ordered, That Pearl-Martin Co., Inc., a corporation, and its officers, and

[Docket 7706 c.o.]

PART 13—PROHIBITED TRADE PRACTICES

Stuyvesant Trading Co., Inc., et al.

Subpart—Advertising falsely or misleadingly: § 13.170 *Qualities or properties of product or service*: § 13.170–12 *Auxiliary, improving, or supplementary*.

(Sec. 6, 38 Stat. 722; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Stuyvesant Trading Co., Inc., et al., New York, N.Y., Docket 7706, March 24, 1960]

In the Matter of Stuyvesant Trading Co., Inc., a Corporation, and Charles Schonbrun and Sam Schonbrun, Individually and as Officers of Said Corporation

This proceeding was heard by a hearing examiner on the complaint of the Commission charging New York City distributors with advertising falsely that wearing of their "Litenite" tinted glasses would improve night driving vision.

Based on a consent agreement, the hearing examiner made his initial decision and order to cease and desist which became on March 24 the decision of the Commission.

The order to cease and desist is as follows:

It is ordered, That respondent Stuyvesant Trading Co., Inc., a corporation, and its officers, and Charles Schonbrun and Sam Schonbrun, individually and as officers of said corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of tinted glasses sold under the name of "Litenite", or any other glasses having substantially similar properties, whether sold under said name or any other name, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication, that the wearing of said glasses will improve night driving vision.

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

It is ordered, That respondents herein 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: March 24, 1960.

By the Commission:

[SEAL] ROBERT M. PARRISH,
Secretary.

[F.R. Doc. 60-3762; Filed, Apr. 26, 1960; 8:46 a.m.]

[Docket 7466 c.o.]

PART 13—PROHIBITED TRADE PRACTICES

Sonotone Corp. and Irving Schachtel

Subpart—Advertising falsely or misleadingly: § 13.130 *Manufacture or prep-*

aration. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1865 *Manufacture or preparation*.

(Sec. 6, 38 Stat. 722; 15 U.S.C. 46. Interpret or apply Sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Sonotone Corporation, et al., Elmsford, N.Y., Docket 7466, March 22, 1960]

The complaint in this case charged an Elmsford, N.Y., manufacturer with representing falsely in advertising that its hearing aids were cordless, buttonless, and invisible.

Accepting an agreement for a consent order, the hearing examiner made his initial decision and order to cease and desist which, after slight modification, became on March 22, the decision of the Commission.

The order to cease and desist is as follows:

It is ordered, That the complaint be, and the same hereby is, dismissed as to respondent Irving Schachtel in his individual capacity but not in his capacity as an officer of respondent Sonotone Corporation, a corporation.

It is further ordered, That respondent Sonotone Corporation, a corporation, and its officers, and Irving Schachtel, as an officer of said corporation, and respondents' agents, representatives, and employees, directly or through any corporate or other device in connection with the offering for sale, sale or distribution of hearing aid devices known as Models 222, 333, 400, and 500, if any other device of substantially the same construction or operation and design, whether sold under the same or any other model designation, do forthwith cease and desist from directly or indirectly:

1. Disseminating or causing to be disseminated any advertisement by means of the United States mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, for the purpose of inducing or which is likely to induce, directly or indirectly, the purchase of said products, which advertisement represents, directly or by implication that:

(a) No buttons are attached to said air conduction hearing aids, except Model 222, unless in close connection therewith and with equal prominence it is disclosed that an ear mold or plastic tip is inserted into the ear;

(b) No wires or cords are attached to said air conduction hearing aids, except Model 222, unless in close connection therewith and with equal prominence it is disclosed that a plastic tube runs from the device to the ear;

(c) Said hearing aids are invisible;

(d) Said hearing aids are completely hidden in the eyeglasses.

2. Disseminating any advertisement by any means for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase of respondents' products in commerce, as "commerce" is defined in the Federal Trade Commission Act, which advertisement contains any of the representations prohibited in paragraph 1 herein.

Murray Perlmutter and Martin Scharfman, individually and as officers of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction into commerce, or the sale, advertising, offering for sale, transportation, or distribution, in commerce, of fur products; or in connection with the sale, advertising, offering for sale, transportation, or distribution of fur products which are made in whole or in part of fur which has been shipped and received in commerce, as "commerce", "fur", and "fur product" or defined in the Fur Products Labeling Act, do forthwith cease and desist from:

1. Falsely and deceptively invoicing fur products by:

A. Failing to furnish to purchasers of fur products an invoice showing all of the information required to be disclosed by each of the subsections of section 5(b)(1) of the Fur Products Labeling Act.

B. Failing to furnish invoices to purchasers of fur products showing the item number or mark assigned to a fur product.

2. Falsely or deceptively advertising fur products through the use of any advertisement, representation, public announcement, or notice which is intended to aid, promote, or assist, directly or indirectly, in the sale, or offering for sale of fur products, and which:

A. Fails to disclose:

(1) The name or names of the animal or animals producing the fur or furs contained in the fur product, as set forth in the Fur Products Name Guide, and as prescribed under the Rules and Regulations;

(2) That the fur product is composed of used fur, when such is the fact;

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

B. Fails to disclose that fur products contain or are composed of "secondhand used fur", when such is the fact.

C. Fails to set forth the information required under section 5(a) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder in type of equal size and conspicuousness and in close proximity with each other.

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

It is ordered, That respondents herein 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: March 16, 1960.

By the Commission.

[SEAL] ROBERT M. PARRISH,
Secretary.

[F.R. Doc. 60-3761; Filed, Apr. 26, 1960; 8:45 a.m.]

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

It is further ordered, That the respondents, Sonotone Corporation, a corporation, and Irving Schachtel, as an officer of said corporation, 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 contained in the aforesaid initial decision as amended.

Issued: March 22, 1960.

By the Commission.

[SEAL] ROBERT M. PARRISH,
Secretary.

[F.R. Doc. 60-3763; Filed, Apr. 26, 1960;
8:46 a.m.]

[Docket 69270.]

PART 13—PROHIBITED TRADE PRACTICES

Swanee Paper Corp.

Subpart—Discriminating in price under Sec. 2, Clayton Act—Payment for services or facilities for processing or sale under 2(d): § 13.824 *Advertising expenses.*

(Sec. 6, 38 Stat. 722; 15 U.S.C. 46. Interpret or apply Sec. 2, 49 Stat. 1527; 15 U.S.C. 13) [Cease and desist order, Swanee Paper Corporation, Ransom, Pa., Docket 6827, March 22, 1960]

The complaint in this case charged a large manufacturer of bathroom and facial tissue, household napkins and towels with violating section 2(d) of the Clayton Act by such practices as granting one customer, The Grand Union Co.—an eastern supermarket chain with some 340 outlets—the following discriminatory benefits—not available to competitors—as a result of the \$1,000-a-month fee it paid a New York City outdoor advertiser to have its products advertised on the "Epok Panel" portion of the chain's spectacular sign at 46th Street and Broadway, New York City, and for in-store promotions: (1) valuable advertising on the Broadway spectacular sign at nominal cost, (2) radio and television advertising worth approximately \$39,000 and newspaper advertising worth approximately \$25,000 in exchange for the advertising time to which it was entitled on the Epok Panel, and (3) cash payments of more than \$14,600.00.

Following trial of the issues, the hearing examiner made his initial decision and order to cease and desist from which respondent appealed. The Commission denied the appeal after full hearing, and on March 22 adopted the initial decision as the decision of the Commission.

The order to cease and desist is as follows:

It is ordered, That respondent Swanee Paper Corporation, a corporation, its officers, employees, agents or representatives, directly or through any corporate

or other device, in connection with the sale or offering for sale in commerce (as "commerce" is defined in the Clayton Act) of paper products, do forthwith cease and desist from: Paying or contracting to pay to or for the benefit of any customer anything of value as compensation or in consideration for any advertising, promotional displays or other services or facilities furnished by or through such customer in connection with the handling, processing, sale or offering for sale of respondent's products unless such payment or consideration is made available on proportionally equal terms to all other customers competing in the distribution of such products.

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

It is further ordered, That the respondent, Swanee Paper Corporation, a corporation, 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: March 22, 1960.

By the Commission, Commissioner Tait not participating.

[SEAL] ROBERT M. PARRISH,
Secretary.

[F.R. Doc. 60-3764; Filed, Apr. 26, 1960;
8:46 a.m.]

[Docket 7586 c.o.]

PART 13—PROHIBITED TRADE PRACTICES

Trans-Ocean Import Co., Inc., et al.

Subpart—Advertising falsely or misleadingly: § 13.30 *Composition of goods*; § 13.230 *Size or weight.* Subpart—Furnishing means and instrumentalities of misrepresentation or deception.

(Sec. 6, 38 Stat. 722; 15 U.S.C. 46. Interpret or apply Sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Trans-Ocean Import Co., Inc., et al., New York, N.Y., Docket 7586, March 24, 1960]

In the Matter of Trans-Ocean Import Co., Inc., a Corporation, and Philip Brenner, Charles Rostov, and Ralph Shulman, Individually and as Officers of Said Corporation

This proceeding was heard by a hearing examiner on the complaint of the Commission charging New York City distributors of rugs and floor coverings, some of them imported, with representing falsely on labels, in advertising, price lists, invoices, etc., that the pile or wearing surface of their "Rochelle" and "New Rochelle" rugs was composed entirely of wool, and that the pile of their "New Chateau" rugs was 50% wool and 50% rayon; and describing said rugs as "9 x 12 (104" x 140")" when they were approximately 104 inches by 140 inches in size.

After acceptance of an agreement for a consent order, the hearing examiner

made his initial decision and order to cease and desist which became on March 24 the decision of the Commission.

The order to cease and desist is as follows:

It is ordered, That respondents Trans-Ocean Import Co., Inc., a corporation, and its officers, and Philip Brenner, Charles Rostov, and Ralph Shulman, individually and as officers of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in the connection with the offering for sale, sale, and distribution of rugs and floor coverings, or any other products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the terms "wool" or any other word or term indicative of wool to designate or describe any product or portion thereof which is not composed wholly of wool, the fiber from the fleece of the sheep or lamb, or hair of the Angora or Cashmere goat, or hair of the camel, alpaca, llama or vicuna, which has never been reclaimed from any woven or felted product; provided, that in the case of products or portions thereof which are composed in substantial part of wool and in part of other fibers or materials, the term "wool" may be used as descriptive of the wool content of the product or portion thereof if they are used in immediate connection or conjunction therewith, in letters of at least equal size and conspicuousness, words truthfully designating each constituent fiber or material thereof in the order of its predominance by weight, provided further that if any fiber or material so designated is not present in a substantial quantity, the percentage thereof shall be stated. Nothing herein shall prohibit the use of the terms, "reprocessed wool" or "reused wool" when the products or those portions thereof referred to are composed of such fibers.

2. Misrepresenting the constituent fibers of which their products are composed, or the percentage or amounts thereof, on labels, in price lists, or in any other manner.

3. Using two or more sets of figures to represent the size of their products which are at variance, or in conflict, or misrepresenting in any way the actual size of said products.

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

It is ordered, That the respondents herein 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: March 24, 1960.

By the Commission.

[SEAL] ROBERT M. PARRISH,
Secretary.

[F.R. Doc. 60-3765; Filed, Apr. 26, 1960;
8:46 a.m.]

Title 29—LABOR

Subtitle A—Office of the Secretary of Labor

PART 10—RECORDING AND REPORTING WORK-INJURY FREQUENCY AND SEVERITY DATA CONCERNING LONGSHOREMEN, SHIP REPAIRMEN AND OTHER HARBOR WORKERS

Section 41 of the Longshoremen's and Harbor Workers' Compensation Act (44 Stat. 1444 as amended; 33 U.S.C. 941) was amended August 23, 1958 (72 Stat. 835) to authorize safety and health regulations for the protection of certain longshoremen, ship repairmen and other harbor workers. Such regulations for longshoring and ship repairing activities have been promulgated (29 CFR 8.5 and 9.5).

The statutory amendment directly requires that "every employer shall furnish and maintain employment and places of employment which shall be reasonably safe for his employees in all employments covered by this Act." It authorizes use of "such other powers and duties as are conferred" by the Act "in enforcing and administering" the amended section 41 and in addition, provides new authority "to make studies * * * with respect to safety provisions and the causes * * * of injuries in employments covered by this Act and from time to time to make to Congress such recommendations" as are deemed "proper as the best means of preventing such injuries," and "to provide for the establishment and supervision of programs for the education and training of employers and employees in the recognition * * * of unsafe working conditions in employments covered by this Act."

Among the "other powers" authorized to be used in enforcing and administering the provisions of the amendment which were not otherwise affected by the 1958 amendments are sections 29 and 30 of the Act (44 Stat. 1438, 1439 as amended; 33 U.S.C. 929, 930), authorizing regulations requiring records and reports concerning injury or death to employees. Based on this authority, it is the purpose of this amendment to the Code of Federal Regulations to provide for the keeping of the underlying records and the making of necessary reports to permit analysis, study, and publication of standard work-injury frequency and severity data concerning longshoremen, ship repairmen, and other harbor workers as one means of furthering the statutory purpose above quoted. The 1958 amendments did not change the bulk of the Act, which has, for many years, provided a system of longshoremen's and harbor workers' compensation. Sections 29 and 30 (44 Stat. 1438, 1439 as amended; 33 U.S.C. 929, 930) have, since 1938, been implemented by regulations requiring records and reports necessary to administer its compensation features (20 CFR Part 31). These requirements are unaffected by this amendment to the Code of Federal Regulations requiring records and reports for the additional purpose contemplated by the amended section 41.

Though no general notice of a proposal to make the regulations hereinafter set out has been published in the FEDERAL REGISTER, there has been extensive consultation concerning them with the employers who will have obligations under these regulations and their trade associations. As detailed records of injuries and their severity for the first quarter of the calendar year 1960 may not have been kept by all employers of whom reports will be required, accuracy of the reports depends upon submission of them while the matters to be reported are still fresh in the minds of the reporting officers. This cannot be accomplished consistently with the delay incident to formal notice and public procedure thereon. These reasons are deemed to be good cause to, and I do hereby, find that notice and public procedure thereon are impracticable, unnecessary, and contrary to public interest. As the reports required to be filed by April 30 are not burdensome to prepare but may depend for accuracy on prompt preparation, and as required recordkeeping should be commenced immediately to assure the accuracy of subsequent reports, I find good cause to, and do, provide that these amendments to the Code of Federal Regulations shall be effective immediately.

Accordingly, pursuant to section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U.S.C. 1003), Subtitle A of Title 29, Code of Federal Regulations, is hereby amended by adding a new Part 10 to read as follows:

- Sec.
- 10.1 Definitions.
- 10.2 Records.
- 10.3 Operations and estimating procedure reports.
- 10.4 Quarterly injury and employment record reports.
- 10.5 Annual work-injury severity reports.

AUTHORITY: §§ 10.1 to 10.5 issued under 44 Stat. 1438, 1439, as amended, 72 Stat. 835; 33 U.S.C. 929, 930, 941.

§ 10.1 Definitions.

When used in this Part 10—

(a) The term "injury" means accidental injury or death arising out of and in the course of employment, and such occupational disease or infection as arises naturally out of such employment or as naturally or unavoidably results from such accidental injury, and includes an injury caused by the willful act of a third person directed against an employee because of his employment.

(b) The term "disabling injury" includes any injury which results in death or permanent physical impairment or which makes the injured person unable to work throughout the hours corresponding to those of the shift on which he was injured on any day after the day of injury.

(c) The term "death" means any work injury which results in death, regardless of the time which elapses between the injury and death.

(d) The term "permanent-total disability" means an injury which permanently and completely disables a worker. It includes the loss, or complete loss of use, or both arms, or hands, or legs, or feet, or eyes or any combination

of these body parts such as one arm and one leg, one hand and one foot, etc.

(e) The term "permanent-partial disability" means an injury which permanently, but only partially disables a worker. It includes the total or partial loss, or loss of use, of an arm, hand, leg, finger, etc., or any permanent impairment of a function of the body or of a part of the body to any degree less than permanent-total disability.

(f) The term "temporary-total disability" means an injury which does not result in death or permanent-total or permanent-partial disability if the injured person, because of his injury, is unable to perform a regularly established job, which is open and available to him, during the entire time interval corresponding to the hours of his regular shift on any one or more days (including Sundays and days off) subsequent to the day of injury.

(g) The term "employee" does not include a master or member of a crew of any vessel, nor any person engaged by the master to load or unload or repair any small vessel under eighteen tons net.

(h) The term "employer" means an employer any of whose employees are employed in maritime employment, in whole or in part, upon the navigable waters of the United States (including any drydock).

(i) The term "injury-frequency rate" means the number of disabling injuries per million employee-hours worked obtained by multiplying the total number of disabling injuries by one million and dividing that product by the total employee-hours worked.

(j) The term "injury-severity rate" means the number of days lost or charged per million employee-hours worked obtained by adding the standard time charges for each case of death and permanent impairment to the total number of days of incapacity resulting from all other cases of disabling injuries, multiplying that sum by one million and dividing that product by the total number of employee-hours worked.

(k) The term "the Act" means the Longshoremen's and Harbor Workers' Compensation Act (44 Stat. 1424, as amended; 33 U.S.C. 902-950).

§ 10.2 Records.

Every employer employing any employee in any activity subject to the Act shall make and keep such records as are necessary to compute and permit verification of standard work-injury frequency and severity rates concerning all work subject to the Act. Such records shall be available for inspection on demand by authorized representatives of the Secretary of Labor at the employing establishment for a period of 3 years following every report required to be made thereon pursuant to this Part 10.

(a) The records required by this § 10.2 shall include reasonably contemporaneous entries revealing each disabling injury experienced by an employee arising out of and in the course of his employment in any activity covered by the Act. These records shall be in such detail as will reveal the activity being performed at the time of injury, the manner in which the injury occurred, and a descrip-

tion of the injury and relative severity of the injury as measured by the number of days of inability to work at the employee's usual employment resulting from the injury or by the occurrence of death or permanent physical impairment as a result of the injury.

(b) The records required by this § 10.2 shall also reveal the total number of employee-hours worked by all employees at the employing establishment in activities covered by the Act. If a current description of procedure for estimating such number of employee-hours worked has been filed with the Bureau of Labor Statistics on its forms BLS 2672A and BLS 2672B, and the Bureau has not notified the employer of its disapproval of such description of estimating procedure, the requirements of this paragraph (b) will be satisfied by the records necessary for application of the estimating procedure.

§ 10.3 Operations and estimating procedure reports.

For the three-month period ending March 31, 1960, and annually thereafter for the first three-month period in each calendar year, every employer employing any employee subject to the Act shall file with the Bureau of Labor Statistics (as collection agency for the Bureau of Labor Standards) at its central office at Washington 25, D.C., on form BLS 2672A, which is available at the central and regional offices of the Bureau of Labor Statistics and the Bureau of Labor Standards, a report of its operations and of its employee-hours worked estimating procedure, if any. A separate report shall be filed for each port in which the employer had operations during the quarter. Form BLS 2672A will require a statement of the major functions or activities performed by the reporting establishment and of the locations at which operations are conducted. If the employee-hours worked in activities subject to the Act are estimated in the reports required by §§ 10.4 and 10.5, this report shall give a description of the estimating procedure used, in sufficient detail to permit a reasonable appraisal of its adequacy. Each report required by this § 10.3 shall be filed within the fourth month in each calendar year.

§ 10.4 Quarterly injury and employment record reports.

For the three-month period ending March 31, 1960, and for each three-month period thereafter, every employer employing any employee subject to the Act shall file with the Bureau of Labor Statistics (as collection agency of the Bureau of Labor Standards) at its central office at Washington 25, D.C., on form BLS 2672B, which is available at the central and regional offices of the Bureau of Labor Standards and the Bureau of Labor Statistics, a quarterly summary injury and employment record for each port at which any such employee is employed. This report shall include all information necessary for the computation of standard monthly work-injury frequency rates and for the determination of the total number of deaths resulting from work injuries experienced in the period covered by the report. The

reports required by this § 10.4 for the second, third, and fourth quarters of each calendar year shall also state whether there has been any substantial change from the operations or estimating procedure reported pursuant to § 10.3. Each report under this § 10.4 shall be filed within the month following the end of the calendar quarter to which the report applies.

§ 10.5 Annual work-injury severity reports.

For calendar year 1960 and for each calendar year thereafter, every employer employing any employee subject to this Act shall file with the Bureau of Labor Statistics (as collection agency for the Bureau of Labor Standards) at its central office at Washington 25, D.C., on form BLS 2672C, which is available at the central and regional offices of the Bureau of Labor Standards and Bureau of Labor Statistics, an annual work-injury severity report for each port at which any such employee is employed. The report form will require essentially the information requested from reporters in the Bureau of Labor Statistics annual injury rate survey for other industries. Each report shall be filed within 45 days after the end of the calendar year to which the report applies.

Signed at Washington, D.C., this 25th day of April 1960.

JAMES P. MITCHELL,
Secretary of Labor.

[F.R. Doc. 60-3848; Filed, Apr. 26, 1960; 8:53 a.m.]

Title 24—HOUSING AND HOUSING CREDIT

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

SUBCHAPTER C—MUTUAL MORTGAGE INSURANCE AND SERVICEMEN'S MORTGAGE INSURANCE

PART 221—MUTUAL MORTGAGE INSURANCE; ELIGIBILITY REQUIREMENTS OF MORTGAGE COVERING ONE- TO FOUR-FAMILY DWELLINGS

SUBCHAPTER F—URBAN RENEWAL AND NEIGHBORHOOD CONSERVATION HOUSING INSURANCE

PART 261—URBAN RENEWAL INSURANCE; ELIGIBILITY REQUIREMENTS OF MORTGAGE COVERING ONE- TO ELEVEN-FAMILY DWELLINGS

Miscellaneous Amendments

1. In § 221.16(c) subparagraph (4) is amended to read as follows:

§ 221.16 Mortgage provisions.

(c) * * *

(4) Provide for payments to principal and interest to begin not later than the first day of the month following 60 days from the date the mortgagee's cer-

tificate on the commitment was executed.

2. In § 221.17(b) (2) subdivision (v) is revoked as follows:

§ 221.17 Maximum mortgage amounts.

(b) * * *

(2) * * *

(v) [Revoked]

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interpret or apply sec. 203, 52 Stat. 10, as amended; 12 U.S.C. 1709)

3. In § 261.7(b) (2) subdivision (v) is revoked as follows:

§ 261.7 Maximum mortgage amounts—loan-to-value limitation.

(b) * * *

(2) * * *

(v) [Revoked]

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interprets or applies sec. 220, 68 Stat. 596, as amended; 12 U.S.C. 1715k)

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

JULIAN H. ZIMMERMAN,
Federal Housing Commissioner.

[F.R. Doc. 60-3772; Filed, Apr. 26, 1960; 8:47 a.m.]

Title 46—SHIPPING

Chapter II—Federal Maritime Board, Maritime Administration, Department of Commerce

SUBCHAPTER G—EMERGENCY OPERATIONS

[Gen. Order 75, Rev., Amdt. 5]

PART 308—WAR RISK INSURANCE

The preamble to this part appearing in the FEDERAL REGISTER issue of February 28, 1957 (22 F.R. 1175) and Subparts A, B, C, and D appearing in the FEDERAL REGISTER issue of October 7, 1959 (24 F.R. 8093) are hereby amended to read as follows:

Title XII of the Merchant Marine Act, 1936, as amended, 46 U.S.C. 1281-1294 (section 1202(a)) authorizes the Secretary of Commerce, with the approval of the President, to provide insurance against loss or damage by war risks whenever it appears to the Secretary that such insurance adequate for the needs of the water-borne commerce of the United States cannot be obtained on reasonable terms and conditions from companies authorized to do an insurance business in a State of the United States. The President, on October 9, 1950, authorized the Secretary of Commerce to provide war risk insurance whenever it appears to the Secretary that the conditions prescribed in said section 1202(a) exist.

Pursuant to a delegation of authority to the Maritime Administrator from the Secretary of Commerce to perform the functions vested in the Secretary of Commerce by Title XII, Merchant Marine Act, 1936, as amended, the Maritime Administrator on September 16, 1952, authorized the issuance of war risk insurance specified in sections 1203 (a), (d),

(e), and (f) of said Title XII for the interim period between the time commercial insurance subject to the "Automatic Termination Clauses," is automatically terminated through the operation of such clauses and the time a full wartime insurance program is placed in effect. (Under the "Automatic Termination Clauses" then in effect, the subject war risk insurance would attach according to its terms in the event of outbreak of war between any of the four Great Powers (France, Great Britain, and/or any of the British Commonwealth of Nations, the Union of Soviet Socialist Republics, the United States of America).)

On August 26, 1958, the Secretary of Commerce further delegated authority to the Maritime Administrator to make the findings required by section 1202(a), Merchant Marine Act, 1936, as amended, which are a prerequisite to the issuance of war risk insurance.

Effective as of October 1, 1959, the "Automatic Termination Clauses" in commercial war risk policies were revised to provide for the termination of such insurance "upon the outbreak of war or upon the inception of a hostile act or occurrence which results in a state of war (whichever may first occur and whether there be a declaration of war or not) between any member of the North Atlantic Treaty Organization and any of the Contracting parties to the Treaty of Friendship Cooperation and Mutual Assistance signed at Warsaw, May 14, 1955, or the Central People's Government of the People's Republic of China."

On September 28, 1959, the Acting Maritime Administrator found, in view of the aforesaid revision which was to become effective October 1, 1959, that war risk insurance adequate for the needs of the waterborne commerce of the United States cannot be obtained after October 1, 1959, on reasonable terms and conditions from companies authorized to do an insurance business in a State of the United States; and authorized an interim modification of the Maritime Administration's war risk insurance binders for a period of six months from October 1, 1959, to provide for the commencement of such coverage simultaneously with the revised termination of commercial war risk coverage as aforesaid; such interim modification to be without prejudice to further action by the Administration at the end of such six-month interim period. This action was implemented by the publication in the FEDERAL REGISTER of a revised regulation on October 7, 1959 (General Order 75, Rev., Amdt. 4, 24 F.R. 8093).

On November 23, 1959, the Maritime Administrator further found that vessels of Panamanian, Honduran and Liberian registry when eligible under certain categories hereinafter specifically described, are deemed to be engaged in services which are in the interest of the national defense of the United States. The Maritime Administration will, upon application, issue war risk insurance for such vessels provided such vessels remain eligible in accordance with these regulations and also are made available to the United States Government upon re-

quest in the event of national emergency, pursuant to an unqualified Contract of Commitment in form prescribed by the Administration, both of these requirements to be warranted in the application, binder and insurance policy.

Thereafter in March 1960 the interim modification of the Maritime Administration's war risk insurance binders (authorized on September 28, 1959) was extended without further amendment until midnight, September 7, 1960, G.m.t. unless insurance thereunder has attached prior to that date.

Subpart A—General

- Sec. 308.1 Eligibility of a vessel and its owner for insurance.
- 308.2 Change in status of a vessel after interim binders have been issued.
- 308.3 Applications for insurance, supporting documents and payment of binding fees.
- 308.4 Form of certificate of citizenship.
- 308.5 Form of voluntary contract of commitment.
- 308.6 Period of interim binders if insurance thereunder does not attach.
- 308.7 Time of attachment of insurance.
- 308.8 Premiums and payment thereof.
- 308.9 War risk insurance underwriting agency agreement.

Subpart B—War Risk Hull Insurance

- 308.100 Amounts of insurance for which application may be made.
- 308.101 Form of application.
- 308.102 Issuance of interim binder; its terms and conditions.
- 308.103 Sums which will be insured under interim binder.
- 308.104 Additional war risk hull insurance.
- 308.105 Reporting casualties and filing claims.
- 308.106 Standard form of war risk hull insurance interim binder.
- 308.107 Standard form of war risk hull insurance policy.

Subpart C—War Risk Protection and Indemnity Insurance

- 308.200 Amount of insurance for which application may be made.
- 308.201 Form of application.
- 308.202 Issuance of interim binder; its terms and conditions.
- 308.203 Sum which will be insured under interim binder.
- 308.204 Additional war risk protection and indemnity insurance.
- 308.205 Reporting casualties and filing claims.
- 308.206 Standard form of war risk protection and indemnity insurance interim binder.
- 308.207 Standard form of war risk protection and indemnity insurance policy.

Subpart D—Second Seamen's War Risk Insurance

- 308.300 Amounts of insurance for which application may be made.
- 308.301 Form of application.
- 308.302 Issuance of interim binder; its terms and conditions.
- 308.303 Sums which will be insured under interim binder.
- 308.304 Reporting casualties and filing claims.
- 308.305 Standard form of Second Seamen's war risk interim binder.
- 308.306 Standard form of Second Seamen's War Risk Policy (1955).

AUTHORITY: §§ 308.1 to 308.306 issued under sec. 204, 49 Stat. 1987, as amended, secs. 1202 and 1209, 64 Stat. 773 and 775; 46 U.S.C. 1114, 1282 and 1289.

Subpart A—General

§ 308.1 Eligibility of a vessel and its owner for insurance.

A vessel is eligible for interim insurance if it is within one of the following categories:

(a) An American vessel as defined in section 1201(a), Title XII of Merchant Marine Act, 1936, as amended.

(b) A foreign-flag vessel (except a vessel under Panamanian, Honduran or Liberian flag) which is either

(1) Owned by a citizen or citizens of the United States as defined in section 1201(d), Title XII of Merchant Marine Act, 1936, as amended or

(2) Owned by a foreign corporation, the majority of the stock of which is owned by a citizen or citizens of the United States as defined in section 1201(d), Title XII of Merchant Marine Act, 1936, as amended, or under long-term charter to such a United States citizen or citizens, and

(i) Regularly loading and/or discharging cargo and/or passengers at a port or ports in the United States or its territories or possessions, or

(ii) In a service for the sole account of the United States or any department or agency thereof, or

(iii) In a service which, with respect to the vessel to be insured, is determined by the Maritime Administrator to be in the interest of the national defense or the national economy of the United States.

(c) A foreign-flag vessel under Panamanian, Honduran or Liberian registry not over twenty years of age (unless authorized by the Maritime Administration), which is subject to an unqualified Contract of Commitment with the United States in form as required by the Maritime Administration, and which is

(1) Owned by a foreign corporation in which a majority of the stock is owned and controlled by United States citizens, whether direct or through intervening corporations, foreign or domestic. Where such intervening corporations are foreign, the ultimate majority ownership and control of the stock of such corporations must be vested in a citizen or citizens of the United States as defined in section 1201(d), Merchant Marine Act, 1936, as amended; or

(2) Owned by a foreign corporation which is not directly or beneficially owned by United States citizens or corporations, but which vessel is operated under a long-term charter on terms deemed by the Maritime Administration to subject the vessel to U.S. control in the event of emergency. The charterer of such a vessel must be either a U.S. corporation or a foreign corporation in which a majority of the stock is owned and controlled by U.S. citizens, whether direct or through intervening corporations, foreign or domestic. Where such intervening corporations are foreign, ultimate majority ownership and control of the stock of such corporations must be vested in a citizen or citizens of the United States as defined in section 1201(d), Merchant Marine Act, 1936, as amended.

(d) Other foreign-flag vessels will be insured at the sole discretion of the

Maritime Administrator but only when engaged in a service which has been determined by the Maritime Administrator to be in the interest of the national defense or the national economy of the United States.

§ 308.2 Change in status of a vessel after interim binders have been issued.

(a) In the event of change in service of a foreign-flag vessel after any interim binders set forth in §§ 308.106, 308.206, and 308.305 have been issued, interim binders covering such a vessel shall cease to be effective unless a statement as required by § 308.3 is submitted and a finding is made that the vessel is eligible for insurance as provided therein before such change occurs.

(b) It is the intention of the parties that any breach of the warranty prescribed hereunder as to vessels in all categories with respect to compliance with Department of Commerce Transportation Orders T-1 and T-2, and the additional warranties prescribed as to vessels in categories (c) (1) and (c) (2) with respect to maintenance of eligibility for insurance, and availability of the insured vessels to the U.S. Government in time of emergency and vessels in category (d) as to operation in approved service, shall terminate the binder and any insurance attaching thereunder.

(c) In the event of the sale, demise charter, requisition, confiscation, or total loss thereof, or any other change in the status which, by the terms of the binder, causes same to terminate, prompt notice shall be given in writing to the underwriting agent that issued the binder.

§ 308.3 Applications for insurance, supporting documents and payment of binding fees.

(a) Separate applications shall be filed for war risk hull insurance, war risk protection and indemnity insurance, and Second Seamen's war risk insurance, for each vessel to be covered by such insurance. All applications for war risk hull insurance shall be accompanied by information in required form, in duplicate, relating to the vessel for use by the Maritime Administrator in determining the value thereof pursuant to Maritime Administration General Order 82, as amended from time to time, as published in the FEDERAL REGISTER.

(b) An applicant submitting more than one insurance application at the same time is only required to submit a single certificate or single set of certificates, as the case may be, pursuant to §§ 308.101, 308.201 and 308.301.

(c) Applications for insurance in all eligible categories under this General Order, as revised, shall include a warranty that at all times during the effective period of the binder and any insurance issued thereunder, the insured vessel will comply with Department of Commerce Transportation Orders T-1 and T-2 or any modification thereof so long as they remain in force.

(d) In addition, on vessels in categories (c) (1) and (2), the application shall contain the further warranties

that at all times the vessel will remain eligible within its applicable category and that the insured vessel will be made available for use by the U.S. Government pursuant to the signed Contract of Commitment submitted with the insurance application as required by the Maritime Administration. Applications in these categories shall also be accompanied by a certified copy of any official action or approval which may be required by the government of the country of registry as a prerequisite to the execution of a Contract of Commitment with the United States.

(e) Applications for insurance on a vessel in category (d) shall contain a warranty that at all times the vessel will remain in the approved service.

(f) Applications for insurance on a vessel in category (b) (2) (iii) shall be accompanied by a signed statement, in quadruplicate, setting forth the dates of the applications, the forms of insurance applied for, the name of the vessel, its flag, the name of the owner or charterer, the service in which the vessel is engaged, and the reason such service should be considered to be in the interest of national defense or the national economy of the United States, which statements shall be deemed to be a part of each application for insurance filed with respect to the vessel.

(g) An application for insurance on each vessel in categories (c) (1) and (2) shall be accompanied by an executed Contract of Commitment, in form as prescribed in § 308.5. On a vessel in either category, the applicant is also required to agree that any charter or other contract covering the use of the vessel during the period of the binder and any insurance attaching thereunder shall be subject to termination without notice in the event the United States requires the use of the vessel under the voluntary Contract of Commitment submitted by the applicant. With respect to a vessel in category (c) (2), the application shall be jointly executed by both the owner and charterer. In the event the vessel is determined to be ineligible under the terms of this revised order, the applicants will be so advised and the executed Contract of Commitment returned by the Maritime Administration.

(h) In addition to the executed Contract of Commitment, an application for insurance on a vessel in category (c) (1) shall also be supported by citizenship certificate(s) in duplicate, in form as prescribed in § 308.4 establishing majority ownership and control of the vessel-owning corporation by U.S. citizens, whether direct or through intervening corporations, as specified in §§ 308.101, 308.201 and 308.301.

(i) An application for insurance on a vessel in category (c) (2) shall be jointly submitted by the owner and charterer, and in addition to the executed Contract of Commitment, shall also be supported by a copy of the long-term charter and all addenda, certified to be full and complete copies; and citizenship certificate(s) in duplicate, in form as prescribed in § 308.4, establishing majority ownership and control of the charterer by U.S. citizens, whether direct or through intervening corporations as

specified in §§ 308.101, 308.201 and 308.301. The charterer shall also furnish the Maritime Administration with a certified copy of any subsequent amendments to such charter.

(j) With respect to a vessel considered to be under category (d) the applicant shall first submit a statement in quadruplicate describing the service of the vessel and containing the reasons such service is considered by the applicant to be in the interest of the national defense or the national economy of the United States. If the requisite finding is made by the Maritime Administrator with respect to such service, the applicant shall thereafter submit an application in form as prescribed in §§ 308.101, 308.201 and 308.301 attaching thereto a copy of the statement of service previously submitted. If, thereafter, there is a change in flag or service, a new statement of service must be submitted by applicant for the purpose of obtaining a further finding as to such new service, prior to the filing of a new application for insurance on such vessel.

(k) All insurance applications covering American flag vessels shall be made in duplicate to the American War Risk Agency, 99 John Street, New York 38, New York, Underwriting Agent for the Maritime Administration, as prescribed in § 308.101 (War Risk Hull Insurance), § 308.201 (War Risk P & I Insurance) and § 308.301 (Second Seamen's War Risk Insurance).

(l) All insurance applications covering foreign flag vessels shall be made in triplicate to the Division of Insurance, U.S. Maritime Administration, Washington 25, D.C.

(m) All requests for changes to binders and inquiries relative to the insurance after the interim binders have been issued shall be directed to the American War Risk Agency in New York, at the above address.

(n) A check payable to the "Maritime Adm.—Commerce," for the total amount of all binding fees payable by each applicant shall accompany the applications. Binding fees are not returnable unless applications are rejected.

(o) Copies of insurance applications and the certificate prescribed for use in establishing citizenship, and the Contract of Commitment, may be obtained from the Underwriting Agent, in New York at the above address, and from the Maritime Administration, Washington, D.C.

§ 308.4 Form of certificate of citizenship.

Certificates of citizenship in the following form shall be submitted in duplicate:

Form MA-183A (3-60)

UNITED STATES OF AMERICA, DEPARTMENT OF COMMERCE, MARITIME ADMINISTRATION

Certificate of Ownership and Control By United States Citizen—Applicant for War Risk Insurance

I, _____ (Name) _____ (Title)
of _____ (Name of corporation), am duly authorized to execute this certificate of ownership and control of said corporation by

United States citizens to comply with the requirements for obtaining War Risk Insurance to cover the

(Panamanian, Honduran, or Liberian) (Type vessel)

(Vessel name) (Gross tonnage)

(Year built)

That is a (Name of corporation)

(Country) corporation, owned and controlled by

(Give sequence of majority ownership and control by all owning or controlling corporations or other owners, if any, and furnish full information as to each; if above space is not adequate, continue on back of this Form)

a corporation organized and existing under the laws of the State of (Where incorporated) the majority (51% or more) of the stock of which corporation is owned and controlled by citizens of the United States;

That of the stock interests shown above to be owned and controlled by United States citizens, none is held beneficially for a non-citizen.

(Name of signer)

Note: The United States Criminal Code makes it a criminal offense for any person knowingly to make a false statement or representation to, or to conceal a material fact from, any department or agency of the United States as to any matter within its jurisdiction (18 U.S.C. 1001), or to file a false, fictitious or fraudulent claim against the United States (18 U.S.C. 287).

(Certificates of Citizenship to be submitted, in duplicate, with insurance application).

§ 308.5 Form of voluntary contract of commitment.

All applications for insurance under category (c) (1) shall be accompanied by an executed Contract of Commitment, in quintuplicate, in the following form, executed by the vessel owner. This same form of contract (adapted to include both the vessel owner and the long-term charterer as signatories) shall be jointly executed by the owner and charterer, in quintuplicate, and submitted with applications for insurance under category (c) (2). All Contracts of Commitment shall be executed and submitted on standard contract forms which may be obtained from the Underwriting Agent, American War Risk Agency, 99 John Street, New York 38, New York, or from the U.S. Maritime Administration, Washington 25, D.C.

Contract MA.

Owner's Contract of Commitment

(Pan-Hon-Lib vessels)

This agreement, made as of 19... by and between the United States of America, acting by and through the Department of Commerce, Maritime Administration or its successor (herein called the "United States"), and a corporation organized and existing under the laws of (herein called the "Owner"), and having its principal place of business at

WITNESSETH

Whereas, on November 23, 1959, the Maritime Administrator found that vessels in certain categories under Panamanian, Hon-

duran or Liberian registry are engaged in services deemed to be in the interest of the national defense of the United States, and

Whereas, by reason of the aforesaid finding, such vessels became eligible for interim war risk insurance as authorized by the Maritime Administration on September 28, 1959 (24 FR-8093) pursuant to Title XII, Merchant Marine Act, 1936, as amended, provided such vessels maintain their eligibility at all times in compliance with the requirements of the Maritime Administration under General Order 75, as amended, including inter alia the requirement that the ship-owning corporation or the long-term charterer shall be majority-owned and controlled by United States citizens, and that such vessel shall be made available to the United States upon request in the event of national emergency, as described in Article (1) hereof, pursuant to a voluntary Contract of Commitment, and

Whereas, the Owner has applied for interim war risk insurance on the SS (hereinafter called the "Vessel"),

(Official No.) (Flag) (Gross tonnage) (Date built)

Whereas, based upon the representations and warranties contained in the Owner's application for interim war risk insurance, it has been determined that the Vessel qualifies for such insurance within the eligibility category designated by the Owner, and the parties hereto desire to enter into a voluntary Contract of Commitment covering availability of such Vessel to the United States in the event of national emergency as described in Article (1) hereof;

Now therefore, in consideration of the premises and other good and valuable considerations hereinafter set forth, the parties hereto mutually agree as follows:

(1) The Owner hereby commits itself to make the Vessel available to the United States during any period in which vessels may be requisitioned under section 902 of the Merchant Marine Act, 1936, as amended, i.e., whenever the President of the United States of America shall proclaim that the security of the national defense makes it advisable or during any national emergency which may have been declared by proclamation of the President of the United States, and expressly agrees that any charter or other contract covering the use of the Vessel during the period covered by the interim war risk insurance binder and the period of any insurance attaching thereunder shall be subject to termination without notice in the event the United States requests the use of the Vessel under this voluntary Contract of Commitment.

(2) Upon the request of the United States, acting through the Department of Commerce, Maritime Administration, or its successor, or through the Department of the Navy, pursuant to authorization from the Department of Commerce, Maritime Administration, the Vessels shall be made available as directed by such Department, wherever the Vessel may then be, whether at sea or in port, at the option of such Department, for purchase or for use (under a time or bareboat form of charter) for such period or periods of time as required by the United States.

(3) In the event the Department of the Navy exercises the authority referred to in Article (2) above, it is understood that (a) if time permits, the Maritime Administrator, upon advice by the Chief of Naval Operations, will notify the Owner and also the Master of the Vessel to make the Vessel available to Naval authority, and will also direct the Master to report to the appropriate Naval Commander for operational control or (b) if time does not permit, and the Senior Naval Commander in or for the area or his authorized representative shall

have found it necessary, he will take immediate operational control of the Vessel, after which the Maritime Administrator, upon receipt of advice of such action from the Chief of Naval Operations, will confirm such action to the Owner and also to the Master; with such confirmation to be retroactive to and effective as of the day and hour when control was assumed by the Naval authorities.

(4) As soon as practicable after the United States has assumed operational control of the Vessel as aforesaid, either through the Maritime Administration directly, or through the Department of the Navy, the Maritime Administration will tender to the Owner an agreement containing the same terms and conditions upon which a vessel of the United States could be requisitioned for purchase or charter in accordance with the applicable provisions of section 902(a), Merchant Marine Act, 1936, as amended.

(5) This voluntary Contract of Commitment is not intended, nor shall it be deemed, to affect or modify in any respect the terms and obligations contained in any other agreement or contract of whatsoever nature under which the Vessel is or may hereafter become separately committed to the use of the United States during the period described in Article (1) hereof.

(6) Subject to the various warranties, agreements and representations of the Owner as contained in the Owner's application for interim war risk insurance, submitted with this Contract, the United States hereby undertakes and agrees to provide such war risk insurance on the Vessel pursuant to regulations published in the FEDERAL REGISTER (General Order 75, Revised, Amendment 5), as amended from time to time.

(7) It is the intention and understanding of the parties hereto that the period of this Contract of Commitment shall be coextensive with the period of the interim war risk insurance binder and any insurance issued thereunder.

In witness whereof, this voluntary Contract of Commitment has been executed in quintuplicate by the United States on the day of 19... and by the Owner on the day of 19...

UNITED STATES OF AMERICA, DEPARTMENT OF COMMERCE (MARITIME ADMINISTRATION)

By: (Owner)

By: (Corporate Seal) Attest:

(Secretary)

I, certify that I am the duly chosen, qualified, and acting Secretary of a party to this Contract, and, as such, I am the custodian of its official records and the minute books of its governing body; that who signed this Contract on behalf of said corporation, was then the duly qualified of said corporation; that said officer affixed his manual signature to said Contract in his official capacity as said officer for and on behalf of said corporation by authority and direction of its governing body duly made and taken; that said Contract is within the scope of the corporate and lawful powers of this corporation.

(Secretary)

(Corporate Seal)

§ 308.6 Period of interim binders if insurance thereunder does not attach.

All interim binders shall automatically expire at midnight September 7, 1960,

G.m.t., unless insurance thereunder has attached prior to that date, or such binders have been extended.

§ 308.7 Time of attachment of insurance.

The war risk insurance to be provided under this part shall attach at such date and hour as the applicant shall designate, but not earlier than the date and hour commercial war risk insurance would terminate by reason of the operation of the "American Institute-Automatic Termination Clauses (October 1, 1959)" or would have terminated on vessels not covered by such commercial insurance.

§ 308.8 Premiums and payment thereof.

Rate to be fixed promptly upon the happening of the event causing the "American Institute-Automatic Termination Clauses (October 1, 1959)" of any war risk policies to become operative and premium shall be payable within ten days after receipt of notice of the amount thereof by the assured. Premiums shall be paid to the Underwriting Agent that issued the binders by check payable to the order of "Maritime Adm.—Commerce." In the event that it is subsequently determined that insurance under interim binders did not attach, premiums paid will be refunded by the Maritime Administrator.

§ 308.9 War risk insurance underwriting agency agreement.

The following is the standard form of underwriting agency agreement which will be executed by the Maritime Administrator and domestic insurance companies, or groups of domestic insurance companies authorized to do a marine insurance business in any States of the United States, appointing such companies or groups of companies as Underwriting Agents to issue binders and policies covering hull, protection and indemnity, and Second Seaman's war risk insurance under Subparts B, C, and D of this part:

Form MA-355 (3-56)

UNITED STATES OF AMERICA

DEPARTMENT OF COMMERCE

MARITIME ADMINISTRATION

UNDERWRITING AGENCY AGREEMENT

This Agreement, made and entered into this _____ day of _____, 19____, by and between the United States of America (herein called the "United States"), acting by the Secretary of Commerce (herein called the "Secretary"), represented by the Maritime Administrator (herein called the "Administrator"), and _____ (herein called the "Underwriting Agent"), having an office for the transaction of business at _____ an association of domestic insurance companies (herein called the "Participating Members"), each of which is authorized to do a marine insurance business in a State of the United States.

WITNESSETH

Whereas, pursuant to TITLE XII of the Merchant Marine Act, 1936, as amended, Public Law 763—81st Congress (herein called the "act"), the Secretary is authorized under certain circumstances to provide marine insurance and reinsurance against loss or damage by the risks of war, and to employ

domestic companies or groups of domestic companies authorized to do a marine insurance business in any State of the United States to act as his Underwriting Agent; and

Whereas, the Secretary has delegated authority to the Administrator to perform the functions vested in the Secretary by title XII of the act, except the authority "to find that insurance adequate to the needs of the water-borne commerce of the United States cannot be obtained on reasonable terms and conditions in companies authorized to do an insurance business in a State of the United States" which was reserved to the Secretary. (Section 6.01, subsection 2, paragraph (3) of Department Order No. 117 (Amended), published as section 5(a) (2) (iii) in the FEDERAL REGISTER September 15, 1953, 18 F.R. 5518, 5519); and

Whereas, the Administrator has determined to employ the Underwriting Agent as an underwriting agent in providing war risk insurance as set forth in paragraphs (a), (c), (d), (e), and (f) of section 1203 of the act upon the terms and conditions herein set forth:

Now, therefore, in consideration of the premises and of the mutual covenants and agreements, and upon the terms and conditions herein set forth, the parties hereto agree as follows:

1. *Appointment of agent.* The Administrator hereby authorizes the Underwriting Agent, as an agent acting on behalf of the Administrator and not as an independent contractor, to utilize its offices and facilities to make available the insurance which the Secretary is authorized to provide pursuant to paragraphs (a), (c), (d), (e), and (f) of section 1203 of the act and to perform the functions hereinafter provided for, upon the terms and conditions hereinafter set forth and in accordance with the rules, regulations and instructions which will be issued from time to time to the Underwriting Agent by the Administrator. The Underwriting Agent hereby agrees to utilize its offices and facilities to make such insurance available, as agent for the Administrator, and to perform the functions hereinafter provided for to the best of its ability. The Underwriting Agent may act through its home office, branch offices or agencies which are authorized to write insurance on its behalf.

2. *Duties of agent.* The duties of the Underwriting Agent shall be as follows:

(a) *Receive applications and issue binders and policies.* The Underwriting Agent shall receive applications for insurance, subject to the rates and conditions specified by the Administrator upon forms prescribed by the Administrator. After determining that the applications have been submitted in complete and proper form and are accompanied by remittances in the amount of the premiums required for the insurance applied for, the Underwriting Agent shall countersign binders or policies of insurance, or both binders and policies of insurance, subject to the rules, rates, terms and conditions specified by the Administrator on forms prescribed by the Administrator. The insurer under such policies shall be the United States.

(b) *Keep records.* The Underwriting Agent shall keep a full and complete record of all applications, binders, and policies, and shall also record all premiums, charges or deposits required by the terms of the binders and policies, so that a record may be available at all times to the Administrator, both as to all applications received and all binders and policies issued, and as to all payments made by the assured in connection with such binders and policies.

(c) *Receive money and reports.* The Underwriting Agent shall receive checks made payable to the order of the Maritime Adm.—Commerce for the premiums and charges involved, which checks shall be deposited

by the Underwriting Agent in the Federal Reserve Bank nearest to its office, or in such other bank as may be authorized by the Administrator to receive such deposits. The Underwriting Agent shall receive from the bank in which the deposits are made receipts therefor in such number as may be prescribed in instructions to the Underwriting Agent and handle the receipts so received in accordance with such instructions.

(d) *Report monthly.* The Underwriting Agent shall prepare a monthly report, in summary form, of all applications received, and binders and policies issued or cancelled by the Underwriting Agent on a standard form approved by the Administrator, and transmit them, together with receipts for deposits made as above provided, to the Administrator.

(e) *Other reports.* The Underwriting Agent shall prepare and transmit such other reports as may be required by the Administrator.

(f) *Process claims for return premiums.* The Underwriting Agent shall receive from holders of policies issued by such Underwriting Agent any claims for return premiums on a standard form prescribed by the Administrator and shall certify thereon, if such is the fact, that the amounts with respect to which such return is claimed were previously paid and that based upon the statements included in such application by the assured the return premium applied for is payable in accordance with the regulations of the Administrator. Such applications and certifications shall be transmitted promptly to the Administrator.

(g) *Process claims for losses.* The Underwriting Agent shall receive reports of losses on vessels and disbursements (insured pursuant to paragraphs (a) and (c), section 1203 of the act), assemble all pertinent documents and facts relating thereto required to determine the validity of the claims, including the amounts thereof, and submit the same to the Administrator with its recommendation as to payment.

(h) *Help establish advisory committee.* The Underwriting Agent shall, if requested by the Administrator, cooperate with the Administrator to establish and maintain an advisory underwriting committee to consult with and advise the Administrator in connection with specific underwriting problems, subject to the rules, regulations and instructions of the Administrator, and to establish and maintain such other advisory committees as may be deemed necessary from time to time to safeguard the interests of the Administrator, including a loss committee to act as a recipient for information concerning losses and to pass upon any recommendations made by the Underwriting Agent as to losses and payments of claims arising therefrom in excess of an amount to be fixed by the Administrator.

3. *Compensation—(a) Fair and reasonable.* The Underwriting Agent shall receive for its services such amount as the Administrator and the Underwriting Agent may, from time to time, agree to be fair and reasonable compensation. In addition to such fair and reasonable compensation, the Underwriting Agent shall receive reimbursement for out-of-pocket expenditures reasonably incurred, meaning payments to persons not regularly employed by the Underwriting Agent but excluding payments to attorneys unless such employment has been authorized by the Administrator: *Provided, however,* That all such expenditures shall be subject to the review of the Administrator, and further provided that, except as authorized by section 1209 (d) of the act, such expenditures shall not include any fee or other consideration paid to an insurance broker or any person acting in a similar intermediary capacity for services by virtue of his participation in arranging any of such insurance nor include any

payment on account of solicitation for or stimulation of such insurance.

(b) *Paid monthly.* A statement of the compensation due to the Underwriting Agent (including reimbursement for out-of-pocket expenses as herein provided) shall be submitted by the Underwriting Agent to the Administrator monthly or at such other intervals as the Administrator may direct, with an appropriate voucher, and the amount of such compensation, if approved, shall be promptly paid to the Underwriting Agent.

(4) *Standard of performance.* In the discharge of its duties and obligations pursuant to this Agreement, the Underwriting Agent shall conform to a standard of performance and accuracy reasonably to be expected of an insurance company in the administration of its own business and consistent with the highest degree of good faith. It is agreed, however, that the Underwriting Agent shall not be responsible for errors or omissions of agents or employees in whose selection and supervision it has exercised reasonable care, provided, however, that the Underwriting Agent, in any such case, shall have conformed to the standards of performance required hereunder, and provided further, that the Underwriting Agent assumes full and complete responsibility for the disposition of any funds received by it or its agents or employees under and pursuant to this Agreement. The exercise of reasonable care in the selection of agents and employees by the Underwriting Agent shall be deemed to include a determination by the Underwriting Agent that the agents or employees so selected are experienced in the transaction of such phases of the marine insurance business as may be delegated to such agents or employees by the Underwriting Agent.

5. *Writing insurance for own account.* It is understood that the Participating Members of the Association constituting the Underwriting Agent are or may be engaged in writing for their own account war risk insurance, as well as other types of insurance, for the benefit of holders of policies issued by the Underwriting Agent hereunder and of other parties; and it is agreed that such insurance may be written notwithstanding the activities of the Underwriting Agent hereunder on behalf of the Administrator, pursuant to this Agreement.

6. *Books and records—(a) Maintained subject to audit.* The Underwriting Agent shall keep books, records and accounts covering the operations and activities under this Agreement which shall be the property of the United States represented by the Administrator and shall be kept separate from those relating to other business of the Underwriting Agent or of the Participating Members thereof, in accordance with regulations made from time to time by the Administrator, and shall at all times be subject to audit and inspection by the Administrator.

(b) *Comptroller General may examine.* The Comptroller General of the United States or any of his duly authorized representatives shall have access to and the right to examine any pertinent books, documents, papers and records of the Underwriting Agent or of the Participating Members thereof in the performance of and involving transactions related to this Agreement.

7. *Act only as agent.* The Underwriting Agent shall act only in the capacity of agent for the Administrator as principal, in the performance of the functions provided for hereunder. The Underwriting Agent shall have no authority other than as provided in this Agreement and in the rules, regulations and instructions issued to it by the Administrator under and pursuant to this Agreement. The Underwriting Agent may accompany its signature in all binders and policies countersigned by it hereunder with a statement that, in countersigning such binders and policies, it act solely under the

powers conveyed to it by the Administrator and that it does not thereby warrant its authority to accept applications for insurance or its authority to countersign, nor the authority of the Administrator to issue such binders and policies.

8. *Special circumstances—(a) Reimbursement of taxes and fees.* In the event that the Underwriting Agent or any Participating Member or Members thereof, after giving notice to the Administrator, shall be compelled to pay to the United States, its territories or possessions, or to any State of the United States or political subdivision thereof, or to any foreign country or political subdivision thereof, any tax (excepting income taxes of every nature) or fee or interest or penalty relating thereto claimed to be due by reason of the business transacted pursuant to this Agreement and which would not have been payable except for the activities of the Underwriting Agent or any Member or Members thereof hereunder, the Administrator shall reimburse the Underwriting Agent and any Participating Member or Members thereof and for any special expenses necessarily incurred in connection therewith.

(b) *Indemnification.* If any legal suit or proceeding (whether or not based on negligence) is brought against the Underwriting Agent or any Participating Member or Members thereof on account of anything done or not done, by the Underwriting Agent or any Participating Member or Members thereof or the Administrator, in connection with the issuance or non-issuance or cancellation of insurance or the acceptance or denial of applications for binders or policies of insurance on behalf of the Administrator or the payment or non-payment of claims for loss or return premium arising hereunder (including, without in any way limiting the foregoing, anything done or not done pursuant to any rules, regulations or instructions of the Administrator or anything done or not done in conflict with or because of any limitation on the powers of the Administrator), the Administrator shall, upon due notice and at the expense of the United States, defend any such proceeding. If, in or as a result of any such legal suit or proceeding, the Underwriting Agent or any Participating Member or Members thereof be compelled or required to make any payment or incur any expense, the Administrator shall reimburse the Underwriting Agent or any Participating Member or Members thereof for the amount thereof; provided always that the Administrator shall not be obligated to make any such reimbursement unless, in connection with the action complained of, the Underwriting Agent shall have complied with the standard of performance required thereunder. In any of the foregoing cases, the Underwriting Agent shall render to the Administrator such reasonable cooperation and assistance as the Administrator may require.

9. *Effective date, amendment, termination.* This Agreement shall become effective as of the date of its execution by the Administrator and shall continue in force until terminated. This Agreement may be terminated, modified or amended at any time by mutual written consent. Once this Agreement becomes effective, it shall continue in force until terminated by mutual written consent or by either party, giving at least thirty (30) days' written notice by registered mail to the other party, stating the effective date and time on which this Agreement shall terminate. Such termination shall not affect the obligations of the parties hereto with respect to any binders or policies of insurance issued or expenditures incurred prior to the effective date of such termination.

10. *No commission or contingent fee.* The Underwriting Agent warrants that no person or selling agency has been employed or retained to solicit or secure this contract

upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Underwriting Agent for the purpose of securing business. For breach or violation of this warranty the Administrator shall have the right to annul this contract without liability or in his discretion to deduct from the contract price or consideration the full amount of such commission, percentage, brokerage, or contingent fee.

11. *No discrimination.* In connection with the performance of work under this contract, the Underwriting Agent agrees not to discriminate against any employee or applicant for employment because of race, color, creed, or national origin; and further agrees to insert the foregoing provision in all subcontracts hereunder except subcontracts for standard commercial supplies or for raw materials.

12. *No member or delegate.* No member of or Delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of this contract, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.

13. *Renegotiation.* This contract shall be subject to any act of the Congress, whether heretofore or hereafter enacted and to the extent indicated therein, providing for the renegotiation of said contract and shall be deemed to contain all of the provisions required by any such act without subsequent amendment of this contract specifically incorporating such provisions.

The contractor (which term as used in this sentence means the party contracting to perform the work or furnish the materials required by this contract) shall insert the provisions of this article in each subcontract and purchase order made or issued in carrying out the contract.

Nothing contained in this clause shall impose any renegotiation obligation with respect to this contract or any subcontract hereunder which is not imposed by an act of the Congress, heretofore or hereafter enacted.

14. *Participating Members—(a) Indebted to United States.* The Participating Members of the association constituting the Underwriting Agent, severally but not jointly and limited each to its participation therein, shall be indebted to the United States for such amounts as the Secretary is entitled to recover from the Underwriting Agent in accordance with the foregoing provisions and, in the event of failure to pay on demand, the Secretary may bring an action or actions in any court in the United States to recover such amount or amounts from the Participating Members, severally but not jointly, on behalf of the United States.

(b) *Change of shares.* Without cancelling this Agreement, the Participating Members of the association constituting the Underwriting Agent may, upon not less than ten (10) days' prior written notice to the Administrator, change their share of participation by agreement among themselves, including the termination of the interests of one Participating Member and the assumption of its share by one or more of the other Participating Members or by the admission of other eligible domestic insurance companies to membership in the association. Any such change of apportionment or termination of participation shall not relieve any Participating Member of its obligations in respect to matters which occurred prior to any change or termination of its interest. Unless the Underwriting Agent is notified in writing by the Administrator, within ten (10) days after receipt of notice from the Underwriting Agent, that the proposed change in participation or termination or assumption

is disapproved, such change shall be understood to be acceptable to the Administrator.

In witness whereof, the parties hereto have duly executed this Agreement in quadruplicate as of the day and year first above written.

UNITED STATES OF AMERICA,
SECRETARY OF COMMERCE,
By: MARITIME ADMINISTRATOR.

(Maritime Administrator)

(Underwriting Agent)

By: -----

Attest: -----

Attest: -----

Approved as to form: -----

(Assistant General Counsel,
Maritime Administration)

I, -----, certify that I am the duly chosen, qualified, and acting Secretary of -----, a party to this Agreement, and, as such, I am the custodian of its official records and the minute books of its governing body; that -----, who signed this Agreement on behalf of said association, was then the duly qualified ----- of said association; that said officer affixed his manual signature to said Agreement in his official capacity as said officer for and on behalf of said association by authority and direction of its governing body duly made and taken; that said Agreement is within the scope of the lawful powers of this association.

Subpart B—War Risk Hull Insurance

§ 308.100 Amounts of insurance for which application may be made.

An applicant for war risk hull insurance shall state the amount of insurance desired but any payment for damage to or the total or constructive total loss of the vessel will be made as provided in § 308.103.

§ 308.101 Form of application.

Applications submitted shall be in strict accordance with the following form:

Form MA-183 (Revised 3-60)

UNITED STATES OF AMERICA
DEPARTMENT OF COMMERCE
MARITIME ADMINISTRATION

APPLICATION FOR WAR RISK HULL INSURANCE

Application is made for War Risk Hull Insurance pursuant to Title XII of Merchant Marine Act, 1936, as amended, and in accordance with all provisions of law and subject to all limitations thereof:

Assured(s) -----
Address(es) -----

Mortgagee, if any -----
Address -----

Loss, if any, payable to ----- or order.
On -----

(Vessel's name) (Official No.)

(Flag) (Gross tonnage)

(Date built)

Sum insured ----- dollars (\$-----), but in the event of damage to or actual or constructive total loss of the vessel, the insured value will be not in excess of \$-----*.

*If this valuation is not inserted when the binder is issued, it will be published in the FEDERAL REGISTER pursuant to Maritime Administration General Order 82 as amended from time to time.

which latter amount is the stated valuation of the vessel determined by the Secretary of Commerce in accordance with section 1209 (a), Title XII of Merchant Marine Act, 1936, as amended; *Provided*, that in the event the "sum insured" be less than the "stated valuation" determined under said section, this insurance shall be not in excess of the lesser amount.

To attach automatically upon the outbreak of war or upon the inception of a hostile act or occurrence which results in a state of war (whichever may first occur and whether there be a declaration of war or not) between any member of the North Atlantic Treaty Organization and any of the Contracting Parties to the Treaty of Friendship Cooperation and Mutual Assistance signed at Warsaw, May 14, 1955, or the Central People's Government of the People's Republic of China.

To terminate thirty (30) days after it has been deemed that an outbreak or state of war has arisen within the meaning of the "American Institute—Automatic Termination Clauses (October 1, 1959)" at rates to be fixed by the Maritime Administrator.

Terms and conditions: Subject to form of policy prescribed by the Maritime Administrator, acting for the Secretary of Commerce.

Check category of eligibility under which application is made:

(a)

An American vessel as defined in section 1201(a), Title XII of Merchant Marine Act, 1936, as amended.

(b) (1)

A foreign-flag vessel (except a vessel under Panamanian, Honduran or Liberian flag) which is owned by a citizen or citizens of the United States as defined in section 1201 (d), Title XII of Merchant Marine Act, 1936, as amended.

(b) (2)

A foreign-flag vessel (except a vessel under Panamanian, Honduran or Liberian flag) which is owned by a foreign corporation, the majority of the stock of which is owned by a citizen or citizens of the United States as defined in section 1201(d), Title XII of Merchant Marine Act, 1936, as amended, or under long-term charter to such a citizen or citizens, and

(b) (2) (i)

Regularly loading and/or discharging cargo and/or passengers at a port or ports in the United States or its territories or possessions, or

(b) (2) (ii)

In a service for the sole account of the United States or any department or agency thereof, or

(b) (2) (iii)

In a service which, with respect to the vessel to be insured is determined by the Maritime Administrator to be in the interest of the national defense or the national economy of the United States.

(c) (1)

A foreign-flag vessel under Panamanian, Honduran or Liberian registry not over twenty years of age (unless authorized by the Maritime Administration), which is subject to an unqualified Contract of Commitment with the United States in form as required by the Maritime Administration, and which is owned by a foreign corporation in which a majority of the stock is owned and controlled by United States citizens, whether direct or through intervening corporations, foreign or domestic. Where such intervening corporations are foreign, the ultimate majority ownership and control of the stock of such corporations must be vested in a citizen or citizens of the United States as defined in section 1201(d), Merchant Marine Act, 1936, as amended.

