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TITLE 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket 4922]

PART 3—DIGEST OF CEASE AND DESIST ORDERS

P. LORILLARD CO.

Subpart—*Advertising falsely or misleadingly*: § 3.20 Comparative data or merits; § 3.30 Composition of goods; § 3.130 Manufacture or preparation; § 3.170 Qualities or properties of product or service; § 3.205 Scientific or other relevant facts. In or in connection with the offering for sale, sale and distribution in commerce, of respondent's Beech-Nut cigarettes, Sensation cigarettes, Old Gold cigarettes, and Friends smoking tobacco, or any other products possessing the same or similar properties or ingredients, representing by any means, directly or indirectly, (1) that Beech-Nut cigarettes or the smoke therefrom will not harm or irritate the throat, or will provide any defense against throat irritation; or that the extra length of such cigarettes will filter out or eliminate the harmful properties in the smoke from such cigarettes, or will cause the smoke from such cigarettes to be cooler than the smoke from other brands of cigarettes; (2) that Sensation cigarette are made of extra-choice imported and domestic tobaccos, or are top quality cigarettes, or are made from the finest tobacco that can be bought; (3) that Old Gold cigarettes or the smoke therefrom contains less nicotine, or less tars and resins, or is less irritating to the throat than the cigarettes or the smoke therefrom of any of the other leading brands of cigarettes; or (4) that Friends smoking tobacco is rum-cured, or that the process by which a rum flavoring is added to such tobacco enriches the tobacco or causes the smoke therefrom to be any less irritating to the throat or any cooler than if such rum flavoring were not added; or that the smoke from Friends smoking tobacco will not irritate the mouth or throat of a smoker, or is cool, or is free from bite, burn, or harshness; prohibited.

(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, P. Lorillard Company, Docket 4922, March 31, 1950]

This proceeding having been heard by the Federal Trade Commission upon the complaint, answer of the respondent, testimony and other evidence taken before trial examiners of the Commission theretofore duly designated by it, recommended decision of the trial examiner and exceptions filed thereto by counsel supporting the complaint, and brief of counsel supporting the complaint (no brief having been filed by counsel for respondent and oral argument not having been requested), and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act:

It is ordered, That the respondent, P. Lorillard Company, a corporation, and its officers, representatives, agents, and employees, directly or through any corporate or other device, in or in connection with the offering for sale, sale, and distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of its products Beech-Nut cigarettes, Sensation cigarettes, Old Gold cigarettes, and Friends smoking tobacco, or any other products possessing the same or similar properties or ingredients, do forthwith cease and desist from representing by any means, directly or indirectly:

(1) That Beech-Nut cigarettes or the smoke therefrom will not harm or irritate the throat, or will provide any defense against throat irritation; or that the extra length of such cigarettes will filter out or eliminate the harmful properties in the smoke from such cigarettes, or will cause the smoke from such cigarettes to be cooler than the smoke from other brands of cigarettes;

(2) That Sensation cigarettes are made of extra-choice imported and domestic tobaccos, or are top quality cigarettes, or are made from the finest tobacco that can be bought;

(3) That Old Gold cigarettes or the smoke therefrom contains less nicotine, or less tars and resins, or is less irritating to the throat than the cigarettes or the

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FEDERAL REGISTER

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smoke therefrom of any of the other leading brands of cigarettes; or

(4) That Friends smoking tobacco is rum-cured, or that the process by which a rum flavoring is added to such tobacco enriches the tobacco or causes the smoke therefrom to be any less irritating to the throat or any cooler than if such rum flavoring were not added; or that the smoke from Friends smoking tobacco will not irritate the mouth or throat of a smoker, or is cool, or is free from bite, burn, or harshness.

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

Issued: March 31, 1950.

By the Commission.

[SEAL]

D. C. DANIEL,
Secretary.

[F. R. Doc. 50-5031; Filed, June 12, 1950; 8:47 a. m.]

[Docket 4795]

PART 3—DIGEST OF CEASE AND DESIST ORDERS

R. J. REYNOLDS TOBACCO CO.

Subpart—*Advertising falsely or misleadingly: § 3.20 Comparative data or merits; § 3.30 Composition of goods; § 3.110 Indorsements, approval and testimonials. Subpart—Claiming indorsements or testimonials falsely or misleadingly: § 3.330 Claiming indorsements or testimonials falsely or misleadingly. I.* In connection with the offering for sale, sale or distribution in commerce, of respondent's "Camel" brand of cigarettes, representing, directly or by implication, (1), that the smoking of such cigarettes encourages the flow of digestive fluids or increases the alkalinity of the digestive tract, or that it aids digestion in any respect; (2) that the smoking of such cigarettes relieves fatigue, or that it creates, restores, renews, gives, or releases bodily energy; (3) that the smoking of such cigarettes does not affect or impair the "wind" or physical condition of athletes; (4) that such cigarettes or the smoke therefrom will never harm or irritate the throat, nor leave an after-taste;

(5) that the smoke from such cigarettes is soothing, restful or comforting to the nerves, or that it protects one against nerve strain; (6) that Camel cigarettes differ in any of the foregoing respects from other leading brands of cigarettes on the market; or, (7) that Camel cigarettes or the smoke therefrom contains less nicotine than do the cigarettes or the smoke therefrom of any of the four other largest selling brands of cigarettes; and, II, in connection with such offering, sale or distribution in commerce of respondent's said "Camel" brand of cigarettes, using, in any advertising media testimonials of users or purported users of said cigarettes which contain any of the representations prohibited in the foregoing paragraph of the order or which are not factually true in all respects; prohibited.

(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, R. J. Reynolds Tobacco Company, Docket 4795, March 31, 1950]

This proceeding having been heard by the Federal Trade Commission upon the amended complaint of the Commission, the respondent's answer thereto, testimony and other evidence in support of and in opposition to the allegations of said amended complaint, the report of the trial examiner upon the evidence and exceptions to such report, briefs in support of the amended complaint and in opposition thereto, and oral argument of counsel; and the Commission, having made its findings as to the facts and its conclusion that the respondent has violated the provisions of the Federal Trade Commission Act:

It is ordered, That the respondent, R. J. Reynolds Tobacco Company, a corporation, and its officers, agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of its "Camel" brand of cigarettes, do forthwith cease and desist from representing, directly or by implication:

1. That the smoking of such cigarettes encourages the flow of digestive fluids or increases the alkalinity of the digestive tract, or that it aids digestion in any respect.

