

ORIGINAL

Decision No. 42615

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Establishment)	
of rates, rules, classifications and)	
regulations for the transportation)	Case No. 4084
of property within the City and)	
County of San Francisco.)	

SUPPLEMENTAL OPINION

Decision No. 42315 of December 14, 1948, in this proceeding, was issued following a public hearing had at San Francisco on November 12, 1948, before Examiner Mulgrew. It dealt with various proposed revisions of City Carriers' Tariff No. 1-A which sets forth the minimum rates, rules and regulations for San Francisco drayage operations. Disposition of the question of what, if any, tariff changes are required in connection with the commodity description "cereal products requiring cooking" was deferred to permit the filing of briefs. This matter is now ready for decision.

The issues here stem from a shipper-carrier controversy relative to rates for the drayage of carload shipments of malt from railroad team tracks to breweries. The shippers contend that an 8½-cent commodity rate on "cereal products requiring cooking" named in Item No. 390-B of Tariff No. 1-A applies; the carriers claim that this description does not include malt and that the 4th class rate of 10½ cents provided in Item No. 360-B is, therefore, applicable. It is not disputed and the record shows that malt is a "cereal product." The controversy is thus limited to

¹ Rates are stated in this supplemental opinion in amounts per 100 pounds. They include the increases established effective February 21, 1949, by Decision No. 42476 of February 1, 1949. Prior to these increases the rates in question were 8 and 9½ cents, respectively.

the meaning and effect of the phrase "requiring cooking."

A rate expert from the Commission's Transportation Department stated that the Western Classification, which governs the drayage tariff, contains no description conforming with the description here being considered. He pointed out that the classification lists various cereal products under the headings "cereal food preparations" and "grain products." The qualification "requiring cooking," the witness said, appears in the classification only in connection with the listing of cereal food preparations fit for human consumption. He expressed the opinion that, as used in the drayage tariff, "requiring cooking" implies that the "cereal products" so identified must be edible. He said that, while he believed malt was thus excluded from the commodity rates, it would be desirable, for the sake of clarity, to substitute the classification description "cereal food preparations (cracked, ground, granulated, hulled or rolled cereals, partially prepared for human consumption, but requiring cooking)" for the present tariff description.

With respect to whether or not malt requires cooking, the plant superintendent of a San Francisco brewery testified that in the brewing process malt is boiled with starches, including corn grits, to convert the starches to sugar. Similar processes are employed, he said, in making whiskey and malt syrup. The superintendent stated that he was aware of no use of malt other than as an ingredient in making beer, whiskey and malt syrup. The shippers claim that they have thus established that malt is a "cereal product requiring cooking" and hence subject to the 8½-cent commodity rate.

A traffic consultant retained by the shippers submitted studies showing that malt and corn grits are greater in density

and lower in value than cereal food preparations, and that malt and corn grits generally take lower rates than cereal food preparations. He expressed the opinion that drayage rates for malt and corn grits should not exceed those for cereal food preparations.

The carriers, on the other hand, supported the rate expert's views that the $8\frac{1}{2}$ -cent rate on "cereal products" is not applicable to malt. They agreed that, for clarity, the classification description should be substituted for the present tariff description. The carriers also urged that the $8\frac{1}{2}$ -cent rate is not sufficient for the drayage of malt in the light of the cost of such transportation. They referred to an exhibit submitted on August 15, 1947, in this proceeding, developing (1) the cost of transporting malt as 8.10 cents per 100 pounds, and (2) the so-called expanded cost (cost increased to provide for federal income taxes and profit) as 9.18 cents. No evidence relative to corn grits was offered by the carriers.

The commodities which are embraced by the description "cereal products requiring cooking" are not specified in the drayage tariff or incorporated in that tariff by reference. An interpretation which would exclude malt from the "cereal products" rates would be contrary to the well-settled principle that, where there is a reasonable doubt as to the meaning of a tariff provision, the doubt should be resolved in favor of the shipper. The showing made establishes that, under the tariff as it now stands, the "cereal products" rates apply to the transportation of malt. Malt will be specifically listed in the commodity rate item to remove any uncertainty. For the sake of further clarity and uniformity, the cereal food preparation description contained in the classification will be adopted for other articles. With respect to corn grits, however, the record is persuasive that rates higher

than cereal food rates are not warranted. As in the case of malt, corn grits will be listed in the commodity rate item. A 4th class exception rating on "cereal products" contained in the drayage tariff has no effect because the corresponding commodity rates are applicable. This rating will, therefore, be cancelled.

In regard to the commodity rate level, the carrier showing was limited to reference to a prior study of the cost of draying malt. The determinations reached herein are without prejudice to the conclusions which may be reached with respect to the volume of the commodity rates on an adequate showing of costs and other rate-making considerations under current conditions.