(c) (2)

A foreign-flag vessel under Panamanian, Honduran or Liberian registry not over twenty years of age (unless authorized by the Maritime Administration), which is subject to an unqualified Contract of Commitment with the United States in form as required by the Maritime Administration, and which is owned by a foreign corporation which is not directly or beneficially owned by United States citizens or corporations, but which vessel is operated under a long-term charter on terms deemed by the Maritime Administration to subject the vessel to U.S. control in the event of emergency. The charterer of such a vessel must be either a U.S. corporation or a foreign corporation in which a majority of the stock is owned and controlled by U.S. citizens, whether direct or through intervening corporations, foreign or domestic. Where such intervening corporations are foreign, the ultimate majority ownership and control of the stock of such corporations must be vested in a citizen or citizens of the United States as defined in section 1201 (d), Merchant Marine Act, 1936, as amended.

(d)

Other foreign-flag vessels will be insured at the sole discretion of the Maritime Administrator but only when engaged in a service which has been determined by the Maritime Administrator to be in the interest of the national defense or the national economy of the United States.

It is warranted, as to a vessel in any of the above categories, that at all times during the binder period or any period of insurance attaching thereunder, the vessel will comply with Department of Commerce Transportation Orders T-1 and T-2 or any modification thereof so long as they remain in force.

The applicant further warrants with respect to a vessel, in category (a) or (b), that at the time of the issuance of the interim binder and for and during the term of any insurance attaching hereunder, such vessel is, respectively, an American vessel as defined in section 1201(a), Title XII, Merchant Marine Act, 1936, as amended, or a foreign-flag vessel eligible within the applicable subpart of category (b) as specified in this application, and that such a vessel will remain eligible within its respective category from and after the time the insurance attaches under the interim binder.

The applicant further warrants with respect to a vessel in category (c) (1) or (c) (2) that the vessel will maintain its eligibility within its applicable category at all times from and after the issuance of the interim binder, and will be made available to the United States Government upon request in the event of national emergency pursuant to the terms of the Contract of Commitment submitted herewith; and agrees, in this connection, that during the period of the binder and any insurance attaching thereunder, any charter or other contract covering the use of the vessel during such period shall be subject to termination without notice in the event the United States requires the use of the vessel under the voluntary Contract of Commitment submitted herewith.

With respect to a vessel in category (d), the applicant further warrants that at all times such vessel will remain in the approved service which the Maritime Administrator has found to be in the interest of the national economy or the national defense of the United States.

In addition to the aforesaid warranties, the applicant submits certain statements, certificates and/or agreements which are made part of the insurance application, for vessels in the following categories:

Category (b) (2) (iii) applications. A signed statement, in quadruplicate, setting forth the date of the application, the form of insurance applied for, the name of the vessel,

its flag, the name of the owner or charterer, the service in which the vessel is engaged and the reason such service is considered to be in the interest of the national defense or the national economy of the United States.

Category (c) (1) applications. (a) An executed Contract of Commitment, in form as prescribed in § 308.5, under which applicant commits itself to make the vessel available to the U.S. Government upon request in the event of a national emergency on the same terms and conditions as vessels owned by citizens of the United States are available for requisition, for title, or for use, in accordance with the provisions of section 902(a), Merchant Marine Act, 1936, as amended. In the event this insurance application is determined to be ineligible under the terms of the Maritime Administration's regulations, it is understood that the applicant will be so advised and the executed Contract of Commitment (which is submitted in consideration of the issuance of such insurance) shall be returned to applicant by the Maritime Administration.

(b) A certificate of citizenship, in duplicate, executed by the vessel owner establishing that a majority of the stock of the owning corporation is owned and controlled by U.S. citizens, as defined in Section 1201(d), Merchant Marine Act, 1936, as amended, whether direct or through intervening corporations, foreign or domestic. (c) Where such intervening corporations are foreign, an additional certificate in duplicate, shall be executed by each such corporation establishing that the ultimate majority ownership and control of the stock of such corporation is vested in a citizen or citizens of the United States as defined in section 1201(d), Merchant Marine Act, 1936, as amended. All citizenship certificates shall be in the form prescribed in § 308.4. (d) If prior official action or approval of the Contract of Commitment with the United States is required by the government of the country of vessel's registry as a prerequisite to the execution of such a contract, applicant attaches a certified copy of such official action or approval. If a vessel in category (c) (1) attains twenty years of age on or prior to the effective date of this insurance, applicant agrees that the subject insurance shall not attach without Maritime Administration approval.

Category (c) (2) applications. (a) A Contract of Commitment executed by both the owner and charterer in form as prescribed in § 308.5, under which they commit themselves to make the vessel available to the U.S. Government upon request in the event of national emergency on the same terms and conditions as vessels owned by citizens of the United States are available for requisition, for title, or for use, in accordance with the provisions of section 902(a), Merchant Marine Act, 1936, as amended. In the event this insurance application is determined to be ineligible under the terms of the Maritime Administration's regulations, it is understood that the applicants will be so advised and the executed Contract of Commitment (which is submitted in consideration of the issuance of such insurance) shall be returned by the Maritime Administration. (b) A copy of the long-term charter and all addenda, certified to be full and complete copies. The charterer also agrees to furnish the Maritime Administration a certified copy of any subsequent amendments to such charter. (c) A certificate of citizenship, in duplicate, executed by the charterer establishing that it is a U.S. corporation, or a foreign corporation in which a majority of the stock is owned and controlled by U.S. citizens, whether direct or through intervening corporations, which may be either foreign or domestic. (d) Where such intervening corporations are foreign, an additional certificate, in duplicate, shall be executed by each such corporation establishing that the ultimate majority ownership and

control of the stock of such corporation is vested in a citizen or citizens of the United States as defined in section 1201(d), Merchant Marine Act, 1936, as amended. All citizenship certificates shall be in the form prescribed in § 308.4. (e) If prior official action or approval of the Contract of Commitment with the United States is required by the government of the country of vessel's registry as a prerequisite to the execution of such a contract, applicants attach a certified copy of such official action or approval. If a vessel in category (c) (2) attains twenty years of age on or prior to the effective date of this insurance, applicants agree that the subject insurance shall not attach without Maritime Administration approval.

Category (d) applications. A copy of the statement of vessel's service previously submitted by the applicant, which was the subject of a finding by the Maritime Administrator that such service is deemed to be in the interest of the national defense or the national economy of the United States.

Applicant also attaches appropriate vessel data in form as specified in Maritime Administration General Order 82, as amended from time to time, and as published in the FEDERAL REGISTER.

The warranties and representations in this application, which are made in consideration of the issuance of the insurance above indicated, shall become a part of and be deemed incorporated in the binder and in any insurance policy issued hereunder, to the same extent as though set out in full in such documents.

Binding fee (not returnable unless application is rejected). \$25.00 per vessel, under 500 gross tons. \$100.00 per vessel, 500 gross tons and over. Check payable to the order of "Maritime Adm.—Commerce," enclosed herewith.

Rate of premium—to be fixed by the Maritime Administrator, acting for the Secretary of Commerce.

Dated _____, 19__

Applicant(s) _____
By: _____
(Authorized signature)

By: _____
(Authorized signature)

Binder to be sent to
Name _____
Address _____

(Applications on American flag vessels to be submitted, in duplicate, with required attachments, to the American War Risk Agency, 99 John Street, New York 38, N.Y. Applications on foreign-flag vessels to be submitted, in triplicate, with required attachments, to the Division of Insurance, U.S. Maritime Administration, Washington 25, D.C.)

§ 308.102 Issuance of interim binder; its terms and conditions.

Upon acceptance of an application, an interim binder in form as set forth in § 308.106 will be issued and there shall be deemed to be incorporated therein by reference all the terms, conditions, and warranties contained in the application for war risk hull insurance (set forth in § 308.101) and the standard war risk hull insurance policy (set forth in § 308.107) to the same extent as if such application and policy were made a part of the binder. The binding fee shall be \$25.00 per vessel under 500 gross tons and \$100.00 per vessel of 500 gross tons or over.

§ 308.103 Sums which will be insured under interim binder.

The valuation in the policy for damage to or actual or constructive total loss of

the vessel insured shall be a stated valuation (exclusive of National Defense features paid for by the Government) determined by the Secretary of Commerce which shall not exceed the amount that would be payable if the vessel had been requisitioned for title under section 902 (a) at the time of the attachment of the insurance under said policy: *Provided, however,* That in the case of a construction subsidized vessel, for the period of insurance prior to requisition for title or use, the valuation so determined shall be reduced by such proportion as the amount of construction subsidy paid with respect to the vessel bears to the entire construction cost and capital improvements thereof (excluding the cost of national defense features), and for the period of insurance after requisition for use the valuation so determined shall not exceed the amount which would be payable under section 802 in the case of requisition for title or use: *Provided, further,* That the insured shall have the right within sixty days after the attachment of the insurance under said policy, or within sixty days after determination of such valuation by the Secretary of Commerce, whichever is later, to reject such valuation, and shall pay, at the rate provided for in said policy, premiums upon such asserted valuation as the insured shall specify at the time of rejection, but such asserted valuation shall not operate to the prejudice of the Government in any subsequent action on the policy. In the event of the actual or constructive total loss of the vessel, if the insured has not rejected such valuation the amount of any claim therefor which is adjusted, compromised, settled, adjudged, or paid shall not exceed such stated amount, but if the insured has so rejected such valuation, the insured shall be paid as a tentative advance only, 75 per centum of such valuation so determined by the Secretary of Commerce and shall be entitled to sue the United States in a court having jurisdiction of such claims to recover such valuation as would be equal to the just compensation which such court determines would have been payable if the vessel had been requisitioned for title under section 902(a) at the time of the attachment of the insurance under said policy: *Provided, however,* That in the case of a construction-subsidized vessel, the valuation determined by the court as such just compensation for any period of insurance prior to actual requisition for title or use of the vessel shall be reduced by such proportion as the amount of construction subsidy paid with respect to the vessel bears to the entire construction cost and capital improvements thereof (excluding the cost of national defense features), and for any period of insurance after actual requisition for use, the valuation determined by the court shall be the amount which would have been payable under section 802 in the case of requisition for title: *And provided further,* That in the event of an election by the insured to reject the stated valuation fixed by the Secretary of Commerce and to sue in the courts, the amount of the judgment will be payable without regard to the limitations contained in the twelfth

paragraph under the heading Maritime Activities in title I of the Department of Commerce and Related Agencies Appropriation Act, 1956, in the tenth paragraph under the heading "Maritime Activities" in title III of the Department of State, Justice, and Commerce, and the United States Information Agency Appropriation Act, 1955, in the eleventh paragraph under the heading "Maritime Activities" in title III of the Department of Justice, State, and Commerce Appropriation Act, 1954, the tenth paragraph under the heading "Operating Differential Subsidies" in title II of the Independent Offices Appropriation Act, 1953; the corresponding paragraphs of the Independent Offices Appropriation Act, 1952, and the Third Supplemental Appropriation Act, 1951, although the excess of any amounts advanced on account of just compensation over the amount of the court judgment will be required to be refunded. In the event of such court determination, premiums under the policy shall be adjusted on the basis of the valuation as finally determined and of the rate provided for in said policy.

§ 308.104 Additional war risk hull insurance.

Owners or charterers may obtain, on an excess basis, additional war risk hull insurance in such amounts as desired and such insurance shall not inure to the benefit of the Maritime Administrator as underwriter.

§ 308.105 Reporting casualties and filing claims.

All casualties occurring after insurance under a binder has attached shall be reported promptly to the Underwriting Agent that issued the binder and all claim documents shall likewise be filed with such Underwriting Agent, but payment of the amounts due in settlement of claims will be made by the Maritime Administrator.

§ 308.106 Standard form of war risk hull insurance interim binder.

The following is the standard form of war risk hull insurance interim binder:

Form MA-184 (Revised 3-60)
 UNITED STATES OF AMERICA
 DEPARTMENT OF COMMERCE
 MARITIME ADMINISTRATION
 WAR RISK HULL INSURANCE—INTERIM BINDER
 NO. WRH—

The United States of America, represented by the Maritime Administrator, acting for the Secretary of Commerce, in consideration of the binding fee and premium provided for herein, hereby insures, in accordance with applicable provisions of law and subject to all limitations thereof, particularly Title XII of Merchant Marine Act, 1936, as amended, against Hull War Risks only, subject to the terms, conditions, warranties and representations stated herein or incorporated by reference:

Assured -----
 Loss, if any, payable to ----- or order
 on -----
 (Vessel's name) (Official No.)

 (Flag) (Gross tonnage)

 (Date built)

Sum insured ----- dollars (\$-----),
 but in the event of damage to or actual or constructive total loss of the vessel, the in-

ured value will be not in excess of \$-----*, which latter amount is the stated valuation of the vessel determined by the Secretary of Commerce in accordance with Sec. 1209(a), Title XII of Merchant Marine Act, 1936, as amended: *Provided*, That in the event the "sum insured" be less than the "stated valuation" determined under said section, this insurance shall be not in excess of the lesser amount.

Attaching automatically upon the outbreak of war or upon the inception of a hostile act or occurrence which results in a state of war (whichever may first occur and whether there be a declaration of war or not) between any member of the North Atlantic Treaty Organization and any of the Contracting Parties to the Treaty of Friendship Cooperation and Mutual Assistance signed at Warsaw, May 14, 1955, or the Central People's Government of the People's Republic of China.

Terminating thirty (30) days after it has been deemed that an outbreak or state of war has arisen within the meaning of the "American Institute—Automatic Termination Clauses (October 1, 1959)" at rates to be fixed by the Maritime Administrator.

Assured to have a privilege of deferring attachment by giving written or telegraphic notice to the Underwriting Agent prior to attachment of risk.

This binder shall automatically expire at midnight, September 7, 1960, G.m.t.

Warranties, terms and conditions. Warranted, with respect to a vessel in category (a) or (b) of the application, that at the date of the issuance of this binder and for and during the term of any insurance attaching hereunder, such vessel is, respectively, an American vessel as defined in section 1201(a), Title XII, Merchant Marine Act, 1936, as amended, or a foreign-flag vessel eligible within the applicable subpart of category (b) specified in the application pursuant to which this binder was issued; and if at any time after insurance attaches under this binder, such vessel shall cease to be eligible within such applicable category, this binder and any insurance provided hereunder shall automatically terminate at the time of such change, without return of binding fee or premium, unless the Maritime Administration agrees otherwise.

Warranted further, as to a vessel in any eligible category of the application, that at all times during the binder period or any period of insurance attaching hereunder, the vessel will comply with Department of Commerce, Transportation Orders T-1 and T-2 or any modification thereof so long as they remain in force; and as to a vessel in category (c)(1) or (2) of the application that such vessel will maintain its eligibility within its applicable category at all times from and after the issuance of this interim binder, and will be made available to the U.S. Government upon request in the event of national emergency, pursuant to the terms of the Contract of Commitment executed by the assured; and as to a vessel in category (d) of the application that at all times such vessel will remain in the approved service which the Maritime Administrator found to be in the interest of the national economy or the national defense of the United States; and in the event of the breach of any warranty contained in this paragraph, such binder and any insurance attaching thereunder, shall automatically terminate at the time of such breach, without return of premium unless the Maritime Administration agrees otherwise.

*If this valuation is not inserted when the binder is issued, it will be published in the FEDERAL REGISTER pursuant to Maritime Administration General Order 82 as amended from time to time.

There shall be deemed to be incorporated herein (a) any other warranties of the applicant (express or implied) and all representations and agreements which are made a part of the application, and (b) all of the terms, conditions and warranties contained in the war risk hull insurance policy set forth in § 308.107 hereof (Part 308, Title 46, Code of Federal Regulations). To the extent there is inconsistency between the terms of such war risk hull insurance policy and the terms of this binder including the warranties, agreements and representations of the applicant, the terms of the binder together with the warranties, agreements and representations of applicant shall prevail.

Premium: Rate to be fixed promptly after the happening of the event causing the "American Institute—Automatic Termination Clauses (October 1, 1959)" of any war risk policy to become operative and the premium shall be payable within ten days after receipt of notice of the amount thereof by the assured. Premium shall be paid to the Underwriting Agent that issued the binders by check payable to the order of Maritime Adm.—Commerce.

Privilege is granted to effect, on an excess basis, additional war risk hull insurance, which insurance shall not inure to the benefit of the Maritime Administrator as underwriter.

Claims: Casualties arising after attachment of insurance hereunder shall be reported promptly to the Underwriting Agent and all claim documents shall be likewise filed with such Underwriting Agent but payment of the amounts due in settlement of claims will be made by the Maritime Administrator.

The Underwriting Agent does not, by countersigning this binder or in any other manner, warrant its own authority, or the authority of the Maritime Administrator, acting for the Secretary of Commerce, to issue this instrument, but acts solely under the power conveyed to the Underwriting Agent by the Agreement made with the Maritime Administrator, acting for the Secretary of Commerce.

UNITED STATES OF AMERICA,
 By Maritime Administrator,
 acting for the Secretary
 of Commerce.

Countersigned at New York, N.Y., this
 ----- day of ----- 19---

AMERICAN WAR RISK AGENCY,
 By -----
 (Authorized Underwriting
 agent)

 (Maritime Administrator)

Not valid unless countersigned by an authorized underwriting agent.

§ 308.107 Standard form of war risk hull insurance policy.

The following is the standard form of war risk hull insurance policy:

Form MA-240 (10-59)

Policy No. H -----

UNITED STATES OF AMERICA

Represented by the Maritime Administrator, acting for the Secretary of Commerce (sometimes hereinafter called the Underwriter), by this policy of insurance, in accordance with applicable provisions of law and subject to all limitations thereof, does make insurance and cause to be insured: ----- for account of ----- but subject to the following provisions with respect to change of ownership, etc.:

In the event of any change, voluntary or otherwise, in the ownership of the Vessel or if the Vessel be placed under new management or be chartered on a bareboat basis

or requisitioned on that basis, then, unless the Underwriter agrees thereto in writing, this Policy shall thereupon become cancelled from time of such change in ownership or management, charter or requisition; provided, however, that in the case of an involuntary temporary transfer by requisition or otherwise, without the prior execution of any written agreement by the Assured, such cancellation shall take place fifteen days after such transfer; and provided further that if the Vessel has cargo on board and has already sailed from her loading port, or is at sea in ballast, such cancellation shall be suspended until arrival at final port of discharge if with cargo or at port of destination if in ballast. This insurance shall not inure to the benefit of any such charterer or transferee of the Vessel, and if a loss payable hereunder should occur between such transfer and such cancellation the Underwriter shall be subrogated to all the rights of the Assured against the transferee, by reason of such transfer, in respect of all or part of such loss as is recoverable from the transferee and in the proportion which the respective amounts insured bear to the insured value. A pro rata daily return of net premium shall be made. The foregoing provisions with respect to cancellation in the event of change in ownership or management, charter or requisition shall apply even in the case of insurance "for account of whom it may concern."

Less, if any (excepting claims required to be paid to others under the Collision Clause), payable to _____ or order. Sum insured _____ dollars (\$-----), but in the event of damage to or actual or constructive total loss of the vessel, the insured value will be not in excess of \$-----*, which latter amount is the stated valuation of the vessel determined by the Secretary of Commerce in accordance with section 1209 (a), Title XII of Merchant Marine Act, 1936, as amended: *Provided*, That in the event the "sum insured" be less than the "stated valuation" determined under said section, this insurance shall be not in excess of the lesser amount.

At and from the _____ day of _____ 19____, _____ time to the _____ day of _____ 19____, _____ time.

Provided, however, Should the Vessel at the expiration of this Policy be at sea, or in distress, or at a port of refuge or of call, she shall, provided previous notice be given to the Underwriter, be held covered at a pro rata monthly premium to her port of destination.

On the Vessel called the _____ Official No. _____ (or by whatsoever name or names the said Vessel is or shall be called).

The said Vessel, for so much as concerns the Assured, by agreement between the Assured and the Underwriter in this Policy, is and shall be valued at as follows:

Hull, tackle, apparel, passenger fittings, equipment, stores, ordnance, munitions, boats and other furniture _____ \$-----
 Bollers, machinery, refrigerating machinery and insulation, motor generators and other electrical machinery, and everything connected therewith _____ \$----- \$-----

Donkey boilers, winches, cranes, windlasses and steering gear shall be deemed to be a part of the hull and not of the machinery.

*If this valuation is not inserted when the binder is issued, it will be published in the FEDERAL REGISTER pursuant to Maritime Administration General Order 82 as amended from time to time.

Special Conditions and Warranties: Unless physically deleted by the Underwriters, the following warranty shall be paramount and shall supersede and nullify any contrary provision of the Policy:

F. C. & S. CLAUSE

Notwithstanding anything to the contrary contained in the Policy, this insurance is warranted free from any claim for loss, damage or expense caused by or resulting from capture, seizure, arrest, restraint or detention, or the consequences thereof or of any attempt thereat, or any taking of the Vessel, by requisition or otherwise, whether in time of peace or war and whether lawful or otherwise; also from all consequences of hostilities or warlike operations (whether there be a declaration of war or not), but the foregoing shall not exclude collision or contact with aircraft, rockets or similar missiles, or with any fixed or floating object (other than a mine or torpedo), stranding, heavy weather, fire or explosion unless caused directly (and independently of the nature of the voyage or service which the vessel concerned or, in the case of a collision, any other vessel involved therein, is performing) by a hostile act by or against a belligerent power, and for the purpose of this warranty "power" includes any authority maintaining naval, military or air forces in association with a power; also warranted free, whether in time of peace or war, from all loss, damage or expense caused by any weapon of war employing atomic or nuclear fission and/or fusion or other reaction or radioactive force or matter.

Further warranted free from the consequences of civil war, revolution, rebellion, insurrection, or civil strife arising therefrom, or piracy.

If war risks are hereafter insured by endorsement on the Policy, such endorsement shall supersede the above warranty only to the extent that their terms are inconsistent and only while such war risk endorsement remains in force.

Held covered in case of any breach of warranty as to cargo, trade, locality or date of sailing, provided notice be given and any additional premium required be agreed immediately after receipt of advices of breach or proposed breach by Owners.

The Underwriters to be paid in consideration of this insurance _____ Dollars being at the rate of _____ percent.

In event of non-payment of premium thirty days after attachment this Policy may be cancelled by the Underwriter upon five days written notice being given the Assured. Such proportion of the premium, however, as shall have been earned up to the time of such cancellation shall be due and payable; but in the event of Total or Constructive Total Loss occurring prior to cancellation full annual premium shall be deemed earned.

To return—

_____ cents percent net for each uncommenced month if it be mutually agreed to cancel this Policy. As follows for each consecutive 30 days the Vessel may be laid up in port, viz:

	Without cargo on board	With cargo on board
1. Under repair---	----¢% net	----¢% net
2. Not under repair.	----¢% net	----¢% net

For the purpose of this clause a Vessel loading or discharging cargo shall be considered as "with cargo on board".

Provided always: (a) that in no case shall a return be allowed when the within named Vessel is lying in a roadstead or in exposed and unprotected waters.

(b) that in the event of a return for special trade, or any other reason, being re-

coverable, the above rates of return of premium shall be reduced accordingly.

And arrival.

In the event of the Vessel being laid up in port for a period of 30 consecutive days, a part only of which attaches to this Policy, it is hereby agreed that the laying up period, in which either the commencing or ending date of this Policy falls, shall be deemed to run from the first day on which the Vessel is laid up and that on this basis the Underwriter shall pay such proportion of the return due in respect of a full period of 30 days as the number of days attaching hereto bear to thirty.

Additional insurances as follows are permitted:

(a) *Disbursements, managers' commissions, profits or excess or increased value of hull and machinery, and/or similar interests however described, and freight (including chartered freight or anticipated freight) insured for time.* A sum not exceeding in the aggregate 25 percent of the insured value of the Vessel.

(b) *Freight or hire, under contracts for voyage.* A sum not exceeding the gross freight or hire for the current cargo passage and next succeeding cargo passage (such insurance to include, if required, a preliminary and an intermediate ballast passage) plus the charges of insurance. In the case of a voyage charter where payment is made on a time basis, the sum permitted for insurance shall be calculated on the estimated duration of the voyage, subject to the limitation of two cargo passages as laid down herein. Any sum insured under this section shall be reduced as the freight or hire is earned by the gross amount so earned.

(c) *Anticipated freight if the vessel sails in ballast and not under charter.* A sum not exceeding the anticipated gross freight on next cargo passage, such sum to be reasonably estimated on the basis of the current rate of freight at time of insurance, plus the charges of insurance. *Provided, however*, That no insurance shall be permitted under this section if any insurance is affected under section (b).

(d) *Time charter hire or charter hire for series of voyages.* A sum not exceeding 50 percent of the gross hire which is to be earned under the charter in a period not exceeding 18 months. Any sum insured under this section shall be reduced as the hire is earned under the charter by 50 percent of the gross amount so earned but where the charter is for a period exceeding 18 months the sum insured need not be reduced while it does not exceed 50 percent of the gross hire still to be earned under the charter.

An insurance under this section may begin on the signing of the charter.

(e) *Premiums.* A sum not exceeding the actual premiums of all interests insured for a period not exceeding 12 months (excluding premiums insured under the foregoing sections but including, if required, the premium or estimated calls on any Protection and Indemnity or War &c. Risk insurance) reducing pro rata monthly.

(f) *Returns of premium.* A sum not exceeding the actual returns which are recoverable subject to "and arrival" under any policy of insurance.

(g) *Insurance irrespective of amount.* Against risks excluded by the F.C. & S. Clause, and risks enumerated in the American Institute War and Strikes Clauses and General Average and Salvage Disbursements.

Warranted that no insurance on any interests enumerated in the foregoing sections (a) to (f), inclusive, in excess of the amounts permitted therein and no insurance subject to P.P.I., F.I.A. or other like term, on any interests whatever excepting those enumerated in section (a), is or shall be effected to operate during the currency of

this Policy by or for account of the Assured, Owners, Managers or Mortgagees. Provided always that a breach of this warranty shall not afford the Underwriter any defense to a claim by a Mortgagee who has accepted this Policy without knowledge of such breach.

Beginning the adventure upon the said Vessel, as above, and so shall continue and endure during the period aforesaid, as employment may offer, in port and at sea, in docks and graving docks and on ways, gridirons and pontoons, at all times, in all places and on all occasions, services and trades whatsoever and wheresoever, under steam, motor power or sail; with leave to sail or navigate with or without pilots, to go on trial trips and to assist and tow vessels or craft in distress, but if without the approval of the Underwriter the Vessel be towed, except as is customary or when in need of assistance, or undertakes towage or salvage services under a pre-arranged contract made by Owners and/or Charterers, the Assured shall notify the Underwriter immediately and pay an additional premium if required but no such premium shall be required for customary towage by the Vessel in connection with loading and discharging. With liberty to discharge, exchange and take on board goods, specie, passengers and stores, wherever the Vessel may call at or proceed to, and with liberty to carry goods, live cattle, etc., on deck or otherwise.

Touching the Adventures and Perils which the said Underwriter is contented to bear and take upon itself, they are of the Seas, Men-of-War, Fire, Lightning, Earthquake, Enemies, Pirates, Rovers, Assailing Thieves, Jettisons, Letters of Mart and Counter-Mart, Surprisals, Takings at Sea, Arrests, Restraints and Detainments of all Kings, Princes and Peoples, of what nation, condition or quality soever, Barratry of the Master and Mariners and of all other like Perils, Losses and Misfortunes that have or shall come to the Hurt, Detriment or Damage of the said Vessel, &c, or any part thereof; excepting, however, such of the foregoing Perils as may be excluded by provisions elsewhere in the Policy or by endorsement. And in case of any Loss or Misfortune, it shall be lawful and necessary for the Assured, their Factors, Servants and Assigns, to sue, labor and travel for, in and about the Defense, Safeguard and Recovery of the said Vessel, &c, or any part thereof, without prejudice to this Insurance, to the Charges whereof the Underwriter will contribute its proportion as provided below. And it is expressly declared and agreed that no acts of the Underwriter or Assured in recovering, saving or preserving the property insured shall be considered as a waiver or acceptance of abandonment.

This insurance also specially to cover (subject to the Average Warranty) loss of or damage to the subject matter insured directly caused by the following:

Accidents in loading, discharging or handling cargo, or in bunkering;

Accidents in going on or off, or while on drydocks, graving docks, ways, gridirons or pontoons;

Explosions on shipboard or elsewhere;

Breakdown of motor generators or other electrical machinery and electrical connections thereto, bursting of boilers, breakage of shafts, or any latent defect in the machinery or hull (excluding the cost and expense of replacing or repairing the defective part);

Breakdown of or accidents to nuclear installations or reactors not on board the insured Vessel;

Contact with aircraft, rockets or similar missiles, or with any land conveyance;

Negligence of Charterers and/or Repairers, provided such Charterers and/or Repairers are not Assured(s) hereunder;

Negligence of Master, Mariners, Engineers or Pilots;

provided such loss or damage has not resulted from want of due diligence by the Assured, the Owners or Managers of the Vessel, or any of them. Masters, Mates, Engineers, Pilots or Crew not to be considered as part owners within the meaning of this clause should they hold shares in the Vessel.

In the event of accident whereby loss or damage may result in a claim under this Policy, notice shall be given in writing to the Underwriter, where practicable, prior to survey, so that it may appoint its own surveyor if it so desires. The Underwriter shall be entitled to decide the port to which a damaged Vessel shall proceed for docking or repairing (the actual additional expense of the voyage arising from compliance with the Underwriter's requirements being refunded to the Assured) and the Underwriter shall also have a right of veto in connection with the place of repair or repairing firm proposed and whenever the extent of the damage is ascertainable the Underwriter may take or may require to be taken tenders for the repair of such damage. In the event of failure to comply with the conditions of this clause 15 percent shall be deducted from the amount of the ascertained claim.

In cases where a tender is accepted with the approval of the Underwriter, an allowance shall be made at the rate of 30 percent per annum on the insured value for each day or pro rata for part of a day from the time of the completion of the survey until the acceptance of the tender provided that it be accepted without delay after receipt of the Underwriter's approval.

No allowance shall be made for any time during which the Vessel is loading or discharging cargo or bunkering.

Due credit shall be given against the allowance as above for any amount recovered:

(a) In respect of fuel and stores and wages and maintenance of the Master, Officers and Crew or any member thereof allowed in General or Particular Average;

(b) From third parties in respect of damages for detention and/or loss of profit and/or running expenses; for the period covered by the tender allowance or any part thereof.

Notwithstanding anything herein contained to the contrary, this policy is warranted free from Particular Average under 3 percent, or unless amounting to \$4,850, but nevertheless when the Vessel shall have been stranded, sunk, on fire, or in collision with any other Ship or Vessel, the Underwriter shall pay the damage occasioned thereby, and the expense of sighting the bottom after stranding shall be paid, if reasonably incurred, even if no damage be found.

Grounding in the Panama Canal, Suez Canal or in the Manchester Ship Canal or its connections, or in the River Mersey above Rock Ferry Slip, or in the River Plate (above a line drawn from the North Basin, Buenos Aires, to the mouth of the San Pedro River) or its tributaries, or in the Danube or Demerara Rivers or on the Yenikale Bar, shall not be deemed to be a stranding.

Average payable on each valuation separately or on the whole, without deduction of thirds, new for old, whether the Average be Particular or General.

No claim shall in any case be allowed in respect of scraping or painting the Vessel's bottom.

The warranty and conditions as to Average under 3 percent or unless amounting to \$4,850 to be applicable to each voyage as if separately insured, and a voyage shall commence at the Assured's election when the Vessel either begins to load cargo or sails in ballast to a loading port. Such voyage shall continue until the Vessel has made not more than three passages or not more than two passages with cargo (whichever first occurs) and extend further until the Vessel thereafter begins to load cargo or sails (whichever first occurs), but such extension shall not

exceed 30 days in port. A passage shall be deemed to be from the commencement of loading at the first port or place of loading until completion of discharge at the last port or place of discharge, or, if the Vessel sails in ballast, from the port or place of departure until arrival at the first port or place thereafter other than a port or place of refuge or a port or place for bunkering only. Each period in port of 30 days in excess of 30 days between passages shall itself constitute a passage for the purposes of this clause. When the Vessel sails in ballast to effect damage repairs such sailing or passage shall be considered part of the previous passage. In calculating whether the 3 percent or \$4,850 is reached, Particular Average occurring outside the period covered by this Policy may be added to Particular Average occurring within such period, providing it occur on the same voyage as above defined, but only that portion of the claim arising within the period covered by this Policy shall be recoverable hereon. A voyage shall not be so fixed that it overlaps another voyage on which a claim is made on this or the preceding or succeeding Policy. Particular Average which would be excluded by the terms of this Policy shall not be included in determining whether the 3 percent or \$4,850 is reached.

No recovery for a Constructive Total Loss shall be had hereunder unless the expense of recovering and repairing the Vessel shall exceed the insured value.

In ascertaining whether the Vessel is a Constructive Total Loss the insured value shall be taken as the repaired value, and nothing in respect of the damaged or breakup value of the Vessel or wreck shall be taken into account.

In the event of Total or Constructive Total Loss, no claim to be made by the Underwriter for freight, whether notice of abandonment has been given or not.

In no case shall the Underwriter be liable for unrepaired damage in addition to a subsequent Total Loss sustained during the period covered by this Policy.

General Average, Salvage, and Special Charges payable as provided in the contract of affreightment, or falling such provision, or there be no contract of affreightment, payable in accordance with the Laws and Usages of the Port of New York. Provided always that when an adjustment according to the laws and usages of the port of destination is properly demanded by the owners of the cargo, General Average shall be paid in accordance with same.

And it is further agreed that in the event of salvage, towage or other assistance being rendered to the Vessel hereby insured by any Vessel belonging in part or in whole to the same Owners or Charterers, the value of such services (without regard to the common ownership or control of the Vessels) shall be ascertained by arbitration in the manner below provided for under the Collision Clause, and the amount so awarded so far as applicable to the interest hereby insured shall constitute a charge under this Policy.

When the contributory value of the Vessel is greater than the valuation herein the liability of the Underwriter for General Average contribution (except in respect to amount made good to the Vessel) or Salvage shall not exceed that proportion of the total contribution due from the Vessel that the amount insured hereunder bears to the contributory value; and if because of damage for which the Underwriter is liable as Particular Average the value of the Vessel has been reduced for the purpose of contribution, the amount of the Particular Average claim under this Policy shall be deducted from the amount insured hereunder and the Underwriter shall be liable only for the proportion which such net amount bears to the contributory value.

In the event of expenditure under the Sue and Labor Clause, this Policy shall pay the

proportion of such expenses that the amount insured hereunder bears to the insured value of the Vessel, or that the amount insured hereunder, less loss and/or damage payable under this Policy, bears to the actual value of the salvaged property; whichever proportion shall be less.

If claim for total loss is admitted under this Policy and sue and labor expenses have been reasonably incurred in excess of any proceeds realized or value recovered, the amount payable under this Policy will be the proportion of such excess that the amount insured hereunder (without deduction for loss or damage) bears to the insured value or the sound value of the Vessel at the time of the accident, whichever value was greater.

And it is further agreed that if the Vessel hereby insured shall come into collision with any other Ship or Vessel and the Assured or the Charterers or the Surety in consequence of the insured Vessel being at fault shall become liable to pay and shall pay by way of damages to any other person or persons any sum or sums in respect of such collision the Underwriter will pay the Assured, or the Charterers, or the Surety, whichever shall have paid, such proportion of such sum or sums so paid as its subscription hereto bears to the value of the Vessel hereby insured, provided always that its liability in respect to any one such collision shall not exceed its proportionate part of the value of the Vessel hereby insured. And in cases where the liability of the Vessel has been contested, or proceedings have been taken to limit liability, with the consent in writing of the Underwriter, it will also pay a like proportion of the costs which the Assured or Charterers shall thereby incur, or be compelled to pay; but when both Vessels are to blame, then, unless the liability of the Owners or Charterers of one or both such Vessels becomes limited by law, claims under the Collision Clause shall be settled on the principle of Cross-Liabilities as if the Owners or Charterers of each Vessel had been compelled to pay to the Owners or Charterers of the other of such Vessels such one-half or other proportion of the latter's damages as may have been properly allowed in ascertaining the balance or sum payable by or to the Assured or Charterers in consequence of such collision; and it is further agreed that the principles involved in this clause shall apply to the case where both Vessels are the property, in part or in whole, of the same Owners or Charterers, all questions of responsibility and amount of liability as between the two Vessels being left to the decision of a single Arbitrator, if the parties can agree upon a single Arbitrator, or failing such agreement, to the decision of Arbitrators, one to be appointed by the Managing Owners or Charterers of both Vessels, and one to be appointed by the Underwriter; the two Arbitrators chosen to choose a third Arbitrator before entering upon the reference, and the decision of such single, or of any two of such three Arbitrators, appointed as above, to be final and binding. Provided always that this clause shall in no case extend to any sum which the Assured, or the Charterers, or the Surety, may become liable to pay or shall pay for removal of obstructions under statutory powers, for injury to harbors, wharves, piers, stages, structures, or any other objects (excepting other Vessels and property thereon), consequent on such collision, or in respect of the cargo, baggage or engagements of the Insured Vessel, or for loss of life, or personal injury. And provided also that in the event of any claim under this clause being made by anyone other than the Owners of the Vessel hereby insured, he shall not be entitled to recover in respect of any liability to which the Owners of the Vessel as such would not be subject, nor to a greater extent than the

Owners would be entitled in such event to recover.

In witness whereof, the Maritime Administrator, acting for the Secretary of Commerce, has signed this Policy but it shall not be valid unless countersigned by an authorized underwriting agent.

UNITED STATES OF AMERICA,
By Maritime Administrator,
acting for the Secretary
of Commerce.

(Maritime Administrator)

The Underwriting Agent does not, by countersigning this Policy or in any other manner, warrant its own authority, or the authority of the Maritime Administrator, acting for the Secretary of Commerce, to issue this instrument, but acts solely under the power conveyed to the Underwriting Agent by the Agreement made with the Maritime Administrator, acting for the Secretary of Commerce.

Countersigned at _____ this _____ day of _____ 19__

By: _____
(Authorized Underwriting Agent)

Form MA-240-A (10-59)

UNITED STATES OF AMERICA

HULL WAR RISK AND STRIKES CLAUSES

Endorsement attached to and made part of Policy No. _____. It is agreed that this insurance covers only those risks which would be covered by the attached Policy (including the Collision Clause) in the absence of the F.C. & S. warranty contained therein but which are excluded by that warranty. This insurance is also subject, however, to the following warranties and additional clauses:

(1) The Adventures and Perils Clause shall be construed as including the risks of hostilities or warlike operations, piracy, civil war, revolution, rebellion or insurrection or civil strife arising therefrom, floating and/or stationary mines and/or torpedoes whether derelict or not, weapons of war employing atomic or nuclear fission and/or fusion or other reaction or radioactive force or matter, and the application of sanctions under international agreements, whether before or after declaration of war and whether by a belligerent or otherwise, but excluding arrest, restraint or detention under customs or quarantine regulations, and similar arrests, restraints or detentions not arising from actual or impending hostilities or sanctions.

(2) This insurance also covers damage to or destruction of the property insured directly caused by strikers, locked out workmen, or persons taking part in labor disturbances or riots or civil commotions or caused by persons acting maliciously, but this paragraph shall not be construed to include or cover any loss, damage or expense caused by or resulting from delay, detention or loss of use.

(3) The Franchise warranty in the attached Policy is waived and average shall be payable irrespective of percentage and without deduction of new for old. The provisions of the attached Policy with respect to constructive total loss shall apply only to claims arising from physical damage to the insured vessel.

(4) Warranted free of any claim for delay or demurrage and warranted not to abandon in case of capture, seizure or detention, until after condemnation of the property insured.

(5) Warranted free of any claim based upon loss of or frustration of the insured voyage or adventure caused by arrests, restraints or detentions, of kings, princes, or peoples.

(6) Warranted free from any claim arising from capture, seizure, arrest, restraint,

detainment, preemption, confiscation or requisition by the Government of the United States or of the country in which the Vessel is owned or registered or of the country in which there vests any such right of requisition.

(7) Should the Vessel be at sea at the natural expiry of this Policy, this insurance shall be extended until the time the Vessel is moored at the next port to which she proceeds, provided notice be given to the Underwriting Agent as soon as practicable and an additional pro rata premium paid, if required.

(8) The "Breach of Warranty" clause in the policy is deleted.

(9) Warranted no War Risk Insurance in excess of the amount insured herein, whether for hull, machinery, disbursements, or other similar interests however described, exists or will be placed during the currency of this insurance (except as authorized by the Maritime Administrator, acting for the Secretary of Commerce).

(10) Warranted no cancellation except by mutual consent: *Provided, however,* That if the vessel shall be requisitioned by the United States on a basis whereby the United States provides the war risk insurance, then this insurance shall terminate and pro rata daily return premium shall be paid. In no other event shall there be any return of premium.

(11) For the purpose of determining liability under this policy for General Average contribution or Salvage and sue and labor expenses only, the sum insured herein or as stated in any binder of which this policy is a part, shall be deemed to be the "insured value."

Subpart C—War Risk Protection and Indemnity Insurance

§ 308.200 Amount of insurance for which application may be made.

An applicant for war risk protection and indemnity insurance shall state the amount of insurance desired but such amount shall not exceed \$250.00 per gross ton of the vessel.

§ 308.201 Form of application.

Applications submitted shall be in strict accordance with the following form:

Form MA-185 (Revised 3-60)

UNITED STATES OF AMERICA
DEPARTMENT OF COMMERCE
MARITIME ADMINISTRATION

APPLICATION FOR WAR RISK PROTECTION AND INDEMNITY INSURANCE

Application is made for War Risk Protection and Indemnity Insurance pursuant to Title XII of Merchant Marine Act, 1936, as amended, and in accordance with all provisions of law and subject to all limitations thereof:

Assured(s) _____
Address(es) _____
Mortgagee, if any, _____
Address _____
Loss, if any, payable to _____ or order.
On _____
(Vessel's name) (Official No.)

(Flag) (Gross tonnage)

(Date built)

Sum to be insured \$_____ but not exceeding \$250 per gross ton of the vessel.

To attach automatically upon the outbreak of war or upon the inception of a hostile act or occurrence which results in a state of war (whichever may first occur and

whether there be a declaration of war or not) between any member of the North Atlantic Treaty Organization and any of the Contracting Parties to the Treaty of Friendship Cooperation and Mutual Assistance signed at Warsaw, May 14, 1955, or the Central People's Government of the People's Republic of China.

To terminate thirty (30) days after it has been deemed that an outbreak or state of war has arisen within the meaning of the "American Institute-Automatic Termination Clauses (October 1, 1959)" at rates to be fixed by the Maritime Administrator.

Terms and conditions: Subject to form of policy prescribed by the Maritime Administrator, acting for the Secretary of Commerce.

Check category of eligibility under which application is made:

(a)

An American vessel as defined in section 1201(a), Title XII of Merchant Marine Act, 1936, as amended.

(b) (1)

A foreign-flag vessel (except a vessel under Panamanian, Honduran or Liberian flag) which is owned by a citizen or citizens of the United States as defined in section 1201(d), Title XII of Merchant Marine Act, 1936, as amended.

(b) (2)

A foreign-flag vessel (except a vessel under Panamanian, Honduran or Liberian flag) which is owned by a foreign corporation, the majority of the stock of which is owned by a citizen or citizens of the United States as defined in section 1201(d), Title XII of Merchant Marine Act, 1936, as amended, or under long-term charter to such a citizen or citizens, and

(b) (2) (i)

Regularly loading and/or discharging cargo and/or passengers at a port or ports in the United States or its territories or possessions, or

(b) (2) (ii)

In a service for the sole account of the United States or any department or agency thereof, or

(b) (2) (iii)

In a service which, with respect to the vessel to be insured is determined by the Maritime Administrator to be in the interest of the national defense or the national economy of the United States.

(c) (1)

A foreign-flag vessel under Panamanian, Honduran or Liberian registry not over twenty years of age (unless authorized by the Maritime Administration), which is subject to an unqualified Contract of Commitment with the United States in form as required by the Maritime Administration, and which is owned by a foreign corporation in which a majority of the stock is owned and controlled by United States citizens, whether direct or through intervening corporations, foreign or domestic. Where such intervening corporations are foreign, the ultimate majority ownership and control of the stock of such corporations must be vested in a citizen or citizens of the United States as defined in section 1201(d), Merchant Marine Act, 1936, as amended.

(c) (2)

A foreign-flag vessel under Panamanian, Honduran or Liberian registry not over twenty years of age (unless authorized by the Maritime Administration), which is subject to an unqualified Contract of Commitment with the United States in form as required by the Maritime Administration, and which is owned by a foreign corporation which is not directly or beneficially owned by United States citizens or corporations, but which vessel is operated under a long-term charter on terms deemed by the Maritime Administration to subject the vessel to U.S. control in the event of emergency. The charterer of

such a vessel must be either a U.S. corporation or a foreign corporation in which a majority of the stock is owned and controlled by U.S. citizens, whether direct or through intervening corporations, foreign or domestic. Where such intervening corporations are foreign, the ultimate majority ownership and control of the stock of such corporations must be vested in a citizen or citizens of the United States as defined in section 1201(d), Merchant Marine Act, 1936, as amended.

(d)

Other foreign-flag vessels will be insured at the sole discretion of the Maritime Administrator but only when engaged in a service which has been determined by the Maritime Administrator to be in the interest of the national defense or the national economy of the United States.

It is warranted, as to a vessel in any of the above categories, that at all times during the binder period or any period of insurance attaching thereunder, the vessel will comply with Department of Commerce Transportation Orders T-1 and T-2 or any modification thereof so long as they remain in force.

The applicant further warrants with respect to a vessel, in category (a) or (b), that at the time of the issuance of the interim binder and for and during the term of any insurance attaching hereunder, such vessel is, respectively, an American vessel as defined in section 1201(a), Title XII, Merchant Marine Act, 1936, as amended, or a foreign-flag vessel eligible within the applicable subpart of category (b) as specified in this application, and that such a vessel will remain eligible within its respective category from and after the time the insurance attaches under the interim binder.

The applicant further warrants with respect to a vessel in category (c) (1) or (2) that the vessel will maintain its eligibility within its applicable category at all times from and after the issuance of the interim binder, and will be made available to the United States Government upon request in the event of national emergency pursuant to the terms of the Contract of Commitment submitted herewith; and agrees, in this connection, that during the period of the binder and any insurance attaching thereunder, any charter or other contract covering the use of the vessel during such period shall be subject to termination without notice in the event the United States requires the use of the vessel under the voluntary Contract of Commitment submitted herewith.

With respect to a vessel in category (d), the applicant further warrants that at all times such vessel will remain in the approved service which the Maritime Administrator has found to be in the interest of the national economy or the national defense of the United States.

In addition to the aforesaid warranties, the applicant submits certain statements, certificates and/or agreements which are made part of the insurance application, for vessels in the following categories:

Category (b) (2) (iii) applications. A signed statement, in quadruplicate, setting forth the date of the application, the form of insurance applied for, the name of the vessel, its flag, the name of the owner or charterer, the service in which the vessel is engaged and the reason such service is considered to be in the interest of the national defense or the national economy of the United States.

Category (c) (1) applications. (a) An executed Contract of Commitment, in form as prescribed in § 308.5, under which applicant commits itself to make the vessel available to the U.S. Government upon request in the event of national emergency on the same terms and conditions as vessels owned by citizens of the United States are available for requisition, for title, or for use, in accordance with the provisions of section 902(a),

Merchant Marine Act, 1936, as amended. In the event this insurance application is determined to be ineligible under the terms of the Maritime Administration's regulations, it is understood that the applicant will be so advised and the executed Contract of Commitment (which is submitted in consideration of the issuance of such insurance) shall be returned to applicant by the Maritime Administration. (b) A certificate of citizenship, in duplicate, executed by the vessel owner establishing that a majority of the stock of the owning corporation is owned and controlled by U.S. citizens, as defined in section 1201(d), Merchant Marine Act, 1936, as amended, whether direct or through intervening corporations, foreign or domestic. (c) Where such intervening corporations are foreign, an additional certificate in duplicate, shall be executed by each such corporation establishing that the ultimate majority ownership and control of the stock of such corporation is vested in a citizen or citizens of the United States as defined in section 1201(d), Merchant Marine Act, 1936, as amended. All citizenship certificates shall be in the form prescribed in § 308.4. (d) If prior official action or approval of the Contract of Commitment with the United States is required by the government of the country of vessel's registry as a prerequisite to the execution of such a contract, applicant attaches a certified copy of such official action or approval. If a vessel in category (c) (1) attains twenty years of age on or prior to the effective date of this insurance, applicant agrees that the subject insurance shall not attach without Maritime Administration approval.

Category (c) (2) applications. (a) A Contract of Commitment executed by both the owner and charterer in form as prescribed in § 308.5, under which they commit themselves to make the vessel available to the U.S. Government upon request in the event of national emergency on the same terms and conditions as vessels owned by citizens of the United States are available for requisition, for title, or for use, in accordance with the provisions of section 902(a), Merchant Marine Act, 1936, as amended. In the event this insurance application is determined to be ineligible under the terms of the Maritime Administration's regulations, it is understood that the applicants will be so advised and the executed Contract of Commitment (which is submitted in consideration of the issuance of such insurance) shall be returned by the Maritime Administration. (b) A copy of the long-term charter and all addenda, certified to be full and complete copies. The charterer also agrees to furnish the Maritime Administration a certified copy of any subsequent amendments to such charter. (c) A certificate of citizenship, in duplicate, executed by the charterer establishing that it is a U.S. corporation, or a foreign corporation in which a majority of the stock is owned and controlled by U.S. citizens, whether direct or through intervening corporations, which may be either foreign or domestic. (d) Where such intervening corporations are foreign, an additional certificate, in duplicate, shall be executed by each such corporation establishing that the ultimate majority ownership and control of the stock of such corporation is vested in a citizen or citizens of the United States as defined in section 1201(d), Merchant Marine Act, 1936, as amended. All citizenship certificates shall be in the form prescribed in § 308.4. (e) If prior official action or approval of the Contract of Commitment with the United States is required by the government of the country of vessel's registry as a prerequisite to the execution of such a contract, applicants attach a certified copy of such official action or approval. If a vessel in category (c) (2) attains twenty years of age on or prior to the effective date of this insurance, applicants

agree that the subject insurance shall not attach without Maritime Administration approval.

Category (d) applications. A copy of the statement of vessel's service previously submitted by the applicant, which was the subject of a finding by the Maritime Administrator that such service is deemed to be in the interest of the national defense or the national economy of the United States.

Applicant also attaches appropriate vessel data in form as specified in Maritime Administration General Order 82, as amended from time to time, and as published in the FEDERAL REGISTER.

The warranties and representations in this application, which are made in consideration of the issuance of the insurance above indicated, shall become a part of and be deemed incorporated in the binder and in any insurance policy issued hereunder, to the same extent as though set out in full in such documents.

Binding fee (not returnable unless application is rejected), \$25.00. Check payable to the order of "Maritime Adm.—Commerce," enclosed herewith.

Rate of premium—to be fixed by the Maritime Administrator, acting for the Secretary of Commerce.

Dated _____, 19__
 Applicant(s) _____
 By: _____
 (Authorized signature)
 By: _____
 (Authorized signature)
 Binder to be sent to
 Name _____
 Address _____

(Applications on American flag vessels to be submitted, in duplicate, with required attachments, to the American War Risk Agency, 99 John Street, New York 38, N.Y. Applications on foreign-flag vessels to be submitted, in triplicate, with required attachments, to the Division of Insurance, U.S. Maritime Administration, Washington 25, D.C.)

§ 308.202 Issuance of interim binder; its terms and conditions.

Upon acceptance of an application, an interim binder in form as set forth in § 308.206 will be issued and there shall be deemed to be incorporated therein by reference all the terms, conditions, and warranties contained in the application for war risk protection and indemnity insurance (set forth in § 308.201) and the standard war risk protection and indemnity insurance policy (set forth in § 308.207) to the same extent as if such application and policy were made a part of the binder. The binding fee shall be \$25.00.

§ 308.203 Sum which will be insured under interim binder.

The sum insured shall be the amount stated in the application, but not in excess of \$250.00 per gross ton of the vessel.

§ 308.204 Additional war risk protection and indemnity insurance.

Owners or charterers may obtain, on an excess basis, additional war risk protection and indemnity insurance in such amounts as desired and such insurance shall not inure to the benefit of the Maritime Administrator, as underwriter.

§ 308.205 Reporting casualties and filing claims.

All casualties occurring after insurance under a binder has attached shall be reported promptly to, and all claim

documents filed with, the Division of Insurance, Maritime Administration, Department of Commerce, Washington 25, D.C.

§ 308.206 Standard form of war risk protection and indemnity insurance interim binder.

The following is the standard form of war risk protection and indemnity insurance interim binder:

Form MA-186 (Revised 3-60)
 UNITED STATES OF AMERICA
 DEPARTMENT OF COMMERCE
 MARITIME ADMINISTRATION
 WAR RISK PROTECTION AND INDEMNITY INSURANCE—INTERIM BINDER NO. WR P & I

The United States of America, represented by the Maritime Administrator, acting for the Secretary of Commerce, in consideration of the binding fee and premium provided for herein, hereby insures, in accordance with applicable provisions of law and subject to all limitations thereof, particularly TITLE XII of Merchant Marine Act, 1936, as amended, against War Risk Protection and Indemnity liabilities only, subject to the terms, conditions, warranties and representations stated herein or incorporated by reference:

Assured _____
 Loss, if any, payable to _____ or order.
 On _____ (Vessel's name) _____ (Official No.)
 _____ (Flag) _____ (Gross tonnage)
 _____ (Date built)

Sum insured _____ dollars (\$_____) but not exceeding \$250 per gross ton of the insured vessel.

Attaching automatically upon the outbreak of war or upon the inception of a hostile act or occurrence which results in a state of war (whichever may first occur and whether there be a declaration of war or not) between any member of the North Atlantic Treaty Organization and any of the Contracting Parties to the Treaty of Friendship Cooperation and Mutual Assistance signed at Warsaw May 14, 1955, or the Central People's Government of the People's Republic of China.

Terminating thirty (30) days after it has been deemed that an outbreak or state of war has arisen within the meaning of the "American Institute—Automatic Termination Clauses (October 1, 1959)" at rates to be fixed by the Maritime Administrator.

Assured to have a privilege of deferring attachment by giving written or telegraphic notice to the Underwriting Agent prior to the attachment of risk.

This binder shall automatically expire at midnight, September 7, 1960, G.m.t.

Warranties, terms and conditions: Warranted, with respect to a vessel in category (a) or (b) of the application, that at the date of the issuance of this binder and for and during the term of any insurance attaching hereunder, such vessel is, respectively, an American vessel as defined in section 1201(a), Title XII, Merchant Marine Act, 1936, as amended, or a foreign-flag vessel eligible within the applicable subpart of category (b) specified in the application pursuant to which this binder was issued; and if at any time after insurance attaches under this binder, such vessel shall cease to be eligible within such applicable category, this binder and any insurance provided hereunder shall automatically terminate at the time of such change, without return of binding fee or premium, unless the Maritime Administration agrees otherwise.

Warranted further, as to a vessel in any eligible category of the application, that at all times during the binder period or any period of insurance attaching hereunder, the vessel will comply with Department of Commerce, Transportation Orders T-1 and T-2 or any modification thereof so long as they remain in force; and as to a vessel in category (c) (1) or (2) of the application that such vessel will maintain its eligibility within its applicable category at all times from and after the issuance of this interim binder, and will be made available to the U.S. Government upon request in the event of national emergency, pursuant to the terms of the Contract of Commitment executed by the assured; and as to a vessel in category (d) of the application that at all times such vessel will remain in the approved service which the Maritime Administrator found to be in the interest of the national economy or the national defense of the United States; and in the event of the breach of any warranty contained in this paragraph, such binder and any insurance attaching thereunder, shall automatically terminate at the time of such breach, without return of premium unless the Maritime Administration agrees otherwise.

There shall be deemed to be incorporated herein (a) any other warranties of the applicant (express or implied) and all representations and agreements which are made a part of the application, and (b) all of the terms, conditions and warranties contained in the war risk protection and indemnity insurance policy set forth in § 308.207 hereof (Part 308, Title 46, Code of Federal Regulations). To the extent there is inconsistency between the terms of such war risk protection and indemnity insurance policy and the terms of this binder including the warranties, agreements and representations of the applicant, the terms of the binder together with the warranties, agreements and representations of applicant shall prevail.

Premium: Rate to be fixed promptly after the happening of the event causing the "American Institute—Automatic Termination Clauses (October 1, 1959)" of any war risk policies to become operative and the premium shall be payable within ten days after receipt of notice of the amount thereof by the assured. Premiums shall be paid to the Underwriting Agent that issued the binders by check payable to the order of "Maritime Adm.—Commerce."

Privilege is granted to effect, on an excess basis, additional war risk protection and indemnity insurance, which insurance shall not inure to the benefit of the Maritime Administrator, as underwriter.

Claims: Casualties arising after the attachment of insurance hereunder shall be reported promptly to the Division of Insurance, Maritime Administration, Department of Commerce, Washington 25, D.C., and all claim documents shall likewise be filed with such Division.

The Underwriting Agent does not, by countersigning this binder or in any other manner, warrant its own authority, or the authority of the Maritime Administrator, acting for the Secretary of Commerce, to issue this instrument, but acts solely under the power conveyed to the Underwriting Agent by the Agreement made with the Maritime Administrator, acting for the Secretary of Commerce.

UNITED STATES OF AMERICA,
 By *Maritime Administrator,*
acting for the Secretary
of Commerce.

Countersigned at New York, N.Y., this _____ day of _____, 19__

AMERICAN WAR RISK AGENCY,
 By: _____
 (Authorized Underwriting Agent)

 (Maritime Administrator)

Not valid unless countersigned by an authorized underwriting agent.

§ 308.207 Standard form of war risk protection and indemnity insurance policy.

The following is the standard form of war risk protection and indemnity insurance policy:

Form MA-241 (10-59)

Policy No. P. & I. -----

UNITED STATES OF AMERICA

Represented by the Maritime Administrator, acting for the Secretary of Commerce (sometimes hereinafter called the Underwriter), by this policy of insurance, in accordance with applicable provisions of law and subject to all limitations thereof, and in consideration of the stipulations herein named and of ----- dollars, being premium at the rate of -----, does insure ----- hereinafter called the Assured.

Loss, if any, payable to ----- or order. In the sum of ----- dollars at and from the ----- day of ----- 19-----, ----- time until the ----- day of ----- 19-----, ----- time, against the liabilities of the Assured as hereinafter described, and subject to the terms and conditions hereinafter set forth, in respect of the vessel

(Vessel) (Official No.)

(or by whatsoever other name or names the said vessel is or shall be called).

The Underwriter undertakes to make good to the Assured all such loss and/or damage and/or expense as the Assured shall, as owner of the vessel named herein, have become legally liable to pay and shall pay on account of the liabilities, risks, events and/or happenings herein set forth:

Loss of life, injury, and illness. (1) Liability for life salvage, loss of life of, or personal injury to, or illness of, any person, not including, however, unless otherwise agreed by endorsement hereon, liability to an employee (other than a seaman) of the Assured or, in case of his death, to his beneficiaries under any compensation act. Liability hereunder shall also include burial expenses not exceeding \$200, where reasonably incurred by the Assured for the burial of any seaman. The term Person as aforesaid shall include any person or, persons carried on the insured vessel.

(a) Insurance hereunder shall not cover any liability under the provisions of Public Law 267, 64th Congress, approved September 7, 1916, as amended, now known as the Federal Employees Compensation Act, or under the provisions of section 2(c) of Public Law 17, 78th Congress, approved March 24, 1943, as amended.

(b) Insurance hereunder in connection with the handling of cargo for the insured vessel shall commence from the time of receipt by the Assured of the cargo on dock or wharf, or on craft alongside for loading, and shall continue until due delivery thereof from dock or wharf of discharge or until discharge from the insured vessel on to a craft alongside.

Repatriation expenses. (2) Liability for expenses reasonably incurred in necessarily repatriating any member of the crew or any other person employed on board the insured vessel: *Provided, however,* That the Assured shall not be entitled to recover any such expenses incurred by reason of the expiration of the shipping agreement, other than by sea perils, or by the voluntary termination of the agreement. Wages shall be recoverable hereunder only when payable under statutory obligation during unemployment due to the wreck or loss of the insured vessel.

Collision. (3) Liability for loss or damage arising from collision of the insured vessel with another ship or vessel insofar as such

liability is excluded from the liabilities insured under the following four-fourths Collision Clause in the United States of America Hull Policy (MA-240): "And it is further agreed that if the Vessel hereby insured shall come into collision with any other Ship or Vessel and the Assured or the Charterers or the Surety in consequence of the insured Vessel being at fault shall become liable to pay and shall pay by way of damages to any other person or persons any sum or sums in respect of such collision, the Underwriter will pay the Assured, or the Charterers, or the Surety, whichever shall have paid, such proportion of such sum or sums so paid as its subscription hereto bears to the value of the vessel hereby insured, provided always that its liability in respect to any one such collision shall not exceed its proportionate part of the value of the Vessel hereby insured. And in cases where the liability of the Vessel has been contested, or proceedings have been taken to limit liability, with the consent in writing of the Underwriter it will also pay a like proportion of the costs which the Assured or Charterers shall thereby incur, or be compelled to pay; but when both Vessels are to blame, then, unless the liability of the Owners or Charterers of one or both such Vessels becomes limited by law, claims under the Collision Clause shall be settled on the principle of Cross-Liabilities as if the Owners or Charterers of each Vessel had been compelled to pay to the Owners or Charterers of the other of such Vessels such one-half or other proportion of the latter's damages as may have been properly allowed in ascertaining the balance or sum payable by or to the Assured or Charterers in consequence of such collision; and it is further agreed that the principles involved in this clause shall apply to the case where both Vessels are the property, in part or in whole, of the same Owners or Charterers, all questions of responsibility and amount of liability as between the two Vessels being left to the decision of a single Arbitrator, if the parties can agree upon a single Arbitrator, or failing such agreement, to the decision of Arbitrators, one to be appointed by the Managing Owners or Charterers of both Vessels, and one to be appointed by the Underwriter; the two Arbitrators chosen to choose a third Arbitrator before entering upon the reference, and the decision of such single, or of any two of such three Arbitrators, appointed as above, to be final and binding. *Provided* always that this clause shall in no case extend to any sum which the Assured, or the Charterers, or the Surety, may become liable to pay or shall pay for removal of obstructions under statutory powers, for injury to harbors, wharves, piers, stages, structures, or any other objects (excepting other Vessels and property thereon), consequent on such collision or in respect of the cargo, baggage or engagements of the Insured Vessel, or for loss of life, or personal injury. And provided also that in the event of any claim under this clause being made by anyone other than the Owners of the Vessel hereby insured, he shall not be entitled to recover in respect of any liability to which the Owners of the Vessel as such would not be subject, nor to a greater extent than the Owners would be entitled in such event to recover."

Provided, however, That insurance hereunder shall not extend to any liability, whether direct or indirect, in respect of the engagements of or the detention or loss of time of the insured vessel.

(a) Claims hereunder shall be settled on the principles of Cross-Liabilities to the same extent only as provided in the four-fourths Collision Clause above mentioned.

(b) Where both vessels are the property, in part or in whole, of the same Owners or Charterers, claims hereunder shall be settled on the basis of the principles set forth in the four-fourths Collision Clause above mentioned.

(c) Claims hereunder shall be separated among the several classes enumerated in this policy and each class shall be subject to the special conditions applicable in respect to such class.

(d) Notwithstanding the foregoing, the Underwriter shall not be liable for any claims hereunder where the various liabilities resulting from such collision, or any of them, have been compromised, settled or adjusted without the written consent of the Underwriter.

Damage caused otherwise than by collision. (4) Liability for loss of or damage to any other vessel or craft, or to property on board such other vessel or craft, caused otherwise than by collision of the insured vessel with another vessel or craft.

(a) Where such other vessel or craft or property on board such other vessel or craft belongs to the Assured, claims hereunder shall be adjusted as if it belonged to a third person: *Provided, however,* That if such vessel, craft or property be insured, the Underwriter shall be liable hereunder only insofar as the loss or damage, but for the insurance herein provided, is not or would not be recoverable by the Assured under such other insurance.