2. That the smoking of such cigarettes relieves fatigue, or that it creates, restores, renews, gives, or releases bodily energy.

3. That the smoking of such cigarettes does not affect or impair the "wind" or physical condition of athletes.

4. That such cigarettes or the smoke therefrom will never harm or irritate the throat, nor leave an after-taste.

5. That the smoke from such cigarettes is soothing, restful or comforting to the nerves, or that it protects one against nerve strain.

6. That Camel cigarettes differ in any of the foregoing respects from other leading brands of cigarettes on the market.

7. That Camel cigarettes or the smoke therefrom contains less nicotine than do the cigarettes or the smoke therefrom of any of the four other largest selling brands of cigarettes.

It is further ordered, That said respondent, and its officers, agents, representatives and employees, in connection with the offering for sale, sale or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of its "Camel" brand of cigarettes, do forthwith cease and desist from using in any advertising media testimonials of users or purported users of said cigarettes which contain any of the representations prohibited in the foregoing paragraphs of this order or which are not factually true in all respects.

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

Issued: March 31, 1950.

By the Commission.

[SEAL] D. C. DANIEL,
Secretary.

[F. R. Doc. 50-5032; Filed, June 12, 1950; 8:47 a. m.]

TITLE 39—POSTAL SERVICE

Chapter I—Post Office Department

PART 74—INTERNATIONAL MONEY-ORDER SERVICE

DIRECT EXCHANGE; LIST OF UNITED STATES EXCHANGE OFFICES

In Part 74 International Money-order Service (39 CFR Part 74; 14 FR 7252; 15 FR 2037) make the following changes:

a. Amend § 74.4 Direct exchange to read as follows:

§ 74.4 Direct exchange—(a) Countries with which the United States maintains direct exchange of money orders on the international basis and payment made on original orders. (Order sent by the remitter to the payee.)

- | | |
|--|--------------------------------------|
| Cape Verde Islands. ¹ | Ireland. |
| Commonwealth of Australia—consisting of: | New Zealand. |
| New South Wales. | Union of South Africa—consisting of: |
| Queensland. | Cape of Good Hope. |
| South Australia. | Natal and Zululand. |
| Tasmania. | Orange Free State. |
| Victoria. | The Transvaal. |
| Western Australia. | |
| Germany. ² | |
| Hong Kong. ³ | |

(b) Countries with which the United States maintains direct exchange of money orders on the international basis, business being conducted through exchange offices and payment made on orders reissued by an exchange office of

the paying country. (A receipt only is given the remitter.)

- | | |
|-------------------------------------|-----------------------------------|
| Albania. ¹ | Japan. |
| Argentina. | Latvia. ² |
| Austria. | Lebanon (Republic of). |
| Belgium. | Lithuania. ¹ |
| Brazil. | Luxemburg. |
| Bulgaria. ¹ | Mexico. |
| Chile. | Netherlands. |
| China. ¹ | Netherlands Indies. ¹ |
| Colombia. | Norway. |
| Costa Rica. | Palestine. ¹ |
| Czechoslovakia. | Peru. |
| Denmark. | Poland. |
| Estonia. ¹ | Rumania. ¹ |
| Finland. | Salvador. |
| France and Algeria. | Siam. ¹ |
| Great Britain and Northern Ireland. | Spain. ¹ |
| Greece. | Surinam. |
| Guatemala. | Sweden. |
| Honduras (Republic of). | Switzerland. |
| Hungary. | Syria (Republic of). ³ |
| Iceland. | Tunis (Regency of). |
| Italy. | Uruguay. |
| | Yugoslavia. |

b. Amend § 74.6 List of United States exchange offices, by deleting paragraph (b).

(R. S. 161, 896, 4028, sec. 1, 25 Stat. 654, secs. 304, 309, 42 Stat. 24, 25; 5 U. S. C. 22, 369; 39 U. S. C. 712)

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

[F. R. Doc. 50-5033; Filed, June 12, 1950; 8:47 a. m.]

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

JAPAN; PORTUGUESE EAST AFRICA (MOZAMBIQUE)

a. In § 127.286 Japan (39 CFR 127.286; 14 F. R. 1441, 5242) amend subdivision (i) (b) of paragraph (b) (4) to read as follows:

(b) Gift parcels may contain only relief items such as nonperishable foods, mailable medicines in noncommercial quantities, soap, clothing, and other relief items in quantities which reasonably can be used by the addressee and his family. No gift parcel may contain more than 1,000 saccharine tablets or more than 1 item of tobacco, within the following limits:

- (1) 200 cigarettes.
- (2) 50 cigars.
- (3) One-half pound of pipe tobacco.

The controlling authorities in Japan have limited as follows the quantities of food, mailable medicines, and clothing which may be included in a single gift parcel:

Assorted foodstuffs.....	Up to 22 pounds.
Medicines:	
Penicillin.....	Up to 9 million units.
Santonin.....	Up to ¼ pound.
Phenacetin.....	Up to ½ pound.
Streptomycin.....	15 grams.
Vitamin and the like.....	2 dozen ampules or 1 pound of tablets.
Aspirin.....	2 ounces.
Sulfa drugs.....	150 tablets.
Others.....	Reasonable amounts not in commercial quantities.

¹ Money order business temporarily suspended.

² Order fully made out, to be sent to the New York Exchange Office with advice and coupon. (Receipt only to be handed to remitter.) Exchange office will send order to Germany.

³ The Republic of Syria consists of the States of Syria, Latakia, and Jebel Druze.