Upon consideration of all of the facts, and circumstances of record, we are of the opinion and hereby find that City Carriers' Tariff No. 1-A should be amended to the extent indicated in the foregoing opinion and as provided in the order herein.

O R D E R

Based upon the evidence of record and upon the conclusions and findings set forth in the preceding opinion,

IT IS HEREBY ORDERED that City Carriers' Tariff No. 1-A (Appendix "A" of Decision No. 41363 of March 23, 1948, as amended, in this proceeding) be and it is hereby further amended by incorporating therein, to become effective April 15, 1949, the

revised pages attached hereto and by this reference made a part hereof, which pages are numbered as follows:

First Revised Page	3	cancels	Original Page	3
Second Revised Page	4	cancels	First Revised Page	4
First Revised Page	6	cancels	Original Page	6
Second Revised Page	26	cancels	First Revised Page	26
Fourth Revised Page	39	cancels	Third Revised Page	39

This order shall become effective twenty (20) days after the date hereof.

Dated at San Francisco, California, this 15th day of March, 1949.

R. Z. Zimmerman
Justice F. Calves
Frank Powell
Harold P. Hill

Commissioners

INDEX OF COMMODITIES

Only those articles which are named in commodity items or in Exceptions to the Western Classification are shown in the following list.

Commodity	Item Number	Commodity	Item Number
Acids	280	Boots and Shoe Findings	280
Adding Machines	280	*Bottles, Glass	280
Adding Machine Stands	280	Box Shooks	280
Advertising Matter	280	Boxes	690
Agricultural Implements	280	Boxes, Egg	280
Alcohol	280	Boxes, Paper	280
Ammonia	280	Bran	280
Ammunition	280	Brass	280
Anchors	280	Brass or Copper, Bars or Ingots	280
Apples	610,700	Brick	380,520
Artichokes	660	Broom Corn	280
Asbestos	280	Broom Handles	280
Asparagus	660	Brooms	280
Athletic Goods (See Sporting Goods)		Bullion	520
Automobile Fenders	280	Burial Cases, Caskets or Coffins	280
Automobile Accessories and Parts, N.O.S.	280	Burlap	280,520
Avocados	620	Butter	280
Awnings and Fixtures (See Tents)		Cabbage	660
Babbitt Metal, Bar, Pig or Slab	280	Cabinets, N.O.S.	280
Bagging and Bags	280,520	Cabinets, File	460
Bags	280,520	Cake, Oil	520
Bananas	620	Candy and Confectionery	280
Barber's Chairs	280	Cans	280
Barrels	280	Cantaloupes	640
Batteries	280	Canvas	280
Battery Boxes	280	Caps, Bottle or Jar	280
Battang, Cotton	280	Carbon	280
Boans	280,520	Carpet	280
	660	Carpet Lining	280
Beaver Board	280	Carpet Sweepers	280
Beets	660	Carriages, Baby	280
Belting	280	Carriers	280
Berries	610	Carrots	660
Beverages, Non-alcoholic, N.O.S.	280	Casabas, Melons	640
Bicycles	280	Cases, Transfer	460
Bird Food or Seed	280	Castings	280
Blackboards	280	Celery	660
Blocks, Butcher	280	Celluloid Goods	280
Blood Meal	520	Cement	280
Boats	280	*Cereal Food Preparations	390
Boiler Compound	280	*Cereal Products	520
Boiler Tubes	280	*Cereals, Prepared	290,520
Boilers, Range	280	Chain, Iron or Steel	280
Bone Meal	520	Chairs	460
Boots and Shoes	280	Chalk	290
		Charcoal	290
		Cheese	290

* Change, Decision No. 42516

EFFECTIVE APRIL 15, 1949

Issued by the Public Utilities Commission of the State of California,
San Francisco, California.

Correction No. 69

INDEX OF COMMODITIES (Continued)

Only those articles which are named in commodity items or in Exceptions to the Western Classification are shown in the following list.