Damage to docks, buoys, etc. (5) Liability for damage to any dock, pier, jetty, bridge, harbor, breakwater, structure, beacon, buoy, lighthouse, cable or to any fixed or movable object or property whatsoever, except another vessel or craft or property on another vessel or craft or on the insured vessel unless elsewhere covered herein.

(a) Where there would be a valid claim hereunder but for the fact that the damaged property belongs to the Assured, the Underwriter shall be liable as if such damaged property belonged to another, but only for the excess over any amount recoverable under any other insurance applicable on the property.

Wreck removal. (6) Liability for costs or expenses of or incidental to the removal of the wreck of the insured vessel if legally liable therefor: *Provided, however,* That:

(a) From such costs and expenses shall be deducted the value of any salvage from or which might have been recovered from the wreck inuring, or which might have incurred, to the benefit of the Assured;

(b) The Underwriter shall not be liable for any costs or expenses which would be covered by full insurance under the United States of America Hull Policy (MA-240);

(c) In the event that the wreck of the insured vessel is upon property owned, leased, rented or otherwise occupied by the Assured, the Underwriter shall be liable for any liability for removal of the wreck which would be imposed upon the Assured by law in the absence of contract if the wreck had been upon the property belonging to another, but only for the excess over any amount recoverable under any other insurance applicable thereto.

Cargo. (7) Liability for loss of or damage to or in connection with cargo or other property (except mail or parcel post), including baggage and personal effects of persons other than members of the crew, and not exceeding \$100 per person, to be carried, carried, or which has been carried on board the insured vessel: *Provided, however,* That no liability shall exist hereunder for:

Specie, bullion, jewelry, etc. (a) Loss, damage or expense incurred in connection with the custody, carriage or delivery of specie, bullion, precious stones, precious metals, jewelry, silks, furs, banknotes, bonds or other negotiable documents, or similar valuable property;

Refrigeration. (b) Loss, damage or expense arising out of or in connection with the care, custody, carriage or delivery of cargo requiring refrigeration, unless the spaces, apparatus, and means used for the care, custody and carriage thereof have been surveyed by a classification or other compe-

tent disinterested surveyor under working conditions before the commencement of each round voyage unless otherwise agreed and found in all respects fit, and unless the Underwriter has approved in writing the form of contract under which such cargo is accepted for transportation;

Deviation. (c) Loss, damage or expense arising from any deviation, or proposed deviation, not authorized by the contract of affreightment, known to the Assured in time to insure specifically the liability therefor, unless notice thereof is given to the Underwriter and the Underwriter agrees, in writing, that such insurance is unnecessary;

Stowage in improper spaces. (d) Loss, damage or expense arising with respect to under deck cargo stowed on deck or with respect to cargo stowed in spaces not suitable for its carriage, unless the Assured shall show that every reasonable precaution has been taken by him to prevent such improper stowage;

Misdescription of goods. (e) Loss, damage or expense arising out of or as a result of the issuance of bills of lading which, to the knowledge of the Assured, improperly described the goods or their containers as to condition or quantity;

(f) Loss, damage or expense arising from issuance of clean bills of lading for goods known to be missing, unsound or damaged;

(g) Loss, damage or expense arising from the intentional issuance of bills of lading prior to receipt of the goods described therein, or covering goods not received at all;

(h) Loss, damage or expense arising from delivery of cargo without surrender of order bills of lading;

Freight. (i) Freight on cargo short-delivered, whether or not prepaid or whether or not included in the claim and paid by the Assured; And provided further, That:

(j) Liability hereunder shall in no event exceed that which would be imposed by law in the absence of contract;

Protective clauses required in contract of affreightment. (k) Liability hereunder shall be limited to such as would exist if the charter party, bill of lading, or contract of affreightment contained (i) a negligence general average clause in the form hereinafter specified under paragraph (12); (ii) a clause providing that any provision of the charter party, bill of lading, or contract of affreightment to the contrary notwithstanding, the Assured and the insured vessel shall have the benefit of all limitations of and exemptions from liability accorded to the owner or chartered owner of vessels by any statute or rule of law for the time being in force; (iii) such clauses, if any, as are required by law to be stated therein; (iv) and such other protective clauses as are generally in use in the particular trade;

Carriage of Goods by Sea Act. (l) When cargo carried by the insured vessel is under a bill of lading or similar document of title subject or made subject to the Carriage of Goods by Sea Act of the United States or a law of any other country of similar import, liability hereunder shall be limited to such as is imposed by said Act or law, and if the Assured or the insured vessel assumes any greater liability or obligation, either in respect of the valuation of the cargo or in any other respect, then the minimum liabilities and obligations imposed by said Act or law, such greater liability or obligation shall not be covered hereunder;

Limit of \$500 per package. (m) When cargo carried by the insured vessel is under a charter party, bill of lading, or contract of affreightment not subject or made subject to the Carriage of Goods by Sea Act of the United States or a law of any other country of similar import, liability hereunder shall be limited to such as would exist if said charter party, bill of lading, or contract of affreightment contained a clause exempting the Assured and the insured vessel from lia-

bility for losses arising from unseaworthiness provided that due diligence shall have been exercised to make the vessel seaworthy and properly manned, equipped, and supplied, and a clause limiting the Assured's liability for total loss or damage to goods shipped to \$500 per package, or in case of goods not shipped in packages, per customary freight unit, and providing for pro rata adjustment on such basis for partial loss or damage. The provisions of clauses (k), (l) and (m) herein may, however, be waived or altered by the Underwriter on terms agreed in writing;

Oral contract. (n) In the event cargo is carried under an arrangement not reduced to writing, the Underwriter's liability hereunder shall be no greater than if such cargo had been carried under a charter party, bill of lading or contract of affreightment containing the clauses referred to herein;

Assured's own cargo. (o) Where cargo on board the insured vessel is the property of the Assured, such cargo shall be deemed to be carried under a contract containing the protective clauses described in clauses (k), (l) and (m) herein; and such cargo shall be deemed to be fully insured under the usual form of cargo policy, and in case of loss or damage to such cargo the Assured shall be insured hereunder in respect of such loss or damage only to the extent that he would have been if the cargo had belonged to another, but only in the event and to the extent that the loss or damage would not be recoverable from marine insurers under a cargo policy as above specified;

Transportation on land or on another vessel or craft. (p) No liability shall exist hereunder for any loss, damage or expense in respect of cargo or other property, including baggage and personal effects of persons other than members of the crew, being transported on land or on another vessel or craft;

Cargo on dock. (q) No liability shall exist hereunder for any loss, damage or expense in respect of cargo or other property, including baggage and personal effects of persons other than members of the crew, before loading on or after discharge from the insured vessel caused by flood, tide, windstorm, earthquake, fire, explosion, heat, cold, deterioration, collapse of wharf, leaky shed, theft, or pilferage unless such loss, damage or expense is caused directly by the insured vessel, her master, officers or crew.

Fines and penalties. (8) Liability for fines and penalties for the violation of any laws of the United States, or of any State thereof, or for any foreign country: *Provided, however,* That the Underwriter shall not be liable to indemnify the Assured against any such fines or penalties resulting directly or indirectly from the failure, neglect or fault of the Assured or its managing officers to exercise the highest degree of diligence to prevent a violation of any such laws.

Mutiny, misconduct. (9) Liability for expenses incurred in resisting any unfounded claim by the master or crew or other person employed on board the insured vessel, or in prosecuting such person or persons in case of mutiny or other misconduct; not including, however, costs of successfully defending claims elsewhere protected in this policy.

Quarantine expenses. (10) Liability for extraordinary expenses, incurred in consequence of the outbreak of plague, or other disease on the insured vessel, for disinfection of the vessel or of persons on board, or for quarantine expenses not being the ordinary expenses of loading or discharging, nor the ordinary wages or provisions of crew or passengers: *Provided, however,* That no liability shall exist hereunder if the vessel be ordered

to proceed to a port where it is known that she will be subjected to quarantine.

Putting in expenses. (11) Liability for port charges incurred solely for the purpose of putting into land an injured or sick seaman, and the net loss to the Assured in respect of bunkers, insurance, stores and provisions as the result of the deviation.

Cargo's proportion G/A. (12) Liability for Cargo's proportion of General Average, including special charges, so far as the Assured cannot recover the same from any other source: *Provided, however,* That if the charter party, bill of lading or contract of affreightment does not contain the negligence general average clause quoted below, the Underwriter's liability hereunder shall be limited to such as would exist if such clause were contained therein, vis:

Negligence G/A clause. "In the event of accident, danger, damage, or disaster, before or after commencement of the voyage resulting from any cause whatsoever, whether due to negligence or not, for which, or for the consequence of which, the Carrier is not responsible, by statute, contract, or otherwise, the goods, the shipper and the consignee, jointly and severally, shall contribute with the Carrier in general average to the payment of any sacrifices, losses, or expenses of a general average nature that may be made or incurred, and shall pay salvage and special charges incurred in respect of the goods. If a salving ship is owned or operated by the Carrier, salvage shall be paid for as fully and in the same manner as if such salving ship or ships belong to strangers."

Expenses and law costs. (13) Liability for costs, charges and expenses reasonably incurred and paid by the Assured in connection with any liability insured under this policy, provided that the Assured shall not be entitled to indemnity for the cost or expense of prosecuting or defending any claim or suit unless the same shall have been incurred with the approval in writing of the Underwriter, or the Underwriter shall be satisfied that such approval could not have been obtained under the circumstances without unreasonable delay, or that the expenses were reasonably and properly incurred. The cost and expense of prosecuting any claim in which the Underwriter shall have an interest by subrogation or otherwise shall be divided between the Assured and the Underwriter in proportion to the amounts which they would have been entitled to receive respectively, if the suit should be successful.

(14) Expenses which the Assured may incur under authorization of the Underwriter in the interest of the Underwriter.

GENERAL CONDITIONS AND LIMITATIONS

Prompt notice of claim. (15) In the event of any happening which may result in loss, damage or expense for which the Underwriter may become liable, prompt notice thereof, on being known to the Assured, shall be given by the Assured to the Underwriter, but failure to give such prompt notice because of wartime emergency conditions shall not prejudice this insurance. The Underwriter shall not be liable for any claim not presented to the Underwriter with proper proofs of loss within twenty-four (24) months after payment by the Assured.

Time for suit. (16) In no event shall suit on any claim be maintainable against the Underwriter unless commenced within twenty-four (24) months after the loss, damage or expenses resulting from liabilities, risks, events, occurrences and expenditures specified under this policy shall have been paid by the Assured.

Settlement of claims. (17) The Assured shall not make any admission of liability, either before or after any occurrence, which may result in a claim for which the Underwriter may be liable. The Assured shall not interfere in any negotiations of the Under-

writer for settlement of any legal proceedings in respect of any occurrences for which the Underwriter is liable under this policy; *Provided, however,* That in respect of any occurrence likely to give rise to a claim under this policy, the Assured is obligated to and shall take such steps to protect his and the Underwriter's interests as would reasonably be taken in the absence of this or similar insurance. If the Assured shall fail or refuse to settle any claim as authorized or directed by the Underwriter, the liability of the Underwriter to the Assured shall be limited to the amount for which settlement could have been made or, if the amount is unknown, to the amount which the Underwriter authorized.

Defense of claims. (18) Whenever required by the Underwriter, the Assured shall aid in securing information and evidence and in obtaining witnesses and shall cooperate with the Underwriter in the defense of any claim or suit or in the appeal from any judgment, in respect of any occurrence as hereinafter provided.

Assumed contractual liability. (19) Unless otherwise agreed by endorsement hereon, the Underwriter's liability shall in no event exceed that which would be imposed on the Assured by law in the absence of contract; *Provided, however,* That the Assured's right of indemnity from the Underwriter shall include any loss, damage or expense covered under the provisions of this policy arising as a result of any contract for the employment of tugs where such contract is one which is substantially similar to those customarily in use or in force during the currency of this policy. The Assured's right of indemnity hereunder shall not include any liability for loss, damage or expense arising from collision between the insured vessel and another vessel or craft, other than liability consequent on such collision, (a) for removal of obstructions under statutory powers, (b) for damage to any dock, pier, jetty, bridge, harbor, breakwater, structure, beacon, buoy, lighthouse, cable or similar structures, (c) in respect of the cargo of the insured vessel and (d) for loss of life, personal injury and illness.

Assignment. (20) No claim or demand against the Underwriter shall be assigned or transferred, and no person, other than a receiver of the property or the estate of the Assured, shall acquire any right against the Underwriter without the express consent of the Underwriter; *Provided, however,* That this shall not affect the rights of any assignee under an assignment made by virtue of any governmental order or decree, in which event such assignee shall have and possess all of the rights of its predecessor in assignment.

Subrogation. (21) The Underwriter shall be subrogated to all the rights which the Assured may have against any other person or entity, in respect of any payment made under this policy, to the extent of such payment, and the Assured shall, upon the request of the Underwriter, execute all documents necessary to secure to the Underwriter such rights.

Double insurance. (22) The Underwriter shall not be liable for any loss or damage against which, but for the insurance hereunder, the Assured is or would be insured under existing insurance excepting as provided in paragraph (1)(a) hereof.

Limitation of liability. (23) If and when the Assured under this policy has any interest other than as an owner or bareboat charterer of the insured vessel, in no event shall the Underwriter be liable hereunder to any greater extent than if such Assured were the owner or bareboat charterer and

were entitled to all the rights of limitation to which a shipowner is entitled.

Risks excluded. (24) Notwithstanding anything to the contrary contained in this policy, the Underwriter shall not be liable for any loss, damage, or expense sustained, directly or indirectly by reason of:

(a) Loss, damage, or expense to hull, machinery, equipment or fittings of the insured vessel, including refrigerating apparatus and wireless equipment, whether or not owned by the Assured;

(b) Cancellation or breach of any charter or contract, detention of the vessel, bad debts, insolvency, fraud of agents, loss of freight, passage money, hire, demurrage, or any other loss of revenue;

(c) Any loss, damage, sacrifice, or expense which would be payable under the terms of the United States of America Hull Policy (MA-240), on hull, machinery, etc., whether or not the insured vessel is fully covered by insurance sufficient in amount to pay such loss, damage, sacrifice or expense;

(d) The insured vessel towing any other vessel or craft, unless such towage was to assist such other vessel or craft in distress to a port or place of safety; *Provided, however,* That this exception shall not apply to claims covered under paragraph (1) of this policy;

(e) For any claim for loss of life, personal injury or illness in relation to the handling of cargo where such claim arises under a contract of indemnity between the Assured and his subcontractor.

F. C. and S. Clause. (25) Notwithstanding anything to the contrary contained in this policy, the Underwriter shall not be liable for or in respect of any loss, damage or expense, sustained by reason of capture, seizure, arrest, restraint or detention, or the consequences thereof or of any attempt thereat; or sustained in consequence of military, naval or air action by force of arms, including mines and torpedoes or other missiles or engines of war, whether of enemy or friendly origin; or sustained in consequence of placing the vessel in jeopardy as an act or measure of war taken in the actual process of a military engagement, including embarking or disembarking troops or material of war in the immediate zone of such engagement; and any such loss, damage and expense shall be excluded from this policy without regard to whether the Assured's liability therefor is based on negligence or otherwise, and whether before or after a declaration of war.

(26) Liability hereunder in respect of any one accident or occurrence is limited to the amount hereby insured.

In witness whereof, the Maritime Administrator, acting for the Secretary of Commerce, has signed this policy but it shall not be valid unless countersigned by an authorized underwriting agent.

UNITED STATES OF AMERICA,
By *Maritime Administrator,*
acting for the Secretary
of Commerce.

(Maritime Administrator)

The Underwriting Agent does not, by countersigning this policy or in any other manner, warrant its own authority, or the authority of the Maritime Administrator, acting for the Secretary of Commerce, to issue this instrument, but acts solely under the power conveyed to the Underwriting Agent by the Agreement made with the Maritime Administrator, acting for the Secretary of Commerce.

Countersigned at _____ this _____ day of _____ 19__.

By: _____
(Authorized underwriting agent)

Form MA-241-A (10-59)

UNITED STATES OF AMERICA

(WAR RISK PROTECTION AND INDEMNITY CLAUSES)

Endorsement attached to and made part of Policy No. P. & I. -----

(1) This insurance to cover only the liability of the Assured for those protection and indemnity risks excluded from the Marine Protection and Indemnity Policy, to which these clauses are attached, by the F.C. & S. Clause contained therein.

(2) This insurance also to cover liability of the Assured for (a) strikes, riots and civil commotions and (b) for contractual repatriation expenses of any member of the crew as a result of perils excluded by the aforesaid F.C. & S. Clause.

(3) Claims for which the Underwriter shall be liable under these clauses shall not be subject to any deduction.

(4) The liability of the Underwriter under these clauses in respect of any one accident or series of accidents arising out of the same casualty shall be limited to the sum hereby insured, but not exceeding \$250 per gross ton of the vessel.

(5) In the event of loss or shipwreck of the vessel from any cause prior to the natural expiry of this policy, this insurance shall continue to cover the liability of the Assured to the crew of the insured vessel, subject to its terms and conditions and at an additional premium if so required by the Underwriter, until the crew shall be either discharged or landed at a port or place to which the owners or charterers are obliged to bring them.

(6) Should the vessel be at sea at the natural expiry of this policy, this insurance shall be extended until midnight, G.m.t., of the day on which the vessel is moored at the next port to which she proceeds provided notice be given to the Underwriter as soon as practicable and an additional premium paid, if required.

(7) Warranted no cancellation except by mutual consent; *Provided, however,* That if the vessel shall be requisitioned by the United States on a basis whereby the United States provides the war risk insurance, then this insurance shall terminate and pro rata daily return premium shall be paid. In no other event shall there be any return of premium.

(8) Notwithstanding any of the foregoing provisions, all liabilities covered by the Second Seamen's form of policy are excluded from this insurance.

Subpart D—Second Seamen's War Risk Insurance

§ 308.300 Amounts of insurance for which application may be made.

An applicant for Second Seamen's war risk insurance shall not state the amount of insurance desired, which shall be as provided in § 308.303.

§ 308.301 Form of application.

Applications submitted shall be in strict accordance with the following form:

Form MA-187 (Revised 3-60)

UNITED STATES OF AMERICA

DEPARTMENT OF COMMERCE

MARITIME ADMINISTRATION

APPLICATION FOR SECOND SEAMEN'S WAR RISK INSURANCE

Application is made for Second Seamen's War Risk Insurance (1955) pursuant to Title

XII of Merchant Marine Act, 1936, as amended and in accordance with all provisions of law and subject to all limitations thereof: Assured(s) ----- Address(es) ----- Loss, if any, payable in accordance with applicable provisions of Second Seamen's War Risk Policy (1955).

 (Vessel's name) (Official No.)

 (Flag) (Gross tonnage)

 (Date built)

In the amount specified in the Second Seamen's War Risk Policy (1955) or as modified by shipping articles, collective bargaining agreements or other applicable employment agreements which are in effect upon the happening of the event causing the "American Institute—Automatic Termination Clauses (October 1, 1959)" of any war risk policies to become operative. Upon the happening of said event, the number of crew members and modified benefits payable as of that date will immediately be declared to the Underwriting Agent. Any subsequent changes will be likewise declared.

To attach automatically upon the outbreak of war or upon the inception of a hostile act or occurrence which results in a state of war (whichever may first occur and whether there be a declaration of war or not) between any member of the North Atlantic Treaty Organization and any of the Contracting Parties to the Treaty of Friendship Cooperation and Mutual Assistance signed at Warsaw May 14, 1955, or the Central People's Government of the People's Republic of China.

To terminate thirty (30) days after it has been deemed that an outbreak or state of war has arisen within the meaning of the "American Institute—Automatic Termination Clauses (October 1, 1959)" at rates to be fixed by the Maritime Administrator.

Terms and conditions: Subject to form of policy prescribed by the Maritime Administrator, acting for the Secretary of Commerce.

Check category of eligibility under which application is made:

(a)
 An American vessel as defined in section 1201(a), Title XII of Merchant Marine Act, 1936, as amended.

(b) (1)
 A foreign-flag vessel (except a vessel under Panamanian, Honduran or Liberian flag) which is owned by a citizen or citizens of the United States as defined in section 1201(d), Title XII of Merchant Marine Act, 1936, as amended.

(b) (2)
 A foreign-flag vessel (except a vessel under Panamanian, Honduran or Liberian flag) which is owned by a foreign corporation, the majority of the stock of which is owned by a citizen or citizens of the United States as defined in section 1201(d), Title XII of Merchant Marine Act, 1936, as amended, or under long-term charter to such a citizen or citizens, and

(b) (2) (1)
 Regularly loading and/or discharging cargo and/or passengers at a port or ports in the United States or its territories or possessions, or

(b) (2) (ii)
 In a service for the sole account of the United States or any department or agency thereof, or

(b) (2) (iii)
 In a service which, with respect to the vessel to be insured is determined by the Maritime Administrator to be in the interest of the national defense or the national economy of the United States.

(c) (1)
 A foreign-flag vessel under Panamanian, Honduran or Liberian registry not over twenty years of age (unless authorized by the Maritime Administration), which is subject to an unqualified Contract of Commitment with the United States in form as required by the Maritime Administration, and which is owned by a foreign corporation in which a majority of the stock is owned and controlled by United States citizens, whether direct or through intervening corporations, foreign or domestic. Where such intervening corporations are foreign, the ultimate majority ownership and control of the stock of such corporations must be vested in a citizen or citizens of the United States as defined in section 1201(d), Merchant Marine Act, 1936, as amended.

(c) (2)
 A foreign-flag vessel under Panamanian, Honduran or Liberian registry not over twenty years of age (unless authorized by the Maritime Administration), which is subject to an unqualified Contract of Commitment with the United States in form as required by the Maritime Administration, and which is owned by a foreign corporation which is not directly or beneficially owned by United States citizens or corporations, but which vessel is operated under a long-term charter on terms deemed by the Maritime Administration to subject the vessel to U.S. control in the event of emergency. The charterer of such a vessel must be either a U.S. corporation or a foreign corporation in which a majority of the stock is owned and controlled by U.S. citizens, whether direct or through intervening corporations, foreign or domestic.

Where such intervening corporations are foreign, the ultimate majority ownership and control of the stock of such corporations must be vested in a citizen or citizens of the United States as defined in section 1201(d), Merchant Marine Act, 1936, as amended.

(d)
 Other foreign-flag vessels will be insured at the sole discretion of the Maritime Administrator but only when engaged in a service which has been determined by the Maritime Administrator to be in the interest of the national defense or the national economy of the United States.

It is warranted, as to a vessel in any of the above categories, that at all times during the binder period or any period of insurance attaching thereunder, the vessel will comply with Department of Commerce Transportation Orders T-1 and T-2 or any modification thereof so long as they remain in force.

The applicant further warrants with respect to a vessel, in category (a) or (b), that at the time of the issuance of the interim binder and for and during the term of any insurance attaching hereunder, such vessel is, respectively, an American vessel as defined in section 1201(a), Title XII, Merchant Marine Act, 1936, as amended, or a foreign-flag vessel eligible within the applicable subpart of category (b) as specified in this application, and that such a vessel will remain eligible within its respective category from and after the time the insurance attaches under the interim binder.

The applicant further warrants with respect to a vessel in category (c) (1) or (2) that the vessel will maintain its eligibility within its applicable category at all times from and after the issuance of the interim binder, and will be made available to the United States Government upon request in the event of national emergency pursuant to the terms of the Contract of Commitment submitted herewith; and agrees, in this connection, that during the period of the binder and any insurance attaching thereunder, any charter or other contract covering the use of the vessel during such period shall be subject to termination without notice in the

event the United States requires the use of the vessel under the voluntary Contract of Commitment submitted herewith.

With respect to a vessel in category (d), the applicant further warrants that at all times such vessel will remain in the approved service which the Maritime Administrator has found to be in the interest of the national economy or the national defense of the United States.

In addition to the aforesaid warranties, the applicant submits certain statements, certificates and/or agreements which are made part of the insurance application, for vessels in the following categories:

Category (b) (2) (iii) applications. A signed statement, in quadruplicate, setting forth the date of the application, the form of insurance applied for, the name of the vessel, its flag, the name of the owner or charterer, the service in which the vessel is engaged and the reason such service is considered to be in the interest of the national defense or the national economy of the United States.

Category (c) (1) applications. (a) An executed Contract of Commitment, in form as prescribed in § 308.5, under which applicant commits itself to make the vessel available to the U.S. Government upon request in the event of national emergency on the same terms and conditions as vessels owned by citizens of the United States are available for requisition, for title, or for use, in accordance with the provisions of section 902(a), Merchant Marine Act, 1936, as amended. In the event this insurance application is determined to be ineligible under the terms of the Maritime Administration's regulations, it is understood that the applicant will be so advised and the executed Contract of Commitment (which is submitted in consideration of the issuance of such insurance) shall be returned to applicant by the Maritime Administration. (b) A certificate of citizenship, in duplicate, executed by the vessel owner establishing that a majority of the stock of the owning corporation is owned and controlled by U.S. citizens, as defined in section 1201(d), Merchant Marine Act, 1936, as amended, whether direct or through intervening corporations, foreign or domestic. (c) Where such intervening corporations are foreign, an additional certificate in duplicate, shall be executed by each such corporation establishing that the ultimate majority ownership and control of the stock of such corporation is vested in a citizen or citizens of the United States as defined in section 1201(d), Merchant Marine Act, 1936, as amended. All citizenship certificates shall be in the form prescribed in § 308.4. (d) If prior official action or approval of the Contract of Commitment with the United States is required by the government of the country of vessel's registry as a prerequisite to the execution of such a contract, applicant attaches a certified copy of such official action or approval. If a vessel in category (c) (1) attains twenty years of age on or prior to the effective date of this insurance, applicants agree that the subject insurance shall not attach without Maritime Administration approval.

Category (c) (2) applications. (a) A Contract of Commitment executed by both the owner and charterer in form as prescribed in § 308.5, under which they commit themselves to make the vessel available to the U.S. Government upon request in the event of national emergency on the same terms and conditions as vessels owned by citizens of the United States are available for requisition, for title, or for use, in accordance with the provisions of section 902(a), Merchant Marine Act, 1936, as amended. In the event this insurance application is determined to be ineligible under the terms of the Maritime Administration's regulations, it is understood that the applicants will be so

RULES AND REGULATIONS

advised and the executed Contract of Commitment (which is submitted in consideration of the issuance of such insurance) shall be returned by the Maritime Administration. (b) A copy of the long-term charter and all addenda, certified to be full and complete copies. The charterer also agrees to furnish the Maritime Administration a certified copy of any subsequent amendments to such charter. (c) A certificate of citizenship, in duplicate, executed by the charterer establishing that it is a U.S. corporation, or a foreign corporation in which a majority of the stock is owned and controlled by U.S. citizens, whether direct or through intervening corporations, which may be either foreign or domestic. (d) Where such intervening corporations are foreign, an additional certificate, in duplicate, shall be executed by each such corporation establishing that the ultimate majority ownership and control of the stock of such corporation is vested in a citizen or citizens of the United States as defined in section 1201(d), Merchant Marine Act, 1936, as amended. All citizenship certificates shall be in the form prescribed in § 308.4. (e) If prior official action or approval of the Contract of Commitment with the United States is required by the government of the country of vessel's registry as a prerequisite to the execution of such a contract, applicants attach a certified copy of such official action or approval. If a vessel in category (c) (2) attains twenty years of age on or prior to the effective date of this insurance, applicant agrees that the subject insurance shall not attach without Maritime Administration approval.

Category (d) applications. A copy of the statement of vessel's service previously submitted by the applicant, which was the subject of a finding by the Maritime Administrator that such service is deemed to be in the interest of the national defense or the national economy of the United States.

Applicant also attaches appropriate vessel data in form as specified in Maritime Administration General Order 82, as amended from time to time, and as published in the FEDERAL REGISTER.

The warranties and representations in this application, which are made in consideration of the issuance of the insurance above indicated, shall become a part of and be deemed incorporated in the binder and in any insurance policy issued hereunder, to the same extent as though set out in full in such documents.

Binding fee (not returnable unless application is rejected). \$75.00. Check payable to the order of "Maritime Adm.—Commerce," enclosed herewith.

Rate of premium—to be fixed by the Maritime Administrator, acting for the Secretary of Commerce.

Dated _____, 19___

Applicant _____

By: _____

(Authorized signature)

(Authorized signature)

Binder to be sent to:

Name _____

Address _____

(Applications on American flag vessels to be submitted, in duplicate, with required attachments, to the American War Risk Agency, 99 John Street, New York 38, N.Y. Applications on foreign-flag vessels to be submitted, in triplicate, with required attachments, to the Division of Insurance, U.S. Maritime Administration, Washington 25, D.C.)

§ 308.302 Issuance of interim binder; its terms and conditions.

Upon acceptance of an application, an interim binder in form as set forth in

§ 308.305 will be issued and there shall be deemed to be incorporated therein by reference all the terms, conditions, and warranties contained in the application for Second Seamen's war risk insurance (set forth in § 308.301) and the Second Seamen's War Risk Policy (1955) (set forth in § 308.306) to the same extent as if such application and policy were made a part of the binder. The binding fee shall be \$75.00.

§ 308.303 Sums which will be insured under interim binder.

The sums insured are the amounts specified in the Second Seamen's War Risk Policy (1955) or as modified by shipping articles, collective bargaining agreements or other applicable employment agreements which are in effect upon the happening of the event causing the "American Institute-Automatic Termination Clauses (October 1, 1959)" of any war risk policies to become operative. Upon the happening of said event, the number of crew members and modified benefits payable as of that date shall be declared immediately to the Underwriting Agent that issued the binder. Any subsequent changes shall be likewise declared.

§ 308.304 Reporting casualties and filing claims.

All casualties occurring after insurance under a binder has attached shall be reported promptly to, and all claim documents filed with, the Division of Insurance, Maritime Administration, Department of Commerce, Washington 25, D.C.

§ 308.305 Standard form of Second Seamen's war risk interim binder.

The following is the standard form of Second Seamen's war risk interim binder:

Form MA-188 (Revised 3-60)

UNITED STATES OF AMERICA

DEPARTMENT OF COMMERCE

MARITIME ADMINISTRATION

SECOND SEAMEN'S WAR RISK INSURANCE
(1955)—INTERIM BINDER NO. SSWR

The United States of America, represented by the Maritime Administrator, acting for the Secretary of Commerce, in consideration of the binding fee and premium provided for herein, hereby insures, in accordance with applicable provisions of law and subject to all limitations thereof, particularly Title XII of Merchant Marine Act, 1936, as amended, against Second Seamen's War Risk liabilities only, subject to the terms, conditions, warranties and representations stated herein or incorporated by reference:

Assured _____
Loss, if any, payable in accordance with applicable provisions of Second Seamen's War Risk Policy (1955).

(Vessel's name) (Official No.)

(Flag) (Gross tonnage)

(Date built)

Sums insured: The amounts specified in the Second Seamen's War Risk Policy (1955) or as modified by shipping articles, collective bargaining agreements or other applicable employment agreements which are in effect upon the happening of the event causing

the "American Institute-Automatic Termination Clauses (October 1, 1959)" of any war risk policies to become operative. Upon the happening of said event the number of crew members and modified benefits payable as of that date shall immediately be declared to the Underwriting Agent. Any subsequent changes shall be likewise declared and additional premium paid, if required.

Attaching automatically upon the outbreak of war or upon the inception of a hostile act or occurrence which results in a state of war (whichever may first occur and whether there be a declaration of war or not) between any member of the North Atlantic Treaty Organization and any of the Contracting Parties to the Treaty of Friendship Cooperation and Mutual Assistance signed at Warsaw, May 14, 1955, or the Central People's Government of the Peoples' Republic of China.

Terminating thirty (30) days after it has been deemed that an outbreak or state of war has arisen within the meaning of the "American Institute-Automatic Termination Clauses (October 1, 1959)" at rates to be fixed by the Maritime Administrator.

Assured to have a privilege of deferring attachment by giving written or telegraphic notice to the Underwriting Agent prior to attachment of risk.

This binder shall automatically expire at midnight, September 7, 1960, G.m.t.

Warranties, terms and conditions. Warranted, with respect to a vessel in category (a) or (b) of the application, that at the date of the issuance of this binder and for and during the term of any insurance attaching hereunder, such vessel is, respectively, an American vessel as defined in section 1201(a), Title XII, Merchant Marine Act, 1936, as amended, or a foreign-flag vessel eligible within the applicable subpart of category (b) specified in the application pursuant to which this binder was issued; and if at any time after insurance attaches under this binder, such vessel shall cease to be eligible within such applicable category, this binder and any insurance provided hereunder shall automatically terminate at the time of such change, without return of binding fee or premium, unless the Maritime Administration agrees otherwise.

Warranted further, as to a vessel in any eligible category of the application, that at all times during the binder period or any period of insurance attaching hereunder, the vessel will comply with Department of Commerce, Transportation Orders T-1 and T-2 or any modification thereof so long as they remain in force; and as to a vessel in category (c) (1) or (2) of the application that such vessel will maintain its eligibility within its applicable category at all times from and after the issuance of this interim binder, and will be made available to the U.S. Government upon request in the event of national emergency, pursuant to the terms of the Contract of Commitment executed by the assured; and as to a vessel in category (d) of the application that at all times such vessel will remain in the approved service which the Maritime Administrator found to be in the interest of the national economy or the national defense of the United States; and in the event of the breach of any warranty contained in this paragraph, such binder and any insurance attaching thereunder, shall automatically terminate at the time of such breach, without return of premium unless the Maritime Administration agrees otherwise.

There shall be deemed to be incorporated herein (a) any other warranties of the applicant (express or implied) and all representations and agreements which are made a part of the application, and (b) all of the terms, conditions and warranties contained in the Second Seamen's War Risk Policy (1955) set forth in § 308.306 hereof (Part 308, Title 46, Code of Federal Regulations). To

the extent there is inconsistency between the terms of such Second Seamen's War Risk Policy (1955) and the terms of this binder including the warranties, agreements and representations of the applicant, the terms of the binder together with the warranties, agreements and representations of applicant shall prevail.

Premium: Rate to be fixed promptly after the happening of the event causing the "American Institute—Automatic Termination Clauses (October 1, 1959)" of any war risk policies to become operative and premium shall be payable within ten days after receipt of notice of the amount thereof by the assured. Premium shall be paid to the Underwriting Agent that issued the binders by check payable to the order of "Maritime Adm.—Commerce."

Claims: Casualties arising after the attachment of insurance hereunder shall be reported promptly to the Division of Insurance, Maritime Administration, Department of Commerce, Washington 25, D.C., and all claim documents shall likewise be filed with such Division.

The Underwriting Agent does not, by countersigning this binder or in any other manner, warrant its own authority, or the authority of the Maritime Administrator, acting for the Secretary of Commerce, to issue this instrument, but acts solely under the power conveyed to the Underwriting Agent by the Agreement made with the Maritime Administrator, acting for the Secretary of Commerce.

UNITED STATES OF AMERICA,
By Maritime Administrator,
acting for the Secretary
of Commerce.

Countersigned at New York, N.Y., this
----- day of ----- 19-----

AMERICAN WAR RISK AGENCY,
By -----
(Authorized Underwriting Agent)

(Maritime Administrator)

Not valid unless countersigned by an authorized Underwriting Agent.

§ 308.306(a) Standard form of Second Seamen's War Risk Policy (1955).

The following is the standard form of Second Seamen's War Risk Policy (1955):

Form MA-242 (10-59)

UNITED STATES OF AMERICA
DEPARTMENT OF COMMERCE
MARITIME ADMINISTRATION
SECOND SEAMEN'S WAR RISK POLICY
(1955 Standard Form)

Crew Life, Disability, No. SSWR -----
Loss of Effects, and Date -----
Detention.

Total number of men insured for life and injury for \$----- each.

		Pre-
		mium
Total amount in-	\$----- Rate-----% \$-----	
sured, life or in-		
jury.		

Total amount in-	\$----- Rate-----% \$-----
sured, personal ef-	
fects.	

Total amount an-	\$----- Rate-----% \$-----
nual wages and	
emergency wages.	

Total premium----- \$-----

The United States of America (herein called the "Underwriter"), represented by the Maritime Administrator (herein called "Administrator"), acting for the Secretary of Commerce, in consideration of the payment by ----- (herein, for identification purposes only, called the "Operator") of a pre-

mium of \$-----, and in accordance with applicable provisions of law and subject to all limitations thereof, particularly Title XII, Merchant Marine Act, 1936, as amended, insures the master, officers and crew, as hereinafter set forth, of the vessel ----- (Official No. -----), during the period described herein commencing on or about ----- against loss of life, disability (including dismemberment and loss of function), loss of or damage to personal effects, and detention (including the occurrence of other situations hereinafter provided), from the perils and causes hereinafter stated, payable in case of claim in funds current in the United States in accordance with the following schedules and as hereinafter stated.

SCHEDULE 1—LOSS OF LIFE

Master, officers and crew, each----- \$5000

The amount for which each person is covered by this schedule is the principal sum.

SCHEDULE 2—DISABILITY, INCLUDING DISMEMBERMENT AND LOSS OF FUNCTION

For disability proximately caused by the risks and perils insured against herein, and which arises within ninety days from the date of the happening of such risks and perils, and for dismemberment and loss of function caused by the risks and perils insured against herein, and which result from such a disability or otherwise occur within ninety days from the happening of such risks or perils, the Underwriter will pay to the insured the benefits set forth in the stipulations and conditions.

SCHEDULE 3—CREW EFFECTS

For loss of or damage to the personal effects of the master, officers or members of the crew proximately caused by the risks and perils insured against herein, the Underwriter will pay the amount set forth in the Stipulations and Conditions for the loss of or damage to said effects during the entire period of this policy as hereinafter set forth, and for the loss of or damage to effects proximately caused by the risks and perils insured against herein, purchased or otherwise acquired during the policy to replace effects lost or damaged by the risks and perils insured against herein, the Underwriter will pay not exceeding \$50.00 for each such loss or damage.

SCHEDULE 4—DETENTION AND REPATRIATION BENEFITS

For detention of the master, officers or members of the crew during the period covered by this policy, and under other situations hereinafter provided, the Underwriter will pay benefits to the insured or for his or their account, as set forth in the stipulations and conditions.

This policy is made and accepted subject to the foregoing and to the following:

STIPULATIONS AND CONDITIONS

Art.

1. Persons insured.
2. Additional insurance.
3. Risks and perils.
4. Period of coverage.
5. Extension of period of coverage.
6. Payment for loss of life.
7. Beneficiaries of insurance for loss of life.
8. (A) Designation and change of beneficiary; (B) continuing designation.
9. Claims.
10. Time for payment of insurance for loss of life.
11. Proof of death.
12. Disability and dismemberment.
13. Physical examination.
14. Personal effects defined.
15. Amount of payment for loss of, or damage to, personal effects.
16. Death of an insured prior to payment for loss of or damage to personal effects.
17. Detention and repatriation benefits.

18. Payment constituting a discharge.
19. Nonassignability.
20. Amount permitted to be paid agents or attorneys.
21. Notice of loss and claim.
22. Limitation of suit.
23. Deviation and change of voyage.
24. "Administrator" defined.
25. Multiple claims against the United States.
26. Amendments and modifications.
27. Payment of premium and cancellation.
28. Extension.

ARTICLE 1. Persons insured. The persons insured by this policy are the master, officers and crew of the vessel described on the face of this policy. Except as to merchant seamen, membership in the vessel's gun crew shall not of itself constitute an individual a member of the crew of the vessel, as that phrase is used herein. Any person or persons insured under any other or similar policy, including the Second Seamen's War Risk Policy (1952); insuring against loss of life or disability (including dismemberment and loss of function) or loss of or damage to personal effects or detention (including the occurrence of other situations hereinafter provided) shall not to the extent of such prior coverage, be entitled to coverage under this policy while such other insurance is in force and effect.

ART. 2. Additional insurance. In the event that any person is employed as a master or officer or member of the crew of said vessel after the commencement of the voyage, the amount of the premium shall be increased proportionately, provided, however, that the failure to pay such additional premium shall not affect the additional coverage.

ART. 3. Risks and perils. The insurance is for loss of life, disability (including dismemberment and loss of function), loss of or damage to personal effects, and detention (including the occurrence of other situations hereinafter provided) of the insured, directly and proximately caused by risks of war and warlike operations, including capture, seizure, destruction by men-of-war, sabotage, piracy, takings at sea, arrests, restraints and detentions, acts of kings, princes and peoples in the prosecution of hostilities or in the application of sanctions under international agreements, whether before or after declaration of war and whether by a belligerent or otherwise, including factions engaged in civil war, revolution, rebellion or insurrection, scuttling to prevent capture, aerial bombardment, or attempts at, or measures taken in defense of, all of the foregoing acts, floating or stationary mines, torpedoes, whether derelict or not, collision caused by failure, in compliance with wartime regulations, or said vessel or any vessel with which she is in collision, to show the usual full peacetime navigation or anchorage lights, stranding caused by the absence of lights, buoys, or similar peacetime aids to navigation consequent upon wartime regulations, stranding caused by the failure of said vessel to employ a pilot in waters where a pilot would ordinarily be employed in peacetime, but in which the employment of a pilot is dispensed with in compliance with military, naval or other governmental orders, or with a view to avoiding imminent enemy attack (for the purposes of the foregoing, the failure to show lights, the absence of lights, buoys, etc., and the failure to employ a pilot shall be presumed to be the cause of the collision or stranding unless the contrary be proved, and stranding shall include sinking consequent upon stranding or contact with any part of the land), collision with another vessel in the same convoy or collision with any military or naval vessel, that is to say, a vessel manned by and under the control of military or naval personnel and designed to be employed primarily in armed combat service, stranding, collision or contact with any ex-

ternal substance (including ice, but excluding water), as a result of deliberately placing the vessel in jeopardy, in compliance with military, naval or other governmental orders in order to avoid imminent enemy attack, or as an act or measure of war taken in the actual process of embarking or disembarking troops or loading or unloading material of war.

The fact that a vessel, or any vessel with which such vessel is in collision, is carrying troops or military or other supplies, or is proceeding to or from a war base, or is manned or operated by military or naval personnel, shall not alone be sufficient to include in this policy any claim which is not included by the foregoing terms of this article.

The insurance is also for loss of life, disability (including dismemberment and loss of function), loss of or damage to personal effects, and detention (including the occurrence of other situations hereinafter provided) of the insured, directly and proximately resulting from stranding, sinking, or break-up of the vessel, explosion or fire causing loss of or substantial damage to the vessel, or collision by the vessel or contact with any external substance (including ice, but excluding water), irrespective of whether the same are caused by risks of war or warlike operations or by marine risks and perils.

The word "vessel" shall include any waterborne conveyance used to transport the insured to and from the vessel on which he is employed, and shall also include any airborne conveyance used to transport the insured pursuant to instructions or permission of the Maritime Administration or its agents.

ART. 4. Period of coverage. The period of coverage for each person covered hereunder is

From the time such person signs the articles or enters into a contract of employment for the voyage of the aforesaid vessel, or, if already on articles for a series of voyages or period of time, from the inception of the aforesaid voyage (i.e., when the vessel is ready to begin the loading of cargo for the aforesaid voyage or to sail in ballast) or, if employed subsequent to the commencement of the voyage, from the time of such employment.

Until such person shall be returned to a place within the continental United States, excluding Alaska, including any period of capture or internment.

Unless sooner terminated by desertion, discharge, accepting employment on another vessel for a purpose other than to be repatriated, or the refusal without good cause to return to the continental United States, excluding Alaska, from any place outside thereof, in any of which events the coverage under this policy shall be at an end. (The term "discharge," as used in this paragraph, does not include instances in which the insured leaves the vessel for medical or hospital treatment or for other causes deemed good and sufficient in the opinion of the Administrator.)

ART. 5. Extension of period of coverage. If the insured returns to the continental United States, excluding Alaska, on a vessel which touches or stays at a place or places within the continental United States, excluding Alaska, other than the place of termination of the voyage and the vessel thence proceeds to such place of termination, the period of coverage in respect to each person covered hereunder who continues to be on board such vessel is extended to the termination of the voyage.

ART. 6. Payment for loss of life. The amount of the payment for loss of life shall be the principal sum stated on the face of this policy, subject, however, to any deductions or additions hereinafter contained.

Payment for loss of life shall be made in a lump sum except that when—

- (a) In the opinion of the Administrator conclusive proof of death is not present, or
- (b) The insured at the time of designating a beneficiary or beneficiaries requests on the

form provided therefor that the amount payable for the loss of life be paid in installments, or

(c) The beneficiary or beneficiaries request in writing that the payment for loss of life be made in installments. Payment for loss of life may, in the discretion of the Administrator, be made in monthly installments not exceeding twenty-four, in which event no interest is to be added or paid. By requesting payment in installments, the insured and the beneficiary or beneficiaries agree on behalf of themselves, their heirs, executors and administrators to be bound by the provisions of paragraph B, article 7 hereof, as well as all other provisions contained herein. The beneficiary or beneficiaries may at any time upon written request obtain a lumpsum payment of the entire amount yet unpaid if payment is being made in installments pursuant to the written request of the beneficiary or beneficiaries. If payment has been commenced in installments and the principal sum is not yet exhausted, the Administrator, in his sole discretion and at any time may direct that payment of the balance of the principal sum to be paid in a lump sum or in installments of different or varying amounts, provided, however, that all of the principal sum be paid within twenty-four months from the time that the first payment is made.

If any payments are made under article 12 hereof, the total amount of such payments shall be deducted from the amount of the principal sum payable under this policy for loss of life.

If the personal effects of an insured are lost or damaged under circumstances where payment would be due under the terms hereof to said person for such loss or damage and said person either before or after such loss or damage dies, his death being proximately caused by the risks and perils insured against herein, the amount which would have been payable for the loss of or damage to such personal effects had he survived shall be added to the principal sum hereof and shall be payable to the beneficiary of the insurance for loss of life.

ART. 7. Beneficiaries of insurance for loss of life. A. The insurance shall be payable only to a lawful widow or widower, child (the latter term including a posthumous child, a child legally adopted by the insured, and, if designated, a child in relation to whom the insured stood in loco parentis, and a step-child or acknowledged illegitimate child), parent (including a step-parent, parent by adoption and, if designated, a person who stood in the place of a parent to the insured), brother or sister (including, if designated, step-brothers or step-sisters, half-brothers and half-sisters, and brothers and sisters by adoption), grandparents, grandchildren, and, if designated, nephews, nieces, aunts or uncles, of the insured.

(1) The insured shall have the right to designate the beneficiary or beneficiaries of the insurance, but only within the classes above provided, and shall, in the manner hereinafter described, at all times have the right to change the beneficiary or beneficiaries of such insurance without the consent of such beneficiary or beneficiaries, but only within the above classes. A person or persons so designated shall be known as the primary beneficiary or beneficiaries.

(2) The insured shall have the right also to designate any other person or persons, but only within the above classes, to whom the insurance shall be paid if the beneficiary or beneficiaries designated shall die before the insurance or any portion thereof shall be paid. A person or persons so designated shall be known as the contingent beneficiary or beneficiaries.

(3) If the insured fails to designate a beneficiary or if the beneficiary or beneficiaries, whether primary or contingent, die

before the insurance or any portion thereof shall be paid, the insurance will, subject to the provisions of paragraph B hereof, be paid to the beneficiary or beneficiaries within the following classes and in the order named.

(a) If the insured shall be survived by a lawful widow or widower but without any child of him or her surviving, 100 percent to such widow or widower.

(b) If the insured shall be survived by a lawful widow or widower and a child or children of him or her surviving, 50 percent to the widow or widower and 50 percent to the child or children in equal shares.

(c) If the insured shall have no lawful widow or widower of him or her surviving but shall have a child or children of him or her surviving, 100 percent to the child or children in equal shares.

(d) If there shall be no lawful widow or widower or children of the insured of him or her surviving, 100 percent to the parent or parents of the insured in equal shares.

(e) If there shall be no lawful widow or widower, child, or parent of him or her surviving, 100 percent to the brothers, sisters, grandparents and grandchildren of the insured in equal shares. The persons in these classes shall be known as the schedule beneficiaries. As used in this subdivision (3), the term "child" includes a posthumous child and a child legally adopted by the insured, and the term "parent" includes a step-parent and a parent by adoption.

B. The right of any beneficiary to payment of the insurance, or any unpaid installment thereof, shall be conditioned upon his or her being alive to receive payment. No person shall have a vested right to any such insurance or any installment of any such insurance. No insurance shall be paid to the heir or heirs or executors or administrators of the insured or of any beneficiary.

Any insurance or any installment thereof not paid to a primary beneficiary because of his or her death shall be paid to the schedule beneficiary or beneficiaries first or next entitled to priority as hereinabove provided, unless a contingent beneficiary has been designated, in which event payment shall be made to the contingent beneficiary. Any such insurance or any installment thereof not paid to a contingent beneficiary because of his or her death shall be paid to the schedule beneficiary or beneficiaries first or next entitled to priority as hereinabove provided. If, however, the insured has designated more than one primary beneficiary or more than one contingent beneficiary and if such a primary beneficiary or contingent beneficiary dies before the insurance or an installment thereof, to which he or she may otherwise be entitled, is paid, such insurance or installment thereof shall be paid to the surviving primary or contingent beneficiary, as the case may be.

Any payments of insurance made to a person represented by the insured to be within the permitted classes of beneficiaries shall be deemed to have been properly made and to satisfy fully the obligation of the United States under this insurance policy.

ART. 8. A. Designation and change of beneficiary. The designation of a beneficiary or the change in a designation of beneficiary shall be in writing upon a form or forms and in a manner prescribed by the Administrator, signed by the insured, witnessed either by the Shipping Commissioner or a licensed officer of the vessel, and shall contain the name, address and relationship of the beneficiary to the insured. No designation of a beneficiary and no change of a beneficiary shall be valid unless the instrument containing the designation or change is received by the Administrator at his office in the General Accounting Office Building, 441 G Street NW., Washington 25, D.C.: *Provided, however, That the instrument when received shall be considered as valid as of the time of*

its execution. Whenever it shall appear to the satisfaction of the Administrator that unusual circumstances existed preventing or substantially preventing the designation or change of beneficiary in the manner or form hereinabove set forth and that the interests of justice would be served, he may waive or disregard the failure to comply with such manner and form and recognize as valid an act intended as a designation or a change of beneficiary. The recognition as valid by the Administrator of such an act shall be conclusive and binding upon all persons and payment or payments pursuant thereto shall be a pro tanto discharge of the obligation of the United States under this policy.

B. Continuing designation. As to any individual insured under the Second Seamen's War Risk Policy form as amended or changed, from time to time, the beneficiary or beneficiaries first designated by such insured to receive the proceeds of the insurance provided by such form shall (subject to the limitations of paragraph B, article 7 hereof), if properly designated, continue to be the beneficiary or beneficiaries of any subsequent insurance provided by such form without further designation unless and until such initial designation is effectively revoked or changed. In the event of an effective revocation unaccompanied by a new designation, the insurance proceeds shall be disposed of in accordance with the provisions of paragraph A, subdivision (3), article 7, hereof. In the event of an effective change of beneficiary or beneficiaries, the new beneficiary or beneficiaries so designated shall for all purposes, including the purposes of this paragraph, be considered as the initial designee or designees, and such designation shall continue to be effective as to all insurance provided by this form of policy until revoked or changed. Subsequent revocations and changes shall for all purposes be treated as would be the preceding revocations or changes, if any.

ART. 9. Claims. No claim for insurance for loss of life shall be recognized unless presented in writing to the underwriter. Any payment or payments of the insurance or the installments thereof made prior to the presentation of claim shall be conclusively deemed to have been properly made under this policy and in complete discharge of the obligation of the United States under this policy to the extent thereof.

ART. 10. Time for payment of insurance for loss of life. Unless extended by the provisions hereinafter contained, payment of the insurance for loss of life shall be made within ninety days after the death of the insured is established in a manner satisfactory to the Administrator, but payment may be made prior to the expiration of such ninety days at the discretion of the Administrator. The time for payment may be extended without penalty or interest for that period of time consumed by the Administrator in establishing the identity or the location of the beneficiary or beneficiaries, and should any conflicting claims for payment be presented to the Administrator, payment of the insurance may be withheld and the time for payment thereof extended without any penalty or obligation to pay interest until such claims are duly adjudicated or otherwise withdrawn, settled or compromised to the satisfaction of the Administrator.

ART. 11. Proof of death. The time and facts of death of any insured shall be established in a manner satisfactory to the Administrator; and his determination of the time and facts of death shall be binding and conclusive against all persons for all purposes of this policy. If, however, payment of a part of the insurance for loss of life has been made and it appears that the

insured is alive, payment of the balance of the insurance for loss of life shall not be made, but the payments of insurance in whole or in part theretofore made shall not be recovered, except where such payments were induced by wilful misrepresentation or fraud either by the beneficiary or any other person. The part so paid shall, however, be a discharge to the extent thereof of any other obligation under this policy, including the obligation to pay benefits under article 17 hereof, to the insured or any other person.

ART. 12. Disability and dismemberment—
A. Disability. "Disability" as that term is used in this policy means incapacity because of injury proximately caused by the risks insured against herein which necessarily and continuously prevents the insured from performing any and every kind of duty pertaining to his occupation at the time of injury.

(1) If an insured suffers disability he shall be paid benefits at the rate of \$150 a month, provided, however, that during any part of such period when the insured is hospitalized he shall be paid benefits at the rate of \$100 a month, beginning with his return to the continental United States, excluding Alaska, until the Administrator determines that the disability has ceased or until a total of \$5,000 is paid, whichever first occurs.

(2) If the Administrator determines at any time during the period such monthly benefits are payable that the insured has received maximum medical treatment for such disability and that such disability is, therefore, permanent in quality (loss of both hands, or both arms, or both feet, or both legs, or both eyes, or combination of any two thereof, will be conclusively presumed by the Administrator to constitute a disability permanent in quality), he shall notify the insured of such facts and the insured shall have the option of

(a) Continuing to receive such monthly benefits at the rate of \$150 a month or \$100 a month, as the case may be, until the aggregate of all the monthly benefits paid to him both before and after such determination total \$5,000, or

(b) Receiving in a lump payment the sum of \$5,000 less the total of the monthly benefits paid to him prior to such determination.

(3) In the event the insured elects after such determination to accept payments for such disability under subdivision (2) (a) hereof and if when the total of \$5,000 has been paid him as therein provided, the insured claims in writing, and establishes to the satisfaction of the Administrator, that because of the same injury he is incapable of performing, for remuneration or profit, any work or engaging in any business or occupation, then he shall be paid further benefits at the rate of \$150 a month or \$100 a month, as the case may be, until the Administrator determines such incapacity has ceased or until a total of \$2,500 is paid, whichever first occurs.

B. Dismemberment, including loss of function. If the Administrator determines that the insured, as a proximate result of the risks insured against herein, has suffered a dismemberment or loss of function of the type set forth below, not, however, amounting to disability which the Administrator determines to be permanent in quality, the Underwriter will pay to the insured additional benefits measured by the following percentages of the principal sum. Such benefits shall be in addition to the benefits paid under subdivision (1), paragraph A hereof, but the aggregate of such benefits for disability, dismemberment, and loss of function shall not exceed the principal sum.

(1)	Member lost:	Percent
(a)	Arm.....	65
(b)	Leg.....	65
(c)	Hand.....	50
(d)	Foot.....	50
(e)	Eye.....	45
(f)	Thumb.....	15
(g)	First finger.....	10
(h)	Great toe.....	9
(i)	Second finger.....	5
(j)	Third finger.....	5
(k)	Toe other than great toe.....	2½
(l)	Fourth finger.....	2½

(m) Loss of hearing: For complete loss of hearing of one ear, 12½ percent; for the complete loss of hearing of both ears, 50 percent.

(n) Phalanges: For loss of more than one phalange of a digit, the same as the loss of the entire digit; for loss of the first phalange one-half the loss of the entire digit.

(o) Amputated arm or leg: For an arm or leg, if amputated at or above the elbow or the knee, the same as for the loss of the arm or leg; if amputated between the elbow and the wrist or the knee and the ankle, the same as for the loss of a hand or foot.

(p) Binocular vision or per centum of vision: For loss of binocular vision or for eighty percent or more of the vision of an eye shall be the same as for loss of the eye.

(q) Two or more digits: for loss or loss of use of two or more digits, or one or more phalanges of two or more digits, or a hand or foot, may be proportioned to the loss of use of the hand or foot occasioned thereby but shall not exceed the payment for loss of a hand or foot.

(r) Total loss of use: for permanent total loss of use of a member shall be the same as for loss of the member.

(s) Partial loss or loss of use: payment for permanent partial loss or loss of use of a member may be for proportionate loss of the member or loss of use of the member.

(t) Disfigurement: proper and equitable payment for serious facial or head disfigurement, not to exceed 50 percent.

(u) Total or partial loss or loss of use of more than one member or parts of members. In any case in which there shall be a loss or loss of use of more than one member or parts of more than one member set forth in subdivision (a) to (t) both inclusive, hereof, but not amounting to permanent total disability, payment shall be made for the loss or loss of use of each such member or part thereof; however, not exceeding the principal sum, and except that where the injury affects only two or more digits of the same hand or foot, subdivision (q) hereof shall apply.

(2) The amount determined by the Administrator to be due the insured for dismemberment or loss of function shall

(a) If \$750 or less, be paid the insured in a lump sum as soon as practicable.

(b) If more than \$750, be paid, at the option of the insured, in a lump sum or in monthly installments of \$150 or \$100, as the case may be, beginning with the month next succeeding the last monthly payment made for disability pursuant to the provisions of subdivision (1), paragraph A hereof, or as soon thereafter as is practicable. The insured shall notify the Administrator in writing of the desired method of payment immediately upon receipt of the Administrator's determination that the insured is entitled to payment for dismemberment or loss of function under this paragraph. Should the Administrator not receive such written notice within thirty days, it shall be conclusively presumed that the insured desires payment in a lump sum and the Underwriter will act accordingly.

(3) If the insured elects under subdivision (2)(b) hereof to accept payment for dismemberment or loss of function in monthly installments, the number of installments due shall be increased in number by 10 percent but in no event shall the increase be less than one installment of \$150 or \$100, as the case may be.

C. Injury increasing disability. The Administrator in determining if disability, dismemberment or loss of function exists, or if found to exist, the quality thereof, will not take previous disabilities, dismemberments or losses of function into account. If, however, such previous condition was insured under this Second Seamen's War Risk Policy the insured shall receive with respect to the two claims an aggregate sum not less than he would have been entitled to under either subdivision (2) and (3) of paragraph A or paragraph B hereof, had the injuries causing both disabilities been received at the same time.

D. Disability shall not include incapacity directly resulting from bodily or mental infirmity or disease of any kind. Nor shall benefits be paid for dismemberment or loss of function directly resulting from bodily or mental infirmity or disease of any kind.

E. If the insured elects after a determination by the Administrator that he is entitled to benefits under either subdivision (2) paragraph A or paragraph B hereof to accept payments for such disability, dismemberment, or loss of function, as the case may be, in installments, and if the insured dies from a cause not insured against herein before he has received the last installment, the remainder which he would have received under such subdivision had he survived shall be paid to the person or persons who would have received his life insurance hereunder, subject, however, to all the conditions, stipulations, and provisions contained in this policy governing the disposition and payment of the insurance for loss of life.

The right of the insured to payment of the benefits provided for herein shall be conditioned upon his or her being alive to receive payment, and benefits shall not be paid to the heirs, executors, or administrators of the insured, or of any other person.

ART. 13. Physical examination. The underwriter shall have the right to require an examination of the person of the insured when and so often as it may reasonably require and also the right and opportunity in case of death to make an autopsy where it is not forbidden by law.

ART. 14. Personal effects defined. The term "personal effects" includes personal property reasonably necessary or required for use on board the vessel as well as those articles ordinarily or customarily carried on board for the personal use, wear, comfort, or convenience of the insured, either while on board, while in a foreign port, or upon his return to the home port. Articles of apparel, whether used for ornamentation or otherwise, and articles used in the performance of duties on board, are also included. Articles carried for the purpose of business foreign to the actual duties of the insured, or for resale, are excluded.

ART. 15. Amount of payment for loss of, or damage to, personal effects.

A. In the event of total loss of, or damage (equivalent to total loss) to the personal effects of any insured, reimbursement for such total loss or damage shall be as follows:

- (a) Licensed officer; \$500;
- (b) Unlicensed crew member, \$300;
- (c) U.S. Merchant Marine cadet or cadet officer, \$300.

If an insured shall establish the loss of a sextant which he carried aboard the vessel, he shall be paid \$100 extra. If the insured shall establish the loss of binoculars, which he carried aboard the vessel, he shall be paid \$50 extra. A total loss shall be determined

without reference to apparel actually worn by the crew member at the time of the loss or damage.

B. In the event of a partial loss of or damage to the personal effects of an insured, he shall be reimbursed for the actual value of such effects lost or damaged to the extent of such loss or damage, but in no event shall the payment for such effects lost or damaged exceed the amount set forth in paragraph A of this article 15 for which total loss or damage is payable.

ART. 16. Death of an insured prior to payment for loss of or damage to personal effects. Payment for loss of or damage to personal effects shall be conditioned upon the insured being alive to receive payment, and shall not be payable to his heirs, executors, administrators or assigns, except as provided in article 6 hereof.

ART. 17. Detention and repatriation benefits. A. If it is established to the satisfaction of the Administrator, who, for this purpose, may rely on any official information furnished him by any department or agency of the United States Government, that the insured's vessel has been destroyed or abandoned as a result of a risk or peril insured against herein and that the insured has survived such an event and is not detained (in the sense that that term is used in paragraph B, article 17 hereof), monthly benefits shall be paid as hereinafter provided in this paragraph A. Such monthly benefits shall be equal to the monthly basic wage of the insured (including special emergency wage), as shown by the shipping articles signed by the insured or, if not on articles, by the contract of employment entered into by the insured. Such monthly benefits shall be paid from the date of such destruction or abandonment of the vessel, which, for the purposes hereof, shall be the date recognized by the Administrator when the obligation to pay wages under the applicable shipping articles or contract of employment terminated, or which is otherwise fixed by the Administrator as the date of such destruction or abandonment, and shall continue until the insured arrives at a continental port of the United States.

Such monthly benefits shall be paid to the person or persons, if living, to whom the insured's wages are allotted under the applicable shipping articles. Such allottee or allottees shall receive that portion of the monthly benefits which is equal in amount to the insured's monthly wage which has been allotted, provided such latter amount does not exceed the amount of the monthly benefits, and provided further that no payment shall be made to an allottee for any fractional allotment period between the last regular allotment date and date when such monthly benefits terminate. If no such allotment has been made, or if the person to whom the insured has allotted his wages is dead or dies, or if an allotment has been made and the allottee is living but the amount of monthly benefits exceeds the amount which can be paid to such allottee, the benefits or the remainder thereof shall be held by the Administrator for the benefit of the insured until his return to the continental United States, excluding Alaska, with the right to the Administrator, however, to pay such benefits or the remainder thereof in whole or in part to any person or persons named in subdivision (3), paragraph A, article 7 of these stipulations and conditions (for the purpose of this paragraph the words "widow" and "widower" as used in subdivision (3) shall mean "wife" and "husband" respectively), including the allottee or allottees aforementioned, and such payment when made shall be conclusively presumed to have been made for the account of the insured.

B. If it is established to the satisfaction of the Administrator, who, for this purpose may rely on any official information fur-

nished him by any department or agency of the United States Government, that the insured is detained, either by capture by an enemy of the United States or by internment, but not otherwise, monthly benefits shall be in the same amount or amounts and shall be held or paid in the same manner and for or to the same person or persons as set forth in paragraph A, article 17 hereof. Such monthly benefits shall be paid during such period of detention beginning with the date that the insured suffered such detention as determined by the Administrator.