Clothing, new:

- Suits or dresses, adult..... 1 of each size.
- Suits or dresses, children..... 2 of each size.
- Shirts..... 3 of each size.
- Underwear..... 6 pairs.
- Gloves..... 3 pairs.
- Socks and stockings..... 1 dozen pairs.
- Hats, caps and the like..... 2 items.
- Boots or shoes..... 2 pairs of each size.
- Handkerchiefs..... 1 dozen.
- Towels..... 1 dozen.
- Sheets and such covering..... 5 items.
- Textiles for clothing, woolen..... Sufficient for 2 suits.
- Cotton or silk cloth..... Sufficient for 2 dresses.
- Woolen yarn..... 5 pounds.
- Cotton thread (yarn)..... 2 dozen small rolls.
- Sewing needles..... 2 small packets.

Used clothing, in moderate quantities using above new goods standard as basis.

b. In § 127.333 Portuguese East Africa (Mozambique) (39 CFR 127.333) amend paragraph (b) (1) by the addition of subparagraph (ii) to read as follows:

(ii) Air parcels.

[Rates, \$1.63 first 4 oz.; \$1.00 each additional 4 oz.]

Lb. Oz.	Rate	Lb. Oz.	Rate
0 4	\$1.63	6 12	\$27.63
0 8	2.63	7 0	28.63
0 12	3.63	7 4	29.63
1 0	4.63	7 8	30.63
1 4	5.63	7 12	31.63
1 8	6.63	8 0	32.63
1 12	7.63	8 4	33.63
2 0	8.63	8 8	34.63
2 4	9.63	8 12	35.63
2 8	10.63	9 0	36.63
2 12	11.63	9 4	37.63
3 0	12.63	9 8	38.63
3 4	13.63	9 12	39.63
3 8	14.63	10 0	40.63
3 12	15.63	10 4	41.63
4 0	16.63	10 8	42.63
4 4	17.63	10 12	43.63
4 8	18.63	11 0	44.63
4 12	19.63	11 4	45.63
5 0	20.63	11 8	46.63
5 4	21.63	11 12	47.63
5 8	22.63	12 0	48.63
5 12	23.63	12 4	49.63
6 0	24.63	12 8	50.63
6 4	25.63	12 12	51.63
6 8	26.63	13 0	52.63

[Rates, \$1.63 first 4 oz.; \$1.00 each additional 4 oz.]

Lb. Oz.	Rate	Lb. Oz.	Rate
13 4	\$53.63	17 12	\$71.63
13 8	54.63	18 0	72.63
13 12	55.63	18 4	73.63
14 0	56.63	18 8	74.63
14 4	57.63	18 12	75.63
14 8	58.63	19 0	76.63
14 12	59.63	19 4	77.63
15 0	60.63	19 8	78.63
15 4	61.63	19 12	79.63
15 8	62.63	20 0	80.63
15 12	63.63	20 4	81.63
16 0	64.63	20 8	82.63
16 4	65.63	20 12	83.63
16 8	66.63	21 0	84.63
16 12	67.63	21 4	85.63
17 0	68.63	21 8	86.63
17 4	69.63	21 12	87.63
17 8	70.63	22 0	88.63

(R. S. 161, 396, secs. 304, 309, 42 Stat. 24, 25; 5 U. S. C. 22, 369; and the terms of postal conventions and agreements entered into pursuant to R. S. 398, 48 Stat. 943; 5 U. S. C. 372)

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

[F. R. Doc. 50-5034; Filed June 12, 1950; 8:48 a. m.]

parts of leaves which are seriously damaged.

(2) U. S. Grade B. U. S. Grade B shall consist of leaves or parts of leaves of kale which meet the requirements of U. S. Grade A, except that they need be only reasonably clean; and except that those with only the edges affected with bronze or slight yellowish color, but not dried, shall be permitted in this grade; and except for the increased tolerances for defects specified below:

(1) Incident to proper grading and handling, not more than 5 percent, by weight, of the kale in any lot may be small pieces of leaves, and not more than 10 percent may fail to meet the remaining requirements of the grade, including not more than 4 percent for leaves or parts of leaves which are seriously damaged.

(b) Off-Grade kale. Leaves or parts of leaves of kale which fail to meet the requirements of either of the foregoing grades shall be Off-Grade kale.

(c) Definitions. (1) "One type" means that the kale is generally of the same color and character of growth. No mixture of types shall be permitted which materially affects the appearance of the lot.

(2) "Fresh" means that the leaves or parts of leaves are not more than slightly wilted.

(3) "Fairly tender" means that leaves and parts of leaves are not tough or excessively fibrous.

(4) "Clean" means that the kale does not show more than a trace of grit, sand, dirt, silt, muck or other water insoluble inorganic material.

(5) "Well trimmed" means that the leaf stems (petioles) have been cut or broken off within 1/2 inch of the blade.

(6) "Small pieces of leaves" means parts of leaves which are smaller in area than a circle one inch in diameter.

(7) "Damage" means any injury or defect which materially affects the appearance, or the edible, shipping or keeping quality of the individual leaves or parts of leaves or the lot as a whole. The following defects or any combination of defects the seriousness of which exceeds the amount allowed for any one defect shall be considered as damage:

(i) Discoloration, when the appearance of the leaf or part of a leaf is materially affected.

(ii) Mechanical damage, when the leaf or part of a leaf is very badly crushed, torn or broken.

(8) "Serious damage" means any injury or defect which seriously affects the appearance, or the edible, shipping or keeping quality of the individual leaves or parts of leaves or the lot as a whole. The following defects or any combination of defects the seriousness of which exceeds the amount allowed for any one defect shall be considered as serious damage:

(i) Leaves or parts of leaves which are badly discolored.

(ii) Leaves or parts of leaves on which worms or worm frass are present, or leaves or parts of leaves on which there is more than slight infestation by other insects.

(iii) Leaves which are affected by soft rot

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Production and Marketing Administration

[7 CFR, Part 51]

FRESH KALE

UNITED STATES CONSUMER STANDARDS

Notice is hereby given that the United States Department of Agriculture is considering the issuance of United States Consumer Standards for Fresh Kale under the authority contained in the Agricultural Marketing Act of 1946 (60 Stat. 1087; 7 U. S. C. 1621 et seq.).

All persons who desire to submit written data, views or arguments for consideration in connection with the proposed standards should file the same with M. W. Baker, Assistant Director, Fruit and Vegetable Branch, Production and Marketing Administration, United States Department of Agriculture, South Building, Washington 25, D. C., not later than 5:30 p. m., e. s. t. on the 30th day after

the publication of this notice in the FEDERAL REGISTER.