Commodity	Item Number	Commodity	Item Number
Chemicals	290	Drill, Cotton	290
Chicory	290	Drug and Chemical Houses	290
Chips, Soap	510	Drugs or Medicines, N.O.S.	290
Chocolate	290	Duck, Cotton	290
Cigars and Cigarettes	290	Dyes	290
Cloth and Clothing	290		
Cloth, Shade	330	Egg Case Fillers	300
Cocanuts	620	Eggs	300
Coffee, Green	400,520	Electric Globes or Shades	300
Coffee, Roasted	290	Electrical Appliances	300
Collars, Cloth	290	Enamelware	300
Conduit	290	Excelsior	300
Confectioners' Supplies	290	Explosives	300
Containers, Empty	690	Extracts	300
Copper	280		
Coopcrage Stock	290	Feathers	300
Copra	290,520	Feed	300,390,520
Cordage	290	Fence Material	300
Corduroy, Cotton	290	Fertilizers	300,520
Cork	290	File Cabinets	460
Corn	660	Files, Letter	460
*Corn Grits	390	Fire Escapes	300
Corn Husks	290	Fire Extinguishers	300
Costumers	460	Fire Works	300
Cotton	290,520	Fish	300
Cranberries	610	Fish Meal	520
Crates	690	Fixtures, Gas and Electric	300
Crockery	290	Floss	300
Cucumbers	660	Flour	290,390,520
Curtain Poles or Rods	290	Flue Lining	300,520
Cutlery	290	Forms, Display	300
Cylinders	290,520	Freezers	300
		Freight	*425,520
Dairy and Dairy Products		Fruit, Canned, Dried or Glazed	300
Companies	290	Fruit, Fresh, N.O.S.	630
Dates	290	Furnaces	390
Denim, Cotton	290	Furniture, N.O.S.	300
Desks	290,460	Furniture, Printers	320
Dessert Preparations	290	Furniture Polish	300
Disinfectants	290	Furniture Stock	300
Dog Biscuits	290		
Doors	290		

* Change, Decision No. ~~42615~~

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Correction No. 70

INDEX OF COMMODITIES (Continued)

Only those articles which are named in commodity items or in Exceptions to the Western Classification are shown in the following list.

Commodity	Item Number	Commodity	Item Number
Macaroni	310	Pails	280
Machinery	310	Paper	320
Magazines	310,520	Paper, Newsprint	470,520
Malt	310,390,520	Paper, Wrapping	520
Marble	310	Paste, N.O.S.	320
Margarine	310	Peaches	610
Mats, Door	310	Pears	610,700
Meal, Blood, Bone or Fish	310,520	Peas	670
Meats, Canned	310	Peas, Split	520
Melons, N.O.S.	650	Peppers, Dried	320
Meters	310	Peppers, Green	670
Milk, Condensed or Evaporated	310	Periodicals	310
Millinery	310	Persian Melons	640
Mineral Water	310	Photographers' Materials	320
Molasses	310	Pickles	320
Moss, N.O.S.	310	Pig Iron	520
Motorcycles	310	Pillows, N.O.S.	320
Mucilage	310	Pineapples	620
Mustard	310	Pineapples, Canned	520
		Pins, Wire	320
Nails, N.O.S.	310	Pipe	320
Neckwear	310	Pitch	320
Nets and Netting, Wire	310	Plaster	520
Newspapers, Old	520	Plumbago	320
Newsprint Paper	470,520	Plumbers' Goods	320
Nitre	310	Plums	610
Noodles	310	Polish, Stove or Shoe	320
Nuts, Edible	310	Popcorn	320
		Potash	320
Oakum	310	Potatoes, N.O.S.	660
Oars	310	Potatoes, Sweet	670
Ochre	310	Pottery	320
Office Furniture	460	Poultry, Dressed	320
Oil Cake	310,520	Poultry, Live	480
Oil, Cooking	320	Powder, Soap	510
Oil, Lubricating	320	Printed Matter	320
Oil, Olive	320	Printers' Furniture	320
Olives	320	Printers' Rollers	320
Onions, Dry	660	Prunes	610
Optical Goods	320	Pulleys	320
Oranges	600	Pumice	320
Ore	320,520	Pumps, N.O.S.	320
Ovens, Sheet Metal	320	Putty	320
		Quebraco	320