C. If, in the opinion of the Administrator, it is uncertain—

(1) Whether the insured survived or died as a proximate result of the occurrence of a risk or peril insured against, or

(2) Whether the insured survived or died as a proximate result of the occurrence of an event which may be a risk or peril insured against, but as to which, in the opinion of the Administrator, there is also uncertainty, or

(3) Whether the insured's vessel has been destroyed or abandoned as a proximate result or a risk or peril insured against, although it is certain, in the opinion of the Administrator, that the insured is alive, or

(4) Whether the insured is detained (in the sense that that term is used in paragraph B, article 17 hereof), although it is certain, in the opinion of the Administrator, that the insured is alive,

monthly benefits shall be paid as hereinafter provided in this paragraph C. Such monthly benefits shall be in the same amount or amounts and shall be held or paid in the same manner and for or to the same person or persons as set forth in paragraph A, article 17 hereof. Such monthly benefits shall be paid from the date, as fixed by the Administrator, the insured, if alive, was probably separated from his vessel under any of the respective situations set forth above and shall continue until—

(a) The Administrator determines that the insured is entitled to benefits as provided in which event monthly benefits shall thereafter be paid as provided in paragraph A, Article 17 hereof, or

(b) The Administrator determines that the insured is entitled to benefits as provided under paragraph B, article 17 hereof, in which event monthly benefits shall thereafter be paid as provided in paragraph B, article 17 hereof, or

(c) The death of the insured is established in a manner satisfactory to the Administrator, or

(d) The issuance by the Administrator of certificate of presumptive death of the insured, whichever first occurs, in which event benefits shall cease: *Provided, however,* That if the Administrator determines that at any time after such benefits have ceased the insured is entitled to benefits or has been entitled to benefits as provided in either paragraph A or paragraph B, article 17 hereof, monthly benefits shall thereafter be paid as provided in paragraph A or paragraph B, article 17 hereof, as the case may be, with proper adjustment for the period that the insured was entitled to be paid such benefits prior to the Administrator's determination thereof.

D. If, while the insured is being paid benefits under either paragraph A or B or C, article 17 hereof, the Administrator determines that the insured was not, or is no longer, entitled to benefits under the provisions of such paragraph, then the payment of such benefits shall cease: *Provided,* That, if the Administrator determines the insured is entitled to benefits under the provisions of any other of such paragraphs, the insured shall thereafter be entitled to benefits under the provisions of such paragraph.

E. In no event shall benefits be paid under paragraphs A, B, C, or D, article 17 hereof,

beyond three months after the termination of the national emergency shall have been proclaimed by the President or beyond the time that the insured shall either refuse without good cause to return to the continental United States, excluding Alaska, or accept employment on another vessel for a purpose other than to be repatriated.

F. If the insured, upon his return to the United States (excluding Alaska), shall be entitled to receive under paragraph A or B or C, article 17 hereof, benefits exceeding a sum equal to twelve months' basic wage (including special emergency wage), payment of a sum equal to twelve months' basic wage (including special emergency wage) shall be made to the insured forwih. Any unpaid balance of such benefits shall be paid to the insured in monthly installments equivalent in amount to such monthly benefits until paid in full. In determining the amount which the insured is entitled to receive in a lump sum, as aforesaid, benefits paid to his allottees or to the persons named in subdivision (3), paragraph A, article 7 hereof; shall not be considered. Payments to an allottee or to schedule beneficiaries shall not be made after the date of arrival of the insured at a continental United States port, and all payments thereafter shall be made only to the insured: *Provided, however*, That if the insured dies after his arrival and while he is receiving monthly payments as above set forth, such monthly payments shall thereafter be paid to his allottees or to schedule beneficiaries until paid in full.

G. The right of the insured to be paid benefits or to have benefits paid on his account, under paragraphs A, B, or C, article 17 hereof, shall be conditioned upon the insured being alive during the period such benefits accrued or were paid: *Provided, however*, That benefits payable for the account of the insured to allottees or schedule beneficiaries shall always be paid in full to the date of establishment of death or presumed death of the insured as determined under paragraph C, article 17 hereof. Such benefits under no circumstances shall be paid or considered payable to heirs, executors or administrators of the insured or of any allottees or schedule beneficiary of the insured.

H. The Underwriter agrees that detention and repatriation benefits, as provided under this article 17, shall continue until the insured shall be returned to the port to which the Operator is obligated to return the insured, as shown by the shipping articles signed by the insured or, if not on articles, by the contract of employment entered into by the insured.

ART. 18. *Payment constituting a discharge.* A payment by the Administrator to the person or persons determined by him to be entitled to all or any of the proceeds of this policy shall constitute a pro tanto discharge of the obligations under this policy of the United States of America, the Department of Commerce, and the Maritime Administrator.

ART. 19. *Nonassignability.* Neither this policy nor any part thereof nor any insurance, benefits or allowances payable hereunder shall be assignable.

ART. 20. *Amount permitted to be paid agents or attorneys.* Except in the event of legal proceedings arising under or in connection with this policy, payment to any attorney, agent or any other person acting for or on behalf of an insured, beneficiary or recipient, by such insured or any beneficiary or recipient, for such assistance as may be required in the preparation of the claim, shall not exceed \$25 in any one case, except that the Administrator may approve an additional amount in those cases in which he feels the nature of the services rendered warrant it. At any time during the pendency of any litigation arising under or in connection with this policy or whenever a judgment or a decree shall be rendered in an action or proceeding arising under or in connection

with this policy for the payment of any insurance, benefits or allowances under this policy, the court in which such action or proceeding is pending or in which a judgment or decree has been rendered may and is requested to allow such fees for the attorney or attorneys of the person or persons who are parties to such action or proceeding or who have obtained a judgment or a decree, as it may determine to be just compensation for the services rendered. Before the payment of any insurance, benefits or allowances hereunder, or any judgment or decree, as aforesaid, the Administrator may require proof to be submitted to him in the form of an affidavit, or in any other manner which to him seems fit, by the insured, the beneficiary, the recipient, or holder of any judgment or decree, or his attorney, agent, or any other person acting for or on their behalf, or any or all of them, that the payment previously or thereafter to be made to such attorney, agent or other person does not exceed the sum herein specified or allowed by the court, as the case may be.

ART. 21. *Notice of loss and claim.* Notice of disability (including dismemberment and loss of function), and claim for payment therefor under this policy shall be given to the Administrator within ninety days after the happening of the event causing the disability (including dismemberment and loss of function), or ninety days after the insured returns to the continental United States, excluding Alaska. Notice of loss of, or damage to, personal effects and claim for payment therefor under this policy shall be given to the Administrator within ninety days after the happening of the event causing the loss, or ninety days after the insured returns to the continental United States, excluding Alaska.

Any insured who is employed on a vessel as an employee of the United States through the Office of National Shipping Authority, Maritime Administration, or successor Office shall comply with applicable rules and regulations pertaining to the filing of claims and administrative allowance or disallowance as prescribed by NSA Order No. 67 (LPR 1), 20 F.R. 2414, or as amended or revised.

ART. 22. *Limitation of suit.* No action or suit upon this policy shall be valid unless commenced within two years from the time the insurance, benefits or allowances conferred by this policy are payable, except that

(a) An action or suit by the insured may be commenced at any time within two years after he returns to the United States or the termination of the national emergency shall have been proclaimed by the President, whichever first occurs, and

(b) The time during which a person, other than the insured, is in enemy occupied territory shall be excluded from the two year period as aforesaid.

Any insured who is employed on a vessel as an employee of the United States through the Office of National Shipping Authority, Maritime Administration, or successor Office shall comply with applicable rules and regulations pertaining to the filing of claims and administrative allowance or disallowance as prescribed by NSA Order No. 67 (LPR 1), 20 F.R. 2414, or as amended or revised.

ART. 23. *Deviation and change of voyage.* This insurance shall not be affected by a deviation or change of voyage of the vessel, except that the Administrator may require the payment of an additional premium.

ART. 24. *"Administrator" defined.* Wherever the term "Administrator" is used in this policy that terms shall include the person who is the Maritime Administrator at the time of the issuance of this policy and his successor or successors in office, and such other person or persons employed by the Administrator, the Maritime Administration, the Department of Commerce or the United States of America, to whom the Administrator may delegate duties or powers for the

administration of the insurance. Wherever there is mention in this policy of a decision, determination or exercise of discretion by the Administrator, such terms shall include a decision, determination or exercise of discretion of a person or persons to whom the Administrator may delegate such power or powers and shall not be taken to mean that the personal act of the Administrator is required.

ART. 25. *Multiple claims against the United States.* A. It is the intent of the underwriter in the issuance of this policy to avoid providing or paying any benefit or sum of money for any loss, event or occurrence to the extent that legal liability to pay for the same loss, event or occurrence otherwise exists on the part of the United States of America, the Department of Commerce, the Maritime Administration, the Administrator, the owner of a vessel under time or bareboat charter to the Maritime Administration, the operator of a vessel owned by the Maritime Administration or under time or bareboat charter to it, or the agent of the Maritime Administration in the operation of such a vessel, and this policy shall be construed to give effect to such intent. By the acceptance of the insurance protection afforded by this policy, by the designation of any beneficiary thereunder or by otherwise acting pursuant to the terms of this policy, the insured, in behalf of himself, his personal and legal representatives, administrators, executors, heirs at law, next of kin, dependents and beneficiaries, acknowledges such intent and agrees to the conditions and provisions of this policy, including specifically those contained in this article 25. Similarly, any beneficiary or person to whom any benefit or sum of money is paid under the provisions of this policy does, by making claim therefor or by the acceptance thereof, acknowledge such intent and agrees to the conditions and provisions of this policy, including specifically the conditions and provisions of this article 25.

B. If any final judgment or award is obtained by any person against the United States of America, the Department of Commerce, the Maritime Administration, the Administrator, the owner of a vessel under time or bareboat charter to the Maritime Administration, the operator of a vessel owned by the Maritime Administration or under time or bareboat charter to it, or the agent of the Maritime Administration in the operation of such a vessel by reason of the loss of life, disability (including dismemberment and loss of function), loss of or damage to personal effects, or detention (including the occurrence of other situations hereinbefore provided) of the insured but based on a claim or cause of action other than one under this policy, and if such respective loss of life, disability (including dismemberment and loss of function), loss of or damage to personal effects, or detention (including the occurrence of other situations hereinbefore provided) of such insured, either separately or combined, also constitutes or forms the basis of a claim payable under this policy, the amount which otherwise would have been payable hereunder because of such claim shall be reduced by an amount equal to the amount of such final judgment or award, unless such person, in a form and manner satisfactory to the Administrator, effectively and validly releases or discharges the United States of America, the Department of Commerce, the Maritime Administration, the Administrator, the owner of a vessel under time or bareboat charter to the Maritime Administration, the Administrator, the operator of a vessel owned by the Maritime Administration or under time or bareboat charter to it, or the agent of the Maritime Administration in the operation of such a vessel from their respective obligations under such final judgment or award to the extent

of the amount of such claim payable under this policy.

C. The payment and acceptance of any benefit or sum of money under this policy shall constitute a waiver, release, acceptance, discharge and satisfaction, to the extent of such payment, of any and all claims, clauses of actions, judgments or awards against the United States of America, the Department of Commerce, the Maritime Administration, the Administrator, the owner of a vessel under time or bareboat charter to the Maritime Administration, the operator of a vessel owned by the Maritime Administration or under time or bareboat charter to it, or the agent of the Maritime Administration in the operation of such a vessel other than under this policy by arising out of the respective loss of life, disability (including dismemberment and loss of function), loss of or damage to personal effects, or detention (including the occurrence of other situations hereinbefore provided) for which such benefit or sum of money was paid and accepted under this policy.

D. This article 25 shall not apply to claims for wages, maintenance and cure where the right to such items arises under the general maritime law of the United States and not under this policy, but this article 25 shall apply to claims for wages to the extent that the insured, his allottee or any other person who is entitled to receive or has received benefits or sums of money under article 17 hereof, and to claims for maintenance to the extent and for the period that the insured is entitled to receive or has received benefits or sums of money under paragraph A of article 12 hereof.

ART. 26. *Amendments and modifications.* If the Administrator determines that the Second Seamen's War Risk Policy (1955) should be amended and modified to provide for increased hazards and risks undertaken by the masters, officers and crews of vessels of the American Merchant Marine arising from important changes or developments in emergency conditions, or if the Administrator determines that the Second Seamen's War Risk Policy (1955) should be amended and modified to correct injustices or cases of hardship arising under and by virtue of its present terms, the Administrator reserves the right to amend or modify the Second Seamen's War Risk Policy (1955), including this particular policy, in such manner and in such respects as prescribed by him. If the Administrator further determines that it is necessary and proper to make such amendments or modifications retroactive in effect in order to avoid serious inequalities, he reserves the right to make any such amendment or modification applicable to any and all cases or claims arising under the Second Seamen's War Risk Policy (1955), including this particular policy, irrespective of whether benefits have or have not been claimed or paid thereunder, in such manner and in such respects as prescribed by him.

ART. 27. *Payment of premium and cancellation.* A. The Underwriter shall have the right to change the rate of premium for this insurance at any time. Unless the revised rate of premium is accepted in writing by the Operator within fifteen days after receipt by the Operator of notice of the revised rate, this policy shall become null and void and of no effect as of midnight, e.s.t., of the day ending such fifteen-day period, unless the Operator, within such period, dispatches notice to the Maritime Administrator, by telegraph, of his refusal to accept such revised premium rate, in which event premium at the revised rate shall be payable for that portion of the fifteen-day period prior to dispatch of such

notice. Upon the receipt by the Maritime Administrator of such notice of nonacceptance, the insurance provided hereunder shall terminate.

B. In the event any premium, either original or additional, which becomes due and payable under this policy, is not paid within thirty days after receipt by the Operator of notice of the amount thereof, this insurance shall become null and void and of no effect as of the commencement of the period for which the premium charge is made, unless the Maritime Administrator agrees otherwise.

C. If the vessel shall be requisitioned by the United States on a basis whereby the United States provides insurance equivalent to that provided hereby, then this insurance shall terminate and pro rata daily return premium shall be paid. In no other event shall there be any return of premium.

ART. 28. *Extension.* Should the vessel be at sea at the natural expiry of this Policy, this insurance shall be extended until midnight, Greenwich Mean Time, of the day on which the vessel is moored at the next port to which she proceeds, provided, notice be given to the Underwriter as soon as practicable and an additional premium paid, if required.

In witness whereof, the Maritime Administrator, acting for the Secretary of Commerce, has signed this policy but it shall not be valid unless countersigned by an authorized underwriting agent.

UNITED STATES OF AMERICA,
By *Maritime Administrator,*
acting for the Secretary
of Commerce.

(Maritime Administrator)

The Underwriting Agent does not, by countersigning this policy or in any other manner, warrant its own authority, or the authority of the Maritime Administrator, acting for the Secretary of Commerce, to issue this instrument, but acts solely under the power conveyed to the underwriting Agent by the Agreement made with the Maritime Administrator, acting for the Secretary of Commerce.

Countersigned this ----- day of -----
19---

(Underwriting agent)

By: -----

(b) *Increased benefits endorsement.* The following is the standard form of Increased Benefits Endorsement which prescribes the areas in which increased benefits are presently applicable. The areas covered by this endorsement are subject to change.

Form MA-242(A) (10-59)

UNITED STATES OF AMERICA
DEPARTMENT OF COMMERCE
MARITIME ADMINISTRATION

INCREASED BENEFITS ENDORSEMENT

This endorsement is attached to and made a part of Second Seaman's War Risk Policy (1955) No. SSWR ----- issued to -----

It is hereby understood and agreed that while a vessel covered by this policy is in the following described areas:

Area I. All waters within and bounded by the following lines: beginning at a point on the China Coast at latitude 23° north, thence east to the intersection with longitude 119° east, thence north-easterly to the intersection of a point at latitude 26°15' north and longitude 121° east and thence west along the 26°15' parallel of north latitude to the China Coast;

Area II. All waters within and bounded by the following lines: beginning at a point on

the China Coast at 33° north latitude, thence east to the intersection with longitude 124° east, thence north along 124° east meridian to the China Coast;

Area III. All waters within and bounded by the following lines: beginning at a point on the China Coast at 26°15' north latitude, thence east to the intersection with 121° east longitude, thence north-easterly to a point at the intersection of 30° north latitude and 124° east longitude, thence north to the intersection of 33° north latitude and 124° east longitude and thence west along the 33° parallel of north latitude to the China Coast;

Area IV. All waters within and bounded by the following lines: beginning at a point on the China Coast and 23° north latitude, thence east to 119° east longitude, then northeasterly to 30° north latitude and 124° east longitude, and then south to 25° north latitude and 122°14' east longitude, and then to 24°25' north latitude and 122°04' east longitude, and then to 23°03' north latitude and 121°36.5' east longitude, and then to 22°40' north latitude and 121°20.5' east longitude, and then to 21°49' north latitude and 121°02' east longitude, and then to Shichisel Seki Rocks (21°46' north latitude and 120°49' east longitude), and then west northwest intersecting at the China Coast at 23° north latitude.

The benefits provided thereunder as respects loss of life, disability, dismemberment and loss of functions are increased by 100 percent and with respect to benefits for personal effects of unlicensed personnel from \$300 to \$500.

Upon knowledge by the insured of a vessel being in such areas, the insured shall, as soon as permissible under Government laws and regulations, furnish the Maritime Administrator with the name of such vessel and the dates of its entry into and departure from such areas.

Nothing herein contained shall very, alter or extend any provision or condition of the policy other than as above stated.

This endorsement becomes effective with the inception of the policy to which it is attached.

Not valid unless countersigned by a duly authorized agent of the Department.

UNITED STATES OF AMERICA,
By: *Maritime Administrator,*
Acting for the Secretary
of Commerce.

(Maritime Administrator)

The Underwriting Agent does not, by countersigning this policy or in any other manner, warrant its own authority, or the authority of the Maritime Administrator, acting for the Secretary of Commerce, to issue this instrument, but acts solely under the power conveyed to the Underwriting Agent by the agreement made with the Maritime Administrator, acting for the Secretary of Commerce.

Countersigned this ----- day of -----,
19---

(Underwriting Agent)

By: -----

Effective date. The effective date of the foregoing shall be April 8, 1960.

Dated: April 8, 1960.

By order of the Maritime Administrator.

JAMES L. PIMPER,
Secretary.

[F.R. Doc. 60-3690; Filed, Apr. 26, 1960;
8:45 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 12946; FCC 60-419]

PART 3—RADIO BROADCAST SERVICES

Table of Assignments, Television Broadcast Stations; San Francisco and Sacramento, Calif., and Reno, Nev.

1. The Commission has before it in this proceeding proposals relating to new VHF television channel assignments in northern California and in Reno, Nevada.

2. While we have not yet completed our study of the problems affecting the assignment of a new VHF channel in northern California under either the proposals set out in the notice of proposed rule making released herein on July 17, 1959, or in counterproposals filed in comments, we are now prepared to decide the separable questions affecting proposed VHF channel assignments to Reno.

3. In the aforementioned notice, comments were invited on a proposal to add Channels 2 and *11 to Reno, thus providing three commercial and one non-commercial VHF assignments to that city. It was additionally proposed, in comments, that the Commission consider assigning, instead, Channel 5 or Channel 12 to Reno.

4. Since we do not at this time reach final decision with respect to an additional VHF assignment in northern California, we are of the view that the public interest would best be served by assigning to Reno channels which may be utilized for Reno stations without prejudice to any of the alternative proposals before us herein for a new VHF assignment in northern California. Of the television channels suggested for Reno, only Channels 2 and 5 would be technically feasible at Reno without requiring a change in an existing assignment or authorization or involving a conflict with some of the pending proposals for the employment of Channel 12 in northern California. Also, neither Channel 2 nor 5 would be available to any city in northern California where a new VHF assignment is proposed herein, if not assigned to Reno. Both of these channels can be employed at transmitter sites a few miles north of the center of Reno and meet spacing requirements to the San Francisco co-channel stations and to Goldfield, Nevada, where Channel 5 is also assigned.

5. Reno is the largest city in Nevada, and in 1950 had a population of 32,497. It is assigned four television channels—VHF Channels 4 and 8 and UHF Channels *21 and 27, with Channel 21 reserved for noncommercial educational use. Nevada Radio-Television, Inc., has been operating Station KOLQ-TV on Channel 8 since 1953. None of the other channels are in use. However, six applications are now on file for Channel 4, and, after a comparative hearing on them is concluded, the Reno area can expect to receive a second VHF service.

6. In these circumstances it is clear that the public interest would be served by making Channels 2 and 5 available at Reno for a third commercial VHF outlet and a first VHF educational outlet at this time. The comments filed by Western American Broadcasting Corporation indicate that there is a demand for a third VHF commercial assignment at Reno and that it intends to apply for commercial use of any VHF channel assigned. The comments of the Washoe County School District also evidence its interest in a VHF channel at Reno for an educational station to serve the full county area. With VHF already established in this area, it appears improbable that the available UHF assignments can be utilized in the foreseeable future, and we are convinced that the assignment of additional VHF channels to Reno presents the only practical means of making it possible for the people in this area to have a choice of at least three comparable commercial services and an educational service in the near future.

7. In view of the foregoing, we confine our action now to the assignment of Channels 2 and 5 to Reno, with Channel *5 instead of Channel 21 reserved for noncommercial educational use.

8. Authority for the action taken herein is provided in sections 4(i), 303 and 307(b) of the Communications Act of 1934, as amended.

9. Accordingly, it is ordered, That, effective May 31, 1960, the Table of Assignments contained in § 3.606 of the Commission's rules and regulations, is amended, insofar as the community named is concerned, to read as follows:

City	Channel No.
Reno, Nevada.....	2, 4, *5, 8, 21+, 27—

(Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interpret or apply secs. 303, 307, 48 Stat. 1082, 1083; 47 U.S.C. 303, 307)

Adopted: April 20, 1960.

Released: April 22, 1960.

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

[F.R. Doc. 60-3800; Filed, Apr. 26, 1960; 8:50 a.m.]

[Docket No. 13348; FCC 60-418]

PART 21—DOMESTIC PUBLIC RADIO SERVICES (OTHER THAN MARITIME MOBILE)

Assignment of Frequencies

1. On January 6, 1960, the Commission adopted a notice of proposed rule making in the above-entitled matter which was released on January 11, 1960, and published in the FEDERAL REGISTER of January 14, 1960 (25 F.R. 293).

2. The time for filing written data, views and arguments with respect to the rule making proposals in this proceeding expired on February 12, 1960. Timely comments were filed by American Telephone and Telegraph Company, Fresno Mobile Radio, Inc., Farinon Electric Company, National Mobile Radio System, E. R. Roller, and Wilson Radio Dispatch. Additionally, so-called "reply"

comments on the rule making proposals embodied herein were submitted by James R. Coin on February 18, 1960. Although Coin's comments were filed prior to February 22, 1960, the deadline by which reply comments were required to be submitted, his comments must be disregarded in this proceeding because they are not actually in reply to comments filed by other parties and are merely entitled "reply" comments. The comments tendered are actually of a nature which required their filing prior to February 12, 1960. Further, inasmuch as the tenor of Coin's comments is generally repetitive of the views expressed by others who have properly commented herein, their consideration, even if allowed, would not alter the decisions otherwise reached herein.

3. Wilson Radio Dispatch comments "support unqualifiedly the Commission's Proposed Rule Making in this docket". The comments submitted by others have been given due consideration and the Commission's decisions with regard thereto are dealt with below in connection with the specific rule sections to which they pertain.

4. Since no objections were filed to the proposed modification of § 21.501 footnote 11, it is amended, to the extent necessary, to reflect the actions taken herein.

5. A. T. & T., commenting in behalf of the Bell System Telephone Companies, took exception to the proposed rule §§ 21.501(i)(1) and 21.701(d)(1), specifying that control stations must be located more than 75 airline miles "from the nearest geographical boundary of the nearest urbanized area having a population over 300,000", on the ground that this requirement is more restrictive than is necessary in some instances. This view was shared by Fresno Mobile Radio, Inc., National Mobile Radio System, Farinon Electric Company and E. R. Roller. We have re-examined our original proposal and find it feasible to reduce the 75 mile limitation to 50 miles, provided the population limitation originally specified remains unchanged. Accordingly, our original proposal on §§ 21.501(i)(1) and 21.701(d)(1) is so modified. The views expressed by Roller, that frequencies in the 450-460 Mc band are not suitable for land mobile operations in areas like Connecticut and Rhode Island, are not concurred in by the Commission. The terrain in those states is not significantly different from what is found in other parts of the country. Fresno's comments requesting that the population limitation be raised to a minimum of 750,000, in lieu of 300,000, is rejected because it would open up the use of the 450-460 Mc band frequencies to usage, other than that for which they are primarily allocated, in areas where demand for such frequencies is known to exist for the primary use (mobile).

6. Comments submitted by A. T. & T., National Mobile Radio System, Farinon Electric Company and Fresno, that the proposed limitations on transmitter rated power output and effective radiated power of a station, which are set forth in proposed rule §§ 21.501(i)(3) and (4) and 21.701(d)(3) and (4), are

too restrictive because the choice of equipment would be too limited, has been considered. Except for this limitation, A. T. & T. stated that 50 watts effective radiated power would satisfy most of the Domestic Public Land Mobile Radio Service requirements. We have deleted the proposal to place a limit on the maximum rated power output of the transmitter and have increased the previously proposed maximum effective radiated power from 50 watts to 150 watts.

7. The recommendation of A. T. & T., that frequencies in the 150 Mc band be made available for control stations on the same basis as proposed for frequencies in the 450-460 Mc range, is rejected because frequencies in the 450-460 Mc band, and higher (microwave) are capable of rendering the service required, and those in the 150 Mc range are in greater demand than frequencies at 450 Mc for the land mobile service for which they were primarily allocated.

8. A. T. & T.'s request, that provision be made for use of the 459 Mc frequency series by control stations in the Domestic Public Land Mobile Radio Service to enable two-way communication, is denied. Such provision was advisedly not proposed because of the provisions of § 21.517, which authorizes a base station to perform the added functions of a repeater station upon its regularly authorized base station frequency. Inasmuch as § 21.513 contemplates that the message center, which is usually also the base station control point, shall be located within the base station's service area, the repeater station function can adequately be performed by the base station.

9. At the request of A. T. & T., for interpretation as to whether a control station in the Domestic Public Land Mobile Radio Service may be used to transmit public correspondence, we confirm that this is permissible in conjunction with its control functions.

10. In the proposed rule §§ 21.501(i) (5) and 21.701(d) (5), certain frequencies were identified by an asterisk (*) and were to be designated as assignable only to stations of miscellaneous common carriers, whereas frequencies in the range 454.40 to 454.95 Mc and 459.40 to 459.95 Mc were to be designated for assignment only to stations of communication common carriers engaged also in the business of affording public landline message telephone service. In its notice of rule making herein, the Commission stated that its decision on the instant proposals would be tempered by the decisions made in connection with establishment of public air-ground radio-telephone service on frequencies in the bands 454.40-455.00 Mc and 459.40-460.00 Mc. Although these bands were made available for that service, effective April 1, 1960, pursuant to the Commission's Sixth Memorandum Report and Order in Docket No. 11959, the enabling rules and regulations still remain to be promulgated in Part 21 of our rules. Until that matter is determined, it appears not feasible to take final action herein with respect to use of the same frequencies by control sta-

tions, because of the impracticability of fixed and nationwide air-ground radio systems operating on the same frequencies. Accordingly, we are herein taking final action only with respect to the use of miscellaneous common carrier frequencies by control stations. Action with regard to the remainder of the Commission's proposal for operation of control stations on the aforementioned frequencies will be the subject of a further Report and Order at an appropriate time.

11. It appearing that all comments filed in the subject rule making proceeding having been duly considered, the Commission finds that the public interest, convenience and necessity will be served by adoption of the amendments herein. Such amendments are authorized pursuant to the provisions of sections 4(i) and 303(r) of the Communications Act of 1934, as amended.

12. Accordingly, it is ordered, That, effective May 31, 1960, Part 21 of the Commission's rules is hereby amended as set forth below.

(Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interprets or applies sec. 303, 48 Stat. 1082, as amended; 47 U.S.C. 303)

Adopted: April 20, 1960.

Released: April 21, 1960.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] BEN F. WAPLE,
Acting Secretary.

Part 21, Domestic Public Radio Services (Other than Maritime Mobile), is amended as follows:

1. In § 21.501, footnote¹¹ is amended and a new paragraph (i) is added to read as follows:

§ 21.501 Frequencies.

¹¹ Except for operations conforming to §§ 21.501(i) (4), 21.701(d) (4) and 21.518, control stations which were authorized to use these frequencies on September 4, 1956, may be authorized to continue operation on such frequencies until the investment in such facilities has been amortized, but in no event beyond April 1, 1961, under the condition that harmful interference is not caused to stations in the Domestic Public Land Mobile Radio Service and the Rural Radio Service. In any case where use of these frequencies is required by an applicant in the Domestic Public Land Mobile Radio Service or the Rural Radio Service for the purpose of providing any of the basic services relating thereto (i.e., for stations other than developmental or control), continued operation of control stations thereon will not be authorized beyond the term of the then effective authorization therefor.

(i) In lieu of use of wireline circuits for control of a specific base station transmitter from its required control point, the frequencies listed below may be assigned to a control station for such purpose: *Provided*, That:

(1) The control station and the base station controlled thereby are located over 50 airline miles from the nearest geographical boundary of the nearest urbanized area having a population over 300,000 (as determined and defined in

the most recent census reports of the U.S. Bureau of the Census).

(2) The use of the frequencies requested by the applicant will not cause harmful interference to another station authorized to use such frequencies in the Domestic Public Radio Services.

(3) The effective radiated power of the control station does not exceed 150 watts.

(4) The use of such frequencies for control purposes is limited to assignment to stations of miscellaneous common carriers only and shall be on a secondary basis to the provision of mobile and rural radio service by other classes of stations. (See also § 21.501, footnote 11.)

454.05 Mc	454.25 Mc
454.10 Mc	454.30 Mc
454.15 Mc	454.35 Mc
454.20 Mc	

2. Section 21.506 is amended, by adding at the end of this section a parenthetical cross reference. As amended, the section reads as follows:

§ 21.506 Power limitations.

Stations in this service shall not be permitted to exceed 500 watts effective radiated power and shall not be authorized to use transmitters having a rated power output in excess of the limits set forth in § 21.107(b). A base station standby transmitter having a rated power output in excess of that of the main transmitter of the base station, with which it is associated, will not be authorized. (See also § 21.501(i).)

3. In § 21.701, paragraphs (d), (e), and (f) are redesignated as paragraphs (e), (f), and (g), and a new paragraph (d) is added. The new and redesignated paragraphs read as follows:

§ 21.701 Frequencies.

(d) Upon a satisfactory factual showing that it is impracticable to use wireline circuits for control of a specific point-to-point microwave fixed station from its control point or for automatically telemetering information relative to the operation of such station to its attended alarm center, the frequencies listed below may be assigned to a control station for such purposes, Provided that:

(1) The control station and the point to which its radio transmission is directed are located over 50 airline miles from the nearest geographical boundary of the nearest urbanized area having a population over 300,000 (as determined and defined in the most recent census reports of the U.S. Bureau of the Census).

(2) The use of the frequencies requested by the applicant will not cause harmful interference to another station authorized to use such frequencies in the Domestic Public Radio Services.

(3) The effective radiated power of the control station does not exceed 150 watts.

(4) The use of such frequencies for control purposes is limited to assignment to stations of miscellaneous common carriers only and shall be on a secondary basis to the provision of mobile and rural radio service by other

classes of stations. (See also § 21.501, footnote 11.)

454.05 Mc.....	459.05 Mc
454.10 Mc.....	459.10 Mc
454.15 Mc.....	459.15 Mc
454.20 Mc.....	459.20 Mc
454.25 Mc.....	459.25 Mc
454.30 Mc.....	459.30 Mc
454.35 Mc.....	459.35 Mc

(e) The frequency 27.255 Mc is available for assignment to microwave auxiliary stations in this service on a shared basis with other radio services. Assignments to stations on such frequency will not be protected from such interference as may be experienced from the emissions of industrial, scientific, and medical equipment operating on the frequency 27.12 Mc, in accordance with § 2.104(a) of this chapter.

(f) On a shared basis with other common carrier fixed, international control and operational fixed radio services, frequencies in the band 2110-2200 Mc are available for assignment to radio stations in this service. Television transmission in this band is not authorized.

(g) Stations now authorized in the band 890-942 Mc may be authorized to operate in the band 942-952 Mc on the following conditions:

(1) That such stations can show that harmful interference is being caused by Government radiopositioning stations in the 890-942 Mc band or by ISM equipment operating on 915 Mc.

(2) That an engineering study by the Commission indicates that the proposed frequency assignment in the band 942-952 Mc is likely to eliminate the interference.

(3) That the bandwidth of emission does not exceed 1100 kc.

(4) That the proposed frequency assignment will not cause interference to existing operations in the band 942-952 Mc.

4. Section 21.704 is amended by revision of paragraph (b) to read as follows:

No. 82—6

§ 21.704 Modulation requirements.

(b) Transmitters employing type A3 or F3 emission and operating on frequencies below 500 Mc shall conform to the requirements set forth in §§ 21.507 and 21.508.

[F.R. Doc. 60-3801; Filed, Apr. 26, 1960; 8:51 a.m.]

Title 49—TRANSPORTATION

Chapter I—Interstate Commerce Commission

SUBCHAPTER B—CARRIERS BY MOTOR VEHICLE

[Ex Parte No. MC-53]

PART 165a—CERTIFICATES AND PERMITS

Interpretation of Operating Rights; Returned Containers

At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 12th day of April A.D. 1960:

It appearing that on December 1, 1958, a notice of proposed rule making was issued in the above-entitled proceeding with respect to the question whether all certificates of public convenience and necessity issued to motor common carriers, and all permits issued to motor contract carriers should be interpreted as authorizing the return of containers and other shipping devices used in outbound movements;

It further appearing that pursuant to such notice and the invitation contained therein persons desiring to participate in the proceeding have submitted written statements containing data, views, and arguments concerning the proposed rule.

It further appearing that the matter was referred to an officer of the Commission for appropriate proceeding thereon and that such matter has been the sub-

ject of a recommended order by the officer to which exceptions were filed;

It further appearing that investigation of the matters and things involved in this proceeding has been made and that the Commission, on the date hereof, having made and filed its report containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

It is ordered, That Part 165a be, and it is hereby, amended by adding the following section under Subpart B—Interpretation of Operating Rights.

§ 165a.10 Return of containers and other shipping devices.

All certificates and permits issued to motor carriers are interpreted as authorizing the return transportation of empty boxes, crates, cases, barrels, drums, baskets, hampers, cans, bottles, hangers, sacks, cones, spools, skids, pallets, blocks, bracing, and other containers and shipping devices of a nature similar to those described, and of dunnage, from the destination to the origin of a commodity or commodities transported by a motor carrier under a certificate or permit provided the containers or other shipping devices were used in the outbound transportation of the commodity or commodities by the motor carrier.

(Sec. 204, 49 Stat. 546, as amended; 49 U.S.C. 304. Interpret or apply sections 207(a), 208(a), 209, 49 Stat. 551, 49 Stat. 552, as amended; 49 U.S.C. 307, 308, 309)

And it is further ordered, That this order shall be effective on June 1, 1960.

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

By the Commission.

[SEAL] HAROLD D. MCCOY,
Secretary.

[F.R. Doc. 60-3776; Filed, Apr. 26, 1960; 8:48 a.m.]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 56]

GRADING AND INSPECTION OF SHELL EGGS AND UNITED STATES STANDARDS, GRADES, AND WEIGHT CLASSES FOR SHELL EGGS

Notice of Proposed Rule Making

Notice is hereby given that the United States Department of Agriculture is considering amendments to the Regulations Governing the Grading and Inspection of Shell Eggs and United States Standards, Grades, and Weight Classes for Shell Eggs under authority contained in the Agricultural Marketing Act of 1946 (60 Stat. 1087; 7 U.S.C. 1621 et seq.).

The proposed amendments would provide, beginning on July 1, 1960, for billing for the relief grader rendering resident service, on the basis of salary of the grader regularly stationed at the plant. The relief grader's added salary cost would be recovered by increasing the charge for fringe benefits. The fringe benefit factor is also increased to cover the cost to the Government due to the enactment of the Federal Employees' Health Benefits Act of 1959. The amendments would also provide that a grader may apply official identification stamps to shipping containers if they do not bear any statement that is false or misleading, and would also include a listing of Fresh Fancy Quality Grade under the heading U.S. Consumer Grades and Weight Classes to conform with earlier amendments with respect to the Fresh Fancy Quality program.

All persons who desire to submit written data, views or arguments in connection with the proposed amendments should file the same in triplicate, with the Chief of the Standardization and Marketing Practices Branch, Poultry Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington 25, D.C., not later than 30 days following publication hereof in the FEDERAL REGISTER.

The proposed amendments are as follows:

1. Change § 56.36 to read:

§ 56.36 Approval of official identification.

Any label or packaging material which bears any official identification shall be used only in such manner as the Administrator may prescribe. No label or packaging material bearing official identification may be used unless finished copies or samples of such labels and packaging material have been approved by the Administrator, except that a grader may apply official identification stamps to shipping containers if they do not bear any statement that is false or misleading. No label bearing the official

identification shall be printed for use until the printer's final proof has been approved by the Administrator; and no label bearing any official identification shall be used until finished copies or samples of such label have been approved by the Administrator. A label which bears official identification shall not bear any statement that is false or misleading. If the label is printed or otherwise applied directly to the container, the principal display panels of such container shall for this purpose be considered as the label. The label shall contain the name and address of the packer or distributor of the product, the name of the product and a statement of the net contents of the container.

§ 56.37 [Amendment]

2. Change the last sentence of § 56.37 to read: "When eggs have been graded pursuant to this part and are packaged, the grade mark affixed to each such package shall have stamped thereon either the date of grading or an expiration date not to exceed 10 days from the date of grading, including the day of grading unless the grade mark is printed on the carton, in which case the date shall be legibly applied to the carton in a manner satisfactory to the Administrator."

§ 56.52 [Amendment]

3. Change § 56.52 (a) to read:

(a) *Charges.* The charges for grading of shell eggs shall be paid by the applicant for the service and shall include such of the items listed in this section as are applicable. Payment for the full cost of the grading service rendered to the applicant shall be made by the applicant to the Agricultural Marketing Service, United States Department of Agriculture (hereinafter referred to as "AMS"). Such full costs shall comprise such of the items listed in this section as are due and included, from time to time, in the bill or bills covering the period or periods during which the grading service was rendered. Bills will be rendered by the 10th day following the end of the month in which the service was rendered and are payable upon receipt. A charge will be made by AMS in the amount of one (1) percent per month, or fraction thereof, of any amounts remaining unpaid after 30 days from the date of billing.

(1) A charge of \$5.00 per hour plus actual costs to AMS for per diem and travel costs incurred in rendering service not specifically covered in this section; such as, but not limited to initial surveys;

(2) A charge of \$100 for the final survey and the inauguration of the grading service including the assignment of one grader;

(3) A charge equal to the salary cost paid to each grader assigned to the applicant's plant by AMS; *Provided*, That, no charge is to be made for salary cost

of any assigned grader of the designated plant while temporarily reassigned by AMS to perform grading service for other than the applicant, except when the assigned grader is performing service for the Department of Defense on products accepted for delivery by the applicant to the Department of Defense, in which case the applicant will be given credit for the service rendered, based on a formula concurred in jointly by the Departments of Defense and Agriculture;

(4) A charge for the relief grader at the rate of the regular grader's salary and the actual travel expenses and per diem paid by AMS to any grader whose services are required for relief purposes when regular graders are on annual or sick leave;

(5) A charge for the actual cost to AMS of any travel or per diem incurred by each grader assigned to the plant while in the performance of grading service rendered the applicant;

(6) A charge to cover the actual cost to AMS of the travel (including the cost of movement of household goods and dependents) and per diem with respect to each grader or inspector who is transferred (other than for the convenience of AMS) from an official station to the designated plant;

(7) A charge equal to 20 percent of the base salary to cover an amount equal to the cost to AMS for the Employer's tax imposed under the United States Internal Revenue Code (26 U.S.C.) for Old Age and Survivor's Benefits under the Social Security System and for insurance as provided in the Federal Employees' Group Life Insurance Act of 1954, Federal Employees' Health Benefits Act of 1959, sick leave, annual leave, and related servicing costs;

(8) A charge equal to 7 percent of: (i) the overtime salary, (ii) the salary paid to each grader exclusive of one regular grader, and (iii) all charges made to the applicant for transportation and per diem which are paid by AMS to graders assigned to the applicant;

(9) An administrative service charge based upon the aggregate number of thirty dozen cases of shell eggs handled in the plant per month and computed in accordance with the following table:

COMPUTATION OF ADMINISTRATIVE SERVICE CHARGES

Where application is in effect and no product is handled.....	\$25.00
1 to 1,000 cases.....	35.00
For each additional 1,000 cases, or fraction thereof, in excess of 1,000 cases	15.00

¹ The maximum charge shall not exceed \$150.00.

§ 56.215 [Amendment]

4. In § 56.215, insert a new paragraph (e) to read:

(e) The percentage requirements for grades as set forth in §§ 56.216 and 56.217 are applicable except that interior

quality factors shall be determined in accordance with the requirements of § 56.44 or § 56.44a when the lot is labelled "Produced and Marketed under Federal-State Quality Control Program."

§ 56.216 [Amendment]

5a. In § 56.216, redesignate paragraphs (a), (b), (c), (d), (e) and (f) as paragraphs (b), (c), (d), (e), (f) and (g).

b. In § 56.216, insert a new paragraph (a) to read:

(a) Fresh Fancy Quality shall consist of eggs meeting the requirements set forth in § 56.44.

c. In § 56.216, change the redesignated paragraphs (b) and (c) to read:

(b) "U.S. Consumer Grade AA" shall consist of eggs of which at least 80 percent are AA Quality. Within the maximum tolerance of 20 percent, which may be below AA Quality, not more than 5 percent may be of the qualities below A, in any combination, but not including Dirties and Leakers. This grade name is also applicable when the lot consists of eggs meeting the requirements set forth in § 56.44.

(c) "U.S. Consumer Grade A" shall consist of eggs of which at least 80 percent are A Quality or better. Within the maximum tolerance of 20 percent which may be below A Quality, not more than 5 percent may be of the qualities below B, in any combination but not including Dirties and Leakers. This grade name is also applicable when the lot consists of eggs meeting the requirements set forth in § 56.44a.

6. Change § 56.217 to read:

§ 56.217 Summary of grades.

The summary of U.S. Consumer Grades for Shell Eggs follows as Table I of this section:

TABLE I—SUMMARY OF U.S. CONSUMER GRADES FOR SHELL EGGS

U.S. consumer grade	At least 80 percent (lot average) must be—	Tolerance permitted ¹	
		Percent	Quality
Grade AA or Fresh Fancy Quality.	AA Quality.	15 to 20..... Not over 5 ² .	A, B, C, or Check.
Grade A...	A Quality or better.	15 to 20..... Not over 5 ² .	B, C or Check.
Grade B...	B Quality or better.	10 to 20..... Not over 10 ³ .	C, Dirty or Check.
Grade C...	C Quality or better.	Not over 20...	Dirty or Check.

¹ In lots of two or more cases, no individual case may fall below 70 percent of the specified quality and no individual case may contain more than double the tolerance specified for the respective grade (i.e., in lots of Grade A, not more than 10 percent of the qualities in individual cases within the sample may be C or Check, provided the average is not over 5 percent).

² Within tolerance permitted, an allowance will be made at receiving points or shipping destination for 1/2 percent leakers in Grades AA, A, and B and 1 percent in Grade C.

³ Substitution of higher qualities for the lower qualities specified is permitted.

(Sec. 205, 60 Stat. 1090, as amended; 7 U.S.C. 1624; 19 F.R. 74 as amended.)

Issued at Washington, D.C., this 22d day of April 1960.

ROY W. LENNARTSON,
Deputy Administrator,
Agricultural Marketing Service.

[F.R. Doc. 60-3808; Filed, Apr. 26, 1960; 8:52 a.m.]

[7 CFR Part 958]

[AO-146 A-1]

IRISH POTATOES GROWN IN COLORADO

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

Pursuant to the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of the filing with the Hearing Clerk of this recommended decision of the Deputy Administrator, Agricultural Marketing Service, United States Department of Agriculture, with respect to proposed amendments to Marketing Agreement No. 97 and Order No. 58, regulating the handling of Irish potatoes grown in the State of Colorado, to be effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674), hereinafter called the "act". Interested parties may file exceptions to this recommended decision with the Hearing Clerk, Room 112, Administration Building, United States Department of Agriculture, Washington 25, D.C., not later than the close of business on the tenth day after publication of this recommended decision in the FEDERAL REGISTER. Exceptions should be filed in quadruplicate.

Preliminary statement. The public hearing on the record of which the proposed amendments to the marketing agreement and the order were formulated, was held at Denver, Colorado, on February 1-2, 1960, pursuant to notice thereof which was published January 15, 1960, in the FEDERAL REGISTER (25 F.R. 353). Such notice sets forth the proposed amendments.

To facilitate reference to the specific documents mentioned in this proceeding, Marketing Agreement No. 97 and Order No. 58, are hereinafter referred to as the "present order" and the proposed order, as amended, is hereinafter referred to as the "proposed order."

Material issues. The material issues presented on the record of the hearing are as follows:

- (1) The existence of the right to continue exercising Federal jurisdiction;
- (2) The need for amending the existing regulatory program to accomplish the declared purposes of the Act;
- (3) The identity of the persons and the transactions to be regulated;
- (4) The specific terms and provisions of the proposed order, including all those

set forth in the notice of hearing and those applicable to:

(a) The definition of terms incidental to and necessary for administering the terms, conditions, and provisions of the proposed order;

(b) The adoption of a marketing policy which limits by means of a General Cull Regulation the handling of potatoes grown in the production area and provision for each area committee to consider and recommend marketing policies for handling potatoes produced in their respective areas;

(c) The methods, in addition to the General Cull Regulations, for limiting the handling of potatoes grown in the production area;

(d) The establishment of authority for issuing minimum standards of quality and maturity;

(e) Authorizations for special consideration for particular market outlets whereby specific demands may be properly supplied, orderly marketing may be established and maintained, and farmers' prices may be improved;

(f) The relaxation of regulations in hardship cases and the methods and procedures applicable thereto;

(g) The authority to establish research and development projects under the proposed order;

(h) The requirements for inspection and certification of the commodity involved;

(i) The establishment, maintenance, composition, powers, duties and operation of administrative agencies for assisting the Secretary in administration of the proposed order;

(j) The authority to incur expenses and to levy assessments on the commodity handled;

(k) The procedure for establishing reporting requirements on handlers;

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

(m) Additional terms and conditions as set forth in § 958.80 through § 958.96 and published in the FEDERAL REGISTER (25 F.R. 353; January 15, 1960) which are common to marketing agreements and marketing orders.

(n) Provisions for regulations, rules, or regulations in effect under the present order being maintained in effect until amended, modified, suspended or terminated under the proposed order.

(5) The making of such other changes as may be necessary to conform to the proposed order with the purpose and intent of the amendments.

Findings and conclusions. The findings and conclusions pertaining to the aforementioned material issues and based on hearing record evidence are as follows:

(1) Colorado is one of the important potato producing states and has been for a number of years. Potato production is concentrated in three major districts within the state namely, that part of the state west of the Continental Divide commonly referred to as the Western Slope, the San Luis Valley, and the

remainder of the state including both the northern district and the Arkansas Valley. For the 1957 Colorado potato crop an estimated 10.8 million cwt, were produced, of which 4,058 carlots were shipped by rail and 15,187 were by truck. Also for the 1958 crop, 13.5 million cwt. was Colorado's estimated production, with 4,843 carlots shipped by rail and 16,530 carlot equivalents by truck.

Carlot unloads of potatoes are reported in 100 U.S. and 5 Canadian cities during 1957 showing 2,319 rail carlot unloads of Colorado potatoes and 5,774 carlot equivalent truck unloads in 39 U.S. cities. Similarly, during 1958, 3,283 carlot rail unloads and 5,673 carlot equivalent truck unloads of Colorado potatoes were reported in these major markets. Chicago, Kansas City, Little Rock, Memphis, New Orleans, Springfield, Missouri, Topeka, Tulsa, and Wichita, Kansas are important out of state market centers for rail unloads of Colorado potatoes. Denver also is an important market within the state and also is a point of re-shipment for potatoes to points outside the production area. Each of the above named cities shows unloads of 100 or more rail cars during the years indicated. Also, Chicago, Dallas, Fort Worth, Kansas City, Missouri, New Orleans, San Antonio, and Wichita are important out of state markets for truck unloads, showing more than 100 carlot equivalents unloaded in each. Denver is an important market for Colorado potatoes, many of which are consumed within the state and a sizable volume is reshipped to markets outside the production area.

Price movement for Colorado potatoes tends to be similar between out of state receiving markets such as Chicago, Kansas City, Dallas, and St. Louis, and the prices reported at shipping point for northern district Colorado and for San Luis Valley shipping points.

Order No. 58 which became effective August 30, 1941, has operated continuously under regulations since 1949. The General Cull Regulation, issued as § 958.301 (14 F.R. 3979) has been effective since July 18, 1949.

Additional grade and size regulations were also issued pursuant to the order for each of the three areas established thereunder during the 1949 season, also for each succeeding season up to and including the 1959-1960 season.

Order No. 58, as issued in 1941, has operated since 1949 in cooperation and coordination with the State of Colorado Potato Marketing Order identified as docket No. A-4. The State has issued rules and regulations, including grade, size, and quality regulations on handling of Colorado grown potatoes which were substantially the same as those issued under the Federal Order. The State program applied within its jurisdiction and the Federal program applied to Colorado potatoes handled under its jurisdiction. It is hereby found that all sales of potatoes grown in the production area which are in the current of the commerce between the production area and any point outside thereof or which are intended for distribution outside of such production area, and all shipments of such potatoes in the current of the com-

merce between the production area and any point outside thereof, are in the current of interstate or foreign commerce or directly burden, obstruct, or affect such commerce. It is concluded therefore, that the right to exercise Federal jurisdiction is established and the continuing right to exercise such jurisdiction with respect to the proposed order for Colorado potatoes, hereinafter set forth, is established.

(2) Marketing Order No. 58 as issued in 1941 was based on evidence of marketing conditions at that time and provided authorization determined to be necessary and allowable by the then existing terms and provisions of the Act. The intervening two decades have witnessed general and specific changes in supplies, demand, and market conditions for Colorado potatoes. Also, experience in administering the order has indicated the desirability and necessity for changing some of the order's terms and provisions in order to promote orderly marketing and to improve prices for Colorado potato growers. Some of these needs can be accommodated through authority provided by amendments to the Act since Order No. 58 was made effective.

Prices received by Colorado farmers for potatoes have ranged from 42 to 92 percent of the State parity equivalent price during the seasons 1953 through 1959. Inasmuch as the objectives of the Act are to establish and maintain such orderly conditions for agricultural commodities (including potatoes) in interstate commerce as will establish as the price to farmers' parity prices, the need for the proposed order is thoroughly apparent.

It is concluded, therefore, on the basis of the foregoing that adequate need exists for the proposed order as hereinafter set forth.

(3) "Handler" or "shipper" are synonymous and are so defined under the proposed order.

The sale or transportation of potatoes grown in the production area places or has the effect of placing such potatoes in market channels and making them part of the current of the commerce in such potatoes. Prices received by growers for potatoes grown in the production area are directly related to the market structure for, and commerce in, potatoes.

Any person who sells, transports, or in any other way handles potatoes grown in the production area is a handler. Handlers included within the definition set forth in the proposed order are any or all those persons who by reason of their activities place or have the effect of placing such potatoes in interstate commerce, or directly burdening, affecting, or obstructing such commerce.

More than one handler may be involved in the handling of a given lot of potatoes and each such person should be responsible for complying with the terms of the proposed order.

Common or contract carriers transporting potatoes which are owned by another person are performing a handling function or activity inasmuch as they are transporting potatoes, but such handling should not be regulated under the pro-

posed order because such carriers are not responsible for the introduction of such potatoes in the current of the commerce in potatoes. Neither are they responsible for the grades, sizes, qualities, or other similar market factors affecting the commerce in potatoes which they are transporting.

The responsibility for the grade, size, quality, maturity, or pack of such potatoes delivered to a common or contract carrier, with the consequent effect of such sale or transportation upon the market for potatoes and the price of such potatoes to growers, should be borne by the person or persons responsible for delivering such potatoes to the carrier or by the person, including his agent or agents, who cause such potatoes to be delivered to such carriers.

The bulk, estimated at 90 percent or more, of the potatoes marketed from those grown in the production area are customarily handled by established packing houses. Packing house operators obviously would be handlers because their normal activity includes selling or transporting potatoes. However, some potatoes are placed in the current of the commerce and marketed by growers who sell to truckers or others. The grower, by reason of sale of such potatoes, handles them and thereby becomes a handler. Also, the person who transports or is responsible for the transportation of such potatoes handles them and thereby is a handler.

Order No. 58 defined handler as any person who first handles potatoes. It was testified that this limitation was unrealistic since it tended to hold one person responsible for the acts of other persons over whom he had no control. Therefore, this limitation on only the first person handling potatoes is removed under the proposed order so that all persons who sell or transport potatoes are handlers and as such bear the responsibility for complying with program requirements.

Therefore, the term "handler" or "shipper" should be defined to mean any person (except a common or contract carrier of potatoes owned by another person) who handles potatoes.

"Handle" or "ship" are synonymous as defined in the proposed order. The definition is substantially the same as under the present order.

The usual or customary marketing of potatoes grown in the production area results in the bulk of the marketed crop going through established packing houses. Prior to packing, the potatoes are produced, dug, and harvested. These activities are producer functions included within his capacity as a producer. Immediately following harvest, the so-called early potatoes customarily are hauled to the packing plant and late potatoes to the storage or packing house. The potatoes, upon delivery to the packing plant from the field or storage, are prepared for market by separating them as to grades and sizes, as well as other market factors, then they are offered for sale or delivered on prior sales. The potatoes, as separated into marketable grades, sizes, qualities, maturity, and packs, are sold in existing market outlets, with customary price differentials, as re-

corded, due to quality and other market factors. These activities and the resulting transportation of potatoes essential to delivery and consummation of sales contracts encompass the activities involved in the bulk of potatoes grown in Colorado and marketed through the institutional trade or retail outlets.

Seed potatoes are produced under special conditions to insure their positive qualities and freedom from disease which, if properly qualified, are certified to by an appropriate State agency. The marketing process for seed involves much the same activities, especially sale and transportation, by established packing houses and dealers as for potatoes distributed as table stock through institutional and retail outlets.

Some Colorado potatoes also are sold, transported, or otherwise placed in the current of commerce in other manners. At times potatoes immediately following digging are picked up either mechanically or by hand and a separation is made at this time which leaves some potatoes behind and others are placed in containers and transported to market either by rail or truck. Such potatoes sometimes do not go through a packing house and over conventional type grading equipment, however, some grading takes place in that they are prepared for the market in which they are sold. While the amount of potatoes handled in this manner is relatively small, such sales or transportation of potatoes have a direct effect upon the potato market and the prices received by growers for potatoes. It is common practice in some Colorado areas to "field grade" the potatoes so that some separation of sizes takes place, also some poor quality potatoes are thrown out. Potatoes which have been separated into lots as part of the necessary preparation for market are sold or disposed of in various outlets. Some may be held for local sale, or use, while some also may be sold in other fresh market outlets. Also, some may be disposed of for chips, livestock feed, starch, depending upon the favorable returns. The acts of persons making such sales or causing such sales to be made, or of the person who transports, or who causes the transporting of potatoes to market, each constitutes handling of such potatoes.

The movement of potatoes from the field where grown to storage or to chipping plants or other processing outlets, also the similar movements of potatoes from storage to the above outlets, is within the definition of handle because such potatoes are then in commercial market channels affecting growers prices.

The movement to fresh market of potatoes which have been graded is included in the definition of "handle". Also, the movement or sale of potatoes which have been graded, but which are not a part of tablestock supplies, including culls, pickouts, or other off-grade, off-size, or odd type potatoes, is handling. Such movement is included within the activity of transporting potatoes to market, even though the market for livestock feed, starch, or other processing differs from tablestock market outlets. Such transportation is a handling activ-

ity. These activities with respect to disposition of off-size or peculiar quality potatoes, or of any Colorado potatoes, in processing, salvage, or other market outlets are within the definition of "handle" and should be subject to appropriate regulatory authority under the proposed order.

The sale or movement of Colorado potatoes between established dealers or packing houses is a handling activity. So also is the sale or movement of potatoes between shipping point dealers and repacking plants. These activities place or have the effect of placing Colorado potatoes involved therein in the current of the commerce establishing the market structure for potatoes.

On the basis of the foregoing it is concluded that the sale or transportation of potatoes grown in the production area places such potatoes in the current of the commerce in potatoes and that the placing of such potatoes in the current of the commerce is within the definition of "handle" or "ship" in the proposed order to the extent that such commerce is interstate commerce, or it directly burdens, obstructs, or affects such commerce. Therefore, the definition of "ship" or "handle" should be as set forth in the proposed order.

(4) Certain terms and provisions of the proposed order should be defined and explained for the purpose of designating specifically their applicability and limitations whenever they are used.

(a) The terms "Secretary", "Act", and "person" are used in marketing agreements and marketing orders effective under the statute and indicate, respectively, the officials of the Department of Agriculture who may exercise authority under the proposed order, the official citations of the legal authority for the program, and the identity of the individuals and others embraced within the meaning of the term "person". The use of such terms in the proposed order is essential to the basic framework thereof and should therefore be defined as set forth therein.

"Area" is defined in the proposed order to mean each of the geographical subdivisions of the production area, either as established or as later reestablished under authority of the proposed order. Areas are established, or may be later reestablished, as a basis for administrative jurisdiction by each area committee and for geographically delimiting regulations. The subdivisions of the production area have served adequately and equitably, as well as in accordance with commonly accepted and customary administrative subdivisions for agricultural purposes, in administration of the order since its inception and, particularly, since July, 1949, to the present. These area subdivisions should provide a practical basis for the purposes intended.

The definitions of "potatoes", "producer", and "culls" have proven adequate, equitable, and practical in the past ten seasons' operation of Order No. 58. No change in definition from those set forth in the present order was contemplated, therefore these definitions should be as set forth in the proposed order.

The terms "seed potatoes" or "seed" are commonly used in the production area. "Seed" or "seed potatoes", a term used to distinguish seed potatoes from tablestock potatoes, should be defined to include only those potatoes grown in the production area which are officially or otherwise appropriately identified by the official Colorado potato seed certifying agency.

"Fiscal period" should be defined to mean the period beginning and ending on the date as recommended by the committee and approved by the Secretary. This definition provides authority for each area committee to recommend the dates for the fiscal period, so that auditing and financial problems may be dealt with realistically, also so it will be possible for the committee to consider budgeting for longer than a 12-month period to facilitate financing long term research projects. The flexibility of the definition as set forth in the proposed order should facilitate operations under the program.

Definitions of "grade", "size", and "maturity" are incorporated in the proposed order to enable all persons affected thereby to determine the requirements thereof and to interpret specifically and intelligently regulations issued in such terms. "Grade", "size", and "maturity", the essential terms in which regulations are issued, should be defined as comprehending the equivalents of the meanings assigned to these terms (i) in the official standards for potatoes issued by the United States Department of Agriculture (7 CFR §§ 51.1540 to 51.1556 and §§ 51.1575 to 51.1587), (ii) in the State standards for potatoes issued by the State of Colorado, (iii) in modifications or amendments of such standards, and in variations of such standards by regulations under the proposed order. Regulations under the proposed order can then use such terms with the constant meaning assigned thereto in such standards, or in such modified or amended standards, or such regulations can vary such terms by prescribing, for example, a percentage of a grade, as may be required at the time of issuing regulations.

The United States Standards for Potatoes provide means for measuring or determining maturity of potatoes. According to the same standards, "mature" means that the outer skin (epidermis) does not loosen or "feather" readily during ordinary handling and that practically no skin has been removed from the potatoes. They set forth various skinning classifications. "Maturity" as now used by the industry, and as interpreted by Federal-State inspectors and certified on the basis of such inspections, means the basis, as set forth in the aforesaid skinning classification, or modifications or adaptations thereof, for determining the extent or degree to which any lot of potatoes is mature, or falls short of qualifying as mature potatoes. "Maturity", therefore, should be defined as set forth in the proposed order.

"Varieties" is defined as set forth in the proposed order as a basis for officially distinguishing the characters associated with particular lots of potatoes and their relationship to market reac-

tions. Potato tubers of any variety tend to fall in one or another group showing similar characteristics. Colorado produces numerous varieties of potatoes, several of which are well known and result in specific, distinguishable market reactions. The San Luis Valley produces and is widely known for red skinned potatoes, particularly the Red McClure variety or type. That area also produces some round type potatoes, such as the Cobblers and Kennebec varieties, as well as some long varieties, such as the Russett Burbank. Northern Colorado produces round white varieties, also, such as Cobblers, Kennebecs, and Katahdins, as well as long varieties such as Russett Burbanks and Early Gems. The Western Slope produces both round white and long varieties.

The definition of "varieties" as set forth in the proposed order establishes a commonly accepted and practical basis for administration of the proposed order.

The term "pack" is commonly used throughout the production area by the potato industry and refers to one or more of a combination of factors relating to quantity, grade, size, weight, or container or any combination of these factors. For example, it is a common practice to differentiate packs on the basis of 100-pound packs or 50-pound packs. Differences in packs are also recognized by grade, such as U.S. No. 1 pack or U.S. No. 2 pack. Packs may be recognized by particular sizes such as Size A or Size B pack, or it may be desirable to designate the number of potatoes in a container. For example, potatoes of uniform size may be marketed by count in a carton or box and designated as size 60 or 60 count per carton. It is essential that differentiation should be authorized in the proposed order so that appropriate regulations may be tailored to a particular pack and the marketing demand therefor may be made effective and thereby tend to achieve the declared policy of the act. "Pack" should be defined so as to provide a basis for distinguishing the various sizes of shipping units in which potatoes are packed as well as the contents of the packages in terms of the quantity of potatoes or the grade or size thereof. Accordingly, the term "pack" should be defined as set forth in the proposed order.

"Container" is defined in the proposed order as a basis for differentiating among the numerous shipping units in which potatoes move to market and for the permissible application of different regulations to such different shipping units. The principal containers used at present in marketing potatoes are burlap bags, paper bags, mesh bags, paper and mesh bags, polyethylene bags, boxes, pallets, and bulk loads.

The definition of "committee" is incorporated in the proposed order to identify the administrative agencies responsible for assisting in the administration of the program. "Committee" means each of the area committees, or the Colorado Potato Committee, as the respective reference in the proposed order may be, which are authorized by the act and which are necessary and in-

cidental to the operation of the proposed order.

"Export" is defined in the proposed order because regulations different than for domestic shipments are authorized thereunder for export shipment. Export markets may have requirements which differ from the domestic markets and special regulations may be justified. "Export" should be defined to include all shipments of potatoes outside the continental United States.

(b) Order No. 58 was promulgated in 1941 on the basis, among other considerations of conclusive evidence, that a General Cull Regulation prohibiting the shipment of cull potatoes to fresh market outlets should be in effect at all times throughout the State of Colorado. This policy has been followed since the order began operations in July 1949 as both required and accepted marketing policy. Experience has proven its soundness in Colorado with potato growers and handlers in that production areas subscribe to and support such marketing policies. It is hereby found that growers and handlers desire, and good cause exists for continuation of such policies in the interest of promoting and maintaining orderly marketing for Colorado potatoes. Therefore, it is concluded that the proposed order should provide for establishing a General Cull Regulation throughout the production area, except when it is found, pursuant to Colorado Potato Committee recommendations, or other available information, that such policy and regulations for carrying out such policy should be modified or suspended.

When supply, demand, or price factors for Colorado potatoes warrant consideration of modification or suspension of the General Cull Regulation, the Colorado Potato Committee may consider doing so. Inasmuch as the General Cull Regulation applies to the entire production area, recommendations for modification or suspension thereof for specified periods should rest primarily with the Colorado Potato Committee, as set forth in the proposed order. Such suspensions or modifications may apply to any or all varieties of potatoes but should be for specified periods, so that the established marketing policies with respect to culls shall continue except when expressly and specifically modified or suspended.

Order No. 58 obliges each area committee to submit marketing policy reports in connection with their recommendations for grade, size, or quality regulations. Area committee experience during the 1949 and subsequent marketing seasons has proven these terms and conditions to be satisfactory, acceptable and desirable for the industry, also administratively feasible, beneficial, and appropriate standards for operation. The terms and conditions in the proposed order requiring area committees to submit marketing policy reports to the Secretary in connection with any regulations recommended is found to be incidental to, not inconsistent with, and necessary to effectuate, the other provisions of the order. The guides and standards for considerations to be followed in determining marketing policies

are found to be reasonable and practical, as well as the type of considerations which growers, handlers and others commonly consider in evaluating supply, demand, price, and general market factors affecting potatoes. It is concluded, therefore, that the terms and conditions requiring each area committee to submit marketing policy reports should be as set forth in the proposed order.