The proposed standards are as follows:

§ 51.255 Consumer standards for fresh kale—(a) Grades—(1) U. S. Grade A. U. S. Grade A shall consist of leaves or parts of leaves of kale of one type which are fresh, fairly tender, clean, well trimmed and of characteristic color for the type; which are free from decay, small pieces of leaves, and leaf stems without blades, and are free from damage caused by discoloration, seedstems, bud burn, freezing, foreign material, disease, insects or mechanical or other means. Leaves or parts of leaves of kale on the shown face shall be reasonably representative in size and quality of the contents of the container.

(i) Incident to proper grading and handling, not more than 3 percent, by weight, of the kale in any lot may be small pieces of leaves, and not more than 5 percent may fail to meet the remaining requirements of the grade, including not more than 2 percent for leaves or

(iv) Weeds, grass or pieces thereof, and other extraneous matter.

(9) "Reasonably clean" means that the kale is reasonably free from grit, sand, dirt, silt, muck and other water insoluble inorganic material.

Done at Washington, D. C., the 8th day of June 1950.

[SEAL] JOHN I. THOMPSON,
Assistant Administrator, Pro-
duction and Marketing Ad-
ministration.

[F. R. Doc. 50-5058; Filed, June 12, 1950;
8:52 a. m.]

[7 CFR, Part 922]

[Docket No. AO-223]

HANDLING OF IRISH POTATOES GROWN IN CENTRAL NEBRASKA

NOTICE OF RECOMMENDED DECISION AND OP- PORTUNITY TO FILE WRITTEN EXCEPTIONS WITH RESPECT TO PROPOSED 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 the recommended decision of the Assistant Administrator, Production and Marketing Administration, United States Department of Agriculture, with respect to a proposed marketing agreement and a proposed marketing order regulating the handling of Irish potatoes grown in the counties of Phelps, Loup, Garfield, Custer, Valley, Greeley, Sherman, Howard, Hall, Buffalo, Dawson, and Kearney in Nebraska, to be effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.; 61 Stat. 202, 707; 62 Stat. 1247; 63 Stat. 1051), hereinafter called the "act". Interested parties may file exceptions to this recommended decision with the Hearing Clerk, Room 1353 South 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 marketing agreement and the proposed marketing order (hereinafter called the "order") were formulated, was held at Kearney, Nebraska, on May 1-2, 1950, pursuant to notice thereof which was published in the FEDERAL REGISTER (15 F. R. 2109, 2228). Such notice set forth a proposed marketing agreement and order which was submitted to the Secretary of Agriculture by the East Central Nebraska Potato Association (composed of producers and shippers of Irish potatoes in the proposed production area) with a petition for a hearing thereon.

Material issues. The material issues presented on the record of the hearing are as follows:

(1) The existence of the right to exercise Federal jurisdiction;

(2) The need for the proposed regulatory program to accomplish the declared objectives of the act;

(3) The identity of the persons and transactions to be regulated;

(4) The definition of the commodity and determination of the smallest regional production area to be affected by the proposed regulatory program;

(5) The specific terms and provisions of the proposed marketing agreement and order necessary and incidental to attain the declared objectives of the act, including, among others, those applicable to:

(a) The establishment of, maintenance, composition, powers, duties, and operation of the administrative agency;

(b) The method for limiting shipments of Irish potatoes grown in the production area;

(c) The establishment of minimum standards of quality and maturity;

(d) The handling under special regulations, under certain circumstances, and the procedure applicable thereto, of specified shipments of Irish potatoes grown in the production area;

(e) The relaxation of regulations in hardship cases and the procedure applicable thereto; and

(f) The requirement that all handling of Irish potatoes grown in the production area must be in accordance with the provisions of the marketing agreement and order, and that inspection and certification of shipments of such potatoes and the payment of assessments must be accomplished in connection therewith.

Findings and conclusions. The findings and conclusions on the aforementioned material issues, all of which are based on the evidence introduced at the hearing and the record thereof, are as follows:

(1) A substantial percentage of the Irish potatoes grown in the counties of Phelps, Loup, Garfield, Custer, Valley, Greeley, Sherman, Howard, Hall, Buffalo, Dawson, and Kearney in the State of Nebraska, hereinafter called the "production area", normally enters the current of interstate or foreign commerce, and virtually all of the remainder of such potatoes are consumed as table stock potatoes within the production area, or the State of Nebraska, or are used for so-called diversionary purposes. The market for potatoes grown in the production area is regional in scope and prices for such potatoes at markets both within and outside the State of Nebraska are closely related to each other and to f. o. b. shipping point prices in the production area. Every movement and sale of such potatoes, whether to a market within or outside of the State, or the production area, affects the price structure for all potatoes grown in the production area. The mere availability of a surplus of such potatoes in the production area, which could move or be sold to satisfy market demands, tends to decrease the prices in all markets for all potatoes grown in the production area.

Shipments and sales of potatoes grown in the production area may be scheduled

originally for delivery to markets within the production area or the State of Nebraska, respectively, and then be diverted enroute to markets outside of the State. Conversely, such potatoes, destined originally for markets outside of the State, may be diverted enroute to markets within the State or to markets within the production area. The movement and sale of such potatoes to markets within the production area, to markets within the State of Nebraska and to markets outside of the State of Nebraska are, therefore, inextricably intermingled.

It is concluded, therefore, that (i) all transportation and sale (except retail sales) of Irish potatoes grown in the production area are either in the current of interstate or foreign commerce, or directly burden, obstruct, or affect such interstate or foreign commerce, and (ii) it is impractical to regulate effectively the transportation and sale of such potatoes without regulating all transportation and sale thereof.

(2) Effective January 1, 1950, parity prices for Irish potatoes are to be computed in accordance with the provisions of the Agricultural Act of 1948 and the Agricultural Act of 1949. It is hereby determined that the applicable parity price for such potatoes in 1950 will be 95 percent of the parity price determined in the manner used prior to January 1, 1950.