* Change, Decision No. ~~42615~~ 42616

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Correction No. 71

Item No.	SECTION NO. 1 - RULES AND REGULATIONS OF GENERAL APPLICATION (Continued)			
	EXCEPTIONS TO WESTERN CLASSIFICATION (Continued)			
	Article	Rating	Article	Rating
	Acids:		Blackboards:	
	In glass	1	In boxes or crates	3
	In barrels or metal containers	3	Loose	1
	Adding Machines:		Blocks, Butcher	3
	In boxes	1½	Boats, min-wt. 500 lbs.	D1
	Loose, O.R.	D1	Boiler Compound	3
	Adding Machine Stands	D1	Boiler Tubcs	3
	Advertising Matter in barrels, boxes or bundles	2	Boilers, Range	2
	Agricultural Implements:		Boots and Shoes	1½
	S.U.	1½	Boot and Shoe Findings	2
	K.D.	2	Bottles, glass	3
	Alcohol	1	Box Shooks, Wooden	3
	Ammonia:		Boxes, Egg, Pulpboard containing moulded compartments	1½
	In glass	2	Boxes, Paper:	
	In cylinders or drums	3	K.D.	2
	Ammunition	3	S.U.	D1
	Anchors N.O.S.	3	Bran in sacks	3
	Anchors weighing each over 2000 lbs.	1	Brass or Copper:	
	Asbestos:		In bundles or crates	3
	In cases	2	Bars or ingots	3
	Loose	1½	Brick, loose or in packages	4
	Athletic Goods (See Sporting Goods)		Brooders or incubators:	
	Automobile Fenders	1½	S.U.	1½
	Automobile Accessories and Parts, N.O.S.	2	K.D.	2
*280-B	Awnings and Fixtures (See Tents)		Broom Corn in bales	1
Cancels			Broom Handles	2
280-A			Brooms in bundles	1
	Babbitt Metal, Bar, Pig, or Slab	4	Burial Cases	1
	Bagging and Bags, old N.O.S.	3	Burial Caskets or Coffins	1½
	Barbers' Chairs	1	Burlap and Bags in compressed bales	4
	BARRELS:		Butter in cartons	3
	Beer	3	Cabinets N.O.S.	1½
	Wine	1½	Candy and Confectionery N.O.S.	3
	Other than beer or wine	D1	CANS OR PAILS:	
	Batteries:		Empty, N.O.S.	1
	Other than dry:		Milk or Oil, in crates	1½
	In cases	2	Canvas, Cotton or Duck	3
	Loose	1	CAPS FOR BOTTLES OR JARS:	
	Battery Boxes	1½	Aluminum	1
	Batting, Cotton	1	N.O.S.	3
	Beans, Cocoa	4	Carbide	3
	Beans, dried, N.O.S.		Carbon, Arc Light or Battery	3
	In mats or bags	4	Carpet	1
	Beans, Vanilla	1	Carpet Lining in bales or boxes	2
	Beaver Board:		Carpet Sweepers in boxes or crates	1
	In boxes or crates	3	CARRIAGES, BABY:	
	Loose	1	S.U.	D1
	Belting	3	K.D. in crates	1½
	Beverages, non-alcoholic, N.O.S.	3	Go-carts - S.U.	1½
	Bicycles, in boxes or crates	D1	K.D. in crates	1
	Bird Food or Seed, in packages	4	Carriers (Ale, Beer, Porter, Stout, Wine) empty, returning	3
			Castings, N.O.S.	3
			Celluloid Goods	1
			CEMENT:	
			Building	4
			Liquid	3

* * * * Cereal Products, Feed and Flour)
eliminated.)
* Change)

Decision No. 42616

EFFECTIVE APRIL 15, 1949

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San Francisco, California.
Correction No. 72

Cancel

SECTION NO. 4 - COMMODITY RATES (Continued)			
In cents per 100 lbs. except as noted			
Item No.	COMMODITY	RATES	Minimum Weight
	CEREAL FOOD PREPARATIONS (cracked, ground, granulated, hulled or rolled cereals, partially prepared for human consumption, but requiring cooking). # CORN CRITS FEED FLOUR # MALT		
	Inhaul, Shipping or City Deliveries at truckside, platform or sidewalk:	In Cents Per Shipment	
	350 pounds or less.....	62	
	Over 350 " but not over 500 pounds.....	68	
	" 500 " " " 750 "	99	
	" 750 " " " 1000 "	113	
	" 1000 " " " 1250 "	137	
	" 1250 " " " 1500 "	152	
	" 1500 " " " 1750 "	183	
	" 1750 " " " 2000 "	220	
	" 2000 " " " 2500 "	251	
*390-C	" 2500 " " " 3000 "	281	
Cancel	" 3000 " " " 3500 "	319	
390-B	" 3500 " " " 4000 "	350	
	" 4000 " " " 4500 "	386	
	" 4500 " " " 5000 "	417	
	" 5000 " " " 5500 "	447	
	" 5500 " " " 6000 "	501	
	" 6000 "	(1)8½	
	(1) In cents per 100 pounds		
	City Deliveries (Not Subject to Item No. 60 Series)	In Cents Per Shipment	
	500 pounds or less.....	83	
	Over 500 " but not over 1000 pounds.....	152	
	" 1000 " " " 1500 "	220	
	" 1500 " " " 2150 "	281	
		In Cents Per 100 Pounds	
	" 2150 " " " 5000 "	14	
	" 5000 " " " 10000 "	13	
	" 10000 "	11	
400-B	COFFEE, GREEN Inhaul only	6½	(1)1000 tons per Calendar Month
Cancel	(1) Monthly tonnage is to be averaged over twelve (12) calendar months commencing with month in which property is first transported.		
400-A			
2-21-49			
410-B	COFFEE, GREEN, in sacks) SPICES, VIZ.:)	(1) 7	5000 tons per Calendar Year
Cancel	Pepper, in sacks,).....Inhaul only		
410-A	Mustard, ground, in sacks)		
2-21-49	(1) Minimum weight 10,000 pounds per shipment.		

Addition }
◇ Increase } Decision No. 42616
* Change }

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Correction No. 73