(c) Each area committee, also the Colorado Potato Committee, is established as an administrative agency with specified powers and duties in administering the terms and conditions of the proposed order. Important powers and duties are those relating to recommendations for regulations. Each area committee, also the Colorado Potato Committee, has assisted in administration of Order No. 58 through the 1949 and subsequent seasons. Their experience in considering and recommending regulations under Order No. 58 has proven feasible, satisfactory, and necessary both to the industry and to effective administration of the order. It is concluded, therefore, that each area committee, also the Colorado Potato Committee, should have responsibility and authority for recommending to the Secretary any or all regulations as authorized by the terms and conditions of the proposed order.

The declared policy of Congress through the exercise of the powers conferred upon the Secretary of Agriculture under the Act is to establish and maintain such orderly marketing conditions for agricultural commodities, including potatoes, in interstate commerce as will establish, as the prices to farmers, parity prices. The Act, pursuant to this and additional declarations, authorizes certain terms and conditions which may be contained in marketing orders relating, among others, to grades, sizes, or qualities of commodities marketed, inspection requirements, pack or container regulations, and establishment of research and development projects.

Order No. 58 has been administered during the 1949 and subsequent seasons so as to approach the declared policy of establishing parity prices through limitations, as market considerations so determined of grades, sizes, and qualities of Colorado potatoes being marketed. Approximately a decade of such marketing experiences conclusively substantiates, as attested by Colorado growers and shippers of the need for continuing similar authority under the proposed order. The committees in recommending amendments, as authorized, and committee members selected as witnesses for the industry, testified that authority for limiting the handling of potatoes grown in the production area by grade, size, or quality limitations should be continued, with appropriate modifications offering more flexibility and greater adaptability of operations than heretofore, under the proposed order.

Witnesses, with many years experience as growers, handlers, and committee members, presented substantial evidence on the importance of fresh market, seed, processing, and other market outlets. They emphasized the need for authority in the proposed order to give adequate and comprehensive consideration to the

total quantity and composition of potato supplies, the nature and measure of demand in various types of outlets, and a reasonably effective and balanced consideration to available means for establishing and maintaining orderly marketing conditions for their entire crop not only with a view to accomplishing the purposes of the Act, but also, and within the same declared policy, for maximizing their returns. Substantial evidence is found of the need for the growers and handlers on committees to consider market factors relating to all segments of the supply of Colorado potatoes, the nature and extent of demand for such potatoes in all outlets, and the prices received therefor.

Potato prices in receiving markets, also at shipping points, and, in turn, to producers are directly affected by the quantity and quality of potatoes being sold or transported, and available for current or future sale or transportation during any period. Prices for Colorado potatoes fluctuate from day to day throughout the seasons. Such fluctuations apply not only to receiving markets, but also to shipping point markets, and to prices paid growers. Different prices are paid in receiving markets, also at shipping point for different varieties of potatoes, also for different grades, qualities, sizes, maturities, and packs thereof. In turn, these differentiations in market value attributes of specific lots of potatoes are reflected in growers' prices. Varying packs of different varieties, which reflect not only varietal differences, and also grade, size, or quality, as marketed in different weight, size, count, or container units, reflect market reaction to the methods and manner in which supplies are placed in the current of the commerce in potatoes. Shifts in the quantity of certain grades, sizes, or quality of particular varieties placed on the market are reflected in shifts in prices therefor and in the acceptability of potatoes marketed from the production area.

It is found that price differentials for Colorado potatoes are related directly and specifically to different grades, sizes, qualities, or maturities as they may apply to different varieties of potatoes. Similarly, price differentials also apply to potatoes in different containers, as well as to different sizes of containers, to different packs, to different portions of the production area, to different outlets, and to different portions of the season.

Colorado growers and handlers recognize the price differentials based on the above differences, or any combination thereof. Such recognition not only enters considerations in the marketing of Colorado potatoes, it is found to be an integral, essential part of the marketing process. Colorado potato growers and handlers attempt to market their potatoes in recognition of the reflection on grower prices of receiving market prices, also shipping point prices, for potatoes in an attempt to maximize their returns through the orderly distribution of their crop at the most favorable prices they can get for their commodity.

Industry acceptance of containers and packs currently used for marketing Colorado potatoes is found generally accept-

able. However, experienced industry spokesmen support the need for authority to promote orderly marketing through fixing, when and if necessary, the size, capacity, weight, dimensions or pack of the container, or containers which may be used in the packaging or handling of potatoes, or both.

It is concluded, therefore, that means and methods should be provided in the terms and conditions of the proposed order for adjusting the composition and total quantity of the marketable supply of Colorado grown potatoes during any period. It is further concluded that the terms and conditions contained in the proposed order relating to issuance of regulations provide means and methods of regulating the handling of potatoes as supported by hearing record evidence, which will tend to effectuate the declared purposes of the act.

(d) Area committees should be authorized to recommend and the Secretary to establish, in any period when the season average price for potatoes grown in the production area may be above parity, such minimum standards of quality and maturity and such grading and inspection requirements as will effectuate orderly marketing as will be in the public interest. Some potatoes are of such low quality and undesirable size they do not give consumer satisfaction at any time because of waste and the large amount of time consumed in preparing them. Consumers do not receive proper value for their expenditures for extremely low quality or undesirable sizes of potatoes, so even when prices are above parity, it is not in the public interest, either of the producers, handlers or consumers to permit shipments of such potatoes. Shipments of excessively skinned potatoes also tend to disrupt general marketing conditions for the commodity and the discounted prices received for culls an other low quality potatoes or potatoes of undesirable sizes adversely affect growers' prices. The proposed order should authorize the establishment of minimum standards of quality and maturity which will effectuate orderly marketing in the public interest. It is also necessary that such authority should include grading and inspection requirements so that appropriate and customary means for determining minimum standards of quality and maturity, whenever such regulations are in effect, are administratively available.

The proposed order authorizes the Secretary on the basis of area committee or Colorado Potato Committee recommendations or other available information, to issue various grade, size, quality, pack, maturity, container, or other appropriate regulations which are necessary for the improvement of growers' returns and for the development of more orderly marketing conditions for production area potatoes which are subject to regulations. The Secretary should not be precluded from using such information as he may have, and which may or may not be available to the committee for consideration, in issuing such regulations, or amendments or modifications thereof, as may be necessary to effectuate

the declared policy of the Act. Inasmuch as it is found on the evidence, the proposed order should include authority to issue regulations, it is concluded therefrom also that the Secretary should have authority to amend, modify, suspend, or terminate any regulations whenever it is determined, upon the basis of committee recommendations, or other available information, that changes in supplies, demand or prices warrant such action.

The bulk of Colorado potatoes are marketed in carlots or fractions thereof. Some small sales are made occasionally by some handlers, such as to individual householders, to friends, to tourists, or to similar "nuisance" sales outlets. Administrative difficulties in regulating the grade, size, quality, maturity, pack, or type of container for such small sales or shipments, such as the certification that these nuisance sales are inspected and conform to all regulations applicable to carlot shipments, would most probably be uneconomical, not feasible, and impractical in many cases. Therefore, it is concluded that the terms and conditions of the proposed order should authorize amendment, modification, suspension, or termination of regulations, which may be issued upon committee recommendations, or other available information, by the Secretary, to relieve specific, small quantities from any or all limitations or obligations applying to commercial handling of Colorado potatoes.

When the Secretary determines that any regulation does not tend to effectuate the policy of the Act, authority to suspend or terminate such regulation should be included as set forth.

When regulations are issued adequate notice of such regulations should be given to area committees and in turn such committees should give reasonable notice to handlers. The two day limitation on effective date of regulations, except when relieving restrictions, is reasonable and is incorporated in the proposed order.

(e) As hereinbefore found, all market outlets for Colorado potatoes are important to growers and handlers of such potatoes in considering their market plans, in improving marketing conditions, and in improving potato prices with a view to establishing parity prices therefor. It is also found that Colorado potatoes moving to, sold in, or otherwise disposed of in certain outlets, such as those specified in § 958.23 (special purposes) of the proposed order, are usually handled differently than fresh shipments for retail markets, or such outlets usually accept different grades, sizes, qualities, maturities, packs, containers, or combinations thereof, than the institutional trade or fresh retail outlets and at different prices.

Some special outlets, such as those enumerated are in the nature of salvage; others involve donations; others also include special consideration of the relief needs of the recipients; others demand, and pay premiums for, special external or internal value attributes of the potatoes, and some do not compete directly with the market for table stock potatoes. Seed potatoes are grown and handled

with special care and attention to their genetic attributes and freedom from disease. These special considerations are reflected in the range of prices growers receive and in the build up of the price structure for Colorado potatoes. Special consideration is given to such outlets by growers and handlers both marketing their own crops and in trading in the potatoes marketed by others.

Colorado potatoes handled for relief or charity do not affect the commercial market to the same degree, if at all, as other table stock shipments. Charity shipments usually are donated. Relief shipments often involve similar considerations. It is concluded therefore, that special consideration and authority for special handling for relief and charity shipments of Colorado potatoes should be contained in the terms and conditions of the proposed order.

Certain outlets for potatoes, such as for livestock feed, offer a market at salvage prices for culls and off-grade and off-size potatoes and other potatoes for which there is no other market. Potatoes moving to these markets are of low value and disposal in any such type of outlet is deemed only a salvage operation by producers and growers, so, it is concluded, authority should be included in the proposed order to allow reflection of industry judgment as to whether such marketings should bear costs of inspection and assessments. Committee members familiar with these markets should be able to recommend and the Secretary to designate such outlets to which production area potatoes may move without payment of assessments or obtaining inspection of such potatoes. However, authority should be contained in the terms and conditions of the proposed order for supervision of the special shipment and marketing of these potatoes through the use of Certificates of Privilege, as hereinafter authorized, to prevent these potatoes, which are free of certain regulations, and of lower quality or less desirable sizes, from competing with potatoes which are subject to limitations for fresh tablestock going for distribution to the institutional trade or through retail outlets.

Export requirements for potatoes differ materially on occasion from domestic market requirements. Certain market outlets, such as Mexico, for example, prefer certain grades, sizes, and qualities of potatoes which usually are discounted on the domestic market. Canada, for example, prefers potatoes of grades, sizes, qualities, and maturities which are more common to our own domestic tablestock market. However, if there should be a demand from export outlets for off-grades and off-sizes for special uses, provisions should be made for dealing with it. Area committees and the Secretary should have the requisite authority to effect the appropriate modification, suspension, or termination of regulations for export shipments differently depending upon the demands of such outlets.

Although as hereinbefore found, the market for Colorado potatoes is a build up of market prices in various outlets for such potatoes and it is concluded that the terms and conditions of the

proposed order should authorize regulations on handling such potatoes in any outlet, it is also found that the demand for seed potatoes is commonly distinguished from demand for table stock potatoes. Also, special cultural practices are followed in growing potatoes for seed. Special precautionary handling techniques also are followed. Certain sizes may, and frequently do return premium prices in the seed market, whereas similar sizes in the tablestock market are discounted. Order No. 58 has given special consideration to certified seed handling. It is concluded that the terms and conditions contained in the proposed order should provide for special consideration in the handling of seed as defined therein.

Similarly, some potatoes grown within the production area, although perhaps not certified by the State seed certifying agency, are known locally as of above average genetic stock and relatively free from disease. Other local growers often purchase such potatoes for planting as a common and thrifty practice. Within guides, standards, and restraints which may be prescribed by area committees or the Colorado Potato Committee, such practice is deemed appropriate as orderly marketing and devoid of injurious effect upon the market structure for fresh tablestock potatoes. Safeguards assuring that such potatoes should be handled for planting only within specific geographic limits, or handled only within specific parts of the crop year, should be authorized. It is concluded that the terms and conditions of the proposed order should authorize special consideration for potatoes sold within prescribed limitations to insure planting.

The sale or transportation of Colorado potatoes for distribution as fresh potatoes to the institutional trade or through retail outlets has been and continues to be the major market outlet. It is found, however, that the manufacture or conversion of Colorado potatoes into potato products has shown a decided upward trend in the past decade. These products include potato chips and starch. Potatoes in other areas are also converted by dehydration into potato flakes, granules, and cubes. In addition, frozen French fries are an important outlet for potatoes in some areas, while canning is another but considerably smaller market. Witnesses testified at length as to the interest of Colorado growers and handlers in processing markets for their potatoes.

It is found that Colorado chipping interests support the proponents' position in the need for a proposed marketing order to help improve orderly marketing conditions for Colorado potatoes as a means of establishing parity prices to farmers. Chipper contention that the terms and conditions of the proposed order should limit the authority of area committees to recommend and of the Secretary to issue grade, size, quality, or other regulations on potatoes handled for chipping purposes, is found to be without sufficient substance to overcome the conclusion, on evidence found, that growers and handlers should be authorized to market their crop in all allowable

outlets within the terms and conditions of the proposed order.

The San Luis Valley Shippers' Association and various of its members testified that the terms and conditions of the proposed order should be so limited that any potatoes manufactured or converted into products that compete with fresh potatoes should not be of any lesser grade or quality than potatoes sold in fresh market channels. No testimony was presented concerning standards or methods for establishing standards for determining which of these products compete with fresh potatoes or the degree of such competition. Shipper Association witnesses testified in substance that their representations were believed desirable, however, proof of the contribution such limitation would offer for promoting orderly marketing and establishing parity prices to farmers was lacking in sufficient substance to be persuasive.

A brief filed by the San Luis Valley Potato Shippers Association argues that the proposed order will result in discrimination unless the limitations and terms and conditions for which they contend are included in the proposed order. The brief takes the position that the authority for special consideration for shipments of potatoes for processing would grant an exception for processors without any fixed limitation which in essence would extend a special privilege to the processors. In substance, therefore, and by way of eliminating such special privilege the Association argues that all potatoes should be required to meet the same minimum requirements regardless of outlet. Evidence introduced by the Association was to the effect that certain processed products (excluding potato chips and shoestrings) with their long shelf life tend to set, or fix, a ceiling on the fresh market. Consequently, it is argued that in practice the processed potato is in competition with graded fresh potatoes and tends to fix fresh potato prices to the detriment of the grower-shipper. The Association bases its argument on the assumption that if the processor is able to purchase a cull or low grade potato without competition from the fresh shipper for such potatoes he has an unfair advantage in the competition between his end product and fresh potatoes. The Association contends that lower grades, culls and undersized potatoes, have no place in the market either processed or fresh and the authorization of a tolerance to permit shipment is a reversal of policy followed under the Colorado marketing order. They further contend that if the processor does not have to compete with the fresh shipper the processor will pay the lowest price possible for his supplies to the detriment of the growers and shippers.

In actual practice, however, any special privilege would be granted to handlers in general and growers in particular rather than to the processors since the privilege would permit potatoes to be sold or transported to additional outlets. It was testified by the proponents that in order to attain the objectives of the Act (to increase returns to growers) the industry should recognize the fact that

the potato market has changed considerably in the past few years. When Order No. 58 was first promulgated most potatoes were sold in 100-pound sacks usually U.S. No. 1 or U.S. No. 2 grade with a large majority going to the fresh market. Changes in marketing since have required various size containers and variations of established grades and sizes. Also, during the same period the use of potatoes for processing into potato chips, shoestrings, flakes, granules, and other forms has increased materially. Because of the differences in demand from these different outlets for different grades and sizes it is necessary for the industry to adopt the marketing policy necessary to satisfy such demands. By meeting these demands with the type of potato the buyer desires the proponents contend that the best price available is received for the entire crop. Authority is necessary in the proposed order to regulate shipments going to the various outlets since each is a factor affecting the total returns to growers and if some return is realized for potatoes sold or transported to certain outlets which are not detrimental to the table stock market total returns to growers will be increased. It was for this reason that the proponents testified that the privilege of departing from the standard regulations for such outlets was proposed for the benefit of growers. Any direct benefits to particular categories of use or purpose being incidental.

The brief also argues that there is question as to whether the industry can have confidence that the committee will act only in the best interests of the industry. The basis for this argument is the fact that the Secretary is not required to act exclusively on committee recommendations but may take into account other available information. The conclusion by the Association does not recognize the fact that the Secretary's authority is conferred upon him by Congress through the Act and such authority may not be limited by the language of a particular marketing order. Also, it was testified that experience under Order No. 58 has shown that instances of regulatory action without committee recommendation have been extremely rare.

Upon balanced consideration the evidence in support of the contentions of the Association is insufficient to sustain its proposals. On the contrary, and on the basis of the record evidence as a whole, it is concluded that in order to effectuate the declared purposes of the Act, growers and handlers should be permitted to utilize those outlets which will return the best price possible for all of their potatoes and thereby increase the total return for the entire crop. Therefore, to the extent that the proposals of the San Luis Valley Potato Shippers Association are at variance with the findings and conclusions set forth herein and contrary to the terms and conditions of the proposed order they are overruled.

The proponents testified that other purposes should be authorized on the basis that the future might bring forth development of products not now envisaged. For example, when Order No. 58 was issued in 1941 chipping was of

considerably lesser importance than at present, while dehydration of potatoes for flakes and granules was virtually unknown in the American potato market. Therefore, it is concluded that to properly assure opportunities for progressive developments in the potato marketing and to provide opportunities for adaptation of authority for limitation on handling to such developments, other special purposes should be provided for, as set forth.

It is concluded, on evidence found, that the terms and conditions contained in the proposed order relating to handling for special purposes should be as set forth herein to effectuate the purposes of the Act.

Effective administration of Order No. 58 has proven the necessity for assuring that shipments of discounted grades, sizes, qualities, or varieties of Colorado potatoes to any market outlet other than tablestock are in fact distributed in the special outlet intended and kept out of tablestock outlets. Administrative authority for area committees or the Colorado Potato Committee to prescribe, with approval of the Secretary, adequate safeguards to prevent shipments to special outlets from entering market channels contrary to the provisions of such special regulations should be contained in the terms and conditions of the proposed order.

Appropriate authorization for safeguards should include such limitations, or appropriate qualifications on shipments, as might be necessary and incidental to the proper and efficient administration of the proposed order. Such safeguards could include, among others; mandatory inspection requirements so that committees may have an accurate record of the grade, size, quality and maturity of potatoes shipped to special outlets; applications to make such special shipments; reports by handlers on the number of such shipments and the amounts of potatoes shipped; and assurances by the purchasers that the potatoes would be used for the purpose designated.

In order to maintain appropriate identification of shipments of potatoes to special outlets, safeguards may provide for the issuance of Certificates of Privilege to handlers of such potatoes, and in addition, require that such handlers obtain such certificates on all shipments by them to such special outlets. Certificates of privilege issued by committees could serve as an indication of the authority for handlers to make such shipments and as a means of identifying specific shipments. Such Certificates of Privilege should be issued in accordance with rules and regulations established by the Secretary on the basis of area or Colorado Potato Committee recommendations, or other available information, so that the issuance of such certificates might be handled in an orderly and efficient manner which can be made known to all handlers.

Committees should be authorized by the proposed order to deny as well as to rescind Certificates of Privilege when such action would be necessary to prevent abuse of the exemption conferred

thereby. Committees also should be authorized to exercise the authority necessary and incidental to the proper administration of the proposed order, which should include the authority to rescind or deny such certificates. Such action, however, should be based on evidence satisfactory to the respective committee that a handler to whom a Certificate of Privilege had been issued handled potatoes covered thereby contrary to the provisions of such certificate. The committee should notify applicants promptly with respect to rescinding or denying of any Certificates of Privilege. Likewise, any appeals from committee action with respect to an application or the denial of a Certificate of Privilege should be handled promptly.

The Secretary should have the right to modify, change, alter, or rescind any safeguards prescribed or any Certificate of Privilege issued by committees in order that the Secretary may retain all rights necessary to carry out the declared policy of the Act. The Secretary should give prompt notice to committees of any action taken by him in connection therewith and committees should currently notify all persons affected by the indicated action.

Each area committee should maintain records relevant to safeguards and to Certificates of Privilege and should submit reports thereon to the Secretary, when requested, in order to supply pertinent information requisite for him to discharge his duties under the Act and the proposed order.

The terms and conditions relating to safeguards authorized for special shipments should be as set forth in the proposed order.

(f) Certain hazards such as excessive moisture, drought, hail, or tornadoes, or frosts may result in potatoes which have hollow heart, growth cracks, secondary growth, internal discoloration, jumbo size, also under-size potatoes, and other adverse quality or size conditions which are beyond the control of growers. Other conditions, such as blight, freezing damage, and dry rot may not be evident until after potatoes have been put in storage. Farmers are close to these problems and are aware of conditions beyond growers' control and, hence, as area committees are composed of producers and handlers experienced in such matters, they can properly advise with respect to such facts and conditions.

These hazards are encountered in the production and storing of potatoes grown in the production area and are beyond the control and reasonable expectation of growers. Because of these circumstances, and to provide equity among producers in administering regulations under the proposed order, it is concluded, on evidence found, that the committee should be given authority to issue exemption certificates to permit qualified applicants to handle their equitable proportion of all shipments from their respective areas. Committees by reason of their knowledge of conditions and problems applicable to the production and storing of potatoes in the various producing regions of the production area

should be well qualified to judge each applicant's case in a fair and equitable manner, in the light of the information which the applicant may furnish to substantiate requests for exemption, and to fix the quantity of exempted potatoes which each such applicant may ship. It is reasonable to require all such applicants for exemption to furnish committees with satisfactory evidence to support their applications.

Committees should be authorized by the terms and conditions of the proposed order to recommend rules and regulations governing applications for exemption certificates, for consideration thereof, for establishing basic averages of shippable potatoes under regulations from each area, safeguards for exempted shipments, and appeals from committee decisions. Such rules and regulations would be subject to the Secretary's approval.

(g) Area committees have been sponsoring and promoting research and development projects under State authority for a number of years. The Colorado potato industry wishes, on the basis of hearing record evidence found, to provide in the terms and conditions of the proposed order for authority to establish marketing research and development projects designed to assist, improve, or promote the marketing distribution, and consumption of potatoes. The Colorado industry expresses recognition of a need for development of new markets, both fresh and processing. Marketing research and development projects authorized under the proposed order should allow consideration and approval of projects, and use of funds therefor, directed to studies of quality or size preferences in various distributive channels; quality deterioration and its influence on market prices; processors' preferences and price differentials therefor; and, except for advertising programs, any others relating to marketing or development which, upon review and approval by area committee and the Secretary are determined to be in accordance with the terms and conditions of the proposed order.

(h) Inspection has been a mandatory requirement both under Order No. 58 and under State law during the past decade or more on all Colorado potatoes shipped to fresh or other similar market outlets. Federal or Federal-State Inspection Services have inspected and certified potatoes during this entire period. Reasonable assurances are such service will continue to be available. Colorado potato producers are well acquainted with requirements for inspection and with the services offered. They also are experienced in marketing potatoes under inspection and with the standards used in inspection and certifying Colorado potatoes. Inspection has been available throughout the area and, with reasonable notice, has been and can be given on potato shipments during normal marketing seasons.

Inspection and certification as to grade, size, and quality of potatoes marketed under the proposed marketing order are necessary not only as a matter of State law, but also so that handlers

of Colorado potatoes, committees, and other interested parties can determine if shipments thereof comply with regulations in effect and applicable thereto. However, on record evidence found, it is concluded that the basic requirement for mandatory inspection should be subject to necessary relief therefrom, upon committee recommendations and Secretary's approval, to allow for minimum quantity "nuisance" sales or other handling, special shipments, and for administrative problems associated with repacking, repackaging, out of season or out of ordinary location shipments.

Repacking potatoes at shipping point presents an administrative problem differing somewhat from shipments repacked in terminal markets, such as Denver. Also, proximity of Denver as a repacking center for potatoes produced in northern Colorado, but which may be distributed to market centers either outside or within the production area, may present administrative and compliance problems differing from those associated with similar operations at original shipping point. Also, potatoes from more than one area are marketed in Denver, some of which are repacked for distribution to markets both within and outside the production area. It is concluded, and the industry so requested at the hearing, that rules with respect to inspection requirements to effect compliance or other administrative needs of the proposed order at shipping point or when repacking or regrading should be pursuant to area committee recommendations with approval of the Colorado Potato Committee and Secretary's approval. Authorization of such rules by the Secretary upon area committee recommendations with approval of the Colorado Potato Committee, providing for special inspection requirements, or relief therefrom, on regraded, resorted, or repacked lots is incidental to, and not inconsistent with, and necessary for administration of the other terms and provisions of the proposed order.

Easily ascertainable and visible evidence of inspection on some lots of Colorado potatoes is administratively necessary. Although most Colorado potatoes are marketed in carlots or sizable fractions thereof, some lots are sold or transported in smaller quantities, usually trucks. Some handlers may find it both desirable and practically necessary to obtain inspection on larger lots for later sale in smaller lots. In such instances, it is essential that evidence of inspection should be attached or imprinted on each commercial unit of sale. When potatoes are inspected and certified as a single lot, then identified by seals, stamps, or tags as to such inspection and certification, evidence of inspection in such form should provide adequate and easily ascertainable evidence of inspection. Such procedures would provide more convenient and less expensive inspection services for handlers and both expedite and economize in administration of the proposed order. It is concluded, therefore, that the terms and conditions of the proposed order should provide for identification of inspection not only by requiring, where necessary, that certifi-

cates should accompany shipments of Colorado potatoes by truck, but also that alternative evidence of inspection may be provided by means of seals, stamps, tags, or other means of identification.

Inspection certificates are official evidence of the grade, size, quality and additional characteristics of the potatoes in lots covered by inspection at the time it was made. As a basis for trading they offer evidence to buyers and sellers which provide a basis for trading. This evidence is accepted customarily as applying during distribution of shipments from shipping point through receiving markets. Such evidence is satisfactory in most instances for trading and for administrative purposes under the proposed order. Certificates which apply to inspections made weeks previously may no longer reflect properly present quality factors for fresh market shipments and considerations of such administrative problems is essential to effective operations. These considerations should also allow for purposeful conditioning of potatoes to prepare them for marketing in special outlets, such as chips or similar processing. However, it is concluded, from evidence found, that the length of time for which an inspection certificate is valid may be established for administrative purposes under the terms and conditions of the proposed order.

The Federal-State Inspection Service has made copies of inspection certificates on Colorado potatoes available to each area committee for shipments originating in its respective area. This service has been acceptable and feasible both to the inspection service and to area committees. Also, it is essential to administration of the proposed order. It is concluded that such service should be continued under the proposed order.

(i) The administrative agencies established and active in operations under Order No. 58 are the three area committees and the Colorado Potato Committee. These agencies, in the decade or more of operations have proven feasible and practical administratively, also acceptable to the industry in each area as well as throughout the State. Similarly, it is found that the composition of area committees, with one additional producer representative from a newly created district in the San Luis Valley, and the other representatives on such committees, meet industry approval and support, as well as being deemed administratively feasible and practical.

Also, similarly, the terms and conditions relative to alternates, eligibility, nomination and selection, failure to nominate, vacancies, qualification, procedure, and powers accords substantially with administrative operations of Order No. 58 during the past decade or more and the amendments of terms and conditions in the proposed order relating to such sections are concluded, on evidence found, as essential to its effective and efficient operation. Need for changes in committee operation may arise from time to time as producing sections shift production or as marketing organizations develop or decline. Fair and equitable representation on committees is desirable not only by the industry, but also

for effective administration. Authority to reestablish areas or composition of committees is desirable administratively in the interest of simplifying and expediting changes in geographic or functional representation when the industry generally supports such changes. The guides and standards for reestablishment of committees as set forth in the proposed order are found to be adequate and equitable and the terms and conditions set forth therein are considered as incidental to, not inconsistent with, and necessary for administration of the proposed order. Similarly, the provisions for terms of office are supported by experience and are determined to be desirable for effective administration of the proposed order.

The provision for compensation and expenses of committee members follows generally the corresponding terms and conditions of Order No. 58. The change in rate of compensation authorized in the proposed order is found in accordance with industry attitudes and support, because of trends in wage rates and other similar trends in compensation since Order No. 58 was originally issued. Attendance of alternates at committee meetings is deemed desirable as operating policy by the Colorado industry. Accordingly, the terms and conditions of the proposed order so provide.

The fulfillment of certain duties by each area committee and by the Colorado Potato Committee is necessary for discharge of their administrative responsibilities. Most committee duties as set forth in the proposed order are quite obviously essential to effective administration of any organized group such as the administrative agencies of the proposed order. It was recognized in the evidence that the committees' duties as specified are not necessarily all inclusive, for there may be other duties incidental to, not inconsistent with, and necessary for administration of the proposed order which should be assumed when and if necessary to administer properly the proposed order.

The additional duties of the Colorado Potato Committee are similar to those authorized or exercised by it in the past. An additional duty was proposed in the hearing, namely to call joint meetings of area committees on matters warranting exchanges of views, discussions, and joint consideration of mutual marketing or administrative problems. This duty it is found on record evidence, is particularly appropriate for coordinating considerations, recommendations, and regulations among committees and the potato interests within areas throughout the State. It is concluded that such duty is administratively desirable, feasible, reasonable, and should be one of the terms and conditions of the proposed order.

(j) Committee operations necessitate incurring expenses. These expenses, which should be reasonable, include, but should not be limited to, salaries for manager, office and field personnel, research projects, rent for office space and office equipment, supplies and travel expense. Expenses incurred by committees in operating Order No. 58 have been borne by handlers and under the pro-

posed order must, pursuant to requirements of the Act, be borne by handlers. The most practical way of distributing the costs of the program among handlers is to require each handler who first handles potatoes to pay his pro rata share of such expenses for an area committee on the basis of the ratio of his total shipments of potatoes grown in the respective area under the proposed order, as the first handler thereof, to the total of such shipments of potatoes grown in the respective area, by all such handlers, during a particular fiscal period.

Each area committee has operated in the past on a budgeted basis. Good business practices require that committees continue to so operate and each area committee should prepare a budget prior to the beginning of each fiscal period. Such budgets should show estimated income and expenses necessary for the administration of each respective area committee in carrying out its responsibilities and functions in the administration of the proposed order for the fiscal period for which the respective budget is prepared.

The funds to cover the expenses of area committees should be obtained through the levying of assessments on handlers of potatoes grown in the respective areas. The act specifically authorizes the Secretary to approve the incurring of such expenses by administrative agencies, such as the area committees. The statute also authorizes terms and conditions for marketing orders requiring handlers to pay their pro rata share of necessary expenses. Under this authority area committees in the past have incurred expenses and have provided through levy and collection of assessments for handlers to pay their pro rata share of expenses. To assure continuance of area committee operations, the payment of assessments by handlers should be authorized as a requirement, when necessary, irrespective of suspension or lack of operation of particular provisions of the proposed order. Authorization for advance payments should be as set forth in the proposed order.

Responsibility for payment of assessments on each lot of potatoes must necessarily be known and fixed. Such responsibility has been both known and fixed in the past under Order No. 58. It is both logical and practical, as well as in accordance with common marketing practice in the production area, to impose such liability on the first handler of the potatoes. In most instances, the first handler and the applicant for inspection are the same person. Colorado potatoes customarily are inspected as they are marketed. However, in the event the first handler fails to apply for, and obtain, inspection, this does not in any way cancel his obligation with respect to the payment of assessments.

Assessment rates should be recommended by respective area committees for shipments of potatoes grown in such areas. Assessments should be applied by the Secretary to a specific unit of shipment or its equivalent. For example, assessment rates can be applied to carlot shipments or on a hundredweight basis, or by any other unit of shipment com-

monly used in marketing Colorado potatoes. However, such assessments for a fiscal period should be applied on a uniform rate basis.

Order No. 58 provides for increasing the rate of assessment, if necessary, during or after a fiscal period to cover expenses. It is found that, although no instance has occurred under past operations in which such authority for increasing assessments was used, proponents support continuation of substantially the same authority. It is concluded therefore that the terms and conditions relating thereto in the proposed order should be as set forth.

It is sound business practice to require proper accounting of funds derived in administering the proposed order. Committees should provide periodic reports of fiscal operations. Audit reports should be furnished, when requested by the Secretary at appropriate times, such as at the end of each marketing season, or at such other times as might be necessary to maintain appropriate supervisions and control of each committee's affairs. Also financial statements which reflect the current fiscal position of committees should be furnished members and alternates and the Secretary at the close of each month. Audit reports and monthly financial statements should also be supplied on request to persons such as producers and handlers, having a valid interest in the contents of such reports. In no case may data of a nature which could be detrimental to the interests of an individual handler or producer be disclosed in copies of fiscal or other reports released.

Except as indicated below, handlers who ship potatoes grown in a particular area should be entitled to a proportionate refund of the excess assessments collected by the respective committee and which remain at the end of a fiscal period, or at the end of such other period as might be deemed appropriate by reason of suspension or termination.

If and when any committee should be required to liquidate its affairs, expenses will necessarily be incurred in the liquidation process. The affairs of the committee to be liquidated might involve a number of years' operations. Therefore, funds remaining at the end of a fiscal period, which are in excess of those necessary for payment of expenditures during such period may be carried over into subsequent fiscal periods as a reserve for possible liquidation in the event of the termination of the proposed order.

It is good business practice to provide for unforeseen contingencies. The anticipated potato crop for any season might conceivably be reduced by casualty or disaster, such as prolonged water shortage, hail, or other weather conditions, disease, or by other factors. The net effect of such a crop failure would be to reduce greatly or stop shipments sufficiently to cause discontinuance of regulations and collection of assessments. In order to continue and maintain the nucleus of committee organizations and to assure the performance of a minimum of basic services, committees should have authority to secure needed extra funds to cover expenses of operation during

such a fiscal period. Such funds might reasonably be drawn from the same reserve accrued for purposes of liquidation.

The above reserve might also properly serve another purpose. At the beginning of each fiscal period, a need exists for operating monies at a time when usually little, if any, revenues from assessments are available. It is customary and sensible budgetary practice, and committees should be so authorized, to borrow operating funds from the above reserve until such time as assessment collections provide adequate revenue to meet current expenses. It is contemplated that any such reserve will have a threefold use; namely, (i) liquidation, (ii) crop failure advance, and (iii) fiscal year advance. It will be built up over a period of years to equalize the burden among handlers. It is concluded, on the basis of record evidence found, that reserves accrued from excess assessments should be limited to an amount roughly equivalent to the average budget of expenses for two fiscal periods.

Each member and each alternate, as well as employees, agents, and other persons working for or on behalf of committees should be required to account for all receipts and disbursements, funds, property, or records for which they are responsible and the Secretary should have the authority at any time, to ask for such accounting.

Whenever any person ceases to be a member or alternate of a committee, he should be required to account for all receipts, disbursements, funds, property, books, records, and other committee assets for which he is responsible. Such persons should also be required to execute assignments or such other instruments as may be appropriate to vest in their successor or any agency or person designated by the Secretary, the right to all such property and all claims vested in such person.

If any area committee should recommend that its operations should be suspended, or if no regulation should be in effect for a part or all of a marketing season, such committee should be authorized to recommend, as a practical measure, that one or more of its members, or any other person, should be designated by the Secretary to act as a trustee or trustees during such period. This would provide a practical method whereby committee business could be taken care of during periods of relative inactivity with a minimum of difficulty and expense.

(k) Each committee should have the authority, with the approval of the Secretary, to require handlers to submit such reports and information as may be needed to perform committee functions under the proposed order. Every type of report or kind of information which the committees may require cannot be fully anticipated, but committees should have authority under terms and conditions in this proposed order to request reports and information at such times and in such manner as deemed necessary and including those of types set forth.

The Secretary should retain the right to approve, change, or rescind any requests by committees for information or

reports in order to protect handlers from unreasonable requests therefor.

Any reports and records submitted for administration of the proposed order by individual handlers should remain under protective classification and be disclosed to none other than persons authorized by the Secretary. Any reported information released by the industry should be on a composite basis and no such release of information may disclose either the identity of handlers or their operations.

If questions arise with respect to the verification of information in the reports submitted under the program, handlers should be required to maintain complete records of their receipts, handling, and dispositions of potatoes for not less than two succeeding years. Evidence shows that handlers usually keep such records for their own business operations for periods of at least two years and no hardship would be imposed by requirements of this type under the proposed order.

(l) Except as provided in the proposed order, no handler should be permitted to handle potatoes, the handling of which is prohibited pursuant thereto; and no handler should be permitted to handle potatoes except in conformity with the proposed order. If the program is to be effective, no handler should be permitted to evade its provisions since such action on the part of one or more handlers, although possibly of small impact individually on the industry measured by the proportion of potatoes handled by the respective handler, would be demoralizing to other handlers and would tend to impair operation of the program.

(m) The terms and conditions of § 958.82 through § 958.92 in the proposed order are substantially the same as § 958.70 through § 958.88 of Order No. 58, except for § 958.83(b) and § 958.84(a) (ii) which apply to transition of operations under Order No. 58 to the proposed order. These terms and conditions, as also § 958.93 through § 958.95 of the proposed marketing agreement, are not only common to Marketing Agreement No. 97 and Order No. 58, but also are common to other marketing agreements and orders now operating. Each such section sets forth certain rights, obligations, privileges, or procedures which are necessary and appropriate to the effective operation of the proposed marketing agreement and order. These provisions are incidental to, and not inconsistent with, section 8c (6) and (7) of the Act and are necessary to effectuate the declared policy of the Act. Such terms and conditions should, therefore, be included in the proposed marketing agreement and the proposed order.

(n) The General Cull Regulation, also additional rules and regulations for assessments, exemptions, safeguards for special shipments, and committee members are in effect under Order No. 58. To properly insure continuity of operations during the amending process, such rules, regulations, and committee appointments should be continued in effect until modified, amended, suspended, or terminated under the proposed order. The provisions of § 958.83(b) are to apply

to all rules, regulations, and committee appointments effective immediately prior to an effective date for the proposed order. The provisions of § 958.84(a) (ii) set forth authority for terminating, and eliminating, the transitional authority which is necessary primarily during the amending process. Accordingly, it is concluded, that the terms and conditions of § 958.83(b) and § 958.84(a) (ii) should be as set forth in the proposed order.

(5) Amendments relating to the format of the proposed order, with conforming amendments thereto, which are drafted in the interest of clarity, brevity, and efficient administration are obviously desirable. It is concluded that, accordingly, such changes should be made as they are set forth in the terms and conditions of the proposed order.

Rulings on proposed findings and conclusions. At the hearing the Presiding Officer set March 1, 1960, as the final date for the filing of briefs by interested parties and, on February 25, 1960, extended the time for filing briefs to March 7, 1960. Within the prescribed time a brief was filed on behalf of the San Luis Valley Potato Shippers Association by Moses & DeSouchet, Attorneys, Alamosa, Colorado, contending that the proposed order will result in discrimination unless certain proposals submitted by that Association are adopted.

Each point and issue raised by this brief has received careful consideration and has been discussed at length above. For the reasons there stated to the extent that any suggested findings and conclusions contained therein are inconsistent with the findings and conclusions contained herein, the request to make such findings, or to reach such conclusions, is denied on the basis of the facts found and stated in connection with this decision.

General findings. Upon the basis of evidence introduced in the hearing and record thereof it is found that:

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

(2) The said marketing agreement and order, as amended, authorize regula-

tion of the handling of Irish potatoes grown in the production area in the same manner as, and is applicable only to persons in the respective classes of industrial and commercial activities specified in, a proposed marketing agreement and order upon which a hearing has been held.

(3) The said marketing agreement and order, as amended, are limited in application to the smallest regional production area which is practicable, consistently with carrying out the declared policy of the Act; and the issuance of several marketing agreements and orders applicable to any subdivision of the production area would not effectively carry out the declared policy of the Act.

(4) The said marketing agreement and order, as amended, prescribe, as far as practicable, such different terms applicable to different parts of the production area as are necessary to give due recognition to the differences in the production and marketing of potatoes grown in the production area; and

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

Recommended amendments to the marketing agreement and order. The following amendments of the marketing agreement and order are recommended as the detailed means by which the aforesaid findings and conclusions may be carried out; and for ready reference to all the provisions of the proposed order, an entire order, as amended, is set forth.

DEFINITIONS

§ 958.1 Secretary.

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

§ 958.2 Act.

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

§ 958.3 Person.

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

§ 958.4 Area.

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

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

(b) "Area No. 2," commonly known as the San Luis Valley, includes and consists of the Counties of Saguache, Huer-

fano, Las Animas, Mineral, Archuleta, in the State of Colorado, and all counties in said State, south of the counties enumerated in this definition of Area No. 2.

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

§ 958.5 Potatoes.

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

§ 958.6 Seed potatoes.

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

§ 958.7 Handler.

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

§ 958.8 Handle or ship.

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

§ 958.9 Producer.

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

§ 958.10 Fiscal period.

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

§ 958.11 Grade, size and maturity.

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

§ 958.12 Varieties.

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

§ 958.13 Pack.

"Pack" means a quantity of potatoes in any type of container, which falls within specific weight limits, numerical limits, grade limits, or any combination of these recommended by the committee and approved by the Secretary.

§ 958.14 Container.

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

§ 958.15 Culls.

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

§ 958.16 Committee.

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

§ 958.17 Export.

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

REGULATION

§ 958.20 Marketing policy.

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

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

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

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

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

(3) Market prices for potatoes in other outlets, including growers' and other market price levels by grade, size, and quality;

(4) The trend and level of consumer income;

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

(6) Other relevant factors.

§ 958.21 Recommendations for regulations.

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

§ 958.22 Issuance of regulations.

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

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

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

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

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

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

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

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

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

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

§ 958.23 Handling for special purposes.

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

- (a) Relief or charity;
- (b) Livestock feed;
- (c) Export;
- (d) Seed;
- (e) Potatoes, other than certified seed, sold to a producer exclusively for planting within specific geographic limits;
- (f) Manufacture or conversion into specified products;
- (g) Other purposes recommended by the committees and approved by the Secretary.

§ 958.24 Safeguards.

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

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

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

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

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

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

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

EXEMPTIONS**§ 958.28 Policy.**

Any producer whose potatoes have been adversely affected by acts beyond the control or reasonable expectation of a prudent grower and who, by reason of any regulation issued pursuant to this part, is or will be prevented from shipping or having shipped during the then current marketing season, or a specific portion thereof, as large a proportion of his potato crop as the average proportion shipped or to be shipped during comparable portions of the season by all producers in his immediate area of production, may apply to the committee for exemptions from such regulations for the purpose of obtaining equitable treatment under such regulations.

§ 958.29 Procedure.

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

§ 958.30 Granting exemptions.

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

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

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

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

§ 958.31 Investigation.

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

§ 958.32 Appeal.

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

RESEARCH AND DEVELOPMENT**§ 958.35 Research and development.**

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

INSPECTION**§ 958.40 Inspection and certification.**

(a) During any period in which the handling of potatoes is regulated pursuant to § 958.20 through § 958.24, inclu-

sive, no handler shall handle potatoes unless such potatoes are inspected by an authorized representative of the Federal or a Federal-State Inspection Service and are covered by a valid inspection certificate, except when relieved of such requirements by § 958.22(b), § 958.23, or § 958.40(b).

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

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

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

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

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

COMMITTEES

§ 958.50 Area committees.

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

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

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

Two (2) producers and one (1) handler from the remaining counties of Area No. 1;

One (1) handler representing all producers' cooperative marketing associations in Area No. 1.

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

Three (3) producers from Rio Grande County;

One (1) producer from Saguache County;

One (1) producer from Conejos County;

One (1) producer from Alamosa County;

One (1) producer from all other counties in Area No. 2;

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

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

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

Three (3) producers from Weld County;

One (1) producer from Morgan County;

One (1) producer from the remaining counties of Area No. 3;

Four (4) handlers from Area No. 3.

§ 958.51 Colorado Potato Committee.

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

§ 958.52 Alternates.

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

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

§ 958.53 Reestablishment.

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

§ 958.54 Eligibility.

Area committee members and alternates shall be individuals who shall be residents of, and producers or handlers, as the case may be, in the respective area. Also, each member or alternate to qualify as a representative (a) for producers shall be a producer, or an officer or employee of a producer; (b) for producers' cooperative marketing associations shall be members or em-

ployees of such associations; or (c) for handlers other than cooperative marketing associations shall be a handler, or an officer or employee of a handler.

§ 958.55 Term of office.

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

§ 958.56 Nomination and selection.

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

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

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

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

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

§ 958.57 Failure to nominate.

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

§ 958.58 Vacancies.

To fill any vacancy occasioned by the failure of any person selected as a mem-

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

§ 958.59 Qualification.

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

§ 958.60 Compensation and expenses.

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

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

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

§ 958.61 Procedure.

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

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

§ 958.62 Powers.

Each committee shall have the following powers:

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

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

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

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

§ 958.63 Duties.

(a) Each committee shall:

(1) Meet and organize as soon as practical after the beginning of each term of office, select a chairman and such other officers as may be necessary, select subcommittees and adopt such rules and

procedures for the conduct of its business as it may deem advisable;

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

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

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

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

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

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

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

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

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

(b) The Colorado Potato Committee shall also:

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

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

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

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

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

EXPENSES AND ASSESSMENTS

§ 958.75 Expenses.

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

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

§ 958.76 Budget.

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

§ 958.77 Assessments.

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

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

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

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

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

§ 958.78 Accounting.

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

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

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

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

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

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

REPORTS

§ 958.80 Reports.

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

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

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

(2) The quantities disposed of by him, segregated as to quantities subject to regulation, and where necessary segre-

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

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

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

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

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

COMPLIANCE

§ 958.81 Compliance.

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

§ 958.82 Right of the Secretary.

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

§ 958.83 Effective time.

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

(b) All regulations and rules, including the General Cull Regulation effective July 18, 1949 (§ 958.301; 14 F.R. 3979), issued pursuant to the order (this part) and in effect immediately prior to the effective date of the order as amended

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

§ 958.84 Termination.

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

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

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

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

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

§ 958.85 Proceedings after termination.

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

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

(c) Any person to whom funds, property, or claims have been transferred or delivered by an area committee or its members pursuant to this section shall be subject to the same obligations im-

posed upon the members of such committees and upon the said trustees.

§ 958.86 Effect of termination or amendment.

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

§ 958.87 Duration of immunities.

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

§ 958.88 Agents.

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

§ 958.89 Derogation.

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

§ 958.90 Personal liability.

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

§ 958.91 Separability.

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

§ 958.92 Amendments.

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

§ 958.93 Counterparts.

This agreement may be executed in multiple counterparts and when one counterpart is signed by the Secretary all

such counterparts shall constitute, when taken together, one and the same instrument as if all signatures were contained in one original.¹

§ 958.94 Additional parties.

After the effective date hereof, any handler who has not previously executed this agreement may become a party hereto if a counterpart hereof is executed by him and delivered to the Secretary. This agreement shall take effect as to such new contracting party at the time such counterpart is delivered to the Secretary, and the benefits, privileges, and immunities conferred by this agreement shall then be effective as to such new contracting party.¹

§ 958.95 Order with marketing agreement.

Each signatory handler favors and approves the issuance of an order by the Secretary regulating the handling of potatoes in the same manner as is provided for in this agreement and each signatory handler hereby requests the Secretary to issue, pursuant to the Act, such an order.¹

Copies of this notice may be obtained from the Marketing Field Office, Agricultural Marketing Service, U.S. Department of Agriculture, Room 332, New Custom House, Denver 2, Colorado, or from the Hearing Clerk, United States Department of Agriculture, Room 112, Administration Building, Washington 25, D.C., or may be there inspected.

Dated: April 22, 1960.

ROY W. LENNARTSON,
Deputy Administrator,
Marketing Services.

[F.R. Doc. 60-3809; Filed, Apr. 26, 1960;
8:52 a.m.]

[7 CFR Part 1023]

[Docket No. AO-295-A2]

**MILK IN DES MOINES, IOWA,
MARKETING AREA**

**Decision on Proposed Amendments
to Tentative Marketing Agreement
and Order**

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held at Des Moines, Iowa, on February 18, 1960, pursuant to notice thereof issued on February 10, 1960 (25 F.R. 1345).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Agricultural Marketing Service, on April 6, 1960 (25 F.R. 3080) filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

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

¹ Applicable only to the proposed marketing agreement, as amended.

1. The level of the Class I price.
2. The level of the Class II price.
3. Using a base and excess plan in paying producers.

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. The method of determining the Class I price should be amended to limit the effect of the Chicago supply-demand ratio on the Class I price in this market.

The Des Moines Class I price is fixed at 35 cents above that in the Chicago order and reflects the supply-demand adjustment included in the Chicago Class I price. Effective September 1, 1959 (24 F.R. 6941) the Des Moines order was amended to limit to 10 cents the effect of the Chicago supply-demand adjustment on the Des Moines Class I price for the months of September 1959 through April 1960.

The maximum adjustment provided by the Chicago supply-demand formula is 24 cents. From October 1958 (when Des Moines order pricing became effective) through February 1960, the Chicago order supply-demand adjustment averaged minus 23 cents. During this 17 month period a minus 24 cent adjustment was effective in 11 months, minus 22 cents in four months, and minus 20 cents in the remaining two months. It may reasonably be expected that a supply-demand adjustment approximating those which have been effective during the past 17 months will be reflected in the Chicago Class I price for an indefinite period.

The availability of supplies in relation to the demand for milk for fluid use for the Des Moines market is significantly different than that for Chicago and producers proposed continuing the provision which limits to 10 cents the effect of the Chicago supply-demand ratio as a factor in determining the Des Moines Class I price. During 1959 Des Moines order Class I sales averaged 82 percent of producer receipts. The Chicago order supply-demand utilization percentage during the same 12 month period was 61 percent.

A major change is taking place in the supply pattern for the Des Moines market. Of the 1,159 producers supplying order handlers during January 1960, 885 were delivering to plants in Polk County (Des Moines). Among these 885 producers, 481 had bulk tank operations and represented 65 percent of the total producer deliveries during that month to Polk County handlers. As recently as February 1959 all producers then delivering to these handlers were can shippers. As of May 1, 1960, no milk will be received by Polk County handlers from producers other than those having bulk tank operations. Of the 404 can shippers supplying these handlers during January 1960, it is estimated that 119 will have converted to bulk tank setups by the May 1 deadline and the remaining 285 will have discontinued their operations as shippers of Grade A milk.

Producer deliveries have not been adequate to meet the needs of the Des Moines order market. In 9 of the first 17 months of the order (September 1958

through January 1960) producer receipts were less than 114 percent of order handlers' Class I sales, and in only 2 of these 9 months did producer receipts exceed 109 percent of such Class I sales. Producers claim that to supply the Des Moines order market adequately producer deliveries should be not less than 115 percent of handler's Class I sales during any month.

Of the 1,159 producers supplying Des Moines order handlers in January 1960, 1,040, or 90 percent, are members of the Des Moines Cooperative Dairy. This association has full supply contracts with handlers and is responsible for supplying milk from outside sources when deliveries from its producer members are inadequate for the needs of its buying handlers. The cooperative's goal is to obtain a sufficient number of producers so that the market's needs will be supplied on a year-round basis.

During the past year, and especially in recent months, Des Moines Cooperative has intensified its activities to obtain additional supplies for the market. Action has been taken toward extending some existing hauling routes and adding others in order to have a larger geographic area from which producers may be obtained. Some hauling routes have now been extended as much as 150 miles from handlers' plants in the city of Des Moines in order to pick up new producers. Throughout the milkshed, representatives of the Des Moines Cooperative Dairy have been soliciting dairy farmers who are shipping to manufacturing plants or to other Grade A markets as producers for the Des Moines market. The success in obtaining additional supplies in this manner has thus far been limited because of the expense involved in making changes on farms in order to obtain approval for the Des Moines market. Another deterrent to putting on many potential shippers as new producers is that their farms generally are farther away from the market than are those of present producers. These dairy farmers would be required to pay significantly higher hauling costs than they do presently for shipping to nearby manufacturing plants or to Grade A outlets less distant from their farms than to plants of Des Moines order handlers. Of 370 dairy farmers who made application to the Des Moines City Health Department during 1959, only 99 ultimately obtained approval and commenced operations as Grade A shippers supplying the market.

It is expected that some increase in production for the Des Moines market will be realized on the farms of those producers changing from can to bulk tank shippers. This anticipated increase in production per farm, however, will be grossly insufficient to make up for the loss of production from the farms of the estimated 285 can shippers who will have discontinued supplying the market by May 1 of this year. Of the 20.9 million pounds of milk received from producers by order handlers in January 1960 an estimated 4 million pounds were received from those farms from which shipments will not be made after April 30, 1960. The 17.5 million pounds of producer

milk in Class I during January 1960 is 0.6 million pounds more than that supplied during this month by those shippers who are expected to continue as Des Moines order producers after April 30, 1960.

During 7 months of 1959 the Des Moines Cooperative Dairy imported a total of 1.5 million pounds of milk to meet the needs of its buying handlers and approximately 2 million pounds of such supplemental supplies were imported by the cooperative during the latter part of 1958. These imports were principally from distant plants in the milksheds of the Minneapolis-St. Paul and Chicago orders. In view of the anticipated heavy loss of producers resulting from the shift from can to bulk tank shipping, it may be expected that the importations required to meet the Class I needs of the Des Moines market during the latter part of this year will be substantially greater than at any time in the past.

Milk is shipped regularly from plants regulated by the North Central Iowa and Cedar Rapids-Iowa City orders to markets at great distances from these plants. It was suggested that the Des Moines Cooperative Dairy obtain its supplemental needs from the plants under these nearby orders or procure some of the producers now supplying North Central Iowa and Cedar Rapids-Iowa City handlers as direct delivery shippers to Des Moines. In this connection it was pointed out that the milk shipped from the North Central Iowa and Cedar Rapids-Iowa City order plants to outside markets is sold generally on a year-round basis to these buyers and the price received from these outside markets is better than the Des Moines Cooperative Dairy could afford to pay for such milk on a yearly contract.

There is relatively little overlapping of the Des Moines production area with those in which are located the producers supplying North Central Iowa and Cedar Rapids-Iowa City pool plants. In extending its hauling routes in recent months the Des Moines Cooperative Dairy has been able to obtain a limited number of Grade A shippers from the other nearby Federal order markets. However, it is not likely that a significant number of such shippers will shift from these markets to Des Moines. The increased transportation that these dairy farmers would have to pay for moving their milk into the Des Moines market would be enough greater so as to nullify any gain that they might have in shifting markets.

Some encouragement is needed to have upgraded shippers fix up for Grade A production for the Des Moines market. With respect to those Grade A producers supplying nearby markets, a price incentive to compensate for the additional transportation costs to ship the greater distances to Des Moines handlers is needed to attract them to the Des Moines market. To give appropriate consideration to these and other factors that are causing a deficit in the supply for the Des Moines market, the effect of the Chicago order supply-demand adjuster on Des Moines Class I price should be limited to 10 cents. This is the same

provision that has been effective in the order for the months of September 1959 through April 1960. The price level resulting from continuing this provision should provide some incentive toward building up a regular supply of milk for the Des Moines market.

2. The Class II price should be the price provided by a butter-powder formula or the average of the pay prices of six designated manufacturing plants, whichever is higher.

The average of the pay prices of six manufacturing plants (five in Illinois and one in Iowa) is the Class II price under the nearby Federal orders for North Central Iowa, Cedar Rapids-Iowa City, Quad Cities, and Dubuque. The butter-powder formula, herein recommended as an alternative in determining the Class II price, will obtain a price 15.2 cents above that now provided in the order. Presently the Des Moines order Class II price is determined exclusively by a butter-powder formula which is the same as the Chicago Class IV price formula.

During 1959 the Des Moines Class II price, which averaged \$2.884, ranged from 5.8 cents to 33.6 cents below and averaged 19.2 cents lower than the average pay prices of the six manufacturing plants, the Class II price in the nearby order markets. The comparable average difference during 1958, based on the quotations in that year, was 14 cents.

Each handler in the city of Des Moines receives daily only as much producer milk as is needed on that particular day for his fluid milk operations. Producer milk that handlers do not take is delivered to the plant of the Des Moines Cooperative Dairy. This plant, which has facilities for receiving, holding, and manufacturing large quantities of milk, processed approximately 75 percent of the Class II milk under the Des Moines order during 1959. The Des Moines Cooperative Dairy makes virtually all of the butter and nonfat dry milk which are manufactured by Des Moines order pool plants. The principal uses of Class II milk by other order handlers are in the manufacture of cottage cheese and ice cream.

It was suggested that the higher quality raw product generally demanded for cottage cheese and ice cream manufacture tends to obtain a higher price for milk so used than for milk used in making butter and nonfat dry milk. Nevertheless, during some periods, as when supplies of butter are relatively short (as occurred during the latter months of 1959) butter and nonfat dry milk may temporarily become higher priced outlets for manufacturing milk. Because of this, providing for the higher of the average of specified manufacturing plant prices or a butter-powder formula price will obtain the optimum Class II price for producer milk.

The Class II price provided by the order is too low in relation to the value of milk for manufacturing purposes. The change herein recommended will obtain a Class II price to reflect more realistically the value of milk for manufacturing purposes to Des Moines order handlers and the prices obtainable at

outlets available to such handlers for milk not needed in their own operations.

3. A "base and excess" plan should be used in distributing among producers the payments for milk produced during the months of March through June.

Because of the seasonal variations in the production of milk for the Des Moines order market, there is need for an incentive to increase production in the fall and winter months relative to spring and summer months. This can best be accomplished through a uniformly administered base and excess plan incorporated in the order.

Some difficulty is experienced in utilizing efficiently all milk produced for the market in the months of seasonally high production. By providing returns related directly to a producer's ability to deliver additional milk in the fall and winter as compared with deliveries during the season of flush production, a more even milk production pattern will be encouraged.

The base and excess plan herein recommended would establish for each producer a base that would depend upon his deliveries of milk to pool plants during the months of September, October, and November. During these months, as well as all other months in the period of July through February, producers would receive the marketwide blend or uniform price for all milk which they deliver to pool plants.

For each of the months of March through June separate uniform prices for "base milk" and "excess milk" would be computed so that Class I sales would first be allotted to base milk. Base milk would be milk received at pool plants from a producer during any of the months of March through June which is not in excess of an amount equal to the daily base of such producer multiplied by the number of days in such month. Class II disposition in the market would first be assigned to excess milk. If Class I disposition is more than the base milk received from producers in any month, such additional Class I milk would be allocated to excess milk and the excess blend price increased accordingly.

September, October and November are normally the months in which the production of milk for the Des Moines market is lowest and the base forming period would be limited to these months. The daily base of each producer would be calculated by the market administrator by dividing the total pounds of producer milk received at all pool plants from such producer during these months by the number of days on which such milk is received from such producer.

It may be expected that new producers coming on the market during or after the base forming period would be needed to supply the Class I needs of the market. These producers should be permitted to share in the proceeds from the sales of Class I milk during the base operating period even though they did not establish bases during the preceding September through November period. A producer who delivered milk during the base forming period but desires to change his level of production should not be required to receive payment for the high

production at the excess price. Such a producer should be permitted to relinquish his base and establish the base of a new producer if he so desires. This would add greater flexibility to the plan and would accommodate cases of abnormally low production during the base forming period due to unusual circumstances.

For those producers who do not deliver milk during the base forming period or who deliver milk on less than 75 days during the base forming period or who desire to relinquish established bases, the daily base would be calculated for each of the months of March through June by dividing the pounds of producer milk received from such producer during the month by the number of days in such month and multiplying the quotient by 50 percent for the months of March and April and by 40 percent for May and June. The above percentages will allow new producers to share in the Class I market during the base operating period but will not encourage new producers to come on the market at that time if their production is not needed to supply the Class I needs of the market.

If a plant were a nonpool plant during the preceding September through November period and became a pool plant during any of the months of March through June of the following year, provision should be made for assigning bases to the dairy farmers regularly supplying such plant. This would be effectuated most equitably by according such dairy farmers the same treatment as other producers in establishing bases. This would be accomplished by providing that for the purpose of calculating the daily base of a producer deliveries of any dairy farmer during the preceding September through November to a nonpool plant that is a pool plant in any of the months of March through June shall be considered producer milk received at a pool plant.

It was proposed by producers that the months of January and February be included in the base operating period. The record does not show that the receipts of milk in these months is abnormal in relation to receipts in other months. Application of base and excess payments in these months to obtain a satisfactory seasonality of deliveries does not appear necessary.

It is necessary to provide certain rules in connection with the establishment and transfer of bases in order to provide reasonable administrative workability of the plan. Such rules should outline specifically the method for calculating the base for each producer and set forth clearly the procedure to be followed for transferring bases. It is desirable that the need for administrative discretion and restrictive conditions in connection with the application of the base rules be kept at a minimum. To accomplish this, it is necessary that transfer of bases be limited to the entire base of a producer.

The free transfer of entire bases as recommended herein will facilitate the operation and contribute toward carrying out the intent of the base-excess plan. The purpose of the base-excess plan is to encourage fall production by

providing for each producer to share in the Class I market during the spring months of high production along with other producers in proportion to his deliveries to the market during the preceding fall months. Providing for unrestricted base transfer will give added assurance to a producer that he will have the full benefit of the base he has made whether or not he is able to continue milk production for his own account through the following months of flush production. This assurance should increase the effectiveness of the base-excess plan in encouraging production of milk during the months of the year when it is most needed on the market. Bases should be transferred on the first day of a month following receipt of a statement on an approved form showing the holder of such base, the person to whom it is to be transferred and signed by both parties.

No provision is now made in the order for distributing to producers the returns for their milk through a base and excess plan. As proposed by producers, the base and excess plan would become effective beginning with the base making period in the fall of 1961. This would allow a reasonable transition period and would afford an adequate period of time to make such changes as might be necessary to adjust their production patterns toward obtaining the optimum benefits under a base and excess plan.

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 thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) 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.

Rulings on exceptions. In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence pertaining thereto. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions such exceptions are hereby overruled for the reasons previously stated in this decision.

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

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

It is further ordered that the order now in effect and as proposed to be further amended in accordance with this decision be published in the FEDERAL REGISTER as an integrated document.

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

Issued at Washington, D.C., this 22d day of April 1960.

CLARENCE L. MILLER,
Assistant Secretary.

Order¹ Amending the Order Regulating the Handling of Milk in the Des Moines, Iowa, Marketing Area

Sec. 1023.0 Findings and determinations.

DEFINITIONS

1023.1 Act.

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

Sec. 1023.2 Secretary.
1023.3 Department.
1023.4 Person.
1023.5 Cooperative association.
1023.6 Des Moines, Iowa, marketing area.
1023.7 Approved dairy farmer.
1023.8 Producer.
1023.9 Distributing plant.
1023.10 Supply plant.
1023.11 Approved plant.
1023.12 Pool plant.
1023.13 Nonpool plant.
1023.14 Handler.
1023.15 Producer-handler.
1023.16 Approved milk.
1023.17 Producer milk.
1023.18 Fluid milk product.
1023.19 Other source milk.
1023.20 Base zone.
1023.21 Chicago butter price.
1023.22 Base milk.
1023.23 Excess milk.

MARKET ADMINISTRATOR

1023.25 Designation.
1023.26 Powers.
1023.27 Duties.

REPORTS, RECORDS AND FACILITIES

1023.30 Reports of receipts and utilization.
1023.31 Other reports.
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CLASSIFICATION

1023.40 Skim milk and butterfat to be classified.
1023.41 Classes of utilization.
1023.42 Shrinkage.
1023.43 Responsibility of handlers and reclassification of milk.
1023.44 Transfers.
1023.45 Computation of the skim milk and butterfat in each class.
1023.46 Allocation of skim milk and butterfat classified.

MINIMUM PRICES

1023.50 Class prices.
1023.51 Butterfat differentials to handlers.
1023.52 Location differentials to handlers.
1023.53 Use of equivalent prices.

APPLICATION OF PROVISIONS

1023.60 Producer-handler.
1023.61 Plants subject to other Federal orders.
1023.62 Handlers operating nonpool plants.
1023.63 Rate of payment on unpriced milk.

DETERMINATION OF BASE

1023.65 Daily base.
1023.66 Base rules.
1023.67 Announcement of established bases.

DETERMINATION OF UNIFORM PRICE

1023.70 Computation of value of milk at each approved plant.
1023.71 Computation of aggregate value used to determine uniform price.
1023.72 Computation of uniform price.
1023.73 Computation of uniform price for base milk and excess milk.

PAYMENT FOR MILK

1023.80 Time and method of payment.
1023.81 Butterfat differentials to producers.
1023.82 Location differentials to producers.
1023.83 Producer-settlement fund.
1023.84 Payments to the producer-settlement fund.
1023.85 Payments out of the producer-settlement fund.
1023.86 Adjustment of accounts.
1023.87 Marketing services.
1023.88 Expense of administration.
1023.89 Termination of obligations.