Seasonal average farm prices for the commercial early (summer) crop of potatoes grown in Nebraska have been below parity for 14 seasons and above parity for 7 seasons since 1928. Three of the 7 seasons (1943, 1944, and 1945) when such prices were above parity were war years. Such prices have been below parity in all seasons since the 1945 season. The seasonal average farm price for such potatoes for the 1949 season is \$1.25 per bushel, or 79 percent of parity.

Seasonal average farm prices for potatoes grown in the production area and seasonal average farm prices for the Nebraska commercial early crop of potatoes bear a close and constant relationship to each other because the counties within the production area account for most of the commercial early crop so reported. Production of potatoes for summer harvest in Nebraska outside of the production area comes for the most part from farm and home gardens, very little of which enters commercial channels. Such production, therefore, is of minor importance in calculating seasonal average farm prices for the commercial early crop in the State.

Since the seasonal average farm price for the 1949 commercial early crop of potatoes in Nebraska was below parity, farm prices for potatoes grown in the production area are closely related to prices for such commercial early crop, the competing California potato crop will not be supported in 1950, and the indicated 1950 acreage of Nebraska early commercial potatoes is only slightly below that in 1949, it is anticipated that seasonal average farm prices received by growers in the production area for potatoes produced in 1950 will not reach the prescribed parity level.

The availability of supplies of Irish potatoes in excess of all market demand therefor tends to decrease the grower's average returns from all of such potatoes. Withholding the poorer grades, and undesirable qualities and sizes of such potatoes from such markets tends to equalize market supply and the demand therefor, and tends to increase the grower's average returns for all Irish potatoes. Poor grades, undesirable qualities, and undesirable sizes of Irish potatoes available for sale in wholesale markets sell at appreciable discounts from the sale price of the better grades and desirable qualities and sizes of such potatoes, and the former not only displace the latter to a considerable extent, but the former give poor consumer satisfaction, resulting in an over-all decreased consumption of Irish potatoes. Grade, quality, and size discounts in wholesale prices of Irish potatoes are reflected in similar discounts in grower returns therefor. Similarly, decreased consumption of Irish potatoes of all grades, qualities, and sizes, decreases grower returns from such potatoes.

Poorer grades, undesirable qualities, and undesirable sizes of Irish potatoes are frequently marketed in a manner designed to indicate that such potatoes are of desirable grades, qualities, and sizes, which results in consumer dissatisfaction, confusion relevant to Irish potato values, and generally chaotic marketing conditions.

Therefore, it is concluded that a marketing agreement and order is necessary to regulate the transportation and sale of Irish potatoes grown in the production area, to establish and maintain such orderly marketing conditions therefor as will tend to establish parity prices for such potatoes. The marketing agreement and order should contain provisions for the establishment and maintenance of such minimum standards of quality and maturity and such grading and inspection requirements for Irish potatoes grown in the production area as will effectuate orderly marketing thereof in the public interest, because, even though prices received by farmers for such potatoes exceed parity, some immature potatoes of poor quality do not, under any circumstances, represent value to the consumers thereof, because of immaturity, poor quality, or both, and the returns to the farmers therefrom are negligible.

(3) (a) The act authorizes the regulation of such handling of Irish potatoes grown in the production area as is in the current of interstate or foreign commerce, or which directly burdens, obstructs, or affects such commerce. (Such handling is hereinafter called "in commerce.") The marketing agreement and order should regulate such handling solely to effectuate the declared policy of the act. It is essential, as a basis for such regulation, that the marketing agreement and order define a "handler," so that persons to be regulated thereunder will have notice thereof.

Common or contract carriers transporting Irish potatoes (grown in the production area and owned by another person) to market are performing a nor-

mal handling function in commerce but such handling should not be regulated under the marketing agreement and order for the reason that such carriers are not responsible for the grade, quality, and size of the commodity so transported, are not responsible for the introduction of such commodity in commerce, and their sole interest in such commodity is to transport it to destinations selected by others for a service charge. The responsibility for the grade, quality, and size of the commodity delivered to such common and contract carriers should be borne solely by the person or persons responsible for delivering such commodity to such carriers.

Other normal handling functions with respect to such potatoes, which should be regulated under the marketing agreement and order are hereinafter considered in connection with a definition of "ship", and the definition of "handler" should be synonymous with "shipper" because regulation of the handler performing each of such functions is necessary under the marketing agreement and order to effectuate the declared policy of the act. Therefore, the term "handler" should be defined to be synonymous with shipper (except a common or contract carrier of potatoes owned by another person) and to mean any person who ships potatoes.

(b) Washing, grading, packing, and other processing of Irish potatoes are normal handling functions in commerce. However, it would be impracticable, if not impossible, to require persons engaged in washing, packing, and grading Irish potatoes, grown in the production area, to meet minimum grade, quality, and size requirements in connection with such potatoes, under regulations issued pursuant to the marketing agreement and order, prior to such grading. Therefore, such handling activities should be exempt from regulation under the marketing agreement and order. Such exemption should be limited to washing, packing, grading, and other preparatory handling functions accomplished in the production area because such activities are customarily accomplished in such area and because enlarging the exemption would serve no useful purpose. After the grading has been accomplished in connection with such potatoes, the handling activity of transporting them to market should be subject to regulation, under the marketing agreement and order, because the grade, quality, and size of such potatoes are determined by the grading process accomplished prior to such transportation and such transportation in commerce can then be limited, on a practical basis, to such grades, qualities, and sizes of such potatoes as will tend to effectuate the declared policy of the act.

Sales of Irish potatoes, grown in the production area, in commerce are normal handling transactions which should be subject to regulation under the marketing agreement and order because such sales can be restricted to the grades, qualities, and sizes of such potatoes as will meet the requirements of regulations issued under such marketing agreement and order and because such sales intro-

duce or continue such potatoes in commerce. Therefore, if such sellers fail to meet such requirements, they should be responsible, except as hereinafter indicated, for the introduction or continuation of Irish potatoes in commerce which fail to meet such requirements. However, if a producer of Irish potatoes, grown in the production area, sells such potatoes to a recognized packer in the production area on a grade-out basis, such sale by the producer does not constitute a normal handling transaction in commerce because such sale does not place such potatoes in commerce and because such producer relies on the recognized packer handling such potatoes in accordance with such grade, quality, and size regulations as may be in effect at the time such potatoes are actually placed in commerce. Under such state of facts, the sale from the producer to the recognized packer does not place the potatoes in commerce and the customary contemplation of the parties is that such potatoes will be prepared for market prior to their introduction in commerce, i. e., washed, graded, etc. It is necessary to restrict the scope of this producer-packer sale exemption to packers operating processing facilities in the production area because such restriction conforms to customary practice in the production area and because enlarging the exemption would serve no useful purpose.

