

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., September 8, 1967.

HON. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your request for the views of the Bureau of the Budget on H.R. 6530, a bill "To amend section 203(b)(5) of the Interstate Commerce Act to clarify this exemption with respect to transportation performed by agricultural cooperative associations for nonmembers."

This bill would restrict the current exemption of agricultural cooperatives from economic regulation by the Interstate Commerce Commission to those situations where the traffic is farm-related. The effect of this amendment would be to deprive agricultural cooperatives of revenues which enable them to provide more efficient and economic transportation services.

Since we believe that the present exemption, as interpreted by the courts, properly balances the interest of the public, the cooperatives, and for-hire carriers, we would be opposed to enactment of H.R. 6530.

Sincerely yours,

WILFRED H. ROMMEL,
Assistant Director for Legislative Reference.

DEPARTMENT OF AGRICULTURE,
Washington, D.C., July 24, 1967.

HON. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request of March 13, 1967, for comments with respect to H.R. 6530, a bill "To amend section 203(b)(5) of the Interstate Commerce Act to clarify this exemption with respect to transportation performed by agricultural cooperative associations for non-members."

This proposed legislation would, if enacted, limit the exemption of motor vehicles controlled and operated by a cooperative association as defined in the Agricultural Marketing Act, approved June 15, 1929, as amended, or by a federation of such cooperatives. The exemption from economic regulation would no longer apply to such motor vehicles when used in the transportation, for non-members for compensation, of property of any kind except farm products, farm supplies, or other farm related traffic. This provision for total elimination of certain kinds of cargo from the benefits of exemption would impair the efficiency and economy under which transportation is conducted by cooperatives in accordance with the existing provisions of law.

The Department does not favor enactment of this legislation.

The interpretation of the cooperative exemption in section 203(b)(5) of the Interstate Commerce Act has been the subject of much litigation. In a number of cases before the Interstate Commerce Commission and the courts, the Department of Agriculture has consistently taken the position that the language of the Interstate Commerce Act, when read in conjunction with the language of the Agricultural Marketing Act of 1929, should be given a liberal construction; that cooperatives should not be so limited in their motor carrier operations that efficient operation on behalf of farmer members would be stifled; that it was clearly the intent of the statute that a cooperative, in the conduct of its motor carrier operations, be permitted to transport in addition to its own and its members' property, incidental quantities of property belonging to others; and that backhauls of non-member property of a character which would otherwise be subject to regulation, should be permitted, provided the transportation of such property remained incidental to the transportation of property of the cooperative and its members.

Generally, the courts have ruled in favor of the Department's interpretation of the statutes and against the more restrictive interpretations which others have advocated. The decision of the Ninth Circuit Court of Appeals (350 Fed. 252 (1965), *cert. denied*, 382 U.S. 1011 (1966)), involving the Northwest Agricultural Cooperative Association supports the Department's view. In this case the Court held that a cooperative "does not lose its status by engaging in activity other than its primary statutory activity, so long as the other activity is inci-