EFFECTIVE TIME, SUSPENSION OR TERMINATION

Sec. 1023.90 Effective time.
1023.91 Suspension or termination.
1023.92 Continuing power and duty of the market administrator.
1023.93 Liquidation after suspension or termination.

MISCELLANEOUS PROVISIONS

1023.100 Separability of provisions.
1023.101 Agents.

AUTHORITY: §§ 1023.0 to 1023.101 issued under secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

§ 1023.0 Findings and determinations.

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

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

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

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

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

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

DEFINITIONS

§ 1023.1 Act.

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

§ 1023.2 Secretary.

"Secretary" means the Secretary of Agriculture of the United States or any officer or employee of the United States authorized to exercise the powers or to perform the duties of the said Secretary of Agriculture.

§ 1023.3 Department.

"Department" means the United States Department of Agriculture or any other Federal Agency authorized to perform the price reporting functions of the United States Department of Agriculture.

§ 1023.4 Person.

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

§ 1023.5 Cooperative Association.

"Cooperative association" means any cooperative marketing association which the Secretary determines, after application by the association:

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

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

§ 1023.6 Des Moines, Iowa, marketing area.

"Des Moines, Iowa, marketing area" (hereinafter called the "marketing area"), means all the territory within the boundaries of the city of Grinnell and the counties of Adair, Appanoose, Boone, Clarke, Dallas, Decatur, Greene, Guthrie, Jasper, Lucas, Madison, Mahaska, Marion, Monroe, Polk, Story, Union, Warren, Wapello, and Wayne, all in the State of Iowa, including territory within such boundaries which is occupied by government (Municipal, State or Federal) reservations, installations, institutions, or other establishments.

§ 1023.7 Approved dairy farmer.

"Approved dairy farmer" means any person, except a producer-handler, who produces milk in compliance with Grade A inspection requirements of a duly constituted health authority which milk is received at an approved plant.

§ 1023.8 Producer.

"Producer" means an approved dairy farmer whose milk is received at a pool plant.

§ 1023.9 Distributing plant.

"Distributing plant" means a plant which is approved by an appropriate health authority for the processing or packaging of Grade A milk and from which any fluid milk product is disposed of during the month on routes (includ-

ing routes operated by vendors) or through plant stores to retail or wholesale outlets (except pool plants) located in the marketing area.

§ 1023.10 Supply plant.

"Supply plant" means a plant from which milk, skim milk or cream which is acceptable to the appropriate health authority for distribution in the marketing area under a Grade A label is shipped during the month to a pool plant qualified pursuant to § 1023.12.

§ 1023.11 Approved plant.

"Approved plant" means a pool plant or a distributing plant which is not a pool plant.

§ 1023.12 Pool plant.

"Pool plant" means:

(a) A distributing plant from which a volume of Class I milk equal to not less than 35 percent of the Grade A milk received at such plant from dairy farmers and from other plants is disposed of during the month on routes (including routes operated by vendors) or through plant stores to retail or wholesale outlets (except pool plants) and not less than 15 percent of such receipts are so disposed of to such outlets in the marketing area: *Provided*, That if a portion of a plant is physically apart from the Grade A portion of such plant, is operated separately and is not approved by any health authorities for the receiving, processing or packaging of any fluid milk product for Grade A disposition, it shall not be considered as part of a pool plant pursuant to this section.

(b) A supply plant from which the volume of fluid milk products shipped during the month to pool plants qualified pursuant to paragraph (a) or (c) of this section is equal to not less than 35 percent of the Grade A milk received at such plant from dairy farmers during such month: *Provided*, That if such shipments are not less than 50 percent of the receipts of Grade A milk directly from dairy farmers at such plant during the immediately preceding period of September through November, such plant shall be a pool plant for the months of March through June, unless written application is filed with the market administrator on or before the 15th day of any of the months of March, April, May, or June to be designated a nonpool plant for such month and for each subsequent month through June of the same year: *And provided further*, That if a portion of a plant is physically apart from the Grade A portion of such plant, is operated separately and is not approved by any health authority for the receiving, processing or packaging of any fluid milk product for Grade A disposition, it shall not be considered as part of a pool plant pursuant to this section.

(c) A plant operated by a cooperative association whose members are the majority of the total number of producers shipping to pool plants of other handlers during the month: *Provided*, That if a portion of such association's plant is physically apart from the Grade A portion of such plant, is operated separately and is not approved by any health au-

thority for the receiving, processing or packaging of any fluid milk product for Grade A disposition, it shall not be considered as part of a pool plant pursuant to this section.

§ 1023.13 Nonpool plant.

"Nonpool plant" means any plant other than a pool plant which receives milk from dairy farmers or is a milk manufacturing, processing or bottling plant.

§ 1023.14 Handler.

"Handler" means: (a) Any person in his capacity as the operator of one or more approved plants, or (b) any cooperative association with respect to the milk from approved dairy farmers diverted by the association for the account of such association from an approved plant to a nonpool plant.

§ 1023.15 Producer-handler.

"Producer-handler" means any person who operates a dairy farm and a distributing plant but who receives no milk from approved dairy farmers or from sources other than approved plants.

§ 1023.16 Approved milk.

"Approved milk" means the skim milk and butterfat contained in milk received at an approved plant directly from an approved dairy farmer: *Provided*, That milk diverted from an approved plant to a nonpool plant for the account of either the operator of the approved plant or a cooperative association shall be deemed to have been received by the diverting handler at the plant from which diverted: *And provided further*, That in any of the months of July through March milk diverted from the farm of an approved dairy farmer on more than the number of days that milk was delivered to an approved plant from such farm during the month shall not be deemed to have been received by the diverting handler at the plant from which diverted on such days.

§ 1023.17 Producer milk.

"Producer milk" means approved milk which is received at a pool plant.

§ 1023.18 Fluid milk product.

"Fluid milk product" means milk, skim milk, buttermilk, milk drinks (plain or flavored), cream or any mixture in fluid form of skim milk and cream (except aerated cream products, sour cream, ice cream mix, evaporated or condensed milk, and sterilized products packaged in hermetically sealed containers).

§ 1023.19 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts during the month in the form of fluid milk products except (1) fluid milk products received from pool plants, (2) approved milk, or (3) inventory at the beginning of the month; and

(b) Products other than fluid milk products from any source (including those produced at the plant) which are reprocessed or converted to another product in the plant during the month.

§ 1023.20 Base zone.

"Base zone" means all the territory within the boundaries of Polk County, Iowa.

§ 1023.21 Chicago butter price.

"Chicago butter price" means the simple average as computed by the market administrator of the daily wholesale selling prices (using the midpoint of any range as one price) per pound of Grade A (92-score) bulk creamery butter at Chicago as reported during the month by the Department.

§ 1023.22 Base milk.

"Base milk" means milk received at pool plants from a producer during any of the months of March through June that is not in excess of such producer's daily base computed pursuant to § 1023.65 multiplied by the number of days in such month: *Provided*, That all milk received at a pool plant from a producer during any of the months of March through June prior to July 1961 shall be base milk.

§ 1023.23 Excess milk.

"Excess milk" means the amount of milk received at pool plants from a producer during any of the months of March through June that is in excess of base milk received from such producer during such month.

MARKET ADMINISTRATOR**§ 1023.25 Designation.**

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

§ 1023.26 Powers.

The market administrator shall have the following powers with respect to this part:

- (a) To administer its terms and provisions;
- (b) To receive, investigate, and report to the Secretary complaints of violations;
- (c) To make rules and regulations to effectuate its terms and provisions; and
- (d) To recommend amendments to the Secretary.

§ 1023.27 Duties.

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

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

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

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

(d) Pay out of the funds provided by § 1023.88 the cost of his bond and of the bonds of his employees, his own compensation, and all other expenses, except those incurred under § 1023.87, necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

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

(f) Publicly announce, at his discretion, unless otherwise directed by the Secretary, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the name of any person who, after the date upon which he is required to perform such acts, has not made reports pursuant to §§ 1023.30 and 1023.31 or payments pursuant to §§ 1023.62, 1023.80, 1023.84, 1023.86, 1023.87, and 1023.88;

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

(h) Prepare and disseminate publicly such statistics and information as he deems advisable and as do not reveal confidential information;

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

(j) Publicly announce and notify each handler in writing on or before:

(1) The 5th day of each month, the minimum price for Class I milk pursuant to § 1023.50(a) and the Class I butterfat differential pursuant to § 1023.51(a), both for the current month; and the minimum price for class II milk pursuant to § 1023.50(b) and the Class II butterfat differential pursuant to § 1023.51(b) both for the preceding month; and

(2) The 10th day after the end of each of the months of July through February, the uniform price pursuant to § 1023.72, and the butterfat differential pursuant to § 1023.81; and

(3) The 10th day after the end of each of the months of March through June, the uniform price for base milk and excess milk pursuant to § 1023.73 and the butterfat differential pursuant to § 1023.81; and

(k) On or before the 10th day, after the end of each month, report to each cooperative association, which so requests, the percentage of the milk caused to be delivered by the cooperative association or by its members to the pool plant of each handler during the month that was utilized in each class. For the purpose of this report the milk so delivered shall be allocated to each class in the same ratio as all producer milk received at such plant during the month.

REPORTS, RECORDS AND FACILITIES**§ 1023.30 Reports of receipts and utilization.**

On or before the 7th day after the end of each month each handler, except a producer-handler, shall report to the market administrator for such month, reporting separately for each of his approved plants, in the detail and on forms prescribed by the market administrator;

(a) The quantities of skim milk and butterfat contained in or represented by receipts of approved milk and the aggregate quantities of base and excess milk;

(b) The quantities of skim milk and butterfat contained in or represented by fluid milk products received from pool plants;

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

(d) The quantities of skim milk and butterfat contained in or represented by approved milk diverted to nonpool plants pursuant to § 1023.16;

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

(f) The utilization of all skim milk and butterfat required to be reported pursuant to this section, including a separate statement of the disposition of Class I milk outside the marketing area.

§ 1023.31 Other reports.

(a) Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe.

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

(1) On or before the 20th day after the end of the month for each of his pool plants his producer payroll for such month which shall show for each producer: (i) His name and address, (ii) the total pounds of milk received from such producer, including for the months of March through June the total pounds of base and excess milk, (iii) the number of days, if less than the entire month, for which milk was received from such producer, (iv) the average butterfat content of such milk, and (v) the net amount of such handler's payment, together with the price paid and the amount and nature of any deductions;

(2) On or before the first day other source milk is received in the form of any fluid milk product at his pool plant his intention to receive such product, and on or before the last day such product is received, his intention to discontinue receipt of such product;

(3) Prior to his diversion of producer milk to a nonpool plant, his intention to divert such milk, the proposed date or dates of such diversion and the plant to which such milk is to be diverted; and

(4) Such other information with respect to the utilization or butterfat and skim milk as the market administrator may prescribe.

§ 1023.32 Records and facilities.

Each handler shall maintain and make available to the market administrator

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or to his representative during the usual hours of business such accounts and records of his operations, together with such facilities as are necessary for the market administrator to verify or establish the correct data with respect to:

(a) The receipts and utilization of all skim milk and butterfat handled in any form during the month;

(b) The weights and butterfat and other content of all milk, skim milk, cream, and other milk products handled during the month;

(c) The pounds of skim milk and butterfat contained in or represented by all milk products on hand at the beginning and end of each month; and

(d) Payments to approved dairy farmers and cooperative associations including the amount and nature of any deductions and the disbursement of money so deducted.

§ 1023.33 Retention of records.

All books and records required under this part to be made available to the market administrator shall be retained by the handler for a period of 3 years to begin at the end of the month to which such books and records pertain: *Provided*, That if, within such 3-year period, the market administrator notifies the handler in writing that the retention of such books and records is necessary in connection with a proceeding under section 8c (15) (A) of the act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case, the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION

§ 1023.40 Skim milk and butterfat to be classified.

The skim milk and butterfat which are required to be reported pursuant to § 1023.30 shall be classified each month by the market administrator, pursuant to the provisions of §§ 1023.41 to 1023.46.

§ 1023.41 Classes of utilization.

Subject to the conditions set forth in § 1023.44 the classes of utilization shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk (including concentrated and reconstituted skim milk) and butterfat (1) disposed of in the form of a fluid milk product (except as provided in paragraph (b) (2) of this section) and (2) not accounted for as Class II milk.

(b) *Class II milk.* Class II milk shall be (1) skim milk and butterfat used to produce any product other than a fluid milk product; (2) skim milk disposed of for livestock feed or dumped if the market administrator has been notified in advance and afforded the opportunity of verifying such dumping; (3) skim milk and butterfat contained in inventory of fluid milk products on hand at the end of the month; and (4) skim milk and butterfat in shrinkage allocated to re-

ceipts of approved milk and other source milk (except milk diverted to a nonpool plant pursuant to § 1023.16) but not in excess of 2 percent of such receipts of skim milk and butterfat, respectively.

§ 1023.42 Shrinkage.

The market administrator shall allocate shrinkage over a handler's receipts as follows:

(a) Compute the total shrinkage of skim milk and butterfat at each approved plant; and

(b) Prorate the resulting amounts between the receipts of skim milk and butterfat contained in approved milk and other source milk.

§ 1023.43 Responsibility of handlers and reclassification of milk.

All skim milk and butterfat shall be Class I milk unless the handler who first receives such skim milk or butterfat can prove to the market administrator that such skim milk or butterfat should be classified otherwise.

§ 1023.44 Transfers.

Skim milk or butterfat disposed of each month from an approved plant shall be classified:

(a) As Class I milk, if transferred in the form of a fluid milk product to a pool plant unless utilization as Class II milk is claimed for both plants on the reports submitted for the month to the market administrator pursuant to § 1023.30: *Provided*, That the skim milk or butterfat so assigned to Class II milk shall be limited to the amount thereof remaining in Class II milk in the plant of the transferee-handler after the subtraction of other source milk pursuant to § 1023.46 and any additional amounts of such skim milk or butterfat shall be classified as Class I milk: *Provided further*, That if the transferor plant is a nonpool plant the skim milk or butterfat transferred shall be classified as Class I milk and as Class II milk in the same ratio as other source milk at the transferee plant is allocated to each class pursuant to § 1023.46(a) (2) and the corresponding step in paragraph (b) thereof: *And provided further*, That if other source milk was received at either or both plants the skim milk or butterfat so transferred shall be classified at both plants so as to allocate the greatest possible Class I utilization to the producer milk of both handlers;

(b) As Class I milk, if transferred to a producer-handler in the form of a fluid milk product;

(c) As Class I milk, if transferred or diverted in the form of a fluid milk product to a nonpool plant located more than 150 miles, by the shortest highway distance as determined by the market administrator, from the nearest of the Post Offices of Corydon, Creston, Des Moines, Grinnell, Jefferson and Ottumwa, Iowa; and

(d) As Class I milk if transferred or diverted in the form of a fluid milk product in bulk to a nonpool plant located not more than 150 miles, by the shortest highway distance as determined by the market administrator, from the nearest of the Post Offices of Corydon, Creston,

Des Moines, Grinnell, Jefferson and Ottumwa, unless:

(1) The transferring or diverting handler claims classification in Class II milk in his report submitted to the market administrator pursuant to § 1023.30 for the month within which such transactions occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat in the fluid milk products (except in ungraded cream disposed of for manufacturing uses) disposed of from such nonpool plant do not exceed the receipts of skim milk and butterfat in milk received during the month from dairy farmers who the market administrator determines constitute the regular source of supply for such plant: *Provided*, That any skim milk or butterfat in fluid milk products (except in ungraded cream disposed of for manufacturing uses) disposed of from the nonpool plant which is in excess of receipts from such dairy farmers shall be assigned to the fluid milk products so transferred or diverted and classified as Class I milk: *And provided further*, That if the total skim milk and butterfat which were transferred or diverted during the month to such nonpool plant from all plants subject to the classification and pricing provisions of this part and other orders issued pursuant to the act is more than the skim milk and butterfat available for assignment to Class I milk pursuant to the preceding proviso hereof, the skim milk and butterfat assigned to Class I milk at an approved plant shall be not less than that obtained by prorating the assignable Class I milk at the transferee plant over the receipts at such plant from all plants subject to the classification and pricing provisions of this and other orders issued pursuant to the act.

§ 1023.45 Computation of the skim milk and butterfat in each class.

For each month the market administrator shall correct for mathematical and for other obvious errors the reports of receipts and utilization for each approved plant and shall compute the pounds of butterfat and skim milk in each class at each such plant: *Provided*, That if any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk disposed of in such product shall be considered to be an amount equivalent to the nonfat milk solids contained in such product plus all of the water reasonably associated with such solids in the form of whole milk.

§ 1023.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1023.45, the market administrator shall determine the classification of approved milk received at each approved plant each month as follows:

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

(1) Subtract from the total pounds of skim milk in Class II milk the pounds of skim milk assigned to approved milk pursuant to § 1023.41(b) (4);

(2) Subtract from the remaining pounds of skim milk in each class, in series beginning with Class II milk, the pounds of skim milk in other source milk received in the form of fluid milk products which were not subject to the Class I pricing provisions of an order issued pursuant to the act;

(3) Subtract from the remaining pounds of skim milk in each class, in series beginning with Class II milk, the pounds of skim milk in other source milk other than that received in the form of fluid milk products;

(4) Subtract from the remaining pounds of skim milk in Class II milk an amount equal to such remainder, or the product obtained by multiplying the pounds of skim milk in approved milk by 0.05, whichever is less;

(5) Subtract from the remaining pounds of skim milk in each class, in series beginning with Class II milk, the pounds of skim milk in other source milk which were received in the form of fluid milk products which are subject to the Class I pricing provisions of another order issued pursuant to the act;

(6) Add to the pounds of skim milk remaining in Class II milk the pounds of skim milk subtracted pursuant to subparagraph (4) of this paragraph;

(7) Subtract from the remaining pounds of skim milk in each class the skim milk in fluid milk products received from pool plants according to the classification of such products as determined pursuant to § 1023.44(a);

(8) Subtract from the remaining pounds of skim milk in each class, in series beginning with Class II milk, the pounds of skim milk contained in inventory of fluid milk products on hand at the beginning of the month; and

(9) 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 and if the remaining pounds of skim milk in both classes exceed the pounds of skim milk contained in approved milk, subtract such excess from the remaining pounds of skim milk in series beginning with Class II. Any amount of excess so subtracted shall be called "overage".

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

(c) Determine the weighted average butterfat content of approved milk remaining in each class computed pursuant to paragraphs (a) and (b) of this section.

MINIMUM PRICES

§ 1023.50 Class prices.

Subject to the provisions of §§ 1023.51 and 1023.52 the class prices per hundredweight for the month shall be as follows:

(a) *Class I milk price.* The Class I milk price shall be the price for Class I milk pursuant to Part 941 (Chicago) of this chapter, plus 35 cents: *Provided*, That the effect on the price pursuant to this paragraph of the supply and de-

mand ratio as contained in § 941.52(a) (1) of this chapter shall be limited to 10 cents: *And provided further*, That for milk received from approved dairy farmers at an approved plant outside the base zone the price otherwise applicable pursuant to this paragraph shall be reduced 10 cents.

(b) *Class II milk price.* The Class II milk price shall be the higher of the prices computed as follows:

(1) The average of the basic or field prices reported to have been paid or to be paid per hundredweight for milk of 3.5 percent butterfat content received from farmers during the month at the following plants or places for which prices have been reported to the market administrator or to the Department:

Present Operator and Plant Location

- Amboy Milk Products Co., Amboy, Ill.
- Borden Company, Dixon, Ill.
- Carnation Company, Morrison, Ill.
- Carnation Company, Oregon, Ill.
- Carnation Company, Waverly, Iowa.
- United Milk Products Co., Argo Fay, Ill.

(2) The price obtained by subtracting 60 cents from the sum of the amounts resulting from:

(i) Multiplying by 4.24 the simple average, as computed by the market administrator, of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade AA (93-score) bulk creamery butter per pound at Chicago, as reported by the Department, during the month: *Provided*, That if no price is reported for Grade AA (93-score) butter, the highest of the prices reported for Grade A (92-score) butter for that day shall be used in lieu of the price for Grade AA (93-score) butter; and

(ii) Multiplying by 8.2 the weighted average of carlot prices per pound for nonfat dry milk for human consumption, spray process, f.o.b. manufacturing plants in the Chicago area as published by the Department for the period from the 26th day of the immediately preceding month through the 25th day of the current month;

§ 1023.51 Butterfat differentials to handlers.

For milk containing more or less than 3.5 percent butterfat, the class prices for the month calculated pursuant to § 1023.50 shall be increased or decreased, respectively, for each one-tenth percent butterfat at the appropriate rate, rounded to the nearest one-tenth cent, determined as follows:

(a) *Class I price.* Multiply the Chicago butter price for the preceding month by 0.120.

(b) *Class II prices.* Multiply the Chicago butter price for the current month by 0.110.

§ 1023.52 Location differentials to handlers.

For approved milk which is received at an approved plant located 60 miles or more from the Post Offices of Corydon, Creston, Des Moines, Grinnell, Jefferson, and Ottumwa, Iowa, by the shortest hard-surfaced highway distance as determined by the market administrator, and which is classified as Class I milk,

the price specified in § 1023.50 shall be reduced by 10 cents for the first 75 miles or less and by 1.5 cents for each additional 10 miles or fraction thereof that such plant is from the nearest of the Post Offices of Corydon, Creston, Des Moines, Jefferson, Grinnell, and Ottumwa; *Provided*, That for the purpose of calculating such location differential, fluid milk products which are transferred between approved plants shall be assigned to any remainder of Class II milk in the transferee-plant after making the calculations prescribed in § 1023.46(a) (4), and the comparable steps in § 1023.46(b) for such plant, such assignment to transferor plants to be made in sequence according to the location differential applicable at each plant, beginning with the plant having the largest differential.

§ 1023.53 Use of equivalent prices.

If for any reason a price quotation required by this order for computing class prices or for other purposes 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.

APPLICATION OF PROVISIONS

§ 1023.60 Producer-handler.

Sections 1023.40 to 1023.46, 1023.50 to 1023.52, 1023.65 to 1023.73 and 1023.80 to 1023.88 shall not apply to a producer-handler.

§ 1023.61 Plants subject to other Federal orders.

The provisions of this part shall not apply to a distributing plant or a supply plant during any month in which such plant would be subject to the classification and pricing provisions of another order issued pursuant to the act unless such plant is qualified as a pool plant pursuant to § 1023.12 and a greater volume of fluid milk products is disposed of from such plant to retail or wholesale outlets and to pool plants in the Des Moines marketing area than in the marketing area regulated pursuant to such other order: *Provided*, That the operator of a distributing plant or a supply plant which is exempt from the provisions of this part pursuant to this section shall, with respect to the total receipts and utilization or disposition of skim milk and butterfat at the plant, make reports to the market administrator at such time and in such manner as the market administrator may require (in lieu of the reports required pursuant to § 1023.30) and allow verification of such reports by the market administrator.

§ 1023.62 Handlers operating nonpool plants.

Unless payment for approved milk at such plant is made pursuant to § 1023.80 (b), each handler in his capacity as the operator of a nonpool plant shall, on or before the 13th day after the end of each month, pay to the market administrator for deposit into the producer-settlement fund an amount obtained by multiplying the total hundredweight of butterfat and skim milk disposed of as Class I milk from such plant to retail or wholesale outlets (including sales by

vendors and plant stores) in the marketing area during the month by the rate determined pursuant to § 1023.63.

§ 1023.63 Rate of payment on unpriced milk.

The rate of payment per hundredweight to be made by handlers on unpriced other source milk allocated to Class I milk shall be any plus amount obtained by subtracting from the Class I price adjusted by the Class I butterfat and location differentials applicable at a pool plant of the same location as the nonpool plant supplying such other source milk;

(a) During the months of April, May and June, the Class II price adjusted by the Class II butterfat differential; and

(b) During the months of July through March, the uniform price pursuant to § 1023.72 adjusted by the Class I butterfat differential.

DETERMINATION OF BASE

§ 1023.65 Daily base.

The daily base for each producer shall be determined by the market administrator and shall be the amount obtained by dividing the total pounds of producer milk received from such producer at all pool plants during the months of September through November immediately preceding by the number of days on which such milk is received from such producer: *Provided*, That for the purpose of calculating the daily base of a producer pursuant to this section, the number of days included in his producer milk deliveries shall be the number of days of production of producer milk and the deliveries of any dairy farmer during the preceding September through November to a nonpool plant that is a pool plant in any of the months of March through June shall be considered producer milk received at a pool plant; *Provided further*, That if no milk is received from a producer at a pool plant during the months of September through November or if milk is received on less than 75 days during such months, the daily base of such producer shall be calculated for each of the months of March through June by dividing the pounds of producer milk received from such producer during the month by the number of days in such month and multiplying the quotient by 50 percent for the months of March and April and by 40 percent for May and June: *And provided further*, That any producer for whom a daily base has been established pursuant to this section based on deliveries of 75 or more days during the preceding months of September through November may, in lieu thereof, by notifying the market administrator prior to March 15, be accorded a daily base calculated pursuant to the immediately preceding proviso of this section.

§ 1023.66 Base rules.

The following rules shall apply in connection with the establishment of bases:

(a) A base shall apply to deliveries of milk by the producer for whose account that milk was delivered during the months of September through November.

(b) An entire base shall be transferred from a person holding such base to any

other person effective as of the first day of any month following receipt by the market administrator of an application for such transfer. Such application shall be on a form approved by the market administrator and shall be signed by the baseholder 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 receipt of such application signed by all joint holders.

§ 1023.67 Announcement of established bases.

On or before February 15 of each year the market administrator shall notify each producer and the handler receiving milk from such producer of the daily base established by such producer.

DETERMINATION OF UNIFORM PRICE

§ 1023.70 Computation of value of milk at each approved plant.

The value of approved milk received during each month at each approved plant shall be a sum of money computed by the market administrator as follows:

(a) Multiply the pounds of milk in each class by the applicable class price and add together the resulting amounts;

(b) Add the amounts computed by multiplying the pounds of overage deducted from each class pursuant to § 1023.46(a)(9) and the corresponding step of (b) by the applicable class prices;

(c) Add the amount obtained in multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the lesser of (1) the hundredweight of approved milk classified in Class II less shrinkage during the preceding month or (2) the hundredweight of milk subtracted from Class I pursuant to § 1023.46(a)(8) and the corresponding step of (b);

(d) Add an amount calculated by multiplying the hundredweight of skim milk and butterfat subtracted from Class I milk pursuant to § 1023.46(a)(2) and (3) and the corresponding step of (b) by the rate of payment on unpriced milk determined pursuant to § 1023.63 at the nearest nonpool plant(s) from which an equivalent amount of other source skim milk or butterfat was received: *Provided*, That if the source of any such fluid milk product received at an approved plant is not clearly established, or if such skim milk and butterfat is received or used in a form other than a fluid milk product, such product shall be considered to have been received from a source at the location of the approved plant where it is classified.

§ 1023.71 Computation of aggregate value used to determine uniform price.

For each month the market administrator shall compute an aggregate value from which to determine the uniform price per hundredweight for producer milk of 3.5 percent butterfat content, f.o.b. plants located within the base zone, as follows:

(a) Combine into one total the values computed pursuant to § 1023.70 for all pool plants for which the reports pre-

scribed in § 1023.30 for such month were made, except those in default of payments required pursuant to § 1023.84 for the preceding month;

(b) Add or subtract for each one-tenth percent that the average butterfat content of producer milk represented by the values included under paragraph (a) of this section is less or more, respectively, than 3.5 percent, an amount computed by multiplying such differences by the butterfat differential to producers, and multiplying the result by the hundredweight of such producer milk;

(c) Add an amount equal to the sum of the location differential deductions to be made pursuant to § 1023.82; and

(d) Add an amount equal to one-half of the unobligated cash balance in the producer-settlement fund.

§ 1023.72 Computation of uniform price.

For each of the months of July through February, the market administrator shall compute a uniform price for producer milk of 3.5 percent butterfat content f.o.b. pool plants located within the base zone, as follows:

(a) Divide the aggregate value computed pursuant to § 1023.71 by the total hundredweight of producer milk included in such computations; and

(b) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (a) of this section. The resulting figure shall be the uniform price for producer milk.

§ 1023.73 Computation of uniform price for base milk and excess milk.

For each of the months of March through June, the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk, each of 3.5 percent butterfat content, f.o.b. pool plants located within the base zone, as follows:

(a) From the reports submitted by handlers pursuant to § 1023.30 determine the aggregate classification of producer milk included in the computation of value pursuant to § 1023.71 and the total hundredweight of such milk that is base milk and that is excess milk;

(b) Determine the value of such excess milk on a 3.5 percent butterfat basis by multiplying the total hundredweight of such milk that is not greater than the total Class II milk pursuant to paragraph (a) of this section by the Class II milk price and by adding thereto the value obtained by multiplying the hundredweight of such excess milk that is greater than the quantity of such Class II milk by the Class I milk price;

(c) Divide the value of excess milk obtained in paragraph (b) of this section by the total hundredweight of such milk. The resulting figure, rounded to the nearest cent, shall be the uniform price for excess milk;

(d) Subtract the value of excess milk pursuant to paragraph (c) of this section from the aggregate value of all milk obtained in § 1023.71; and

(e) Divide the amount obtained in paragraph (d) of this section by the total hundredweight of base milk obtained in paragraph (a) of this section, and subtract not less than 4 cents nor more than 5 cents from the price thus computed.

The resulting figure shall be the uniform price for base milk.

PAYMENT FOR MILK

§ 1023.80 Time and method of payment.

(a) Each handler shall pay each producer for producer milk for which payment is not made to a cooperative association pursuant to paragraph (c) of this section, as follows:

(1) On or before the last day of each month, for producer milk received during the first 15 days of the month, at not less than the Class II price for the preceding month; and

(2) On or before the 15th day after the end of each month, for producer milk received during such month, an amount computed at not less than the uniform prices pursuant to §§ 1023.72 and 1023.73 adjusted pursuant to §§ 1023.81, 1023.82 and 1023.87, and less the payment made pursuant to subparagraph (1) of this paragraph.

(b) Unless payment is made to the producer-settlement fund pursuant to § 1023.62, each handler shall make payment on or before the 15th day after the end of each month to each approved dairy farmer for approved milk received from him during the month at an approved plant which is a nonpool plant at not less than the price per hundredweight, adjusted by the butterfat differential pursuant to § 1023.81, obtained by dividing the value of approved milk at such plant computed pursuant to § 1023.70 by the hundredweight of approved milk at such plant: *Provided*, That if the total amount paid to such approved dairy farmers is less than that prescribed by this paragraph, payment of the difference shall be made to the producer-settlement fund.

(c) Each handler shall make payment to a cooperative association for producer milk which it caused to be delivered to such handler, if such cooperative association is authorized to collect such payments for its members and exercises such authority, an amount equal to the sum of the individual payments otherwise payable for such producer milk, as follows:

(1) On or before the 26th day of each month for producer milk received during the first 15 days of the month; and

(2) On or before the 13th day after the end of each month for milk received during such month.

(d) In making the payments for producer milk pursuant to this section, each handler shall furnish each producer or cooperative association from whom he has received milk with a supporting statement in such form that it may be retained by the recipient, which shall show:

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

(2) The daily and total pounds and the average butterfat content of producer milk, including for the months of March through June the pounds of base milk and excess milk.

(3) The minimum rate or rates at which payment to the producer is required pursuant to the order;

(4) The rate which is used in making the payment, if such rate is other than the applicable minimum rate;

(5) The amount or the rate per hundredweight and nature of each deduction claimed by the handler; and

(6) The net amount of payment to such producer or cooperative association.

§ 1023.81 Butterfat differentials to producers.

The uniform prices pursuant to §§ 1023.72 and 1023.73 shall be increased or decreased for each one-tenth of one percent that the butterfat content of such milk is above or below 3.5 percent, respectively, at the rate determined by multiplying the pounds of butterfat in producer milk allocated to Class I and Class II milk pursuant to § 1023.46 by the respective butterfat differential for each class, dividing the sum of such values by the total pounds of such butterfat, and rounding the resultant figure to the nearest one-tenth cent.

§ 1023.82 Location differentials to producers.

(a) The uniform prices pursuant to §§ 1023.72 and 1023.73 received at a pool plant located 60 miles or more from the Post Offices of Corydon, Creston, Des Moines, Grinnell, Jefferson, and Ottumwa, Iowa, by the shortest hard-surfaced highway distance as determined by the market administrator shall be reduced by 10 cents for the first 75 miles or less and by 1.5 cents for each additional 10 miles or fraction thereof that such plant is from the nearest of the Post Offices of Corydon, Creston, Des Moines, Grinnell, Jefferson, and Ottumwa; and

(b) The uniform prices pursuant to §§ 1023.72 and 1023.73 received at a pool plant outside the base zone shall be reduced 10 cents.

§ 1023.83 Producer-settlement fund.

The market administrator shall maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made to such fund and out of which he shall make all payments from such fund pursuant to §§ 1023.62, 1023.80, 1023.84, 1023.85, and 1023.86: *Provided*, That the market administrator shall offset the payment due to a handler against payments due from such handler.

§ 1023.84 Payments to the producer-settlement fund.

On or before the 12th day after the end of each month each handler shall pay to the market administrator the amount by which the obligation pursuant to § 1023.80 of such handler for producer milk received during the month is less than the value of such producer milk pursuant to § 1023.70.

§ 1023.85 Payments out of the producer-settlement fund.

On or before the 13th day after the end of each month the market administrator shall pay to each handler the amount by which the obligation, pursuant to § 1023.80, of such handler for producer milk received during the

month exceeds the value of such producer milk pursuant to § 1023.70: *Provided*, That if the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available. A handler who has not received the balance of such payments from the market administrator shall not be considered in violation of § 1023.80 if he reduces his payments to producers by not more than the amount of the reduction in payment from the producer-settlement fund.

§ 1023.86 Adjustment of accounts.

Whenever verification by the market administrator of reports or payments of any handler discloses errors in payments to or from the producer-settlement fund pursuant to §§ 1023.84 and 1023.85, the market administrator shall promptly bill such handler for any unpaid amounts and such handler shall, within 15 days of such billing, make payments to the market administrator of the amount so billed. Whenever verification discloses that payment is due from the market administrator to any handler, the market administrator shall, within 15 days, make such payment to such handler. Whenever verification by the market administrator of the payment by a handler to any producer or to a cooperative association discloses payment of an amount less than is required by § 1023.80 the handler shall make up such payment to the producer or cooperative association not later than the time of making payment next following such disclosure.

§ 1023.87 Marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler in making payments to each producer pursuant to § 1023.80 shall deduct 5 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to producer milk received by such handler (except such handler's own farm production) during the month, and shall pay such deductions to the market administrator not later than the 15th day after the end of the month. Such money shall be used by the market administrator to verify or establish weights, samples, and tests of producer milk and to provide producers with market information. Such services shall be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him.

(b) In the case of producers for whom a cooperative association is performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions as are authorized by such producers and, on or before the 15th day after the end of each month, pay over such deductions to the association rendering such services.

§ 1023.88 Expense of administration.

As his pro rata share of the expense of the administration of the order, each

handler shall pay to the market administrator on or before the 15th day after the end of each month 4 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to butterfat and skim milk contained in (a) producer milk, (b) other source milk at a pool plant which is allocated to Class I milk pursuant to § 1023.46, and (c) approved milk received at a nonpool plant: *Provided*, That if payment for such milk is not made pursuant to § 1023.80(b), the expense of administration payable pursuant to this section shall be applicable only to the Class I milk disposed of in the marketing area (except to a pool plant) from such plant.

§ 1023.89 Termination of obligations.

The provisions of this section shall apply to any obligation under this part for the payment of money.

(a) The obligation of any handler to pay money required to be paid under the terms of this order shall, except as provided in paragraph (b) and (c) of this section, terminate two years after the last day of the calendar month during which the market administrator received the handler's utilization report on milk involved in such obligation, unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain, but need not be limited to, the following information:

- (1) The amount of the obligation;
- (2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and
- (3) If the obligation is payable to one or more producers or to an association of producers, the name of such producer(s) or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid.

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

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

(d) Any obligation on the part of the market administrator to pay a handler

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

EFFECTIVE TIME, SUSPENSION OR TERMINATION

§ 1023.90 Effective time.

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

§ 1023.91 Suspension or termination.

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

§ 1023.92 Continuing power and duty of the market administrator.

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

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

§ 1023.93 Liquidation after suspension or termination.

Upon the suspension or termination of any or all provisions of this part the market administrator, or such person as the Secretary may designate, shall if so directed by the Secretary, liquidate the business of the market, administrator's office and dispose of all funds and property then in his possession or under

his control, together with claims for any funds which are unpaid or owing at the time of such suspension or termination. Any funds collected pursuant to the provisions of this part, over and above the amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator or such person in liquidating such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 1023.100 Separability of provisions.

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

§ 1023.101 Agents.

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

[F.R. Doc. 60-3807; Filed, Apr. 28, 1960; 8:52 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 3]

[Docket No. 6741; FCC 60-422]

CLEAR CHANNEL BROADCASTING IN STANDARD BROADCAST BAND

Order Extending Time for Filing Reply Comments

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 20th day of April 1960;

The Commission has before it for consideration petitions filed April 13, 1960, by Clear Channel Broadcasting Service (CCBS) and Radio Service, Corporation of Utah requesting that the time for filing reply comments herein be extended to June 1, 1960.

Both petitions note the large number of comments filed (nearly 100) and the need for additional time to properly review the comments and the detailed engineering data many of them contain. Both further state that some delay was experienced in obtaining copies of all comments. In addition, CCBS invites attention to the fact that one week of the period originally allotted for filing reply comments was consumed in attendance at the National Association of Broadcasters annual meeting.

Upon consideration of the views expressed, the Commission believes the public interest would be served by granting the requested extension of time.

Accordingly, it is ordered, That the petitions of Clear Channel Broadcasting Service (CCBS) and Radio Service Corporation of Utah for additional time to file reply comments is granted; and the time for filing reply comments is ex-

tended from May 2, 1960 to June 1, 1960.

Adopted: April 20, 1960.

Released: April 22, 1960.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 60-3802; Filed, Apr. 26, 1960;
8:51 a.m.]

[47 CFR Part 3]

[Docket No. 13476; FCC 60-420]

TABLE OF ASSIGNMENTS, TELEVISION
BROADCAST STATIONS

Stamford and Waterbury, Conn.;
Worcester, Mass.; Berlin, N.H.;
Hanover and Lebanon, N.H.;
Malone, N.Y.; and White River
Junction, Vt.

1. The Commission has before it for consideration the petition (RM-154) of Springfield Television Broadcasting Corporation (Springfield), licensee of Television Translator Station W81AA,¹ Lebanon-Hanover, New Hampshire—White River Junction, Vermont;² the petition (RM-155) of WATR, Inc. (WATR-TV), permittee of Television Station WATR-TV, Channel 53, Waterbury, Connecticut; and the further pleadings of these parties relating to their requests for rule making. The proposals in RM-154 and 155 are hereby consolidated and considered herein.

2. The parties, in their amended proposal filed March 10, 1960, seek to amend § 3.606, Table of Assignments, Television Broadcast Stations, as follows:

City	Channel Nos.	
	Delete	Add
Hanover, N.H.	*27	*20
Lebanon-Hanover, N.H.—White River Junction, Vt.		26
Waterbury, Conn.	53	20
Worcester, Mass.	20	27
Stamford, Conn.	27	55
Berlin, N.H.	26	
Malone, N.Y.	20	47

The offsets were not specified in the plan submitted by the parties. The purpose of the plan is to provide a new assignment of a UHF channel in the Hanover area, permitting Springfield to apply for and establish a regular television broadcast service there; and to provide a lower channel at Waterbury as a substitute for Channel 53 on which WATR-TV now operates.

3. Springfield now operates Television Translator Station, W74AE, Lebanon-Hanover, New Hampshire—White River Junction, Vermont, as previously mentioned, and states that it plans to apply for Channel 26 in the event it becomes available in these communities. Spring-

field has selected a site on Craft's Hill in West Lebanon, New Hampshire. The coordinates are 43°39'15" N. and the 72°58'14" W. The site selected is said to be 156.5 miles from the site proposed by WNLC-TV, Channel 26, New London, Connecticut, thus complying with the station separation requirements under § 3.610 of the rules.

4. WATR, Inc., now occupying Channel 53 at Waterbury, Connecticut, would shift to Channel 20. It proposes a site located at 41°30'08" N. and 72°59'47" W. This site, it is said, also complies with other requirements of our rules, save as indicated, below.

5. Petitioners have requested that Channel 26 be assigned to Lebanon-Hanover, New Hampshire, and White River Junction, Vermont, on a hyphenated basis. We see no need for this. The communities named are less than fifteen (15) miles apart and the channel would be available upon application in either Lebanon, Hanover, or White River Junction, if assigned to any of these cities. Therefore, we are proposing to assign Channel 20 to Hanover, New Hampshire. Also, we have proposed to substitute Channel 52 for Channel 26 at Berlin, New Hampshire. The latter channel would be deleted there and re-assigned to Hanover in accord with the plan submitted by the parties.

6. In support of the proposed amendments, petitioners allege that the addition of Channel 26 as suggested would permit the establishment of a local outlet in the Lebanon-Hanover-White River Junction area. The need for such service is evidenced, in part, by the presence there of Television Translator Station W74AE. It is further urged that the assignment of Channel 20 to Waterbury will measurably assist WATR-TV in meeting local technical and competitive problems associated with the continued use of Channel 53; and that the amendments can be adopted in conformity with all applicable rules of the Commission.

7. WATR-TV points out that it has in the past provided a relatively poor technical service to substantial portions of Waterbury. It attributes this to the distance of its transmitter from the city; the rugged terrain in the area; and the high UHF channel used. With regard to the "high" channel, WATR-TV states that at the present stage of development, the lower UHF channels are superior to the higher UHF channels in several respects, including coverage. No substantiating data is given to support this contention.

8. While in the past we have substituted a lower UHF channel for a higher one—where it was readily available—this was done in recognition of the temporary equipment difficulties being encountered, but not in recognition of any substantial difference between high and low UHF channels as far as propagation characteristics are concerned. In this case, we are inclined to the view that the lower channel may enable WATR-TV to better compete with other low channel UHF stations in the general area and thus improve its service to the public; but we are reserving judgment on this aspect of the rule making until the com-

ments of the parties can be studied and evaluated.

9. We are of the view, under the circumstances recited above, that the public interest would be served by considering the amendment of § 3.606 in the following respects:

City	Channel Nos.	
	Present	Proposed
Stamford-Norwalk, Conn.	27	55
Waterbury, Conn.	53	20
Worcester, Mass.	14, 20	14, 27+
Berlin, N.H.	26	52
Hanover, N.H.	*27+	*20+, 26
Malone, N.Y.	20+, *66	47, *66

10. The proposed shifts would entail modification of the outstanding authorizations of WATR, Inc., to specify operation on Channel 20 in lieu of Channel 53 at the site indicated; modification of the construction permit of the Connecticut State Board of Education for WEDH, Channel *24, Hartford, Connecticut, to specify a new site not closer than 20 miles from the site proposed by WATR-TV; and modification of the construction permit of Stamford-Norwalk Television Corporation for WSTF, Channel 27, Stamford-Norwalk, to specify operation on Channel 55. If after reviewing comments filed herein, we determine that the public interest would be served by the proposed channel reassignments, we would, at that stage, take such further steps as may be appropriate.

11. Authority for adoption of the amendments herein is contained in sections 4(i) and (j), 303, and 307(b) of the Communications Act of 1934, as amended.

12. Pursuant to applicable procedures set out in § 1.213 of the Commission's rules, interested parties may file comments on or before May 20, 1960, and reply comments on or before June 3, 1960.

13. In accordance with the provisions of § 1.54 of the rules, an original and 14 copies of all statements, briefs, or comments shall be furnished the Commission.

Adopted: April 20, 1960.

Released: April 22, 1960.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 60-3803; Filed, Apr. 26, 1960;
8:51 a.m.]

[47 CFR Part 3]

[Docket No. 13477; FCC 60-421]

MINIMUM OPERATING REQUIREMENTS OF BROADCAST STATIONS

Daytime Operation; Schedule

1. Notice is hereby given of proposed rule making in the above-entitled matter.

2. The Commission proposes to revise § 3.71 of the rules insofar as its provisions govern the minimum operating requirements for standard broadcast stations authorized for daytime operation

only. Section 3.71 of the rules, in its present form, requires all standard broadcast stations to operate a minimum of two-thirds of the total hours they are authorized to operate between 6 a.m. and 6 p.m., local standard time, and two-thirds of the total hours they are authorized to operate between 6 p.m. and midnight, local standard time, on each day of the week except Sunday. In order to meet the minimum requirement for operation after 6 p.m., standard broadcast stations authorized to operate during the period of time between local sunrise and local sunset must operate after 6 p.m., during the months when the time of local sunset specified in their licenses falls after 6 p.m. For example, during a month when sunrise and sunset times are specified as 5 a.m. and 7 p.m., respectively, the present rule requires a daytime station to operate a minimum of 8 hours between 6 a.m. and 6 p.m. and 40 minutes between 6 p.m. and 7 p.m. The required minimum operation after 6 p.m., changes, moreover, from month to month, as the interval between 6 p.m. and local sunset increases or decreases.

3. For several years the Commission has received 75 or more requests yearly from daytime stations for waiver of § 3.71 of the rules to permit them to sign off the air at 6 p.m., during some or all of the months when their specified local sunset time is later than 6 p.m. These stations claim they find it a hardship and economically unfeasible to meet the minimum requirement for operation after 6 p.m. It has been the Commission's policy to grant these requests. We believe, however, that a rule change is warranted to eliminate the necessity for these waiver requests. The rule proposed below would permit daytime only stations to sign off at 6 p.m., regardless of whether their specified local sunset time is later.

4. We also propose to revise the provision in § 3.71 relating to the notification required when a standard broadcast station must go off the air because of technical failures and similarly to revise the same provision in §§ 3.261 and 3.651, which respectively govern the minimum operating requirements of FM and television broadcast stations. The notification provisions in these rules now require licensees to notify the Commission and the Engineer in Charge of the radio district in which the station is located in writing immediately in every instance when the station must cease operating because of technical difficulties. We do not believe it necessary to require such notification when the period a station must be off-the-air because of technical problems is of such short duration that the minimum hour requirements for operation can still be met. The notification provision in the proposed § 3.71 set forth below—paragraph (b)—would require notification of operation stoppages only when they make it impossible for a station to adhere to minimum operating requirements, and, in that event, would further require subsequent notification when operation is resumed.

5. Authority for the adoption of the amendments proposed herein is con-

tained in sections 4(i) and 303 (c) and (r) of the Communications Act of 1934, as amended.

6. Pursuant to applicable procedures set out in § 1.213 of the Commission's rules, interested parties may file comments on or before May 20, 1960, and reply comments on or before June 3, 1960.

7. In accordance with the provisions of § 1.54 of the rules, an original and 14 copies of all written comments shall be furnished the Commission.

Adopted: April 20, 1960.

Released: April 22, 1960.

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

It is proposed to amend § 3.71 to read as follows:

§ 3.71 Minimum operation schedule.

(a) All standard broadcast stations are required to maintain an operating schedule of not less than two-thirds of the total hours they are authorized to operate between 6 a.m. and 6 p.m., local standard time, and two-thirds of the total hours they are authorized to operate between 6 p.m. and midnight, local standard time, on each day of the week except Sunday: *Provided, however,* That stations authorized for daytime operation only need comply only with the minimum requirement for operation between 6 a.m. and 6 p.m.

(b) In the event that causes beyond the control of the licensee make it impossible to adhere to the operating schedule in paragraph (a) of this section or to continue operating, the station may limit or discontinue operation for a period of not more than 10 days, without further authority of the Commission: *Provided,* That the Commission and the Engineer in Charge of the radio district in which the station is located shall be immediately notified in writing if the station is unable to maintain the minimum operating schedule and shall be subsequently notified when the station resumes regular operation.

It is also proposed to amend §§ 3.261 (FM) and 3.651 (TV) by substituting paragraph (b) above for the provisions of those sections relating to the notification required in the event of technical difficulties which cause a station to cease operation.

[F.R. Doc. 60-3804; Filed, Apr. 26, 1960; 8:51 a.m.]

[47 CFR Part 21]

[Docket No. 13478, (RM-115); FCC 60-423]

**DOMESTIC PUBLIC LAND MOBILE
RADIO SERVICE**

**Authorization of Dispatch Stations
and Assignment of Mobile Frequencies**

1. Notice of proposed rule-making in the above-entitled matter is hereby given.

2. On May 22, 1959, Fresno Mobile Radio Service, Inc., Antennavision

Service Co., Hanford Mobile Radio Service, Madera Radio Dispatch, Riggs Radio Dispatch, Tadlock's Radio Dispatch, General Communications Service, Nor-Cal Tele-Radio System, Radio Communications Service, United Radio Communications, and Caprock Radio Dispatch filed a joint petition (RM-115) requesting amendment of the Commission's rules (1) to permit the use of the mobile frequency, assigned to a Domestic Public Land Mobile Radio Service licensee, for remote direct dispatching; (2) relaxing the notification requirements of § 21.611 for temporary fixed installations;¹ and (3) permitting the use of such mobile frequency for control stations which would serve communities remote from the principal service area, such communities being unable to support their own common carrier mobile radio service.² Petitioners are miscellaneous common carriers in the Domestic Public Land Mobile Radio Service. They allege that the authorization of subscriber radio dispatching of a subscriber's own mobile stations is essential to enable miscellaneous common carriers to provide a better service to the public. Petitioners further allege that subscriber dispatching by wireline dispatch points, presently authorized by the Commission's rules, is inadequate to meet this need.

3. Proposed amendments to the above-entitled rules of the Commission are set forth below.

4. Any interested person who is of the opinion that the proposed amendments should not be adopted may file with the Commission, on or before May 27, 1960, written data, views or arguments setting forth his comments. Comments in sup-

¹ Petitioners appear to contemplate that the Commission would provide for dispatch station type of operations under the rules applicable to the Rural Radio Service, and so requested the Commission to modify § 21.611 so as to permit establishment of such operations without notification to the Commission's Washington office. Petitioners argue that, if these rule changes are not made, it "may lead to unintentional infractions of the rule by neglecting to make the required notifications to the Commission and the Engineer-in-Charge". The Commission is of the opinion that ample justification for the requested rule changes has not been given. The Commission's Washington office, and its Engineer-in-Charge of the Radio District wherein operation of a station is to be conducted, should, at all times, be cognizant of operations being conducted. Moreover, under Article 11, sections I and II, of the Radio Regulations annexed to the International Telecommunication Convention (Atlantic City, 1947) the Commission has an obligation to notify the International Frequency Registration Board of the International Telecommunication Union of the existence of fixed, land and certain other classes of stations. If implementation of such obligation is to be maintained, the particulars of such operations must be made known to the Commission's Washington office.

² The proposal in paragraph 30 of the subject petition, regarding control stations, is not dealt with herein inasmuch as it is believed that the proposals in Docket No. 13348, relative to the amendment of Part 21 of the rules to provide for assignment of frequencies in the 450-460 Mc band to control stations in the Domestic Public Land Mobile Radio Service, will afford the relief sought.

port of the proposed amendments may also be filed on or before the same date. Comments in reply to the original comments may be filed within 10 days from the last day for filing said original data, views, or arguments. The Commission will consider all such comments and such other material and information as may be deemed necessary and relevant prior to taking final action in this matter and, if comments are submitted warranting oral argument, notice of the time and place of such oral argument will be given.

5. This proposal to amend the Commission's rules is issued under the authority of sections 4(i) and 303(r) of the Communications Act of 1934, as amended.

6. In accordance with the provisions of § 1.54 of the Commission's rules and regulations, the original and 14 copies of all statements, briefs or comments filed shall be furnished the Commission.

Adopted: April 20, 1960.

Released: April 21, 1960.

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

Part 21, Domestic Public Radio Services (Other than Maritime Mobile), would be amended as follows:

1. Section 21.1 is proposed to be amended by adding a definition of "Dispatch station" as follows:

§ 21.1 Definitions.

* * * * *

Dispatch station. A fixed station, operated by a subscriber, or a group of subscribers, which communicates, under the supervision and control of the base station licensee, through the base station, with the individual subscriber's own mobile station or stations.

2. Section 21.110 is proposed to be amended by modifying paragraph (a) to read as follows:

§ 21.110 Antenna polarization.

(a) Stations operating in the 72-76 Mc band, and each base, mobile, dispatch, and auxiliary test station operating in the Domestic Public Land Mobile Radio Service shall employ an antenna which radiates a signal the electrical component of which is vertically polarized.

§ 21.501 [Amendment]

3. Section 21.501 is proposed to be amended by changing the heading of the second column of the table of frequencies in paragraph (c) from "Mobile and auxiliary test station frequencies (Mc)" to "Mobile, dispatch, and auxiliary test station frequencies (Mc)".

4. Section 21.506 is proposed to be amended to read as follows:

§ 21.506 Power limitations.

Stations in this service shall not be permitted to exceed 500 watts effective radiated power and shall not be authorized to use transmitters having a rated power output in excess of the limits set forth in § 21.107(b): *Provided, however*, That the effective radiated power of dispatch stations shall not be permitted to exceed 100 watts. A base station standby transmitter having a rated power output in excess of that of the main transmitter of the base station with which it is associated will not be authorized.

5. Section 21.509 is proposed to be amended by adding new paragraph (k) to read as follows:

§ 21.509 Permissible communications.

* * * * *

(k) A subscriber's dispatch station in this service is authorized to intercommunicate only with the mobile stations of said subscriber through the base station with which it is associated. Where more than one subscriber jointly operate a dispatch station, each subscriber shall communicate only with his own mobile stations.

6. Section 21.515 is proposed to be amended by modifying paragraphs (a), (b) and (c) (1) to read as follows:

§ 21.515 Control points, dispatch points and dispatch stations.¹⁵

(a) Dispatch stations may be installed or removed only with specific authorization from the Commission. Dispatch points may be installed or removed without authorization. Dispatch point circuit facilities shall be installed in conformance with the requirements of paragraph (c) (2) of this section.

(b) To insure the maintenance of station control, means shall be provided whereby each dispatch station and each

dispatch point is maintained under continuous effective operational supervision of one or more control points.

(c) At each control point for a base station or fixed station in this service, the following facilities will be installed:

(1) Equipment to permit the responsible radio operator to monitor aurally, at such intervals as may be necessary to insure proper operation of the integrated communication system, all transmissions originating at dispatch points under his supervision and at stations with which the base station communicates.

* * * * *

7. Section 21.519, a proposed new section, reads as follows:

§ 21.519 Use of mobile station frequency for dispatch stations.

Upon proper application, on FCC Form 401, to the Commission for a construction permit to install a dispatch station, a base station applicant or licensee may be authorized, on an individual basis, to install, for a mobile station subscriber or a group of mobile station subscribers, a dispatch station using the mobile station frequency paired with the base station frequency.

(a) Dispatch stations will be authorized only for locations outside the local message rate area of the landline telephone company exchange serving the control point of the base station with which the dispatch station is associated.

(b) Authorization for the rendition of service to a dispatch station may be granted upon a satisfactory showing that such service will not degrade the mobile communication service rendered by the base station. Such showing, and the request for modification of the related base station license, may be incorporated in the application for construction permit for the dispatch station with which communication is to be effected.

(c) Authorization for the operation of a dispatch station will be on the express condition that such station will not cause harmful interference to the mobile or rural radio services and will not inhibit use by these services of the frequencies assigned to the dispatch station.

[F.R. Doc. 60-3805; Filed, Apr. 26, 1960; 8:51 a.m.]

Notices

DEPARTMENT OF STATE

[Departmental Reg. 168]

[Redelegation of Authority No. 85-9]

ADMINISTRATION OF MUTUAL SECURITY ACT OF 1954 AND REDELEGATION OF CERTAIN RELATED FUNCTIONS

By virtue of the authority vested in me by Delegation of Authority No. 85, it is hereby ordered as follows:

1. There are redelegated to the Director of the International Cooperation Administration all the functions delegated to the Under Secretary of State by sections 2a(6), 2a(7), 2a(8), 2a(10), 2a(11), and 2a(12) of Delegation of Authority No. 85, with the exception of the function of determining the personnel necessary in the Department of State, other than the International Cooperation Administration, under section 527(a) of the Mutual Security Act of 1954 (hereinafter referred to as "the Act") and the functions under the Mutual Defense Assistance Control Act of 1951.

2. The Under Secretary of State shall determine the number of personnel in the operating agencies to be compensated at the rates authorized by section 527(b) of the Act.

3. The Under Secretary of State shall approve the amount of funds to be used by the operating agencies for the purposes authorized by sections 537(a)(6) and 537(a)(8) of the Act.

4. The Under Secretary of State shall approve any agreement, or resolve any disagreement, between the International Cooperation Administration and the Development Loan Fund with regard to their respective use of foreign currencies under section 104(g) of the Agricultural Trade Development and Assistance Act of 1954.

5. For purposes of sections 106(a)(2) and 106(c) of Executive Order No. 10575, the Under Secretary of State shall be deemed to be the successor of the Director of the Foreign Operations Administration.

6. The Director of the International Cooperation Administration may, to the extent consistent with law, delegate or assign any of his functions to his subordinates and authorize any of his subordinates to whom functions are so delegated or assigned successively to redelegate or reassign any of such functions. The Director of the International Cooperation Administration or his designees may from time to time, to the extent consistent with law, promulgate such rules and regulations as may be necessary and proper to carry out any functions of the International Cooperation Administration or the Director or agencies, officers, or employees thereof.

7. The records, property, personnel, positions, and unexpended balances of appropriations, allocations, and other funds of the Foreign Operations Administration transferred to the Department of State by section 302 of Executive Order 10610 shall continue to be placed in the International Cooperation Administration.

8. Notwithstanding paragraph 1 of this Redelegation of Authority, the Under Secretary of State may at any time exercise any function redelegated to the Director of the International Cooperation Administration by this Redelegation of Authority.

9. Any reference in this Redelegation of Authority to the Mutual Security Act of 1954 or to any other Act shall be deemed to be a reference to such Act as amended from time to time, and any reference herein to any Executive Order or Order delegating functions thereunder shall be deemed to be a reference to such Order as amended from time to time.

10. This Redelegation of Authority shall become effective on the date of its signature.

Dated: April 12, 1960.

DOUGLAS DILLON,
Under Secretary of State.

[F.R. Doc. 60-3768; Filed, Apr. 26, 1960;
8:47 a.m.]

CIVIL AERONAUTICS BOARD

[Docket 5713, etc.]

PIEDMONT LOCAL SERVICE AREA INVESTIGATION (WESTERN KY./TENN. SERVICE)

Notice of Oral Argument

Notice is hereby given, pursuant to the Federal Aviation Act of 1958, that oral argument in the above-entitled proceeding is assigned to be held on May 4, 1960 at 10:00 a.m., e.d.s.t., in Room 1027, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before the Board.

Dated at Washington, D.C., April 21, 1960.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 60-3784; Filed, Apr. 26, 1960;
8:48 a.m.]

DEPARTMENT OF COMMERCE

Office of the Secretary

STANLEY W. DENNIS

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Pro-

duction 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 during the last six months.

A. Deletions: No change.
B. Additions: No change.

This statement is made as of April 16, 1960.

Dated: April 16, 1960.

STANLEY W. DENNIS.

[F.R. Doc. 60-3780; Filed, Apr. 26, 1960;
8:48 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 13007, 13008; FCC 60M-684]

AMERICAN BROADCASTING-PARAMOUNT THEATRES, INC. (KABC-FM) AND TRI-COUNTIES PUBLIC SERVICE, INC. (KUDU-FM)

Order Scheduling Hearing

In re applications of American Broadcasting-Paramount Theatres, Inc. (KABC-FM), Los Angeles, California, Docket No. 13007, File No. BFH-2628; Tri-Counties Public Service, Inc. (KUDU-FM), Ventura-Oxnard, California, Docket No. 13008, File No. BMPH-5438; for construction permits (FM).

Pursuant to a prehearing conference held this date: *It is ordered*, This 18th day of April 1960, that the hearing in this proceeding will be held on May 6, 1960, at 10:00 a.m. in the offices of the commission at Washington, D.C.

Released: April 19, 1960.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 60-3787; Filed, Apr. 26, 1960;
8:49 a.m.]

[Docket Nos. 13381, 13439; FCC 60M-687]

AMERICAN TELEPHONE AND TELEGRAPH CO. ET AL.

Order Continuing Hearing Conference

In the matter of American Telephone and Telegraph Company, Docket No. 13381, regulations and charges for components of a distinctive tone and circuit assurance arrangement; American Telephone and Telegraph Company, et al., Docket No. 13439; regulations and charges for certain equipment on an 82-B-1 type relay system for use in connection with private line teletypewriter service.

The Hearing Examiner having under consideration a motion filed on April 14,

1960, by California Water and Telephone Company, requesting that the further prehearing conference in the above-entitled proceeding now scheduled for April 20, 1960, be continued to May 4, 1960 or such other later date as may be convenient to the Hearing Examiner; and

It appearing that since the date of the prehearing conference on March 24, 1960, California Water and Telephone Company has been making further studies with respect to rates at issue in this proceeding and now finds that it will be unable to submit additional information to the Commission in time for such information to be reviewed by the Commission's staff prior to the prehearing conference scheduled for April 20, 1960; and

It further appearing that counsel for all parties to the proceeding have stated they have no objection to the extension of time requested; and good cause has been shown for the grant of the relief requested;

It is ordered, This 18th day of April 1960, that the motion be and it is hereby granted; and the further prehearing conference in the above-entitled proceeding be and it is hereby continued to May 5, 1960, at 10 a.m., in Washington, D.C.

Released: April 19, 1960.

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

[F.R. Doc. 60-3788; Filed, Apr. 26, 1960;
8:49 a.m.]

[Docket No. 13461; FCC 60M-689]

J. P. BEACOM ET AL.

Notice of Prehearing Conference

In re application of J. P. Beacom, Transferor, Docket No. 13461, File No. BTC-3360, and Thomas P. Johnson and George W. Eby, Transferee; for consent to the relinquishment of positive control of WJPB-TV, Inc., permittee of Station WJPB-TV, Weston, West Virginia.

A prehearing conference will be held Thursday, May 12, 1960, at 2 p.m., in the offices of the Commission, Washington, D.C.

Dated: April 19, 1960.

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

[F.R. Doc. 60-3789; Filed, Apr. 26, 1960;
8:49 a.m.]

[Docket No. 13065 etc.; FCC 60-412]

**CONSOLIDATED BROADCASTING
INDUSTRIES, INC., ET AL.**

**Memorandum Opinion and Order
Amending Issues**

In re applications of Consolidated Broadcasting Industries, Inc., Natick, Massachusetts et al., Docket No. 13065, File No. BP-11677, etc.; for construction permits for new standard broadcast stations.

1. There are before the Commission for consideration (a) a petition to enlarge the issues, filed by Newton Broadcasting Company (Newton) on August 28, 1959; (2) an opposition to the petition, filed by WKOX, Inc. (WKOX) on September 25, 1959;¹ (3) an opposition to the petition, filed by Transcript Press, Inc. (Transcript) on October 6, 1959; (4) a reply to the petition, filed by the Broadcast Bureau (Bureau) on October 6, 1959; (5) a response to the petition, filed by Berkshire Broadcasting Corporation (Berkshire) on October 6, 1959;² (6) an opposition to the Berkshire response, filed by Grossco, Inc. (Grossco) on October 16, 1959; (7) a reply by Newton to the pleadings of WKOX, Transcript and the Bureau, filed on November 3, 1959; (8) a second petition to enlarge the issues, filed by Newton on November 27, 1959; (9) a motion to dismiss and opposition to said second petition, filed by Transcript on December 8, 1959; (10) an opposition by the Bureau to said second petition, filed on December 9, 1959; (11) a reply by Newton to Items (9) and (10), filed on December 21, 1959; and (12) other matters of record herein.

2. Newton seeks to enlarge the scope of this proceeding to include issues directed to the character and financial qualifications of Transcript and WKOX, Inc., to the adequacy of Transcript's available funds, and to the availability of Transcript's proposed transmitter site.³ The application of WKOX, Inc., has been dismissed, and the request for issues directed to that application has become moot.

3. The Commission will grant Newton's request that the Examiner be authorized to add, upon his own motion or upon petition of any party to the proceeding, the so-called "Evansville" issue to determine the adequacy of available funds for the effectuation of the several proposals herein. Both the Bureau and Transcript concede the propriety under the circumstances of the grant of this request.