However, if a producer of Irish potatoes, grown in the production area, sells potatoes grown by him to an itinerant trucker, or any other person, for transportation to market without prior processing, such potatoes are thereby placed in commerce at the time of such sale and the producer, under such circumstances, is the first handler of such potatoes. Such producer intended, under such circumstances, that the potatoes would be placed in commerce at the time of such sale and, therefore, he should be held responsible for any failure of the commodity so sold to meet such grade, quality, and size requirements as might be in effect under the marketing agreement and order at the time of such sale.

Irish potatoes grown in the production area and consigned or otherwise placed in commerce are in the same category as similar potatoes sold in commerce because all of such potatoes must at least meet the minimum grade, quality, and size requirements in effect under the marketing agreement and order at the time they are placed in commerce to effectuate the declared policy of the act. The consignor or individual otherwise placing such potatoes in commerce should be required, therefore, to meet such grade, quality, and size requirements.

Irish potatoes grown in the production area are frequently transported, sold, or otherwise placed or continued in commerce by more than one person. Each of such persons is responsible for introducing or continuing such potatoes in commerce and, therefore, each of such persons should be required to conduct such normal handling activities in accordance with applicable grade, quality, and size regulations, under the

marketing agreement and order, to effectuate the declared policy of the act.

It is concluded, therefore, that "ship" should be defined in the marketing agreement and order to include and be applicable to all of the normal handling functions which must be subject to regulation to effectuate the declared policy of the act, that such definition should be synonymous with "handle," and that "ship" should mean to transport, sell, or in any way to place potatoes in the current of commerce within the production area, or between the production area and any point outside thereof: *Provided*, That the definition of "ship" or "handle" shall not include or be applicable to the sale or transportation of ungraded potatoes within the production area to a recognized dealer or packer within the production area for the purpose of having such potatoes prepared for market.

(4) (a) It is necessary to define the commodity to be regulated by the marketing agreement and order, so that persons handling such commodity will know that their handling activities relevant thereto are subject to regulation thereunder. The act authorizes marketing agreements and orders applicable to potatoes, or to any regional or market classification thereof. Irish potatoes of all varieties grown in the production area is a regional classification of potatoes and regulation of the handling thereof will tend to effectuate the declared policy of the act. It is concluded, therefore, that "potatoes" should be defined to mean all varieties of Irish potatoes grown in the production area.

(b) A definition of "production area" is incorporated in the marketing agreement and order to specify and delineate the area in which potatoes must be grown before the handling thereof is subject to regulation. Potatoes are produced for market in each county included within the production area. Even though commercial production is concentrated in Buffalo and Dawson counties, it would be impractical to exclude any of the counties of lesser commercial importance from the production area. The exclusion of any such counties, or portions thereof, from the production area would create enforcement problems of such magnitude as to jeopardize the successful operation of the marketing agreement and order. The history of the Central Nebraska potato industry indicates that production tends to shift from areas of "old" to areas of "new" potato land. Such shifts probably will be accelerated in the future by the development and expansion of pump irrigation in certain of the counties within the production area, for example, Loup, Garfield, and Custer counties.

Production, harvesting, and marketing conditions and methods are essentially the same throughout the production area. Such differences in these factors as do exist are relatively minor and would not justify, on the basis of reasons stated herein, the exclusion of any portion of the production area from regulation under the marketing agreement and order. The same or similar varieties of potatoes are grown through-

out the production area and potatoes from each part thereof compete in markets both within and outside the area during each season. For example, potatoes grown in Dawson county are shipped to market during the same period that shipments are being made from Hall and Loup counties. Exclusion of any portion of the production area from regulation under the marketing agreement and order would make the operation of such program unreasonably difficult and impractical. Therefore, the production area, hereinafter defined, constitutes the smallest practicable regional production area.

(5) It is necessary to define the terms hereinafter set forth, so that their applicability and meaning may be established and to preclude the necessity for redefining them when they are later used in the marketing agreement and order. The definitions of Secretary, act, person, producer, potatoes, and varieties, as set forth in the notice of hearing, were not in controversy at the hearing. These terms are generally understood by members of the potato industry in the production area and the use of such terms in the marketing agreement and order is essential as the basic framework thereof.

A definition of "fiscal year" is incorporated in the marketing agreement and order to establish the beginning and end of an operating period. The establishment of such period, which should comprise a full twelve months, is necessary for businesslike administration of the marketing agreement and order and is desirable as a basis for establishing the terms of office of committee members and alternates. The date marking the end of one fiscal year and the beginning of the new should fall at a time of relative inactivity in the marketing of the potato crop and should allow sufficient time for the committee to organize and be prepared to function prior to the start of the new marketing season. Planting of the potato crop grown in the production area is accomplished during April and the first half of May of each year. Marketing of the crop begins about July 1 and is completed prior to March 1 of the following year. March 1 of each year is, therefore, a more appropriate date than is May 1, the date set forth in the notice of hearing, for establishing the end of one fiscal year and the beginning of the new. Fiscal year should be defined, therefore, as hereinafter set forth.

A definition of "committee" is incorporated in the marketing agreement and order to identify the administrative body which acts as agent of the Secretary. Such committee is authorized by the act and the definition thereof, as hereinafter set forth, minimizes the use of words in the marketing agreement and order.