4. Newton's request for an issue as to the financial qualifications of Transcript will be denied. Newton contends that the purported bank loan of \$50,000 is unavailable because of "sweeping reservations in the so-called loan letter" which, it is alleged, is nothing more than an attempt to placate a depositor without commitment. The petitioner also would have us substitute its own cost estimates

for those of Transcript. Transcript's application, as amended, indicates that its proposed station can be constructed and put on the air for \$25,418 (excluding deferred payments on equipment) and can be operated for three months for \$17,500. The application shows that Transcript has available \$25,000 in existing capital, and, in addition, an offer of an unsecured bank loan in the amount of \$50,000. In the bank loan offer, it is stated that "We have long enjoyed our relationship with your good company and have considerable confidence in its financial strength," and the bank's commitment to make the loan was made subject to the "usual reservation" that Transcript's balance sheet, operating statement and management "be as acceptable to our bank as they certainly are at this time." In the Commission's judgment, the bank's letter provides sufficient assurance that the loan will be forthcoming. Hence, the request for an issue as to Transcript's financial qualification will be denied.

5. Newton's requests for character issues against Transcript are based mainly on the allegation that Richard Davis, an officer, director, and shareholder of Transcript, while serving in 1953 as a newspaper editor, also served as assistant publicity director for a local dog racing association for the purpose of using the former position to circulate and disseminate information in the guise of news for the racing association. This allegation is based solely on a newspaper article which, in turn, quoted a former racing association official as stating that Davis was employed "to spread the good word" for the association. Newton has not alleged that Davis' news accounts were in fact biased, influenced, or slanted by that relationship or that advertising was presented under the semblance of news. Both Davis and his employer, in separate affidavits, deny the substance of the newspaper article on which Newton relies. It is the Commission's view that the bare charge contained in the newspaper article, unsupported by any factual allegations, does not, in the face of the denial by Davis and his employer, warrant the addition of the requested character issue. Nor are we persuaded, as Newton alleges, that the omission from Transcript's application of data on Davis' past employment with the racing association, and the alleged nondisclosure in its opposition filed October 6, 1959, that said affiliation presently exists, constitute a deliberate attempt to conceal such employment. Transcript states that the information was omitted from its application due to its belief that the employment in question was not a "principal occupation or business". The Commission is of the view that under the circumstances here presented, the absence of any reference in the application form to Davis' employment with the racing association does not warrant a character issue against Transcript. Nor do we believe that a character issue should be added as Newton requests because of Transcript's alleged failure to disclose in its opposition to Newton's first petition any reference to Davis' continuing

¹ By Order released September 21, 1959 (FCC 59M-1207), the Commission extended to October 6, 1959 the time within which responses to the Newton Petition of August 28, 1959 could be filed.

² Berkshire's pleading, though labelled a "response", is actually in the nature of a separate petition to include a comparative issue as to the Hartford applicants. It will be denied because it was not filed within the period allowed therefor by Section 1.141 of the Rules and good cause for late filing has not been alleged. The substance of the issue requested by Berkshire, however, has been added by the Commission on its own motion by our Memorandum Opinion and Order adopted April 20, 1960 (FCC 60-413).

³ Newton has also requested a general comparative issue as between the several applicants for the Boston, Massachusetts area. This request is considered in another Memorandum Opinion and Order (FCC 60-413).

employment with the racing association.⁴ As Transcript points out, Newton's first petition relates solely to Davis' affiliation with the racing association in 1953, and that its opposition was therefore directed primarily to Davis' 1953 employment with the association. It is the Commission's view that, under the circumstances, the addition of a character issue based on these facts is not warranted.

6. The site availability issue requested by Newton will be denied in view of Transcript's submission of a copy of the deed to its proposed transmitter site indicating that title thereto was acquired pursuant to an option on May 15, 1959.

Accordingly, it is ordered, This 20th day of April, 1960, That the request of Berkshire Broadcasting Corporation for enlargement of the issues, filed October 6, 1959, is dismissed as untimely filed;

It is further ordered, That the petition of Newton Broadcasting Company for enlargement of the issues, filed November 27, 1959, is denied.

It is further ordered, That the petition of Newton Broadcasting Company for enlargement of the issues, filed August 28, 1959, is granted to the extent reflected herein and in all other respects is denied;

It is further ordered, That the order of designation released August 10, 1959 (FCC 59-853) is amended to include the following:

It is further ordered, That the issues in the above captioned proceeding may be enlarged by the Examiner, upon his own motion or upon petition properly filed by a party to the proceeding and upon a sufficient allegation of facts in support thereof, by addition of the following issue: To determine whether the funds available to the applicants will give reasonable assurance that the proposals set forth in their respective applications will be effectuated.

Released: April 22, 1960.

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

[F.R. Doc. 60-3791; Filed, Apr. 26, 1960;
8:49 a.m.]

[Docket No. 13065; FCC 60-413]

CONSOLIDATED BROADCASTING INDUSTRIES, INC., ET AL.

Memorandum Opinion and Order Amending Issues

In re applications of Consolidated Broadcasting Industries, Inc., Natick, Massachusetts, et al., Docket No. 13065, File No. BP-11677, etc.; for construction permits.

1. The Commission has before it for consideration (1) a petition to clarify or enlarge issues, filed on August 28, 1959,

by Transcript Press, Inc.; (2) an opposition to the petition, filed October 16, 1959 (extension of time granted) by the Commission's Broadcast Bureau; (3) a reply to the opposition, filed October 26, 1959 (extension of time granted) by Transcript Press, Inc.; and (4) other matters of record herein.¹

2. By Order released August 10, 1959 (FCC 59-853), the Commission consolidated for hearing the following applications for construction permits for new standard broadcast stations: Consolidated Broadcasting Industries, Inc. (Consolidated), Natick, Massachusetts; Transcript Press, Inc. (Transcript), Dedham, Massachusetts; Newton Broadcasting Company (Newton), Newton, Massachusetts; Berkshire Broadcasting Corporation, Hartford, Connecticut; United Broadcasting Company, Inc., Beverly, Massachusetts;² and Grossco, Inc., West Hartford, Connecticut. The standard 307(b) issue is included among the hearing issues specified in the designation order.

3. In its petition, Transcript requests that the following issues be added:

(1) To determine the type and character of program service now being rendered to the areas and populations to be served by the applicants herein and the type and character of program service proposed to be rendered by such applicants and whether such proposed service would meet the requirements of the populations and areas proposed to be served.

(2) To determine on a comparative basis the relative ability of the applicants to meet the greater need so determined.

4. The above-quoted issues should be added, asserts Transcript, so that evidence may be adduced and determinations made as to the programming needs of the communities involved herein and the relative ability of the applicants to fulfill those needs. Transcript submits that such determinations, encompassing both the program service now available to these communities from existing stations and the program proposals of the various applicants, are essential under section 307(b) of the Communications Act of 1934, as amended. Transcript states that it proposes to show that the programming needs of Dedham are not being adequately fulfilled and that, comparatively at least, the programming needs of the other communities are al-

ready being adequately met. As an additional reason for the consideration of proposed programming, Transcript alleges that it appears likely that each of the applicants for Newton, Natick, and Dedham would provide service of 2 mv/m or greater to each of those communities.

5. We first consider that portion of the petition which contemplates consideration of the programming of existing stations. As we stated in Cookeville Broadcasting Company, 19 RR 897 (1960), evidence of existing programming may in appropriate circumstances be material to the 307(b) determination of which community has the greater need for an additional broadcast service. However, as noted in that opinion, we believe that such programming evidence should be considered only if specific programming issues have been designated. Thus, Cookeville represents a revision of our past policy of admitting evidence of existing programming under the standard 307(b) issue. We also declared that a request for an existing programming issue would be granted if one or more of the parties made a threshold showing that such programming evidence might be of decisional significance. Insofar as a threshold showing in the instant petition is concerned, we have before us only the general statement by Transcript that the programming needs of Dedham are not being adequately met. Hence, we are of the opinion that Transcript's conclusory statement, unsupported by any specific factual allegations, does not constitute a sufficient threshold showing. The petition, insofar as it relates to existing programming, will therefore be denied.

6. We next turn to Transcript's contention that determinations should be made as to the relative ability of the applicants to fulfill the programming needs of their respective communities. Transcript's request that the 307(b) determination should include a comparison of program proposals will be denied for the reason that in making a choice of community under section 307(b) of the Act the needs of one community may not be subordinated to the ability of an applicant to serve another community. See Allentown Broadcasting Corporation v. FCC, 349 U.S. 358 (1955); Cookeville Broadcasting Company, supra. To the extent that the petition seeks to interject proposed programming into the 307(b) determination, it will be denied.

7. Transcript's allegation that each of the applicants for Newton, Natick, and Dedham would provide service of 2 mv/m or greater to each of those communities presents a question as to the necessity for a comparative issue. Newton Broadcasting has also requested a comparative issue (see footnote 1, supra) for the reason that a choice between the Newton, Natick, and Dedham applicants may not be possible on 307(b) grounds alone, in which case a comparative evaluation would be required. Thus, Newton suggests that these communities may not be separate communities for 307(b) purposes since they are located near each other within the Boston Urbanized Area, and it also

¹ Newton Broadcasting Company filed, on August 28, 1959, a petition to enlarge issues, a portion of which requested the addition of a standard comparative issue. Since the considerations involved therein, as developed in the petition and the pleadings in response thereto, are related to our disposition of Transcript's petition, we are treating in this opinion that part of Newton's petition which concerns its request for a comparative issue. The other aspects of Newton's petition are considered in a companion Memorandum Opinion and Order.

² By Memorandum Opinion and Order adopted April 13, 1960 (FCC 60-372) the application of United Broadcasting Company was severed from the above-captioned proceeding. Issue 12 in the above-captioned proceeding is the standard comparative issue limited to United Broadcasting Co. and WKOX, Inc. Since the latter's application has been dismissed (FCC 60M-81), Issue 12 has become moot and will be deleted.

⁴ This request was made in Newton's second petition filed on November 27, 1959. That petition, seeking further character issues against Transcript, was untimely filed. The late filing is explained by Newton on the grounds that the fact that Davis is presently employed by the racing association only recently came to its attention. We find that good cause for the late filing has been shown.

points out that the respective proposals would, to some extent, serve the same areas and populations. In view of these considerations, inquiry into the community status of the several towns is justified, and we are adding a new issue number 11 for that purpose. If these communities, or any two of them, should be found to be a single community, and if the latter community were to prevail under the 307(b) issue, a comparative evaluation of those applicants proposing to provide primary service to the preferred community would be required. Ordinarily, we would add a comparative issue which would be contingent in that it would apply only in the event that the communities involved were found to be a single community. However, in the instant proceeding, even if Newton, Natick, and Dedham were found to be separate communities and one of the three preferred on a 307(b) basis, there would still remain the necessity of comparing the Transcript, Newton, and Consolidated applicants since it appears that each of these applicants may provide primary service to whichever community were preferred and the standard comparative issue will therefore be added as Issue 14. Although there is to be a comparative evaluation whether or not the communities are separate, the determination of the community status of these towns is necessary for 307(b) purposes and the proper application of the comparative criteria.³

8. Similar considerations apply to the Hartford and West Hartford applicants. The two communities are contiguous, the two applicants would, to some extent, serve the same areas and populations, and each applicant would provide service of 2 mv/m or greater to both Hartford and West Hartford. Hence, we are adding an issue to permit inquiry into the community status of Hartford and West Hartford, and the standard comparative issue which has been added also applies to Hartford and West Hartford as well as to Newton, Natick, and Dedham. It may be noted that the issues included herein, although they correspond in part to the issues requested in the various petitions, are being added on our own motion. Thus, the procedure contemplated by these issues is as follows: first, there is to be a determination, under issues 11 and 12, of whether or not the various towns are to be treated as separate and distinct communities; after the communities have been identified there is to be the standard 307(b) choice of community; then, after the communities have been identified and the 307(b) determination made, a choice under the standard comparative issue will be made among the applicants which establish, by acceptable engineering evidence, that they would provide primary service to the preferred community or communities.

³ For example, if Newton, Natick, and Dedham are considered to be one community the comparative criterion of local residence would be applied differently than if the three communities are considered as separate.

Accordingly, it is ordered, This 20th day of April 1960, that, except to the extent heretofore indicated, the petition to clarify or enlarge issues, filed August 28, 1959, by Transcript Press, Inc., is denied;

It is further ordered, That, to the extent indicated herein, the petition of Newton Broadcasting Company, filed August 28, 1959, is granted;

It is further ordered, By the Commission on its own motion that the Order released August 10, 1959 (FCC 59-853) as amended (FCC 59-1193; 59-1290), is further amended by deleting Issue 12, renumbering Issues 11 and 13 as Issues 13 and 15, respectively, by adding new Issues 11, 12, and 14, and Issues 11 to 14 shall accordingly read as follows:

11. In the light of their location and urban and industrial characteristics, and other relevant factors,

(a) to determine whether Newton, Natick, and Dedham, Massachusetts, or any of them may be considered as separate communities for the purposes of section 307(b) of the Communications Act of 1934, as amended; and,

(b) should it be found that one or more of them may not be so considered, to determine the community in which each of the latter is to be included for section 307(b) purposes.

12. In the light of their location and urban and industrial characteristics, and other relevant factors, to determine whether Hartford and West Hartford, Connecticut may be considered as separate communities for the purposes of section 307(b) of the Communications Act of 1934, as amended.

13. To determine in the light of section 307(b) of the Communications Act of 1934, as amended, which of the instant proposals would best provide a fair, efficient, and equitable distribution of radio service.

14. To determine which proposals would provide primary service to the community or communities selected as having the greatest need for a new facility, and to determine which of those proposals so serving the preferred community or communities would better serve the public interest, convenience and necessity in the light of the evidence adduced pursuant to the foregoing issues and the record made with respect to the significant differences between the applicants as to:

(a) The background and experience of each having a bearing on the applicant's ability to own and operate its proposed station.

(b) The proposals of each of the applicants with respect to the management and operation of the proposed station.

(c) The programming service proposed in each of the said applications.

Released: April 22, 1960.

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

[F.R. Doc. 60-3780; Filed, Apr. 26, 1960;
8:49 a.m.]

[Docket No. 13090 etc.; FCC 60M-705]

FREDERICKSBURG BROADCASTING CORP. (WFVA) ET AL.

Order Continuing Hearing

In re applications of Fredericksburg Broadcasting Corporation (WFVA), Fredericksburg, Virginia, Docket No. 13090, File No. BP-11550, et al.; Docket Nos. 13091, 13092, 13093, 13094, 13095, 13096, 13097, 13098, 13099, 13100, 13101, 13102, 13103, 13104, 13105, 13106, 13107, 13108, 13109, 13110, 13111, 13112, 13113, 13114, 13115, 13116, 13118, 13120, 13121, 13122, 13123, 13125, 13126, 13127, 13129, 13130, 13131, 13132, 13133, 13134, 13135, 13136, 13137, 13138, 13139, 13140, 13141, 13143, 13144, 13145, 13146, 13147, 13327; for construction permits.

The Hearing Examiner having under consideration a "Joint Request for Continuance of Hearing" filed in the above-entitled matter by WFPG, Inc. and Harlan Murrelle and Associates, two of the applicants in Group 6, on April 20, 1960, which Motion requests that the hearing now scheduled to begin on April 25, 1960, be continued to May 9, 1960, and

It appearing that the Broadcast Bureau consents to the continuance and that the short time remaining before April 25, 1960, requires immediate action on the part of the Hearing Examiner, and

It further appearing that the week of May 9, 1960, is the time in which Consulting Engineers will be meeting in Bermuda but that the oral testimony of many of these Consulting Engineers will be required at the hearing,

It is ordered, This 21st day of April 1960, that the further hearing of Group 6 in the above-entitled proceeding be and hereby is continued to 10:00 a.m., May 17, 1960, in the Commission's offices in Washington, D.C.

Released: April 21, 1960.

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

[F.R. Doc. 60-3792; Filed, Apr. 26, 1960;
8:49 a.m.]

[Docket Nos. 13266-13270; FCC 60M-682]

MONTANA-IDAHO MICROWAVE, INC.

Order Continuing Hearing Conference

In re applications of Montana-Idaho Microwave, Inc., Bozeman, Montana; for construction permit for new fixed radio station near Pocatello, Idaho, Docket No. 13266, File No. 413-C1-P-60, Call Sign KPJ33; for construction permit for new fixed radio station near Monida Pass, Idaho, Docket No. 13267, File No. 414-C1-P-60, Call Sign KPJ34; for construction permit for new fixed radio station near Armstead, Montana, Docket No. 13268, File No. 415-C1-P-60, Call Sign KPJ35; for construction permit for new fixed radio station near Whitehall, Montana, Docket No. 13269, File No. 416-C1-P-60, Call Sign KPJ36; for construction per-

mit for new fixed radio station near Bozeman Pass, Montana, Docket No. 13270, File No. 417-C1-P-60, Call Sign KPJ37.

The Hearing Examiner having under consideration the informal request of Television Montana filed in the above-entitled proceeding on April 15, 1960, for continuance of the prehearing conference presently scheduled for April 19, 1960;

It appearing that all parties have consented to immediate consideration and grant of the said request and that good cause for a grant thereof is shown in that there is a substantial possibility that matters now pending before the Commission which may affect the course of the proceeding may be determined within the immediate future;

It is ordered, This 15th day of April 1960 that the said request is granted and that the prehearing conference presently scheduled herein for April 19, 1960, is continued to May 25, 1960.

Released: April 19, 1960.

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

[F.R. Doc. 60-3794; Filed, Apr. 26, 1960; 8:49 a.m.]

[Docket Nos. 13469-13471]

WILMER E. HUFFMAN ET AL.

Notice of Prehearing Conference

In re applications of Wilmer E. Huffman, Pratt, Kansas, Docket No. 13469, File No. BP-12021; Francis C. Morgan, Jr., Larned, Kansas, Docket No. 13470, File No. BP-12749; Pier San, Inc., Larned, Kansas, Docket No. 13471, File No. BP-12750; for construction permits.

A prehearing conference will be held Tuesday, May 10, 1960, at 10 a.m., in the offices of the Commission, Washington, D.C.

Dated: April 19, 1960.

Released: April 19, 1960.

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

[F.R. Doc. 60-3793; Filed, Apr. 26, 1960; 8:49 a.m.]

[Docket No. 13412; FCC 60M-694]

JOHN F. REDFIELD

Order Continuing Hearing

In the matter of John F. Redfield, 8219 Eugene Circle, El Paso, Texas, Docket No. 13412; order to show cause why there should not be revoked the License for Citizens Radio Station 10W0973.

The Hearing Examiner having under consideration a motion filed April 15, 1960, by the Chief of the Commission's Safety and Special Radio Services Bureau requesting a continuance of the hearing in the above-entitled proceeding from May 2, 1960, to June 2, 1960;

It appearing that due to the failure of the respondent to receive the Show

Cause Order instituting this proceeding at the time of the original mailing respondent now has until April 29, 1960, under § 1.62 of the Commission's rules within which to file a reply and that it would, therefore, be conducive to the efficient dispatch of the Commission's business to grant the motion;

It is ordered, This 19th day of April 1960, that the motion for a continuance of the hearing in the above-entitled proceeding filed by the Chief of the Commission's Safety and Special Radio Services Bureau is granted and that the hearing is continued to 10:00 a.m., June 2, 1960, at the Commission's offices, Washington, D.C.

Released: April 19, 1960.

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

[F.R. Doc. 60-3795; Filed, Apr. 26, 1960; 8:50 a.m.]

[Docket No. 13345; FCC 60M-701]

SERVICE BROADCASTING CO.

Order Continuing Hearing

In re application of Service Broadcasting Company, Concord, California, Docket No. 13345, File No. BP-12184; for construction permit.

The Hearing Examiner having under consideration motion for extension of time, filed by Service Broadcasting Company on April 19, 1960;

It appearing, that counsel for all parties have agreed to the extension requested and to immediate consideration of the motion;

It is ordered, This 20th day of April 1960, that the motion is granted; and the dates designated for various procedural steps herein are postponed as follows:

	From—	To—
Date for final exchange of exhibits constituting direct case.....	Apr. 22, 1960	May 3, 1960
Notification of witnesses desired for cross-examination.....	Apr. 29, 1960	May 13, 1960
Hearing date.....	May 9, 1960	May 19, 1960

Released: April 21, 1960.

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

[F.R. Doc. 60-3796; Filed, Apr. 26, 1960; 8:50 a.m.]

[Docket Nos. 13436-13438; FCC 60M-698]

TOT INDUSTRIES, INC., ET AL.

Order Continuing Hearing

In re applications of Tot Industries, Inc., Medford, Oregon, Docket No. 13436, File No. BPCT-2641; Radio Medford, Inc., Medford, Oregon, Docket No. 13437, File No. BPCT-2655; Medford Telecasting Corporation, Medford, Oregon, Docket No. 13438, File No. BPCT-2697;

for construction permits for new television broadcast Stations (Channel 10).

The Hearing Examiner having under consideration a change of date for commencement of hearing;

It appearing that a prehearing conference was held on April 19, at which the following schedule was established: Exchange of exhibits in direct cases, June 21; notification of witnesses desired, June 28; commencement of hearing, July 12, 1960; and

It further appearing that the date of May 25 was previously established for commencement of hearing;

It is ordered, This 19th day of April 1960, that the date for commencement of hearing is changed from May 25 to July 12, 1960.

Released: April 20, 1960.

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

[F.R. Doc. 60-3797; Filed, Apr. 26, 1960; 8:50 a.m.]

[Docket Nos. 13397-13407; FCC 60M-704]

YORK COUNTY BROADCASTING CO. (WRHI) ET AL.

Order Scheduling Prehearing Conference

In re applications of James S. Beaty, Jr., William C. Beaty and Harper S. Gault, d/b as York County Broadcasting Company (WRHI), Rock Hill, South Carolina, et al., Docket No. 13397, File No. BP-12178; Docket Nos. 13398, 13999, 13400, 13401; 13402, 13403, 13404, 13405, 13406, 13407; for construction permits.

The Hearing Examiner having under consideration a change of date for commencement of hearing;

It appearing that an informal conference of engineers in this proceeding was held on April 14, 1960, at which time a tentative date for a preliminary exchange of exhibits was agreed upon subject to approval of the Hearing Examiner and that in view of the complexity of the proceeding new hearing dates will have to be established;

It is ordered, This 20th day of April 1960, that the date of April 25 for commencement of hearing is cancelled and that there will be a further prehearing conference on May 26, 1960, at 3:30 p.m.

Released: April 21, 1960.

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

[F.R. Doc. 60-3798; Filed, Apr. 26, 1960; 8:50 a.m.]

STANDARD BROADCAST APPLICATIONS READY AND AVAILABLE FOR PROCESSING

APRIL 21, 1960.

Notice is hereby given, pursuant to § 1.354(c) of the Commission's rules, that on May 28, 1960, the standard broadcast applications listed below will be considered as ready and available for

processing, and that pursuant to § 1.106(b)(1) and § 1.361(b) of the Commission's rules, an application, in order to be considered with any application appearing below, must be substantially complete and tendered for filing at the offices of the Commission in Washington, D.C., no later than (a) the close of business on May 27, 1960, or (b) if action is taken by the Commission on any listed application prior to May 28, 1960, no later than the close of business on the day preceding the date on which such action is taken, or (c) the day on which a conflicting application was "cut-off" because it was timely filed for consideration with an application on a previous such list.

Adopted: April 20, 1960.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] BEN F. WAPLE, Acting Secretary.

Applications From the Top of Processing Line

- BP-13041 NEW McCook, Nebr. Regional Broadcasting Corp. Req: 1360 kc, 1 kw, Day.
- BP-13042 WTSL Hanover, N.H. Radio Hanover, Inc. Has: 1400 kc, 250 w, U. Req: 1400 kc, 250 w, 1 kw-LS, U.
- BP-13043 WBSR Pensacola, Fla. WBSR, Inc. Has: 1450 kc, 250 w, U. Req: 1450 kc, 250 w, 1 kw-LS, U.
- BP-13044 NEW Wickenburg, Ariz. Wickenburg Radio Co. Req: 1250 kc, 500 w, Day.
- BP-13045 KONP Port Angeles, Wash. Radio Pacific, Inc. Has: 1450 kc, 250 w, U. Req: 1450 kc, 250 w, 1 kw-LS, U.
- BP-13046 NEW Greenfield, Mass. Arthur A. Deters. Req: 1430 kc, 500 w, Day.
- BP-13047 WBET Brockton, Mass. Enterprise Publishing Co. Has: 1460 kc, 1 kw, DA-N, U. Req: 1460 kc, 1 kw; 5 kw-LS, DA-N, U.
- BP-13051 NEW Thomaston, Ga. Radio Georgia. Req: 1590 kc, 500 w, Day.
- BP-13053 WWNH Rochester, N.H. Strafford Broadcasting Corp. Has: 930 kc, 5 kw, Day. Req: 930 kc, 5 kw, DA-N, U.
- BP-13057 KCID Caldwell, Idaho. Caldwell Broadcasting Co., Inc. Has: 1490 kc, 250 w, U. Req: 1490 kc, 250 w, 1 kw-LS, U.
- BP-13065 NEW Towanda, Pa. Vical Broadcasting Co. Req: 1550 kc, 500 w, Day.
- BP-13066 WDIG Dothan, Ala. Houston Broadcasters. Has: 1450 kc, 250 w, U. Req: 1450 kc, 250 w, 1 kw-LS, U.
- BP-13067 NEW Albuquerque, N. Mex. KMF Broadcasters. Req: 1520 kc, 500 w, Day.
- BMP-8556 WRFB Tallahassee, Fla. Emerson W. Browne. Has: 1580 kc, 5 kw, Day. Req: 1410 kc, 5 kw, Day.
- BP-13075 WJBS DeLand, Fla. WJBS, Inc. Has: 1490 kc, 250 w, U. Req: 1490 kc, 250 w, 1 kw-LS, U.
- BP-13077 WAUD Auburn, Ala. Auburn Broadcasting Company, Inc. Has: 1230 kc, 250 w, U. Req: 1230 kc, 250 w, 1 kw-LS, U.

Applications From the Top of Processing Line—Continued

- BP-13079 WHYS Ocala, Fla. Associated Broadcasters, Inc. Has: 1370 kc, 1 kw, Day. Req: 1370 kc, 5 kw, Day.
- BP-13080 KIOA Des Moines, Iowa. Public Radio Corp. Has: 940 kc, 5 kw, 10 kw-LS, DA-2, U. Req: 940 kc, 5 kw, 50 kw-LS, DA-2, U.
- BP-13082 NEW Aspen, Colo. Aspen Broadcasting Co. Req: 1260 kc, 5 kw, Day.
- BP-13083 NEW Coachella, Calif. Coachella Radio Corp. Req: 1460 kc, 500 w, Day.
- BP-13084 NEW Centre, Ala. Cherokee County Radio Station. Req: 990 kc, 250 w, Day.
- BP-13091 NEW Plattsburgh, N.Y. Olean Broadcasting Corp. Req: 920 kc, 1 kw, Day.
- BP-13092 WICY Malone, N.Y. North County Broadcasting Co. Has: 1490 kc, 250 w, U. Req: 1490 kc, 250 w, 1 kw-LS, U.
- BP-13093 WMFR High Point, N.C. Radio Station WMFR, Inc. Has: 1230 kc, 250 w, U. Req: 1230 kc, 250 w, 1 kw-LS, U.
- BP-13095 KFPW Fort Smith, Ark. KFPW Broadcasting Co. Has: 1230 kc, 250 w, U. Req: 1230 kc, 250 w, 1 kw-LS, U.
- BP-13097 NEW Houston, Tex. Lake Huron Broadcasting Corp. Req: 1070 kc, 10 kw, DA-1, U.
- BP-13098 WCFW Clifton Forge, Va. Radio Station WCFV. Has: 1230 kc, 250 w, U. Req: 1230 kc, 250 w, 1 kw-LS, U.
- BP-13100 NEW Havelock, N.C. Charles E. Springer. Req: 1290 kc, 1 kw, Day.
- BP-13116 WBOY Clarksburg, W. Va. WSTV, Inc. Has: 1400 kc, 250 w, U. Req: 1400 kc, 250 w, 1 kw-LS, U.
- BP-13118 KODE Joplin, Mo. WSTV, Inc. Has: 1230 kc, 250 w, U. Req: 1230 kc, 250 w, 1 kw-LS, U.
- BP-13119 KDEN Denver, Colo. KDEN Broadcasting Co. Has: 1340 kc, 250 w, U. Req: 1340 kc, 250 w, 1 kw-LS, U.

Applications on Which 309(b) Letters Have Been Issued

- BMP-8559 WXLI Dublin, Ga. Radio South, Inc. Has: CP for 1230 kc, 250 w, U. Req: 1230 kc, 250 w, 1 kw-LS, U.
- BP-13039 NEW Dodge City, Kans. The Seward County Broadcasting Co., Inc. Req: 1550 kc, 1 kw, DA, Day.
- BP-13040 WTWN St. Johnsbury, Vt. Twin State Broadcasters, Inc. Has: 1340 kc, 250 w, U. Req: 1340 kc, 250 w, 1 kw-LS, U.
- BP-13050 NEW Del Rio, Tex. Val Verde Broadcasting Co. Req: 1490 kc, 250 w, U.
- BP-13054 WJOL Joliet, Ill. WJOL, Inc. Has: 1340 kc, 250 w, U. Req: 1340 kc, 250 w, 1 kw-LS, U.
- BP-13056 WBRK Pittsfield, Mass. Greylock Broadcasting Co. Has: CP to change antenna-transmitter location 1340 kc, 250 w, U. Req: 1340 kc, 250 w, 1 kw-LS, U.
- BP-13058 NEW Odessa, Tex. R. L. McAllister. Req: 1550 kc, 5 kw, Day.

Applications on Which 309(b) Letters Have Been Issued—Continued

- BP-13060 WLSH Lansford, Pa. Miners Broadcasting Service, Inc. Has: 1410 kc, 1 kw, Day. Req: 1410 kc, 5 kw, DA, Day.
- BP-13063 WBHB Fitzgerald, Ga. Ben Hill Broadcasting Corp. Has: 1240 kc, 250 w, U. Req: 1240 kc, 250 w, 1 kw-LS, U.
- BP-13064 NEW Princeton, N.J. Nassau Broadcasting Co. Req: 1350 kc, 5 kw, DA-2, U.
- BP-13073 WSFB Quitman, Ga. Quitman Broadcasting Co. Has: 1490 kc, 250 w, Day. Req: 1490 kc, 1 kw, Day.
- BP-13085 KCLA Pine Bluff, Ark. Radio Engineering Service. Has: 1400 kc, 250 w, U. Req: 1400 kc, 250 w, 1 kw-LS, U.
- BP-13087 NEW Englewood, Fla. Sarasota-Charlotte Broadcasting Corp. Req: 1580 kc, 500 w, Day.
- BP-13102 WLBC Muncie, Ind. Tri-City Radio Corp. Has: 1340 kc, 250 w, U. Req: 1340 kc, 250 w, 1 kw-LS, U.
- BP-13105 WSNT Sandersville, Ga. Washington Broadcasting Co., Inc. Has: 1490 kc, 250 w, U. Req: 1490 kc, 250 w, 500 w-LS, U.
- BP-13106 NEW Lancaster, Pa. Lancaster County Broadcasters. Req: 1550 kc, 1 kw, DA, Day.
- BP-13111 NEW Glen Burnie, Md. Elias and Robinson. Req: 1560 kc, 250 w, DA-2, U.
- BP-13112 WDCB Hanover, N.H. Trustees of Dartmouth College. Has: 1340 kc, 250 w, U. Req: 1340 kc, 250 w, 1 kw-LS, U.
- BP-13115 WSTV Steubenville, Ohio. WSTV, Inc. Has: 1340 kc, 250 w, U. Req: 1340 kc, 250 w, 1 kw-LS, U.

[F.R. Doc. 60-3799; Filed, Apr. 26, 1960; 8:50 a.m.]

FEDERAL POWER COMMISSION

[Project 1971]

IDAHO POWER CO.

Notice of Land Withdrawal; Oregon

APRIL 21, 1960.

In accordance with Article 45 of the License issued August 8, 1955, the Idaho Power Company (Licensee) on February 12, 1960, filed revised map Exhibit J and K, consolidated (FPC No. 1971-146), of the Palette Junction-Divide 230 kv transmission line, which is to be added to its transmission system.

Therefore, in accordance with the provisions of section 24 of the Act of June 10, 1920, as amended, notice is hereby given that the hereinafter described lands, insofar as title thereto remains in the United States, are from February 12, 1960, the date of filing of exhibits, reserved from entry, location or other disposal under the laws of the United States until otherwise directed by the Commission or by Congress.

WILLAMETTE MERIDIAN

All portions of the following described subdivisions lying within 50 feet, on either side of the center line survey, except as otherwise indicated for angle points, of the transmis-

[Docket No. G-2506]

PANHANDLE EASTERN PIPE LINE CO.
Order Omitting Intermediate Decision
Procedure and Fixing Date for Oral
Argument

APRIL 20, 1960.

This proceeding was reopened by order of the Commission, issued herein on January 14, 1960, upon petition of Panhandle Eastern Pipe Line Company (Panhandle) for an opportunity to present additional evidence on the commodity value issue. The hearing convened on February 16, 1960, in accordance with the procedural provisions of that order and after seven days of hearing was closed on March 11, 1960.

The said commodity value issue is but one of the numerous issues determined by the Presiding Examiner's decision issued herein on February 10, 1959. Exceptions to the decision were filed by several parties, including Panhandle, and all of the issues of the proceeding are pending before the Commission.

At the close of the reopened hearing on March 11, 1960, Panhandle moved orally for the omission of the intermediate decision procedure on the ground that the "due and timely execution of the Commission's functions imperatively and unavoidably so requires", pursuant to § 1.30(c) (2).¹ Counsel for Panhandle supported the motion by citing the facts that the case has been pending for a very long time, i.e., since the initial order, issued herein on July 29, 1954; that the Commission has the rest of the evidence before it upon exceptions to the said decision; that the reopening order did not indicate that the Presiding Examiner, upon the reopening, was authorized to consider all of the evidence on commodity value issue that has been presented herein, including that presented before the decision was issued; and that although Panhandle sought the reopening in order to present the additional evidence, it desires to have the matter decided as promptly and as expeditiously as possible.

Staff counsel supported the motion. Counsel for Michigan Consolidated Gas Company (Consolidated) opposed the motion. Consolidated contended, inter alia, that since this proceeding was originally heard and decided by an Examiner, to permit the introduction of additional evidence thereafter, without intermediate decision thereon, would create a "hybrid proceeding" for which, according to counsel's interpretation of the Administrative Procedure Act, the Commission is without authority. In further support of Consolidated's position on the motion, its counsel cited the Commission's order issued March 1, 1957, in which it was found that intermediate decision procedure on all issues should not be omitted. Counsel for the City of Cleveland, Ohio concurred in the position taken by Consolidated's counsel.

Our said reopening order indicated that we desired to have the additional

evidence presented to us for consideration along with the "landmark Phillips Petroleum Company independent producer rate case". Furthermore, the limited hearing procedure prescribed in that order indicated that we desired to have the matter brought "to a speedy conclusion".

In providing for only limited reopening of this proceeding, we were mindful of the fact that the commodity value issue has been involved in Panhandle's increased rates since February 20, 1952 and is pending before us in its earlier Docket No. G-1116, et al., upon remand of the court in City of Detroit² since November 1, 1956. Not only Panhandle but all of its customers, as well, have economic and financial reasons for desiring resolution of the commodity value issue at the earliest practicable date and, most of them, including Consolidated, have expressed such desires in motions and letters to the Commission.

In answer to Consolidated's contentions, at the time of our said order, issued March 1, 1957, denying omission of intermediate decision, we were then facing all of the numerous and complex issues of the entire case. Now we have only the commodity value issue and the question of whether the additional evidence, when viewed with that presented prior to the Presiding Examiner's decision issued February 10, 1959, would justify our allowing Panhandle's claimed commodity value for its produced gas. That earlier order was considered over three years ago, and that very time is sufficient justification for our finding that the omission of intermediate decision procedure is now "imperatively and unavoidably" required.³

The Commission finds:

(1) Due and timely execution of the Commission's functions under the Natural Gas Act imperatively and unavoidably requires that the intermediate decision procedure in this proceeding be omitted.

(2) It is appropriate in carrying out the provisions of the Natural Gas Act that oral argument be held as hereinafter provided on the issue of the proper allowance for Panhandle's own produced gas.

The Commission orders:

(A) The intermediate decision procedure is hereby omitted in this proceeding.

(B) Oral Argument before the Commission, on the issue of the proper allowance to be included in the cost of service for Panhandle's produced gas, shall be held on May 12, 1960, at 10:00 a.m. e.d.t., in a Hearing Room of the Federal Power Commission, 441 G Street, NW., Washington, D.C.

(C) All parties who desire to participate in the oral argument herein provided shall notify the Secretary on or before May 2, 1960, of their intent to do

² City of Detroit, Michigan v. F.P.C., 230 F. 2d 810, certiorari denied 352 U.S. 829, 919.

³ As to the effect of extended pendency of rate proceedings, see our order omitting intermediate decision, issued June 9, 1953, in Panhandle Eastern Pipe Line Company, Docket No. G-1116, et al.

sion line right-of-way location as delimited on above cited map exhibit.

- T. 1 N., R. 48 E.,
 Sec. 27: W $\frac{1}{2}$ SW $\frac{1}{4}$;
 Sec. 28: NE $\frac{1}{4}$ NE $\frac{1}{4}$;
 Sec. 34: NE $\frac{1}{4}$ NW $\frac{1}{4}$.
- T. 2 N., R. 48 E.,
 Sec. 2: Lot 4;
 Sec. 3: Lot 1, S $\frac{1}{2}$ NE $\frac{1}{4}$;
 Sec. 9: SW $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 16: W $\frac{1}{2}$ NW $\frac{1}{4}$.
- T. 3 N., R. 48 E.,
 Sec. 1: Lot 1, SW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 11: SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 12: SW $\frac{1}{4}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$;
 Sec. 14: NE $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 23: E $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$;
 Sec. 26: NE $\frac{1}{4}$ NW $\frac{1}{4}$;
 Sec. 35: S $\frac{1}{2}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$.
- T. 4 N., R. 49 E.,
 Sec. 18: Lot 4;
 Sec. 19: Lots 1, 6, 8, 11, 12;
 Sec. 30: NW $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 31: Lots 2, 3, E $\frac{1}{2}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$.
- T. 1 S., R. 48 E.,
 Sec. 3: Lots 7, 10, E $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 10: NE $\frac{1}{4}$ NE $\frac{1}{4}$;
 Sec. 11: SW $\frac{1}{4}$ SW $\frac{1}{4}$;
 Sec. 14: NE $\frac{1}{4}$ SW $\frac{1}{4}$;
 Sec. 35: NE $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$.
- T. 2 S., R. 48 E.,
 Sec. 22: SW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$.
- T. 3 S., R. 48 E.,
 Sec. 33: SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 34: W $\frac{1}{2}$ SW $\frac{1}{4}$.
- T. 4 S., R. 48 E.,
 Sec. 4: Lot 1.

The general determination made by the Commission at its meeting of April 17, 1922 (2d Ann. Rept. 128), with respect to lands reserved for power transmission line purposes, is applicable to those portions of the above-described land occupied for that purpose only.

The area of United States land reserved by this notice is approximately 194.91 acres, all within the Wallowa National Forest. Of this approximately 75.85 acres have been heretofore reserved for power purposes under Power Site Classifications Nos. 78, 263 or 421.

A copy of map Exhibit J and K (FPC No. 1971-146) has been transmitted to the Bureau of Land Management, Geological Survey and Forest Service.

JOSEPH H. GUTRIDE,
 Secretary.

[F.R. Doc. 60-3755; Filed, Apr. 26, 1960;
 8:45 a.m.]

[Docket No. CP60-21]

NORTHERN NATURAL GAS CO.

Notice of Postponement of Hearing

APRIL 20, 1960.

Take notice that the hearing in the above-docketed proceeding heretofore scheduled to commence on April 28, 1960 by notice issued on March 24, 1960, and published in the FEDERAL REGISTER on March 31, 1960 (25 F.R. 2742) be and hereby is postponed to a date to be fixed by further notice.

JOSEPH H. GUTRIDE,
 Secretary.

[F.R. Doc. 60-3756; Filed, Apr. 26, 1960;
 8:45 a.m.]

¹ Commission's rules of practice and procedure, § 1.30(c) (2).

so and the amount of time they desire for such argument.

By the Commission (Commissioner Connole dissenting).

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 60-3757; Filed, Apr. 26, 1960; 8:45 a.m.]

[Project No. 2274]

TILLAMOOK PEOPLE'S UTILITY DISTRICT

Notice of Application for Preliminary Permit

APRIL 20, 1960.

Public notice is hereby given that Tillamook People's Utility District, of Tillamook, Oregon, has filed application under the Federal Power Act (16 U.S.C. 791a-825r) for preliminary permit for a proposed project, designated Project No. 2274, to be situated in the County of Tillamook, Oregon, in the region of Tillamook, Oregon, affecting O. & C. and Coos Bay Wagon Road lands and other lands of the United States.

The project, to be known as Trask River Project, is described in the application as consisting of a dam about 150 feet high located just upstream from the bend in the river known as the Peninsula; a reservoir with a maximum pool at elevation 340 feet of which 100,000 acre-feet would be active or usable storage; a powerhouse with installation of about 30,000 kilowatts; and a reregulating dam and reservoir below the main dam with maximum pool at elevation 180 feet with a powerhouse with installation of about 5,000 kilowatts.

Applicant states that power generated at the proposed project would be used in Applicant's system and for delivery to Bonneville Power Administration.

No construction is authorized under a preliminary permit. A permit, if issued, gives permittee, during the period of the permit, the right of priority of application for license while the permittee undertakes the necessary studies and examinations, including the preparation of maps and plans, in order to determine the economic feasibility of the proposed project, the means of securing the necessary financial arrangements for construction, the market for the project power, and all other information necessary for inclusion in an application for license, should one be filed.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the Rules of Practice and Procedure of the Commission (18 CFR 1.8 or 1.10). The last date upon which protests or petitions may be filed is May 31, 1960. The application is on file with the Commission for public inspection.

Pursuant to section 24 of the Federal Power Act, the filing of this application has the effect of segregating from all forms of disposal any lands of the United

States which may be contained within the project.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 60-3759; Filed, Apr. 26, 1960; 8:45 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 320]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

APRIL 22, 1960.

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

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

APPLICATIONS ASSIGNED FOR ORAL HEARING OR PRE-HEARING CONFERENCE

MOTOR CARRIERS OF PROPERTY

No. MC 226 (Sub No. 5), filed April 8, 1960. Applicant: LEROY L. WADE & SON, INC., 1615 IZARD STREET, OMAHA 2, NEBR. Applicant's attorney: DONALD L. STERN, 924 CITY NATIONAL BANK BUILDING, OMAHA 2, NEBR. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *New automobiles, new trucks and new chassis, in initial movements, in truckaway service, and new parts and accessories, for such vehicles when transported at the same time, from the Ford Motor Co. assembly plant at Claycomo, Mo., to points in North Dakota, and damaged, defective or rejected units of the above-specified commodities, on return.*

NOTE: Applicant is also authorized to conduct operations as a common carrier in Certificate No. MC 108375, therefore, dual operations may be involved. A proceeding has been instituted under section 212(c) in No. MC 228 Sub No. 2 to determine whether applicant's status is that of a common or contract carrier.

HEARING: May 17, 1960, at the New Hotel Pickwick, Kansas City, Mo. before Examiner Parks M. Low.

No. MC 263 (Sub No. 115), filed March 7, 1960. Applicant: GARRETT FREIGHTLINES, INC., 2055 POLE LINE ROAD, POCATELLO, IDAHO. Applicant's attorney: MAURICE H. GREENE, P.O. BOX 1554, BOISE, IDAHO. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Ores and ore concentrates, in bulk, from the mine of Minerals Engineering Company, near Glen, Mont., to Salt Lake City, Utah; from the mine, over unnumbered highway to junction U.S. Highway*

91, near Glen, and thence over U.S. Highway 91 to Salt Lake City, serving no intermediate or off-route points.

HEARING: June 6, 1960, at the Commercial Club, Billings, Mont., before Joint Board No. 259, or, if the Joint Board waives its right to participate, before Examiner Leo W. Cunningham.

No. MC 531 (Sub No. 102), filed December 10, 1959. Applicant: YOUNGER BROTHERS, INC., 4904 GRIGGS ROAD, P.O. BOX 14287, HOUSTON, TEX. Applicant's attorney: EWELL H. MUSE, JR., PERRY BROOKS BUILDING, AUSTIN, TEX. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products, in bulk, in specialized equipment, from Lake Charles, La., and points within 13 miles thereof, to points in Illinois, Iowa, Michigan, Mississippi, and Wisconsin. Applicant is authorized to conduct operations in Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Indiana, Iowa, Illinois, Kentucky, Louisiana, Mississippi, Maryland, Minnesota, Missouri, Nebraska, New Mexico, New York, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Utah, Virginia, West Virginia, and Wisconsin.*

HEARING: June 17, 1960, at the Federal Office Building, Franklin and Fannin Streets, Houston, Texas, before Examiner Frank R. Saltzman.

No. MC 4405 (Sub No. 340), filed October 23, 1959. Applicant: DEALERS TRANSIT, INC., 12601 SOUTH TORRENCE AVENUE, CHICAGO 33, ILL. Applicant's attorney: JAMES W. WRAPE, STERICK BUILDING, MEMPHAS, TENN. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers, semi-trailers, trailer chassis and semi-trailer chassis, other than those designed to be drawn by passenger automobile, in initial movements by truckaway service, from Hamilton, Tex., and points within 5 miles thereof to all points in the United States including points in the District of Columbia and Alaska. Applicant is authorized to conduct operations throughout the United States.*

HEARING: June 9, 1960, at the Baker Hotel, Dallas, Tex., before Examiner Frank R. Saltzman.

No. MC 11207 (Sub No. 198) (Amended), filed October 12, 1959, originally published FEDERAL REGISTER, issue of December 9, 1959. Applicant: DEATON TRUCK LINE, INC., 3409 TENTH AVENUE, NORTH, BIRMINGHAM, ALA. Applicant's attorney: JOHN W. COOPER, 818-821 MASSEY BUILDING, BIRMINGHAM 3, ALA. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Scrap metals, namely, iron and steel, in bulk, from points in Florida, Arkansas, Kentucky, North Carolina, South Carolina, Georgia, Louisiana, Mississippi, and Tennessee to all points in Alabama. Applicant is authorized to conduct operations in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee, and Texas.*

CONTINUED HEARING: July 19, 1960, at the Hotel Thomas Jefferson, Birmingham, Ala., before Examiner Robert A. Joyner.

No. MC 23939 (Sub No. 92), filed December 14, 1959. Applicant: ASBURY TRANSPORTATION CO., a Corporation, 2222 East 38th Street, Los Angeles 58, Calif. Applicant's attorney: William D. Adams, Pacific Building, Portland 4, Oreg. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, as defined by the Commission, from points in Coos County, Oreg., to points in Del Norte and Humboldt Counties, Calif. Applicant is authorized to conduct operations in California, Colorado, Idaho, Montana, Nevada, Oregon, Utah, Washington, and Wyoming.

HEARING: June 22, 1960, at the Interstate Commerce Commission Hearing Room 410 Southwest 10th Avenue, Portland, Oreg., before Joint Board No. 11, or, if the Joint Board waives its right to participate, before Examiner Leo W. Cunningham.

No. MC 30092 (Sub No. 12), filed March 14, 1960. Applicant: HERRETT TRUCKING CO., INC., P.O. Box 539, Sunnyside, Wash. Applicant's attorney: Dudley Panchot, Central Building, Seattle 4, Wash. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *fertilizer and fertilizer compounds*, from Finley and Pasco, Washington and points within 5 miles of each to points in Oregon, Idaho and Montana, and *rejected or contaminated shipments* on return.

HEARING: June 13, 1960, at Federal Office Building, First and Marion Streets, Seattle, Wash., before Examiner Leo W. Cunningham.

No. MC 34147 (Sub No. 8), filed January 20, 1960. Applicant: ROSE M. HICKEY, FRANK J. RONNING AND RUTH E. RONNING doing business as WILLIAM HICKEY TRUCKING COMPANY, 2731 Highland Street, Everett, Wash. Applicant's representative: Joseph O. Earp, 1912 Smith Tower, Seattle 4, Wash. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Fertilizer*, in sacks, from Monroe, Wash., to the Port of Entry on the International Boundary between the United States and Canada at or near Blaine, Wash., from Monroe over U.S. Highway 2 to Everett, Wash., and thence over U.S. Highway 99 to Blaine, serving no intermediate or off-route points, and *exempt commodities*, on return.

HEARING: June 13, 1960, at the Federal Office Building, First and Marion Streets, Seattle, Wash., before Joint Board No. 237, or, if the Joint Board waives its right to participate before Examiner Leo W. Cunningham.

No. MC 43654 (Sub No. 46), filed April 8, 1960. Applicant: DIXIE OHIO EXPRESS, INC., 236 Fountain Street, P. O. Box 750, Akron 9, Ohio. Applicant's attorney: R. J. Reynolds, Jr., Suite 1424 C & S Bank Building, Atlanta 3, Ga. Authority sought to operate as *common carrier*, by motor vehicle, transporting: *General commodities*, except

those of unusual value, Classes A and B explosives, household goods, as defined by the Commission, commodities in bulk, and those requiring special equipment, (1) between junction U.S. Highways 41 and 72, approximately four (4) miles southwest of Jasper, Tenn., and junction Alternate U.S. Highway 72 and U.S. Highway 31, approximately two (2) miles northeast of Decatur, Ala., from junction U.S. Highways 41 and 72 over U.S. Highway 72 to Huntsville, Ala., thence over Alternate U.S. Highway 72 to junction U.S. Highway 31, 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. (2) Between Lexington, Ky., and Winchester, Ky., from Lexington over U.S. Highway 60 to Winchester, 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. (3) Between Calhoun, Ga., and Rome, Ga., from Calhoun over Georgia Highway 53 to Rome, 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.

NOTE: Applicant states the three aforesaid proposed routes are in connection with applicant's presently authorized regular route operations between Decatur, Ala., and Chattanooga, Tenn., between Lexington and Winchester, Ky., and between Calhoun and Rome, Ga., respectively, as described in Certificate No. MC 43654 and sub numbers thereunder.

HEARING: July 15, 1960, at 630 West Peachtree Street, NW., Atlanta, Ga., before Examiner Robert A. Joyner.

No. MC 52869 (Sub No. 56), filed February 12, 1960. Applicant: NORTHERN TANK LINE (corporation), P.O. BOX 990, 8 South Seventh Street, Miles City, Mont. Applicant's attorney: John S. Burchmore, 2106 Field Building, Chicago 3, Ill. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquefied petroleum gas*, in bulk, in pressurized vehicles from points in Wyoming, to points in Montana, and *contaminated or refused product* on return.

HEARING: June 7, 1960, at the Commercial Club, Billings, Mont., before Joint Board No. 269, or, if the Joint Board waives its right to participate, before Examiner Leo W. Cunningham.

No. MC 59507 (Sub No. 8) (Correction), filed December 9, 1959, published FEDERAL REGISTER, issue of April 20, 1960. Applicant: EDGAR H. ALLEN & SON, INC., 825 Fairfield Avenue, Kenilworth, N.J. Applicant's attorney: August W. Heckman, 880 Bergen Avenue, Jersey City 6, N.J. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood poles and cross-arms*, creosoted, loose, from Whitemarsh, Md., to Leesburg and Warrenton, Va. Applicant is authorized to conduct operations in Connecticut, Delaware, the District of

Columbia, New Jersey, New York, Pennsylvania, and Virginia.

NOTE: The purpose of this republication is to correct the spelling of the destination point of Warrenton, Va., erroneously shown as Warrington, Va.

HEARING: Remains as assigned: May 24, 1960, in Room 709, U.S. Appraisers' Stores Building, Gay and Lombard Streets, Baltimore, Md., before Joint Board No. 226.

No. MC 61396 (Sub No. 73), filed April 4, 1960. Applicant: HERMAN BROS., INC., 711 W.O.W. Building, Omaha, Nebr. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquefied petroleum gas and natural gasoline*, and *rejected or returned shipments*, between Nebraska, Iowa, South Dakota, North Dakota, Minnesota, Kansas, and Missouri.

NOTE: Applicant states it seeks no duplicating authority.

HEARING: June 20, 1960, in Room 401 Old Federal Office Building, Fifth and Court Avenues, Des Moines, Iowa, before Examiner Maurice S. Bush.

No. MC 65475 (Sub No. 5), filed April 11, 1960. Applicant: JETCO, INC., 1718 North Kent Street, Arlington, Va. Applicant's attorney: Samuel W. Earnshaw, 983 National Press Building, Washington 4, D.C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Contractors' machinery, tools and equipment*, and *commodities* requiring special equipment, between points in New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, West Virginia, North Carolina, and the District of Columbia.

NOTE: Applicant states the purpose of this application is for clarification of its presently-held authority only; and that any rights granted, to be restricted against duplication of present rights.

HEARING: June 2, 1960, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner Henry A. Cockrum.

No. MC 83539 (Sub No. 63), filed March 21, 1960. Applicant: C & H TRANSPORTATION CO., INC., 1935 West Commerce Street, P.O. Box 5976, Dallas, Tex. Applicant's representative: J. P. Welsh, General Traffic Manager, C & H TRANSPORTATION CO., INC., P.O. Box 5976, Dallas, Tex. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tractors* (other than truck tractors), (1) from Houston, Tex., to points in Arkansas, Kansas, Louisiana, Mississippi, Missouri, New Mexico, Oklahoma, Tennessee and Texas. (2) from New Orleans, La., to points in Arkansas, Kansas, Louisiana, Mississippi, Missouri, New Mexico, Oklahoma, Tennessee, and Texas.

HEARING: June 8, 1960, at the Baker Hotel, Dallas, Tex., before Examiner Frank R. Saltzman.

No. MC 104128 (Sub No. 83), filed March 25, 1960. Applicant: CAMPBELL'S SERVICE, a Corporation, 2720 River Avenue, South San Gabriel, Calif. Applicant's attorney: R. Y. Schureman, 639 South Spring Street, Los

Angeles 14, Calif. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Campers and camp coaches*, in truckaway service, from points in California, to points in Washington.

HEARING: June 14, 1960, at the Federal Office Building, First and Marion Streets, Seattle, Wash., before Joint Board No. 5, or, if the Joint Board waives its right to participate before Examiner Leo W. Cunningham.

No. MC 106398 (Sub No. 154), filed March 14, 1960. Applicant NATIONAL TRAILER CONVOY, INC., 1916 North Sheridan Road, Tulsa, Okla. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Boats*, not exceeding 18 feet in length, from points in Alabama, to all points in the United States, including Alaska, and *returned damaged refused boats*, to shippers, on return.

HEARING: July 25, 1960, at the U.S. Court Rooms, Montgomery, Alabama, before Examiner Robert A. Joynor.

No. MC 106603 (Sub No. 58) (Republication), filed February 3, 1960, published in the FEDERAL REGISTER, issue of April 6, 1960. Applicant: DIRECT TRANSIT LINE, INC., 200 Colrain Street SW., Grand Rapids 8, Mich. Applicant's attorney: Wilhelmina Boersma, 2850 Penobscot Building, Detroit 26, Mich. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pepper*, in packages, in *mixed shipments with salt*, provided that the pepper does not exceed 10 percent of the truckload weight, (1) from Manistee, Mich., to points in Ohio, Indiana, and Illinois; (2) from Marysville and St. Clair, Mich., to points in Indiana and Illinois; (3) from Rittman, Ohio to points in Michigan.

NOTE: The purpose of this republication is the addition of St. Clair, Mich. as a point of origin to points in Indiana and Illinois.

HEARING: Remains as assigned, June 9, 1960, in Room 852, U.S. Custom House, 610 South Canal Street, Chicago, Ill., before Examiner Michael B. Driscoll.

No. MC 106977 (Sub No. 25), filed November 9, 1959. Applicant: RYDER TRUCK LINES OF LOUISIANA, INC., 400 Pickney St., P.O. Box 2625, Houston 1, Tex. Applicant's attorney: Reagan Sayers, Century Life Building, Fort Worth 2, Tex. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value and except Classes A and B explosives, household goods, as defined by the Commission, commodities in bulk, and those requiring special equipment, (1) between Port Arthur, Tex., and Abbeville, La.; from Port Arthur, Tex., over the Sabine Lake Causeway Road (Texas Farm-Market Road No. 1960) to the Texas-Louisiana State Line, thence over Louisiana Highway 82 to its intersection with Louisiana Highway 27 via Johnson's Bayou and Holly Beach, thence over Louisiana Highway 27 via Cameron and Creole to its intersection with Louisiana Highway 82, thence over Louisiana Highway 82 via Grand Chenier, Pecan Island, Forked Island, Esther, and Perry to Abbeville, La.; also from intersection

Louisiana Highway 82 and Louisiana Highway 35 near Forked Island over Louisiana Highway 35 via Cow Island to Kaplan, La., serving all intermediate points, returning over the same route and coordinating the proposed service with that presently authorized, serving the site of the Goliad Corporation Plant, near Cow Island, as an off-route point.

(2) Between Sulphur, La., and Holly Beach, La.: from Sulphur over Louisiana Highway 27 to Holly Beach, serving all intermediate points, returning over the same route and coordinating the proposed service with that presently authorized; (3) Between Lake Charles, La., and Creole, La.: from Lake Charles over Louisiana Highway 385 to its intersection with Louisiana Highway 27, thence over Louisiana Highway 27 to Creole, serving all intermediate points, returning over the same route and coordinating the proposed service with that presently authorized. Applicant is authorized to conduct operations in Louisiana, Mississippi, and Texas.

HEARING: June 22, 1960, at the Federal Office Building, Franklin and Fannin Streets, Houston, Tex., before Joint Board No. 32, or, if the Joint Board waives its right to participate, before Examiner Frank R. Saltzman.

No. MC 107640 (Sub No. 44) (Correction), filed April 6, 1960, published in the FEDERAL REGISTER, issue of April 20, 1960. Applicant: MIDWEST TRANSFER COMPANY OF ILLINOIS, a corporation, 7000 South Pulaski Road, Chicago, Ill. Applicant's attorney: Dale C. Dillon, 1825 Jefferson Place NW., Washington 6, D.C. The purpose of this correction is to reflect applicant's attorney's address as shown above in lieu of 1820 Jefferson Place NW., as shown in previous publication, in error.

HEARING: Remains as assigned May 5, 1960, in Room 852, U.S. Custom House, 610 South Canal Street, Chicago, Ill., before Examiner Warren C. White.

No. MC 107643 (Sub No. 56), filed March 23, 1960. Applicant: ST. JOHNS MOTOR EXPRESS, a Corporation, 7220 North Burlington, Portland 3, Oreg. Applicant's attorney: George H. Hart, Central Building, Seattle 4, Wash. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Acids, chemicals, chemical solutions, and resins*, in tank vehicles, from Springfield, Oreg., to points in Idaho and Montana, and *contaminated and rejected shipments* of the above-specified commodities, on return.

HEARING: June 15, 1960, at the Federal Office Bldg., First and Marion Streets, Seattle, Wash., before Examiner Leo W. Cunningham.

No. MC 108068 (Sub No. 32), filed April 6, 1960. Applicant: U.S.A.C. TRANSPORT, INC., 457 West Fort Street, Detroit 26, Mich. Applicant's attorney: Paul Sullivan, 1821 Jefferson Place NW., Washington 6, D.C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Radio, Radar and Television Antennae, Tracking Devices, Masts, Towers, and Component parts* of the aforementioned, *related equipment, parts, machinery and supplies* of the aforesaid

Antennae, Masts and Towers, Tracking Devices and component parts, The transportation of which, because of size, weight, shape or fragile character, requires the use of special equipment or special handling, between Hurst, Tex., Fort Madison, Iowa, Anniston, Ala., and Cohasset, Mass., on the one hand, and, on the other, points in the United States.

HEARING: June 2, 1960, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner Leo M. Pellerzi.

No. MC 108068 (Sub No. 33), filed April 11, 1960. Applicant: U.S.A.C. TRANSPORT, INC., 457 West Fort Street, Detroit 26, Mich. Applicant's attorney: Paul Sullivan, 1821 Jefferson Place NW., Washington 6, D.C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Radio, radar and Television antennae, tracking devices, masts, towers, and component parts* of the aforementioned; *related equipment, parts, machinery, and supplies* of the aforesaid antennae, masts, and towers, tracking devices, and component parts, the transportation of which, because of size, weight, shape, or fragile character, requires the use of special equipment or special handling, between Waltham and Andover, Mass., on the one hand, and, on the other, points in the United States, including Alaska and Hawaii.

HEARING: June 3, 1960, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner Harold P. Boss.

No. MC 108460 (Sub No. 8), filed March 7, 1960. Applicant: PETROLEUM CARRIERS CO., INC., 3901 West Twelfth Street, Sioux Falls, S. Dak. Applicant's attorney: Theodore M. Bailey, 613 Security Bank Building, Sioux Falls, S. Dak. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquefied petroleum gas*, in bulk, in tank type trailers, from Sheldon, Iowa (and points within 35 miles thereof) to points in Minnesota, North Dakota, South Dakota, and Nebraska, and between points in Iowa, Minnesota, North Dakota, South Dakota and Nebraska; *empty containers* or other such incidental facilities (not specified), used in transporting the commodities specified in this application, and *rejected, refused, or defective shipments* on return.

HEARING: June 20, 1960, in Room 401 Old Federal Office Building, Fifth and Court Avenues, Des Moines, Iowa, before Examiner Maurice S. Bush.

No. MC 109141 (Sub No. 24), filed January 8, 1960. Applicant: L. P. GAS TRANSPORT CO., a Corporation, P.O. Box 67, Billings, Mont. Applicant's attorney: Jerome Anderson, P.O. Box 1215, Billings, Mont. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquefied petroleum gases*, in bulk, in tank vehicles, from Opal, Wyo., and the Beaver Creek Refinery (located 16 miles southeast of Riverton, Wyo.), and points within five (5) miles of each, to points in Montana and Utah.

HEARING: June 6, 1960, at the Commercial Club, Billings, Mont., before

Joint Board No. 360, or, if the Joint Board waives its right to participate, before Examiner Leo W. Cunningham.

No. MC 109518 (Sub No. 12), filed February 12, 1960. Applicant: ADAMS TRANSPORT, INC., 12205 Empire Avenue, Spokane, Wash. Applicant's attorney: George H. Hart, Central Building, Seattle 4, Wash. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, and *empty containers or other such incidental facilities* (not specified) used in transporting the above-described commodity on return, between points in Washington on and east of U.S. Highway 97.

NOTE: Applicant states it is controlled by Cement Distributors, Incorporated (MC 113282), approval for which was granted in Docket MC-F-6073.

HEARING: June 17, 1960, at the Federal Office Building, First and Marion Streets, Seattle, Wash., before Joint Board No. 80, or, if the Joint Board waives its right to participate, before Examiner Leo W. Cunningham.

No. MC 110698 (Sub No. 136), filed February 1, 1960. Applicant: RYDER TANK LINE, INC., P.O. Box 457, Greensboro, N.C. Applicant's attorney: Frank B. Hand, Jr., 522 Transportation Building, Washington 6, D.C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vegetable oils*, in bulk, in tank vehicles, from Macon, Ga., to points in Virginia.

HEARING: July 18, 1960, at the Hotel Thomas Jefferson, Birmingham, Ala., before Examiner Robert A. Joyner.

No. MC 111545 (Sub No. 42), filed March 2, 1960. Applicant: HOME TRANSPORTATION COMPANY, INC., 334 South Four Lane Highway, Marietta, Ga. Applicant's attorney: Paul M. Daniell, Suite 214-217 Grant Building, Atlanta 3, Ga. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and wooden boxes* from Milledgeville, Ga., to points in Iowa.

HEARING: July 14, 1960, at 680 West Peachtree Street NW., Atlanta, Ga., before Examiner Robert A. Joyner.

No. MC 111545 (Sub No. 43), filed April 8, 1960. Applicant: HOME TRANSPORTATION COMPANY, INC., 334 South Four Lane Highway, Marietta, Ga. Applicant's attorney: Paul M. Daniell, Suite 214-217 Grant Building, Atlanta 3, Ga. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Warehouse and platform tugs and fork-lift trucks*, when transported on flat bed or low-boy trailers, from Battle Creek, Mich., to points in Alabama and Georgia.

HEARING: June 1, 1960, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner Leo M. Pellerzi.

No. MC 111740 (Sub No. 7), filed March 18, 1960. Applicant: OIL TRANSPORT COMPANY, a Corporation, East Highway 80, P.O. Box 2031, Abilene, Tex. Applicant's attorneys: Charles D. Mathews and Jerry Prestidge, P.O. Box 858, Austin 65, Tex. Authority sought to operate as a *common*

carrier, by motor vehicle, over irregular routes, transporting: *Sulphur*, in bulk, between points in New Mexico, on the one hand, and, on the other, points in Arizona, Texas, and Oklahoma.

HEARING: June 7, 1960, at the Baker Hotel, Dallas, Tex., before Examiner Frank R. Saltzman.

113703 (Sub No. 1), filed December 28, 1959. Applicant: TOTEM TRANSIT COMPANY, a Corporation, 5238 North Amherst, Portland, Ore. Applicant's attorney: William B. Adams, Pacific Building, Portland 4, Ore. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Poles and piling*, between points in Multnomah County, Ore., on the one hand, and, on the other, points in Wahkiakum, Cowlitz, Clark, Klickitat, Skamania, Lewis, Yakima, Benton, and King Counties, Wash.

HEARING: June 20, 1960, at the Interstate Commerce Commission, Hearing Room, 410 Southwest 10th Avenue, Portland, Ore., before Joint Board No. 45, or, if the Joint Board waives its right to participate, before Examiner Leo W. Cunningham.

No. MC 113779 (Sub No. 110), filed February 17, 1960. Applicant: YORK INTERSTATE TRUCKING, INC., 9020 La Porte Expressway, P.O. Box 12385, Houston 17, Tex. Applicant's attorney: R. D. Woodall (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Benzene*, in bulk, in tank vehicles, from Corpus Christi, Tex., to points in Illinois.

HEARING: June 21, 1960, at the Federal Office Building, Franklin and Fannin Streets, Houston, Tex., before Examiner Frank R. Saltzman.

No. MC 113908 (Sub No. 64), filed January 18, 1960. Applicant: ERICKSON TRANSPORT CORPORATION, MPO Box 706, 706 West Tampa Street, Springfield, Mo. Applicant's attorney: Turner White, 809 Woodruff Building, Springfield, Mo. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Formaldehyde*, in bulk, in tank vehicles, from Demopolis, Ala., to Springfield, Mo., and *empty containers or other such incidental facilities* used in transporting the above-mentioned commodity on return.

HEARING: July 18, 1960, at the Hotel Thomas Jefferson, Birmingham, Ala., before Examiner Robert A. Joyner.

No. MC 115311 (Sub No. 21), filed March 2, 1960. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 894, Americus, Ga. Applicant's attorney: Paul M. Daniell, Suite 214-217 Grant Building, Atlanta 3, Ga. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pepper*, in mixed shipments with *salt and salt products*, when pepper does not exceed 10 percent of gross weight, from Weeks, La., to points in Alabama, Florida, Georgia, North Carolina, South Carolina, and Tennessee.

HEARING: July 14, 1960, at 680 West Peachtree Street NW., Atlanta, Ga., before Examiner Robert A. Joyner.

No. MC 115364 (Sub No. 3), filed April 1, 1960. Applicant: GOODMAN MOTOR TRANSPORT CO., LTD., 5650 Kingston Road, Vancouver 8, B.C., Canada. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dry kiln lumber*, from ports of entry on the International Boundary line between the United States and Canada, located at or near Blaine, Sunas, and Lynden, Wash., to points in King and Pierce Counties, Wash.

NOTE: Applicant states the proposed operations will be for the account of Mac-Millan & Bloedel, Ltd., Vancouver, British Columbia, Canada.

HEARING: June 16, 1960, at the Federal Office Building, First and Marion Streets, Seattle, Wash., before Joint Board No. 80, or, if the Joint Board waives its right to participate before Examiner Leo W. Cunningham.

No. MC 116077 (Sub No. 77) filed December 23, 1959. Applicant: ROBERTSON TANK LINES, INC., 5700 Polk Avenue, P.O. Box 9218, Houston, Tex. Applicant's attorney: Thomas E. James, P.O. Box 858, Austin, Tex. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry commodities in bulk, except Portland cement*, between points in Texas, Louisiana, Arkansas, Mississippi, Oklahoma, and New Mexico. Applicant is authorized to conduct operations in Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New Mexico, North Carolina, Ohio, Oklahoma, Oregon, South Carolina, Tennessee, Texas, Washington, West Virginia, and Wisconsin.

HEARING: June 16, 1960, at the Federal Office Building, Franklin and Fannin Street, Houston, Tex., before Examiner Frank R. Saltzman.

No. MC 116077 (Sub No. 78) filed December 23, 1959. Applicant: ROBERTSON TANK LINES, INC., 5700 Polk Avenue, P.O. Box 9218, Houston, Tex. Applicant's attorney: Thomas E. James, P.O. Box 858, Austin, Tex. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry commodities in bulk, except Portland cement*, between points in Texas and Louisiana, on the one hand, and, on the other, points in Alabama, Arizona, California, Colorado, Connecticut, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, Wyoming, and the District of Columbia. Applicant is authorized to conduct operations in Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Minnesota, Mississippi, Missouri, Nebraska, New Jersey,

New Mexico, North Carolina, Ohio, Oklahoma, Oregon, South Carolina, Tennessee, Texas, Washington, West Virginia, and Wisconsin.

HEARING: June 16, 1960, at the Federal Office Building, Franklin and Fannin Street, Houston, Tex., before Examiner Frank R. Saltzman.

No. MC 116077 (Sub No. 81), filed February 17, 1960. Applicant: ROBERTSON TANK LINES, INC., P.O. Box 9218, 5700 Polk Avenue, Houston, Tex., Applicant's attorney: Thomas E. James, P.O. Box 858, Brown Building, Austin, 65, Tex. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid wax*, in bulk, from points in Jefferson County, Tex., to points in Louisiana.

HEARING: June 21, 1960, at the Federal Office Building, Franklin and Fannin Streets, Houston, Tex., before Joint Board No. 32, or, if the Joint Board waives its right to participate, before Examiner Frank R. Saltzman.

No. MC 116077 (Sub No. 82), filed February 1960. Applicant: ROBERTSON TANK LINES, INC., P.O. Box 9218, 5700 Polk Avenue, Houston, Tex. Applicant's attorney: Thomas E. James, Brown Building, Austin, Tex. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products* (other than acids and chemicals), in bulk, between points in Jefferson, Harris, Galveston, and Brazoria Counties, Tex., on the one hand, and, on the other, points in California.

HEARING: June 20, 1960, at the Federal Office Building, Franklin and Fannin Streets, Houston, Tex., before Examiner Frank R. Saltzman.

No. MC 116698 (Sub No. 6), filed March 28, 1960. Applicant: BABCOCK & LEE FREIGHT LINES, INC., 1002 Third Avenue North, Billings, Mont. Applicant's attorney: James F. Battin, Securities Building, Billings, Mont. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between Glasgow, Mont., and the Glasgow Air Force Base: from Glasgow over U.S. Highway 2 east for approximately three (3) miles to junction unnumbered highway and thence over unnumbered highway north to the Glasgow Air Force Base, and return over the same route, serving no intermediate points.

NOTE: Applicant states its principal stockholder and president directly or indirectly controls Babcock & Lee Petroleum Transporters, Inc., MC 115830, and Babcock & Lee Transportation, Inc., MC 115931; therefore, common control may be involved.

HEARING: June 10, 1960, at the Commercial Club, Billings, Mont., before Joint Board No. 82, or, if the Joint Board waives its right to participate, before Examiner Leo W. Cunningham.

No. MC 116698 (Sub No. 7), filed March 28, 1960. Applicant: BABCOCK & LEE FREIGHT LINES, INC., 1002 Third Ave-

nue North, Billings, Mont., Applicant's attorney: James F. Battin, Securities Building, Billings, Mont. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between Billings, Mont., and Red Lodge, Mont.: from Billings over U.S. Highways 10 and 312 to Laurel, and thence over U.S. Highway 312, via Rockvale, to Red Lodge, and return over the same route, serving the intermediate points of Laurel, Silesia, Rockvale, Joliet, Boyd, and Roberts, Mont.

NOTE: Applicant states its principal stockholder and president directly or indirectly controls Babcock & Lee Petroleum Transporters, Inc., MC 115830, and Babcock & Lee Transportation, Inc., MC 115931; therefore, common control may be involved.

HEARING: June 9, 1960, at the Commercial Club, Billings, Mont., before Joint Board No. 82, or, if the Joint Board waives its right to participate, before Examiner Leo W. Cunningham.

No. MC 117475 (Sub No. 9), filed March 23, 1960. Applicant: INTERSTATE TRANSPORT, INC., P.O. Box 502, Sioux Falls, S. Dak. Applicant's attorney: Donald A. Morken, 1100 First National-Soo Line Building, Minneapolis 2, Minn. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, in bulk from points in Lyon, Sioux, Osceola, and O'Brien Counties, Iowa, to points in Minnesota, North Dakota, South Dakota, and Nebraska.

HEARING: June 20, 1960, in Room 401 Old Federal Office Building, Fifth and Court Avenues, Des Moines, Iowa, before Examiner Maurice S. Bush.

No. MC 119472, filed February 1, 1960. Applicant: JAMES R. HOWARD, 1641 Southeast 139th Street, Portland 33, Ore. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood shakes and shingles*, from points in Grays Harbor County, Wash., to points in California, and *produce*, on return.

HEARING: June 21, 1960, at the Interstate Commerce Commission Hearing Room, 410 Southwest 10th Avenue, Portland, Ore., before Joint Board No. 5, of, if the Joint Board waives its right to participate, before Examiner Leo W. Cunningham.

No. MC 119506, filed February 15, 1960. Applicant: CLARENCE AND WALTER JENKINS, doing business as JENKINS BROTHERS, Mt. Vernon, Ore. Applicant's attorney: Roy Kilpatrick, Canyon City, Ore. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asbestos ore*, in bulk, in full truck and trailer loads, from points in Grant County, Ore., to Los Angeles, Calif., and *exempt agricultural commodities* on return.

HEARING: June 21, 1960, at the Interstate Commerce Commission Hearing

Room, 410 Southwest 10th Avenue, Portland, Ore., before Joint Board No. 11, or, if the Joint Board waives its right to participate, before Examiner Leo W. Cunningham.

No. MC 119570, filed March 7, 1960. Applicant: WESTERN STATES BUILDER'S SUPPLY CO., a Corporation, 515 Northeast N Street, Grants Pass, Ore. Applicant's attorney: Gene L. Brown, 204 Wing Building, Grants Pass, Ore. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from Eugene, Lebanon, Grants Pass, Portland, Molalla, Salem, and Roseburg, Ore., to Sacramento, San Francisco, San Mateo, Fresno, Bakersfield, Los Angeles, Marysville, and Santa Maria, Calif., Phoenix and Tucson, Ariz., and Las Vegas, Nev., and *exempt commodities*, from Hayward, Calif., to points in Jackson and Multnomah Counties, Ore., on return.

HEARING: June 23, 1960, at the Interstate Commerce Commission Hearing Room, 410 Southwest 10th Avenue, Portland, Ore., before Examiner Leo W. Cunningham.

No. MC 119582, filed March 14, 1960. Applicant: PERCY MUTCHLER, doing business as EVERETT FUEL AND LUMBER DISTRIBUTORS, 2923 Walnut, Everett, Wash. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and building materials and supplies*, from points in Snohomish County, Wash., to points in King County, Wash., and *empty containers or other such incidental facilities*, used in transporting the above-described commodities, on return.

NOTE: Applicant states he seeks authority to transport the above-described commodities from Snohomish County, Wash. to docks or wharves in King County, Wash., for shipment by water in interstate commerce.

HEARING: June 14, 1960, at the Federal Office Building, First and Marion Streets, Seattle, Wash., before Joint Board No. 80, or, if the Joint Board waives its right to participate, before Examiner Leo W. Cunningham.

No. MC 119634, filed March 29, 1960. Applicant: CHARLES R. IRVIN, doing business as DICK IRVIN TRUCKING COMPANY, Shelby, Mont. Applicant's attorney: Henry Loble, Loble Building, Helena, Mont. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizer*, in bulk and in bags, and packages, from Ports of Entry on the boundary between the United States and Canada, in Montana, to points in Montana, and *contaminated or rejected shipments* of dry fertilizer, on return.

HEARING: June 10, 1960, at the Commercial Club, Billings, Mont., before Joint Board No. 82, or, if the Joint Board waives its right to participate, before Examiner Leo W. Cunningham.

No. MC 119662, filed April 11, 1960. Applicant: ANDERSON FORD TARR, doing business as TARR'S EXPRESS, 118 Willard Street, Baltimore 23, Md. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Pharmaceuticals, including narcotics*, from Baltimore,

Md., to points in Washington, D.C., Fairfax County, Va. and Maryland, including Laurel and Hyattsville, Md., and *empty containers or other such incidental facilities* (not specified) used in transporting the commodities specified in this application on return.

NOTE: Applicant states it is proposed to deliver small packages of the above products from Parke, Davis & Co., and other pharmaceutical companies, Baltimore, Md., to pharmacies, hospitals and physicians in the District of Columbia, Fairfax County, Va., and en route thereto in Maryland, using the Washington-Baltimore Parkway and/or Baltimore Washington Boulevard (Routes Nos. 1 and 1 Alternate), thence to distribute the cargoes throughout the District of Columbia, Fairfax County, Va. and Maryland as aforesaid.

HEARING: May 26, 1960, in Room 709, U.S. Appraisers' Stores Building, Gay and Lombard Streets, Baltimore, Md., before Joint Board No. 68.

MOTOR CARRIERS OF PASSENGERS

No. MC 59238 (Sub No. 42) (AMENDMENT), filed March 16, 1960, published in the April 6, 1960 issue of THE FEDERAL REGISTER. Applicant: VIRGINIA STAGE LINES, INCORPORATED, 114 Fourth Street S.W., Charlottesville, Va. Applicant's attorney: Julian P. Freret and William A. Roberts, Continental Building, 14th at K NW., Washington 5, D.C. In the previous publication *common carrier* authority is sought to transport *passengers and their baggage, express and mail* in the same vehicle with passengers, over two regular routes, specified therein, (1) Between the intersection of Washington Circumferential Highway (U.S. Highway 495) and Virginia Highway 350 (Shirley Highway), near Springfield, Va., and Safeway Trails Terminal, 12th and I Streets NW., Washington, D.C., and (2) Between the intersection of U.S. Highway 1 and approaches of the Jones Point Bridge, at Hunting Creek, Va. and the said Safeway Trails Terminal. By this amendment applicant requests joinder of the proposed routes with its existing routes at intersection in Virginia of U.S. Highway 1 and U.S. Highway 413 and at the intersection in Virginia of Virginia Highway 350 and U.S. Highway 413; and authority to serve the west end of the Woodrow Wilson Bridge for interchange purposes only. Inasmuch as the said west end of the Woodrow Wilson Bridge is within the city limits of Alexandria, Va., applicant requests service to any point in the city of Alexandria for interchange purposes only.

HEARING: Remains as assigned May 19, 1960, at the Offices of the Interstate Commerce Commission, Washington, D.C. before Joint Board No. 68.

No. MC 84728 (Sub No. 32) (AMENDMENT), filed December 11, 1959, published in the January 13, 1960 issue of THE FEDERAL REGISTER. Applicant: SAFEWAY TRAILS, INC., 1200 Eye Street NW., Washington, D.C. Applicant's attorney: William A. Roberts, Continental Building, 14th at K NW., Washington 5, D.C. In the previous publication *common carrier* authority is sought to transport *passengers and their baggage, express and mail* in the same

vehicle with passengers, over two regular routes, specified therein, (1) between Intersection of Washington Circumferential Highway and George Washington Parkway in Alexandria, Va. and Intersection of Washington Circumferential Highway and U.S. Highway 29 at or near Four Corners, Md., and (2) between Intersection of Washington Circumferential Highway and George Washington Parkway, in Alexandria, Va., and Trailways Terminal, 12th and I Streets NW, Washington, D.C., serving no intermediate points. By this amendment applicant requests joinder of routes at the intersection of the Washington Circumferential Highway and U.S. Highway 1 in Maryland, and at the intersection of the said Circumferential Highway and the Washington Baltimore Expressway. Also applicant requests amendment to permit service from and to Four Corners, Md., over U.S. Highway 29 and city streets serving Silver Spring, Md., and thence connecting with applicant's presently authorized routes in the District of Columbia and particularly its 16th Street operation. Applicant states it presently serves Silver Spring, over streets within that unincorporated community, and Takoma Park, as well, rejoining its New Hampshire Avenue route to Baltimore, but does not utilize the new portion of U.S. Highway 29 between the junction of New Hampshire Avenue extended and the center of Silver Spring. Inasmuch as the western end of the Woodrow Wilson Bridge is located within the city limits of Alexandria, Va. applicant requests service to points in Alexandria, Va. Applicant states it is agreeable in this connection to a restriction against service between Alexandria and Washington, D.C.

HEARING: May 19, 1960, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Joint Board No. 68.

APPLICATIONS IN WHICH HANDLING WITHOUT ORAL HEARING IS REQUESTED

MOTOR CARRIERS OF PROPERTY

No. MC 1838 (Sub No. 2), filed April 5, 1960. Applicant: ALEX C. SMITH, INC., 41 East Avenue, Akron, N.Y. Applicant's representative: Floyd B. Piper, Crosby Building, Franklin Street, at Mohawk, Buffalo 2, N.Y. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Building materials and pallets*, between Akron and Clarence Center, N.Y., and points in Cameron, Carbon, Centre, Clarion, Clearfield, Clinton, Columbia, Elk, Forest, Jefferson, Lackawanna, Luzerne, Lycoming, Monroe, Montour, Northumberland, Pike, Sullivan, Susquehanna, Union, Wayne, and Wyoming Counties, Pa.

No. MC 13700 (Sub No. 3), filed April 14, 1960. Applicant: ROOKS TRANSFER LINES, INC., 13-15 West Seventh Street, Holland, Mich. Applicant's attorney: Harold Knorr, 53 Jefferson SE., Grand Rapids 2, Mich. Authority sought to operate as a *common carrier*, by motor vehicle, transporting: *General commodities*, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, live-

stock, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between Grand Haven, Mich., and Grand Rapids, Mich., (a) from Grand Haven over U.S. Highway 31 to junction Michigan Highway 50, thence over Michigan Highway 50 to Grand Rapids, 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. (b) From Grand Haven over U.S. Highway 31 to junction Michigan Highway 104, thence over Michigan Highway 104 to junction U.S. Highway 16, thence over U.S. Highway 16 to Grand Rapids, 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.

No. MC 13700 (Sub No. 4), filed April 14, 1960. Applicant: ROOKS TRANSFER LINES, INC., 13-15 West Seventh Street, Holland, Mich. Applicant's attorney: Harold Knorr, 53 Jefferson SE., Grand Rapids 2, Mich. Authority sought to operate as a *common carrier*, by motor vehicle, transporting: *General commodities*, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, livestock, commodities in bulk, those requiring special equipment, and those injurious or contaminating to other lading, between Fennville, Mich., and Allegan, Mich., from Fennville over Michigan Highway 89 to junction Michigan Highway 40, thence over Michigan Highway 40 to Allegan, 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.

No. MC 30887 (Sub No. 94), filed April 15, 1960. Applicant: SHIPLEY TRANSFER, INC., 534 Main Street, Reisterstown, Md. Applicant's attorney: Donald E. Freeman, Uniontown Road, Box 24, Westminster, Md. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Latex*, in bulk, in tank vehicles, (1) from Akron, Ohio and Louisville, Ky., to Burlington, Middlesex, New Brunswick, Newark and Roselle Park, N.J., Boston, Cambridge, Fall River, Lynn and Watertown, Mass., Bristol and Philadelphia, Pa., and New York, Staten Island and International Boundary at or near Buffalo, N.Y., and (2) from North Bergen, N.J., and New York, N.Y., to St. Louis, Mo. and Waxhaw, N.C.

NOTE: The purpose of this application is to eliminate the tacking points of Alexandria Bay, N.Y., Dover, Del., and Baltimore, Md., via which traffic is presently being performed.

No. MC 77424 (Sub No. 13), filed April 13, 1960. Applicant: WENHAM TRANSPORTATION, INC., 2723 Orange Avenue, Cleveland 15, Ohio. Applicant's representative: J. J. Kuhner, 736 Society for Savings Building, Cleveland 14, Ohio. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rolling mill rolls*,

further finished than rough turned, between Lima, Ohio and points in Brooke, Hancock, and Ohio Counties, W. Va.

NOTE: Applicant states that it presently is authorized to transport rolling mill rolls, unfinished, between the points involved, and that by this application it seeks to provide a complete service in transporting both unfinished and further finished rolling mill rolls for the same shippers.

No. MC 86539 (Sub No. 1), filed April 15, 1960. Applicant: LEO C. PENRY, Atkinson, Nebr. Applicant's representative: Wallace W. Huff, 314 Security Building, Sioux City 1, Iowa. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mixed feeds, fertilizers, building materials, farm machinery parts, and seeds*, from Sioux City, Iowa, to points within that part of Nebraska commencing at the Nebraska-South Dakota State line at Niobrara, continuing south along Nebraska Highway 14 to Elgin, thence west along Nebraska Highway 70 to Cumminsville, thence south along Nebraska Highway 70 to junction Nebraska Highway 91, thence west along Nebraska Highway 91 to Brewster, thence north along Nebraska Highway 7 to junction U.S. Highway 20, thence west along U.S. Highway 20 to junction U.S. Highway 83, and thence north along U.S. Highway 83 to the Nebraska-South Dakota State line, including all points on the indicated portions of highways specified.

No. MC 87857 (Sub No. 49) (CORRECTION), filed March 28, 1960, published FEDERAL REGISTER, issue of April 6, 1960. Applicant: BRINK'S INCORPORATED, 234 East 24th Street, Chicago 16, Ill. Applicant's attorney: Francis D. Partlan, 234 East 24th Street, Chicago 16, Ill. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Currency, coin, and securities*, between points in the St. Louis, Mo., East St. Louis, Ill., Commercial Zone, on the one hand, and, on the other, points in Crawford, Wabash, Gallatin, Pope, Alexander, Johnson, Richland, White, Massac, Lawrence, Saline, Pulaski, Edwards and Jasper Counties, Ill., and Knox, Posey, Daviess, Vanderburgh, Gibson, Warrick, Pike, and Spencer Counties, Ind.

NOTE: The purpose of this republication is to indicate that carrier seeks contract carrier authority only. The previous publication incorrectly described the authority sought in the alternative.

No. MC 97429 (Sub No. 2), filed April 15, 1960. Applicant: ELK VALLEY MOTOR EXPRESS, INC., Spring & Bullitt Streets, Charleston, W. Va. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment, between Sutton, W. Va., and Flatwoods, W. Va.: from Sutton over U.S. Highway 19 to Flatwoods and return over the same route, serving no intermediate points.

No. MC 108282 (Sub No. 8), filed April 8, 1960. Applicant: SHORT FREIGHT

LINE, INC., 220 Saginaw Street, Bay City, Mich. Applicant's attorney: Kit F. Clardy, 1633 Via Arriba, Palos Verdes Estates, Calif. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Dangerous explosives, including Classes A and B explosives, and ammunition* of all kinds, and *empty containers or other such incidental facilities* used in transporting the above-described commodities, between all points and over all routes in Michigan which applicant is authorized to serve in its Certificate Nos. MC 108382 and MC 108382 Sub No. 6.

No. MC 113024 (Sub No. 9), filed April 15, 1960. Applicant: ARLINGTON JOHN WILLIAMS, doing business as A. J. WILLIAMS, 152 Killoran Drive, New Castle, Del. Applicant's attorney: Samuel W. Earnshaw, 983 National Press Building, Washington 4, D.C. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Clothing, dry goods, and materials and supplies* used in the manufacture of such articles, between Manchester, LaGrange and Newnan, Ga., and Lafayette, Ala., on the one hand, and, on the other, Atlanta, Ga., including Atlanta Airport.

NOTE: Applicant states such articles not exceeding 500 pounds per shipment limited to service for International Latex Corporation.

No. MC 119668 (CORRECTION), filed April 11, 1960, published in the FEDERAL REGISTER, issue of April 20, 1960. Applicant: FORREST RATLIFF AND AUBURN RATLIFF, doing business as RATLIFF TRUCKING SERVICE, A Partnership, P.O. Box 104, Grundy, Va. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed*, for livestock and poultry consumption, from Cincinnati, Ohio, to Oakwood, Haysi, Clintwood, and Wise, Va.

NOTE: The purpose of this republication is to show applicants correct docket number. Previous publication showed No. MC 118668, in error.

No. MC 119672, filed April 14, 1960. Applicant: CURTIS WALTERS, doing business as STANTON TRANSFER AND STORAGE COMPANY, 14 South Seventh Street, Payette, Idaho. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pole line construction materials, transformers, wire, cable and such equipment and materials* as is required for the transmission, generation and distribution of electricity, between Payette, Idaho, on the one hand, and, on the other, points in Malheur, Baker, Wallowa, Union, and Harney Counties, Oreg.

MOTOR CARRIERS OF PASSENGERS

No. MC 1501 (Sub No. 185), filed April 18, 1960. Applicant: THE GREYHOUND CORPORATION, 140 South Dearborn Street, Chicago 3, Ill. Applicant's attorney: Earl A. Bagby, Western Greyhound Lines (Division of the Greyhound Corporation), Market and Fremont Streets, San Francisco 5, Calif. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers*

and their baggage, and express and newspapers in the same vehicle with passengers, between Squaw Valley Junction, Calif., and Squaw Valley, Calif.; from Squaw Valley Junction over unnumbered highway, to Squaw Valley, and return over the same route.

NOTE: Applicant states the proposed route is a short route providing access to and terminating at Squaw Valley on the west and connecting with Route 72 at Squaw Valley Junction on the east; and that the purpose of this application is to establish and operate an all-year regular route service between Squaw Valley and Tahoe Junction, thence over U.S. Highway 40 to points east and west thereof.

No. MC 119448 (Sub No. 1), filed April 15, 1960. Applicant: ARLINGTON JOHN WILLIAMS, doing business as A. J. WILLIAMS, 152 Killoran Drive, New Castle, Del. Applicant's attorney: Samuel W. Earnshaw, 983 National Press Building, Washington 4, D.C. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Passengers*, in non-scheduled door-to-door service, limited to the transportation of not more than 6 passengers, in addition to the driver, in any one vehicle, (1) between Manchester, La Grange and Newnan, Ga., and Lafayette, Ala., and (2) between Manchester, La Grange, and Newman, Ga., and Lafayette, Ala., on the one hand, and, on the other, Atlanta, Ga., including Atlanta Airport.

NOTE: Applicant states the proposed operation is limited to service for International Latex Corporation, Dover, Del. Application was accompanied by a motion to dismiss.

PETITION

No. MC 29761 (PETITION TO AMEND CERTIFICATE BY REMOVING RESTRICTION) filed April 14, 1960. Petitioner: DE ROSA TRANSPORTATION, INC., 2278 South Union Avenue, Chicago 16, Ill. Petitioner's attorneys: Franklin R. Overmyer and Hamilton R. Winton, Jr., 111 West Monroe Street, Chicago 3, Ill. Certificate dated January 6, 1956, authorizes the transportation of *general commodities*, with certain exceptions, between points in Cook County, Ill., on the one hand, and, on the other, points in Lake and Porter Counties, Ind., on and north of U.S. Highway 30. Between points in Cook County, Ill., on and south of U.S. Highway 34, and those in Lake County, Ind., on and north of U.S. Highway 30, on the one hand, and, on the other, points in Michigan on and south of U.S. Highway 12. RESTRICTION: Service is not authorized between Chicago, Ill., and Detroit, Mich.; and also *general commodities*, with certain exceptions, between points in Chicago, Ill.; and between Chicago, Ill., on the one hand, and, on the other, points in Illinois within 25 miles of Chicago. By petition filed April 14, 1960, petitioner seeks removal of the above restriction reading: "Service is not authorized between Chicago, Ill., and Detroit, Mich." Any person desiring to oppose the relief sought may file an appropriate pleading within 30 days from the date of this publication in the FEDERAL REGISTER.

APPLICATIONS UNDER SECTIONS 5 AND
210a(b)

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

MOTOR CARRIERS OF PROPERTY

No. MC-F 7303 (BRADA CARTAGE CO.—CONTROL AND MERGER—MILLER TRANSPORTATION, INC.), published in the September 10, 1959, issue of the FEDERAL REGISTER on page 7303. Supplemental application filed April 11, 1960, to show joinder of DAVID H. RATTNER, c/o Seneca Hotel, 200 East Chestnut Street, Chicago, Ill., as the person controlling BRADA CARTAGE CO.

No. MC-F 7347 (HAROLD L. CROMER—CONTROL—SERVICE MOTOR FREIGHT, INC.), published in the October 21, 1959, issue of the FEDERAL REGISTER on page 8528. Supplement filed April 11, 1960, to show HOWARD E. LEFEVRE, 171 Riverside Drive, Newark, Ohio, as an additional party applicant.

No. MC-F 7492, BLODGETT UNCRATED FURNITURE SERVICE, INC.—PURCHASE (PORTION)—J. CLIFFORD JOHNSON AND J. STUART JOHNSON, published in the April 6, 1960, issue of the FEDERAL REGISTER on page 2937. Supplement filed April 15, 1960, to show joinder of FREDERICK W. WIERSUM, 1062 Plymouth, Grand Rapids, Mich., and ROBERT K. WIER-SUM, 2632-32nd SE., Grand Rapids, Mich., as the persons controlling vendee.

No. MC-F 7495, (M. C. SLATER, INC.—PURCHASE—DAVID V. FOLEY, JR.), published in the April 13, 1960, issue of the FEDERAL REGISTER on page 3196. Supplement filed April 20, 1960, to show joinder of MILDRED C. SLATER, 1129 Bremen Avenue, St. Louis 7, Mo., as the person controlling vendee.

No. MC-F 7506. Authority sought for purchase by JOHNSON MOTOR LINES, INC., 2426 North Graham Street, P.O. Box No. 10497, Charlotte 1, N.C., of a portion of the operating rights of COOPER MOTOR LINES, INC., 301 Hammett Street Extension, Greenville, S.C., and for acquisition by H. BEALE ROLLINS, 629 Title Building, Baltimore 2, Md., of control of such rights through the purchase. Applicants' attorney: Bryce Rea, Jr., 919 Munsey Building, Washington 4, D.C. Operating rights sought to be transferred: *General commodities*, except those of unusual value, and except dangerous explosives, and commodities injurious or contaminating to other lading, as a *common carrier* over irregular routes, between points within ten miles of Charleston, S.C., including Charleston, on the one hand, and, on the other, points in Charleston, Georgetown, Horry, Berkeley, Dorchester, Colleton, Beaufort, and Jasper Counties, S.C.; *general commodities*, excepting, among others, household goods, but not excepting commodities in bulk, between Graniteville and Charleston, S.C., on the one hand, and, on the other, points in Geor-

gia (except between Graniteville, S.C., and Atlanta, Ga.), and South Carolina.

NOTE: The carrier may combine two or more of the above-described irregular-route authorities provided the authorities have a point common to both to which the carrier may transport a given commodity under one authority and from which it may transport the same commodity under the other, and establish through service under such combination provided in each instance the commodity is transported through the common or gateway point, and provided further, that this certificate does not contain any restriction or other indication that through service shall not be conducted. Vendee is authorized to operate as a *common carrier* in Massachusetts, Maryland, Pennsylvania, Connecticut, Rhode Island, New Jersey, New York, Delaware, Virginia, North Carolina, South Carolina, Georgia, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

NOTE: Application for authority under section 214 was filed in conjunction with the application under section 5, in Finance Docket No. 21092.

No. MC-F 7507. Authority sought for purchase by ELLSWORTH BROS. TRUCK LINE, INC., Drawer J, Stroud, Okla., of a portion of the operating rights and certain property of W. R. STUBBS, 1501 West Main Street, Henryetta, Okla. Applicants' attorneys: Kirk Woodliff, Box 160, Henryetta, Okla., and Max G. Morgan, 450 American National Building, Oklahoma City, Okla. Operating rights sought to be transferred: *Petroleum residues to include #6 fuel oils, road oils, and asphalt*, in bulk, in tank trucks, as a *common carrier* over irregular routes from Tulsa and Okmulgee, Okla., to all points in Benton, Washington, Crawford, Sebastian, Franklin, Johnson, Pope, Van Buren, Carroll, and Boone Counties, Ark., from Cleveland, Okla., to points in Benton, Carroll, Boone, Washington, Crawford, Sebastian, Franklin, and Johnson Counties, Ark., and from Bristow, Okla., to points in Benton, Washington, Crawford, and Sebastian Counties, Ark. Vendee is authorized to operate as a *common carrier* in Oklahoma, Kansas, Arkansas, Missouri, and Texas. Application has not been filed for temporary authority under section 210a(b).

No. MC-F 7508. Authority sought for control by GATE CITY TRANSPORT COMPANY, 13401 Eldon Avenue, Detroit 34, Mich., of SQUARE DEAL CARTAGE COMPANY, 13401 Eldon Avenue, Detroit 34, Mich., and for acquisition by NORMAN F. MEALEY and PEARL MEALEY, both of 6300 Bloomfield Glens, Birmingham, Mich., of control of SQUARE DEAL CARTAGE COMPANY through the acquisition by GATE CITY TRANSPORT COMPANY. Applicant's attorneys: Arthur P. Boynton and Wilhelmina Boersma, both of 2850 Penobscot Building, Detroit 26, Mich. Operating rights sought to be controlled: *New automobiles, new trucks, new bodies, new cabs, and new chassis*, restricted to initial movements, in truckaway and driveaway service, as a *common carrier* over irregular routes, from places of manufacture and assembly in Wayne County, Mich., and Warren Township, Macomb County, Mich., to points in Illinois, Indiana,

Michigan, Missouri, Iowa, Ohio, West Virginia, Pennsylvania, and those in Kentucky on that part of the Ohio River forming the Ohio-Kentucky and the Indiana-Kentucky boundary lines, and from places of manufacture and assembly in Pontiac, Mich., to points in Illinois; *automobiles, trucks, bodies, cabs, and chassis, new, used, unfinished, and/or wrecked*, restricted to subsequent or secondary movements, in truckaway and driveaway service, between all points named or described above; *new automobiles, automobile bodies, automobile chassis; and automobile parts and accessories* moving in connection therewith, *automobile show equipment and paraphernalia, and farm and garden tractors and parts and accessories* thereof moving in connection therewith, in initial movements, in truckaway and driveaway service, from Willow Run in Washtenaw County, Mich., to points in Illinois, Indiana, Iowa, Michigan (through Wisconsin), Missouri, Ohio, Pennsylvania, and West Virginia, and those in Kentucky on that part of the Ohio River forming the Ohio-Kentucky and the Indiana-Kentucky State lines. GATE CITY TRANSPORT COMPANY is authorized to operate as a *common carrier* in North Carolina, South Carolina, Ohio, Virginia, West Virginia, and Michigan. Application has not been filed for temporary authority under section 210a(b).

No. MC-F 7509. Authority sought for purchase by J. H. ROSE TRUCK LINE, INC., 3804 Jensen Drive, P. O. Box 16037, Houston 22, Tex., of a portion of the operating rights of OIL FIELD TRUCKERS, INC., P.O. Box 3066, Odessa, Tex., and for acquisition by J. H. ROSE, JR., also of Houston, of control of such rights through the purchase. Applicants' attorneys: Charles D. Mathews and Thomas E. James, both of P. O. Box 858, Austin 65, Tex. Operating rights sought to be transferred: *Machinery, equipment, materials and supplies* used in or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and the construction, operation, repair, servicing, maintenance, and dismantling of pipe-lines, including the stringing and picking up thereof, as a *common carrier* over irregular routes, between points in San Juan, Rio Arriba, and McKinley Counties, N. Mex., Delores, San Miguel, Montezuma, San Juan, La Plata, and Archuleta Counties, Colo., Navajo and Apache Counties, Ariz., and San Juan County, Utah. Vendee is authorized to operate as a *common carrier* in Arkansas, California, Kansas, Louisiana, New Mexico, Oklahoma, Texas, Arizona, Colorado, Utah, Wyoming, Montana, Idaho, North Dakota, South Dakota, Nebraska, and Nevada. Application has been filed for temporary authority under section 210a(b).

No. MC-F 7510. Authority sought for purchase by AZUSA TRANSFER COMPANY, 920 West Tenth Street, Azusa, Calif., of the operating rights of DAVIES WAREHOUSE COMPANY, 164 South Central Avenue, Los Angeles 12, Calif., and for acquisition by ROBERT H.

BENSINGER, 1125 Fallen Leaf Road, Arcadia, Calif., and ALVINA B. MEIER, 1135 North Orange Avenue, Azusa, Calif., of control of such rights through the purchase. Applicant's attorneys: Bailey & McWhinney, 639 South Spring Street, Los Angeles 14, Calif. Operating rights sought to be transferred: *General commodities*, excepting, among others, household goods and commodities in bulk, as a *common carrier* over irregular routes, between points in Los Angeles, Calif., and between Los Angeles, Calif., on the one hand, and, on the other, Los Angeles Harbor, Calif.; *candy, paper, bed springs, washing machines, and canned goods*, from Los Angeles, Calif., to points within 25 miles of Los Angeles. Vendee is authorized to operate as a *common carrier* in California, also under the Second Proviso of section 206a(1), Interstate Commerce Act, in the State of California. Application has not been filed for temporary authority under section 210a(b).

No. MC-F 7511. Authority sought for purchase by VIRGINIA HAULING COMPANY, Mountain Road, Glen Allen, Va., (mail address P.O. Box 9525, Lakeside Station, Richmond, Va.), of a portion of the operating rights of W. I. WORSHAM, R. B. WORSHAM, AND D. A. WORSHAM, doing business as W. I. WORSHAM & BROS., (BLACKWELL N. SHELLEY, TRUSTEE), 2100 East Ninth Street Road, P.O. Box 307, Richmond, Va., and for acquisition by BOWMAN ENTERPRISES, INC., P.O. Box 9525, Richmond, Va., and, in turn, SHEARER C. BOWMAN, 7112 University Drive, Richmond, Va., of control of such rights through the purchase. Applicants' attorney: Paul A. Sherier, 601 Warner Building, Washington 4, D.C. Operating rights sought to be transferred: *Wire bound box material, wooden pallets, and pallet parts*, as a *contract carrier* over irregular routes, from Richmond, Va., to Greensburg, Creighton, and Ford City, Pa. Vendee is authorized to operate as a *common carrier* in Virginia, Maryland, Pennsylvania, Delaware, West Virginia, North Carolina, New Jersey, New York, Massachusetts, Rhode Island, Connecticut, Ohio, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

No. MC-F 7512. Authority sought for purchase by O. W. MARTIN, doing business as MARTIN TRUCKING, P.O. Box 168, Cromwell, Ind., of the operating rights of HARMON M. HARPER AND ORIS W. MARTIN, doing business as HARPER & MARTIN, P.O. Box 168, Cromwell, Ind. Applicant's attorney: Louis E. Smith, 511 Fidelity Building, Indianapolis, Ind. Operating rights sought to be transferred: *Fresh fruits and vegetables*, in containers, as a *contract carrier* over irregular routes, from certain points in Wisconsin, Michigan, Indiana, and Ohio to Chicago, Ill.; *racks and empty fruit and vegetable containers*, from Chicago, Ill., to certain points in Wisconsin, Michigan, Indiana, and Ohio; *fresh frozen fruits and fresh frozen vegetables*, in containers, from certain points in Wisconsin, Michigan, Indiana, and Ohio to Chicago, Ill.; *racks*

and *empty containers*, from Chicago, Ill., to certain points in Wisconsin, Michigan, Indiana, and Ohio; *vegetables*, fresh or green, from points on the lower peninsula of Michigan north of U.S. Highway 10 to Chicago, Ill., and from points on the lower peninsula of Michigan to points in Randolph and Vigo Counties, Ind.; *vegetables*, fresh, green, or frozen, from points on the lower peninsula of Michigan to points in Henry County, Ohio, from points in Indiana to points in Henry County, Ohio, from certain points in Ohio to all points in Randolph and Vigo Counties, Ind., and from points in Wisconsin on and south of U.S. Highway 10 to points in Randolph and Vigo Counties, Ind., and Henry County, Ohio; *empty containers and racks* for the above-described commodities, from the above-specified destination points to the described origin points; *vegetables*, fresh, green, or frozen, and *empty containers and racks* therefor, between Chicago, Ill., on the one hand, and, on the other, points in Randolph and Vigo Counties, Ind., and Henry County, Ohio, and between points in Randolph and Vigo Counties, Ind., on the one hand, and, on the other, points in Henry County, Ohio; *tomatoes*, fresh or green, and *racks and empty containers* therefor, between Camden, N.J., on the one hand, and, on the other, Chicago, Ill., and points in Randolph and Vigo Counties, Ind., and Henry County, Ohio; *materials, equipment, and supplies* used in the operation of canning plants, between Chicago, Ill., on the one hand, and, on the other, points in Randolph County, Ind., and Henry County, Ohio, and between points in Randolph and Vigo Counties, Ind., on the one hand, and, on the other, points in Henry County, Ohio; *feed, fertilizer, and binder twine*, as a *common carrier* over irregular routes, from Chicago and Chicago Heights, Ill., to points in DeKalb, Steuben, Noble, and Lagrange Counties, Ind., fertilizer, from Chicago, Ill., to points in Defiance and Williams Counties, Ohio. Vendee holds no authority from this Commission. However, he owns a majority of the stock of CLEMAR CARTAGE, INC., of Cromwell, Ind., which is authorized to operate as a *contract carrier* in Indiana, Missouri, Ohio, Michigan, and Illinois. Application has not been filed for temporary authority under section 210a(b).

No. MC-F 7514. Authority sought for control by NATIONAL TRANSPORTATION COMPANY, 251 State Street Extension, Bridgeport, Conn., of HARTFORD TRANSPORTATION CO., INCORPORATED, 2434 Berlin Turnpike, Newington, Conn., and for acquisition by DAVID C. GOLD, RAYMOND PULVER and THEODORE KRAMER, all of Bridgeport, of control of HARTFORD TRANSPORTATION CO., INCORPORATED, through the acquisition by NATIONAL TRANSPORTATION COMPANY. Applicant's attorneys: Joseloff, Murrett & Throwe, 410 Asylum Street, Hartford 3, Conn., and Donald P. Richter, 97 Elm Street, Hartford, Conn. Operating rights sought to be controlled: *General commodities*, excepting, among others, household goods and commodities in bulk, as a *common carrier* over regu-

lar routes, between Boston, Mass., and Hartford, Conn., between junction U.S. Highway 20 and Massachusetts Highway 9 east of Worcester, Mass., and junction Massachusetts Highway 12 and U.S. Highway 20 south of Worcester, between Berlin, Conn., and New York, N.Y., between Boston, Mass., and junction U.S. Highway 6 and Connecticut Highway 91, between East Hartford, Conn., and junction U.S. Highway 6 and Alternate U.S. Highway 6, between Portland, Conn., and Waterbury, Conn., between Portland, Conn., and Putnam, Conn., between Portland, Conn., and Jewett City and New London, Conn., and between the junction of U.S. Highway 5 and U.S. Highway 5A south of Berlin, Conn., and Hartford, Conn., serving certain intermediate and off-route points; alternate route for operating convenience only between Newington, Conn., and junction Massachusetts Highway 15 and U.S. Highway 20; *scrap materials, wire rope, paper and paper products, fertilizer, bur-lap bags, and such merchandise as is dealt in by wholesale and retail chain grocery and food business houses*, between Berlin, Conn., and Greenfield, Mass., serving certain intermediate and off-route points; *general commodities*, excepting, among others, household goods and commodities in bulk, over irregular routes, between Springfield, Mass., and points in Massachusetts within 15 miles of Springfield, on the one hand, and, on the other, New York, N.Y., and points in New Jersey within 20 miles of New York, between New York, N.Y., Philadelphia, Pa., and Camden, N.J., on the one hand, and, on the other, certain points in New Jersey, and between Newark, N.J., on the one hand, and, on the other, points in Middlesex County, N.J.; *household goods*, as defined by the Commission, and *general commodities*, except those of unusual value, and except dangerous explosives, livestock, commodities requiring special equipment, and those injurious or contaminating to other lading, between points in Middlesex, Somerset, and Union Counties, N.J., on the one hand, and, on the other, certain points in New York, Connecticut and Pennsylvania; *household goods* as defined by the Commission, between Springfield, Mass., and points in Massachusetts within 25 miles of Springfield, on the one hand, and, on the other, points in New York; *fertilizer, scrap materials, wire rope, bananas, paper, paper products, pottery, apples, apple products, chemicals, machinery, fertilizer materials, canned goods, groceries, fruit, vegetables, and materials, machinery, machine parts, and supplies*, used in the manufacture of paper and paper products, from, to or between points and areas, varying with the commodity transported, in New Jersey, Connecticut, Massachusetts, New York, and Rhode Island. NATIONAL TRANSPORTATION COMPANY is authorized to operate as a *common carrier* in Massachusetts, Connecticut, New York, New Jersey, Pennsylvania, Delaware, and Maryland. Application has been filed for temporary authority under section 210a(b).

MOTOR CARRIERS OF PASSENGERS

No. MC-F 7505. Authority sought for control by CONTINENTAL SOUTHERN LINES, INC., 425 Bolton Avenue, P.O. Box 4407, Alexandria, La., of AMERICAN BUSLINES, INC., 1341 P Street, Lincoln 8, Nebr., and for acquisition by TRANSCONTINENTAL BUS SYSTEM, INC., 315 Continental Avenue, Dallas 7, Tex., of control of AMERICAN BUSLINES, INC., through the acquisition by CONTINENTAL SOUTHERN LINES, INC. Applicant's attorney: Alfred Crager, 315 Continental Avenue, Dallas 7, Tex. Operating rights sought to be controlled: *Passengers and their baggage*, in the same vehicle with passengers, as a *common carrier* over regular routes, between New York, N.Y., and Harrisburg, Pa., between Pittsburgh, Pa., and Columbus, Ohio, between Valparaiso, Ind., and Gary, Ind., between Hammond, Ind., and Harvey, Ill., (subject to the condition that carrier shall not transport over this route passengers and their baggage other than those moving on through tickets to or from points outside of Illinois on said carrier's route or on another carrier's route, nor shall carrier transport passengers and their baggage solely between Hammond, Ind., and Harvey, Ill., or solely between Hammond and Harvey, on the one hand, and, on the other, points intermediate between Hammond and Harvey), between Los Angeles, Calif., and Tucson, Ariz., between Gila Bend, Ariz., and Phoenix, Ariz., and between Pittsburgh, Pa., and Los Angeles, Calif., serving all intermediate and certain off-route points; *express and newspapers* may also be transported between New York, N.Y., and Harrisburg, Pa., and between Weatherford, Tex., and Abilene, Tex., over U.S. Highway 80, and to and from the intermediate and off-route points of Bourbon, Sullivan, Sullivan State Park, and Stanton, Mo.; *express and newspapers*, in the same vehicle with passengers, between Pittsburgh, Pa., and Los Angeles, Calif., between Los Angeles, Calif., and Tucson, Ariz., and between Gila Bend, Ariz., and Phoenix, Ariz., serving all intermediate points; *Passengers and their baggage*, and *express and newspapers*, in the same vehicle with passengers, between specified points in Maryland, between specified points in New Jersey, between specified points in Missouri, between specified points in Oklahoma, between specified points in Ohio, between specified points in Pennsylvania, between Chicago, Ill., and Pittsburgh, Pa., between Jersey City, N.J., and New York, N.Y., between New York, N.Y., and Philadelphia, Pa., between Baltimore, Md., and Washington, D.C., between Bedford, Iowa, and Junction Missouri Highway 27 and U.S. Highway 71, about three miles north of Maryville, Mo., and between Shenandoah, Iowa, and Red Oak, Iowa, serving certain intermediate and off-route points; *passengers and their baggage*, and *express, mail and newspapers*, in the same vehicle with passengers, over regular routes including routes between Fort Wayne, Ind., and Toledo, Ohio, between Toledo, Ohio, and Detroit, Mich., between Chicago, Ill., and Los Angeles, Calif., between Chicago, Ill., and Denver, Colo., between specified

points in Illinois, between East Dubuque, Ill., and Dubuque, Iowa, between Sheffield, Ill., and Davenport, Iowa, between St. Louis, Mo., and Keokuk, Iowa, between Taylor, Mo., and Quincy, Ill., between specified points in Iowa, between Beverly, Mo., and Leavenworth, Kans., between Sioux City, Iowa, and Omaha, Nebr., between specified points in Nebraska, between specified points in Colorado, between Lafayette, Colo., and Billings, Mont., between Billings, Mont., and Sheridan, Wyo., between Cheyenne, Wyo., and Belle Fourche, S. Dak., between Torrington, Wyo., and Scottsbluff, Nebr., between Salt Lake City, Utah, and San Francisco, Calif., between Salt Lake City, Utah, and Ely, Nev., and between specified points in California, serving certain intermediate points; *passengers and their baggage*, and *express* in the same vehicle with passengers, between Scottsbluff, Nebr., and Sterling, Colo., between Rock Springs, Wyo., and Jackson, Wyo., between Lodi, Calif., and Stockton, Calif., between Sacramento, Calif., and San Francisco, Calif., between Suisun City, Calif., and Junction California Highways 12 and 24, near Rio Vista, Calif., between Isleton, Calif., and Lodi, Calif., between Thornton, Calif., and Stockton, Calif., between Sacramento, Calif., and Lodi, Calif., and between Walnut Grove, Calif., and Thornton, Calif., serving all intermediate points; *passengers and their baggage*, between Keokuk, Iowa, and junction U.S. Highway 61 and Iowa Highway 92, between Muscatine, Iowa, and Cedar Rapids, Iowa, and between Wheaton Springs, Calif., and the site of Davis Dam, located at the Nevada-Arizona State line and the Colorado River at a point west of Kingman, Ariz., serving certain intermediate points, and transportation of *express, mail and newspapers* in the same vehicle with passengers is authorized between Keokuk, Mooar, Summitville, Mount Clara, and Fort Madison, Iowa. CONTINENTAL SOUTHERN LINES, INC., is authorized to operate as a *common carrier* in Texas, Louisiana, Arkansas, Alabama, Mississippi, Tennessee, Missouri, Illinois, and Kentucky. Application has not been filed for temporary authority under section 210a(b).

By the Commission.

[SEAL] HAROLD D. McCoy,
Secretary.

[F.R. Doc. 60-3773; Filed, Apr. 26, 1960;
8:47 a.m.]

[Notice No. 121]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

APRIL 22, 1960.

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

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

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

MOTOR CARRIERS OF PROPERTY

No. MC 65772 (Deviation No. 1), Chaney Transportation Co., 23 Howard Street, Cumberland, Md., filed April 6, 1960. Attorney Donald E. Freeman, Uniontown Road, Box 24, Westminster, Md. Carrier proposes to operate as a *common carrier* by motor vehicle of *general commodities*, with certain exceptions, over deviation routes as follows: (A) From junction of U.S. Highways 40 and Alternate U.S. Highway 40, 2½ miles northwest of Frederick, Md., over U.S. Highway 40 to junction of the same highways at Hagerstown, Md., and (B) from the junction of U.S. Highways 522 and 40 at Hancock, Md., over U.S. Highway 40 to Cumberland, and return over the same routes, for operating convenience only, serving no intermediate points. The notice indicates the carrier is presently authorized to transport the same commodities over pertinent service routes as follows: From Baltimore, Md., over U.S. Highway 40 to junction Alternate U.S. Highway 40 (formerly U.S. Highway 40), north of Frederick, Md., thence over Alternate U.S. Highway 40 at or near Hagerstown, Md., thence over U.S. Highway 40 to Hancock, Md., thence across the Potomac River, thence over U.S. Highway 522 to Berkeley Springs, W. Va., thence over West Virginia Highway 9 to Paw Paw, W. Va., thence across the Potomac River, thence over Maryland Highway 51 to Cumberland, and return over the same route.

No. MC-92873 (Deviation No. 2), EATON TRUCK LINES, 501 South Orchard Street, Clinton, Mo., filed March 31, 1960. Carrier proposes to operate as a *common carrier* by motor vehicle of *general commodities* with certain exceptions, over a deviation route as follows: From East St. Louis, Ill., over U.S. Highway 40 to Kansas City, Kans., and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities over pertinent service routes as follows: From East St. Louis over U.S. Highway 66 to junction U.S. Highway 50 and thence over U.S. Highway 50 to Kansas City, and return over the same route.

No. MC-107906 (Deviation No. 1), TRANSPORT MOTOR EXPRESS INC., Meyer Road, Fort Wayne, Ind., filed February 26, 1960. Attorney, Carl L. Steiner, 39 South La Salle Street, Chicago 3, Ill. Carrier proposes to operate as a *common carrier* by motor vehicle

of general commodities, with certain exceptions, over deviation routes as follows: (A) From Pittsburgh over the Pennsylvania Turnpike to junction Ohio Turnpike at or near the Pennsylvania-Ohio State line, thence over Ohio Turnpike to the junction of the Indiana Toll Road at or near the Ohio-Indiana State line, thence over the Indiana Toll Road to junction U.S. Highway 41 and thence over U.S. Highway 41 to Chicago, and (B) From Pittsburgh over the Pennsylvania Turnpike to junction Ohio Turnpike at or near the Pennsylvania-Ohio State line, thence over the Ohio Turnpike to Maumee, Ohio, and thence over U.S. Highway 24 to Fort Wayne, Ind., and return over the same routes, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities over pertinent service routes as follows: From Pittsburgh over Pennsylvania Highway 88 to Rochester, Pa., thence over Pennsylvania Highway 51 to the Pennsylvania-Ohio State line, thence over Ohio Highway 14 to Salem, Ohio, thence over U.S. Highway 62 to Canton, Ohio, thence over U.S. Highway 30 to junction U.S. Highway 30N, thence over U.S. Highway 30N to Delthos, Ohio, thence over U.S. Highway 30 to Fort Wayne, Ind., thence over U.S. Highway 33 to junction U.S. Highway 6, thence over U.S. Highway 41, thence over U.S. Highway 41 to Chicago, and return over the same route.

By the Commission.

[SEAL] HAROLD D. McCoy,
Secretary.

[F.R. Doc. 60-3774; Filed, Apr. 26, 1960;
8:48 a.m.]

[No. 33393]

LOUISIANA INTRASTATE PASSENGER COACH FARES

At a session of the Interstate Commerce Commission, Division 2, held at its office in Washington, D.C., on the 14th day of April A.D. 1960:

It appearing, that in Investigation and Suspension Docket No. 7096, Increased Passenger Fares—Western Railroads, decided July 9, 1959, the Commission authorized an increase of five (5%) percent in interstate one-way and round trip coach fares, with certain exceptions, for certain western railroads; and that increases under such authorization have been made;

It further appearing that a petition dated March 21 1960, has been filed on behalf of the Chicago, Rock Island and Pacific Railroad Company and other common carriers by railroad operating to, from, and within the State of Louisiana, stating that the Louisiana Public Service Commission has failed to authorize or permit petitioners to establish for the intrastate transportation of passengers upon their railroads in the State of Louisiana a five (5%) percent increase in one-way and round trip coach fares corresponding to that authorized by this Commission for interstate transportation in Investigation and Suspension Docket No. 7096, supra,

No. 82—12

and that such refusal causes and results in undue and unreasonable advantage, preference and prejudice as between persons and localities in intrastate commerce, on the one hand, and interstate commerce, on the other hand, and in undue, unreasonable and unjust discrimination against interstate or foreign commerce, in violation of section 13 of the Interstate Commerce Act;

And it further appearing that said petition brings in issue passenger fares made or imposed by the authority of the State of Louisiana, and that the Louisiana Public Service Commission has filed an answer to the petition dated April 4, 1960:

It is ordered, That in response to the said petition an investigation be, and it is hereby, instituted, and that a hearing be held for the purpose of giving respondents hereinafter designated and any other persons interested an opportunity to present evidence to determine whether the petitioners' present passenger coach fares made or imposed by the State of Louisiana, cause, or will cause, any undue or unreasonable advantage, preference or prejudice as between persons or localities in intrastate commerce, on the one hand, and interstate commerce on the other hand, or any undue, unreasonable or unjust discrimination against, or undue burden on, interstate or foreign commerce, and to determine what fares, if any, or what maximum or minimum, or maximum and minimum, fares shall be prescribed to remove the unlawful advantage, preference, prejudice, discrimination, or undue burden, if any, that may be found to exist;

It is further ordered, That the Chicago, Rock Island and Pacific Railroad Company; Gulf, Colorado & Santa Fe Railroad Company, Illinois Central Railroad, St. Louis Southwestern Railway Lines, and Texas and New Orleans Railroad Company, be, and they are hereby, made respondents to this proceeding; that a copy of this order be served upon said respondents, and that the State of Louisiana be notified of this proceeding by sending copies of this order and of the said petition by certified mail to the Governor of the said State and to the Louisiana Public Service Commission at Baton Rouge, La.;

It is further ordered, That notice of this proceeding be given to the public by depositing a copy of this order in the office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Federal Register Division, Washington, D.C.;

And it is further ordered, That this proceeding be, and the same is hereby, assigned for hearing on May 23, 1960, at 9:30 o'clock a.m., U.S. standard time (or 9:30 a.m. local daylight saving time, if that time is observed) at the offices of the Louisiana Public Service Commission at Baton Rouge, La., before Examiner O. G. Barber.

By the Commission, Division 2.

[SEAL] HAROLD D. McCoy,
Secretary.

[F.R. Doc. 60-3775; Filed, Apr. 26, 1960;
8:48 a.m.]

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

Joint Tolls Advisory Board

[Notice No. 3]

SWIFT & COMPANY, AND AMERICAN MEAT INSTITUTE

Application for Reclassification of Lard

Notice is hereby given pursuant to the Act of May 13, 1954, as amended (33 U.S.C. 981 et seq.), and the agreement executed by the Saint Lawrence Seaway Development Corporation and the St. Lawrence Seaway Authority of Canada, dated January 29, 1959, and approved by the Governments of the United States and Canada on March 9, 1959, that the Joint Tolls Advisory Board, The St. Lawrence Seaway, has received applications from Swift & Company, 4115 Packers Avenue, Chicago 9, Illinois, U.S.A. and the American Meat Institute, 59 East Van Buren Street, Chicago 5, Illinois, U.S.A., requesting the reclassification of "Lard" from general to bulk cargo.

In accordance with the rules of procedure, interested parties have thirty days from the date of publication of this notice in which to submit representations to the Joint Tolls Advisory Board, The St. Lawrence Seaway, 294 Hunter Building, Ottawa, Ontario, Canada.

By order of the Board.

E. REECE HARRILL,
Vice Chairman.

[F.R. Doc. 60-3777; Filed, Apr. 26, 1960;
8:48 a.m.]

[Notice No. 4]

PETER A. JORGENSEN

Application for Reclassification of Crushed Oyster Shells

Notice is hereby given pursuant to the Act of May 13, 1954, as amended, (33 U.S.C. 981 et seq.), and the agreement executed by the Saint Lawrence Seaway Development Corporation and the St. Lawrence Seaway Authority of Canada, dated January 29, 1959, and approved by the Governments of the United States and Canada on March 9, 1959, that the Joint Tolls Advisory Board, The St. Lawrence Seaway, has received an application from Peter A. Jorgensen, 136 Rue de Normandie, Preville, Montreal 23, Quebec, requesting the reclassification of "Crushed Oyster Shells" in Sacks from general to bulk cargo.

In accordance with the rules of procedure, interested parties have thirty days from the date of publication of this notice in which to submit representations to the Joint Tolls Advisory Board, The St. Lawrence Seaway, 294 Hunter Building, Ottawa, Ontario, Canada.

By order of the Board.

E. REECE HARRILL,
Vice Chairman.

[F.R. Doc. 60-3778; Filed, Apr. 26, 1960;
8:48 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 1-4015]

CONSOLIDATED DEVELOPMENT CORP.

Order Summarily Suspending Trading

APRIL 21, 1960.

In the matter of trading on the American Stock Exchange in the common stock, par value 20 cents per share, of Consolidated Development Corporation (formerly known as Consolidated Cuban Petroleum Corporation), File No. 1-4015.

The common stock, par value 20 cents per share of Consolidated Development Corporation (formerly known as Consolidated Cuban Petroleum Corporation), being listed and registered on the American Stock Exchange, a national securities exchange; and

The Commission being of the opinion that the public interest requires the summary suspension of trading in such security on such Exchange and that such action is necessary and appropriate for the protection of investors; and

The Commission being of the opinion further that such suspension is necessary in order to prevent fraudulent, deceptive or manipulative acts or practices, with the result that it will be unlawful under section 15(c)(2) of the Securities Exchange Act of 1934 and the Commission's Rule 15c2-2 thereunder for any broker or dealer to make use of the mails or of any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of such security, otherwise than on a national securities exchange;

It is ordered, Pursuant to section 19(a)(4) of the Securities Exchange Act of 1934 that trading in said security on the American Stock Exchange be summarily suspended in order to prevent fraudulent, deceptive or manipulative acts or practices, this order to be effective for a period of ten (10) days, April 22, 1960 to May 1, 1960, both dates inclusive.

By the Commission.

[SEAL]

ORVAL L. DuBOIS,
Secretary.[F.R. Doc. 60-3769; Filed, Apr. 26, 1960;
8:47 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Classification 69; Document 218]

ARIZONA

Small Tract Classification

1. Pursuant to authority delegated to me by Bureau Order No. 541, dated April 21, 1954 (19 F.R. 2473), I hereby classify the following described public lands, totaling 120.21 acres in Maricopa County, Arizona, as suitable for lease and/or sale for residence purposes under the Small Tract Act of June 1, 1938 (52 Stat. 609, 43 U.S.C. 682a), as amended.

GILA AND SALT RIVER MERIDIAN

T. 5 N., R. 4 E., Sec. 6: Lots 3 and 4; Sec. 7: Lot 2.

Containing 120.21 acres, covered by 24 applications from persons entitled to preference under 43 CFR 257.5(a).

2. Classification of the above-described lands by this order segregates them from all appropriations, including locations under the mining laws, except as to applications under the mineral leasing laws.

3. The lands classified by this order shall not become subject to application under the Small Tract Act of June 1, 1938 (52 Stat. 609; 43 U.S.C. 682a), as amended until it is so provided by an order to be issued by an authorized officer, opening the lands to application or bid.

4. All valid applications filed prior to September 10, 1959, will be granted, as soon as possible, the preference right provided for by 43 CFR 257.5.

Dated: April 18, 1960.

E. I. ROWLAND,
State Supervisor.[F.R. Doc. 60-3767; Filed, Apr. 26, 1960;
8:46 a.m.]

ALASKA

Notice of Proposed Withdrawal and Reservation of Lands

The Federal Aviation Agency has filed an application, Serial Number F-024760 for the withdrawal of the lands described below, from all forms of appropriation under the public land laws, including the mining and mineral leasing laws but excepting the laws relating to sale of materials. The applicant desires the land for the installation of communications facilities.

For a period of 60 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, 516 Second Avenue, Fairbanks, Alaska.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands involved in the application are:

Nome Area

From the center point of the site, which lies S. 8°52' E. 1,848.90 feet from the center point of the center range tower, U.S.C. & G.S. "Nome, CAA radio range, 1944", and also lies S. 3°01' E. 1,399.08 feet, more or less, from Corner No. 10 of the Washington claim, U.S.M.S. 1208, go N. 19°20' E. 300.00 feet to the point of beginning; thence S. 70°40' E. 1,300 feet; thence S. 19°20' W. 600 feet; thence N. 70°40' W. 2,500 feet, more or less, to the easterly edge of the road to the radio range; thence northerly 620 feet, more or less, along said easterly side of the road; thence S. 70°40' E. 1,100 feet, more or less, to the point of beginning.

Containing 33.9 acres, more or less.

RICHARD L. QUINTUS,
Operations Supervisor, Fairbanks.[F.R. Doc. 60-3785; Filed, Apr. 26, 1960;
8:49 a.m.]

CUMULATIVE CODIFICATION GUIDE—APRIL

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