Definitions of "seed potatoes," and "table stock potatoes," are incorporated in the marketing agreement and order because regulation is provided, under certain circumstances, differently for each. Special regulation for seed potatoes is justified because such potatoes are produced for a specialized use and the requirements of the seed market

differ, in some respects, from that of the table stock market. For example, potatoes of small size are ordinarily discounted in the table stock market but may bring a premium in the seed market. The term "seed potatoes" should be defined to include such potatoes as are certified, tagged, or otherwise appropriately identified by the official seed certifying agency of the State of Nebraska, or such other seed certifying agency as the Secretary may recognize. Table stock potatoes should be defined as all potatoes other than seed potatoes. The sum total of the table stock and seed potatoes so defined will equal "potatoes," otherwise defined in the marketing agreement and order.

The definition of "pack" should include consumer packs which are prepared for ultimate sale by the retailer to the consumer in the original container. The definition also should include wholesale packs from which potatoes are normally dumped into bulk display bins at the retail store. In practice, the distinction between the two types of packs rests on the capacity of the container. Consumer packs are not commonly in use in the production area but there is a growing interest in this type of pack. These usually consist of 5, 10, and 15 pound bags, while wholesale packs consist of 50 and 100 pound bags. The demarcation between consumer and wholesale packs should be drawn at a specified weight rather than by naming the individual container which should fall in each category. The possible introduction of containers differing in size from those now in use makes the latter approach impractical. This definition is intended to permit the committee to describe various packs and to establish distinctions among packs upon the basis of their weight and type of containers so that different regulations may be established for such different packs. Pack should be defined, therefore, as hereinafter set forth.

Definitions of "grade" and "size" are incorporated in the marketing agreement and order to enable all persons affected thereby to determine the requirements thereof and to interpret specifically and intelligently regulations issued in such terms. Grade and size, the essential terms in which regulations are issued, should be defined as comprehending the equivalents of the meanings assigned to these terms in the official standards for potatoes issued by the United States Department of Agriculture, or to amendment or modification of such standards. Regulations under the marketing agreement and order can then use such terms (grade and size) with the constant meaning assigned thereto in such standards, or amendment of such terms as may be effected through amendment of such standards, or such modification or variation of such terms as may be required at the time of regulation and spelled out in the regulation. Official inspectors are qualified to certify to the grade and size of potatoes, grown in the proposed production area, in terms of any one of the aforesaid standards, or amendment, modification, or variation thereof.

A definition of "export" is incorporated in the marketing agreement and order because different regulations thereunder are authorized for export shipments than for domestic shipments. Export markets have certain requirements which differ from the domestic market and special regulations are, therefore, justified. Export should be defined to include all shipments of potatoes outside of the continental United States.

A definition of "district" was not incorporated in the proposed marketing agreement and order. It is desirable, however, to delineate geographical divisions of the production area for the purpose of electing producer nominees for membership on the committee. The production and marketing problems within each of the districts hereinafter established are similar and election of producer committee nominees on such basis will afford equitable representation to all producers in the production area. District should be defined, therefore, as hereinafter set forth.

(a) The marketing agreement and order should provide for the selection by the Secretary of an administrative committee, called the Central Nebraska Potato Committee. The notice of hearing provided that the committee consist of five producers and one handler. The interests of producers and handlers in the production area would be more adequately represented in the conduct of committee business if there were six producers and two handlers on the committee as is hereinafter provided. One handler member on the committee could not adequately represent handler interests since individual handlers tend to confine their operations to certain portions of the production area and provision for more than two handler members would be disproportionate to the numerical importance of handlers in the area and might preclude the possibility of securing adequate nominees to provide the Secretary with a choice in making such selections. Establishment of this committee is desirable and necessary to aid the Secretary in carrying out the declared policy of the act and such committee is authorized by the act. Provision should be made for an alternate for each member of the committee because circumstances may arise when it is impossible for a member, or members, to attend particular meetings of the committee and where positions are vacant because of death, resignation, or for other reasons. In such situations it is necessary and desirable for the respective alternate to act in lieu of the member, so that there will be no interruption of committee operations and to assure that committee activities will be representative of producer and handler thinking in all districts of the production area. Such alternates should have the same qualifications as the member if the alternates are to represent the same industry factions as such members. A committee of eight members will be sufficiently small to permit it to operate in an efficient manner and at the same time, on the basis of the division of the production area into districts and representation therefor, will be of sufficient

size to give adequate representation to all producers and handlers in the production area.

Producer members and alternates selected to represent districts of the production area should be producers of potatoes (or officers or employees of a corporate producer) in the district they represent and residents therein. Handler members and alternates to represent handlers should be handlers of potatoes (or officers or employees of a corporate handler) in the production area. Persons with such qualifications will be intimately acquainted with the particular problems of producing and marketing potatoes grown in such district, in the case of producer members, and in the production area, in the case of handlers, and for that reason can be expected to present accurately the views, problems, and economic conditions of producers and handlers in such districts and the production area with respect to committee actions.

A nomination procedure is provided for in the marketing agreement and order to assure the Secretary that the names of appropriate prospective members and alternates will be brought to his attention. The nomination of prospective members and alternates by producers at meetings in the respective districts and by handlers at meetings in the production area is a practical method of providing the Secretary with names of such members and alternates. Such procedure will insure that the Secretary has available a list of nominees whose qualifications have been reviewed by and acted upon by members of the industry.

The Secretary may appropriately select initial committee members and alternates from nominations which may be made by producers, handlers, or groups thereof. However, the Central Nebraska Potato Committee, hereinafter called the "committee," does not come into existence until selection by the Secretary of the initial committee; therefore, the marketing agreement and order should provide for the selection of said initial committee in the absence of nominations.

Nomination meetings for the purpose of nominating succeeding members of the committee and their alternates should be held or caused to be held by the committee prior to January 1 of each year. Such date is approximately sixty days prior to the end of the fiscal year. By holding, or causing to be held, nomination meetings prior to such date, the committee would have adequate time to prepare and submit nominee lists to the Secretary in time for the Secretary to select the members and alternates to take office at the beginning of the new fiscal year, and, in the event a selectee declines to serve, for the Secretary to make another appointment.

At least two nominees should be designated for each position as member, and each position as alternate member, so that the Secretary will have a choice in making his selection and, in the event a selectee declines to serve, so that he will have the names of other prospective members or alternates from which to make another appointment.

Nominee lists should be supplied to the Secretary in the manner and form prescribed by him to establish administrative uniformity in the handling of such matters. Such nominations should be presented to the Secretary at least thirty days prior to the end of the fiscal year so that the selection and qualification of the members and alternates for the new term of office which begins with the new fiscal year may be made prior to such date.

Each producer should be limited to one vote on behalf of himself, his agents, subsidiaries, affiliates, or representatives, in designating nominees for producer committee members and alternates regardless of the number of districts in which he produces potatoes. Voting on any other basis would not provide for equitable representation. If a producer could cast more than one vote by reason of operating in more than one district, such producer would have an advantage in selecting nominees over producers operating in only one district. Likewise, if more than one vote was permitted, a few large producers could dominate the elections and nominate producers not favored by a majority of producers. The producer who operates in more than one district should be permitted to elect from among the districts in which he produces potatoes, the district in which he shall vote in order that he may cast his ballot for nominees for producer committee members and alternates where he believes his main interest lies. The one-vote limitation applies to any one producer position to be filled at a nomination meeting. Each producer is allowed one vote for each such producer position as a committee member and each such producer position as a committee alternate to be filled at a nomination meeting.

Similar voting limitations should be applied to handler participation in nominating handler committee members and alternates, for reasons similar to the application of such limitations to producer nominations of producer committee members and alternates. However, to maintain the distinctive handler and producer representative viewpoint of committee members and alternates, each person who handles and produces potatoes should be required to elect the capacity in which he will participate in program activities, subject to the requirement that, for the purpose of nominating handler committee members and alternates, a handler shall be considered to be a person who produces not more than 50 percent of the total volume of potatoes handled by himself. Such percentage limitation will restrict participation in nominating handlers to persons primarily interested in potato handling activities.

In order that there will be an administrative agency in existence at all times to administer the marketing agreement and order, the Secretary should be allowed to select committee members and alternates without regard to nominations if the committee, for any reason, fails to carry out the nomination procedure prescribed herein. Such selection, however, should be on the basis of the representation provided in the marketing agreement and order to insure that the

entire production area is fairly and adequately represented.

Any person selected by the Secretary as a committee member or alternate should qualify by filing with the Secretary a written acceptance of willingness and intention to serve in such capacity. Each person selected as a committee member or alternate should qualify, so that the Secretary will have a means of determining if he intends to serve. This is sound operating procedure and is necessary and desirable to avoid delays in the composition of the committee. For this same reason, each member and alternate should file his acceptance within a definite time period after receiving notice of his selection. The ten-day period prescribed is reasonable for qualification and will not unduly retard composition of the committee.

Provision is made for the Secretary to fill any committee vacancies in order to maintain continuity of committee operation. The marketing agreement and order provides several alternative procedures which may be followed by the Secretary in making such selections. The administrative flexibility thus prescribed is desirable so that the Secretary will not be forestalled in making such selections and so that he may choose the most practical of the alternative means of obtaining the names of qualified persons to fill such vacancies. The Secretary should have authority to select persons to fill committee vacancies from nominations made at producer or handler meetings. Practical considerations, however, may preclude the holding of special nomination meetings for this purpose. For example, a vacancy might occur during the height of the potato planting or harvesting season when it would be difficult for the committee to secure an adequate and representative attendance at meetings. It is, therefore, appropriate that the Secretary should be authorized to make selections to fill vacancies from the nominee list last submitted by the committee prior to the occurrence of the vacancy.

It is also desirable and necessary that the Secretary should be authorized to fill committee vacancies without regard to nominations if the names of nominees to fill any such vacancy are not made available to the Secretary within thirty days after such vacancy occurs. The Secretary should have recourse to such means of filling vacancies in order to maintain continuity of committee operation and to insure that all portions of the production area are adequately represented in the conduct of committee business.

The term of office of committee members and alternates, except for initial members and alternates, should be for two years. A two-year term is desirable so that members and alternates will have adequate time to familiarize themselves with the operation of the program and thus be in a position to render the most effective service in assisting the Secretary in carrying out the declared policy of the act. A term of two years is also the minimum term that can be established if provision is to be made for staggered terms of office. A term of more than two years should not be established since pro-

ducers and handlers should have an opportunity to vote for a change in their representation at frequent intervals.

Provision is made in the marketing agreement and order for staggered terms of office of committee members and alternates. Under this provision, one-half of the committee in office at the end of a fiscal year will continue in office through the next fiscal year. The establishment of such staggered terms will promote administration of the program in the most effective and efficient manner. By having staggered terms of office, the new members and alternates, constituting one-half of the committee membership, selected to serve at the beginning of each fiscal year will benefit from the guidance of the experienced members who carry over. This provision for the carry-over of experienced members will help insure continuity in the policies and procedures relating to the administration of the marketing agreement and order. Such continuity is an essential ingredient in the successful administration of the marketing agreement and order.

To facilitate the establishment of staggered terms of office, the marketing agreement and order provide that the terms of office of one-half of the members and alternates of the initial committee shall be for one year. Such provision is fair and equitable and will permit the establishment, on a practical basis, of a committee with the members and alternates thereon holding office for staggered terms.

A quorum of the committee should consist of five members and five concurring votes should be necessary for passing any motion or approving any action of the committee. The notice of hearing provided that a quorum consist of four members and that a like number of concurring votes be required to approve committee action but with an increase in the size of the committee from six members to eight members it is necessary to increase such requirements to five in order that a majority of the committee be present at committee meetings and concur in committee actions. These requirements are reasonable and are necessary to insure that any action of the committee reflects a majority of the interests represented. To require six members to be present at meetings of the committee and to concur in committee actions, might result in a stalemate if three members, representing a minority of the committee, refused to attend meetings or to approve actions favored by the majority of the members.

Only members present at an assembled meeting of the committee, or alternate members acting for members, should be entitled to vote. This requirement will encourage greater attendance at meetings and will promote fuller discussion of committee actions. Provision is made, however, for meetings of the committee by telephone, telegraph, or other means of communication, to meet practical situations where rapid decision with respect to committee actions is necessary. Such emergency situations occur quite frequently in the marketing of potatoes grown in the production area. Any votes cast at such meetings should

be promptly confirmed in writing to provide a record of the action taken.

The apportionment and selection of producer members and alternate members of the committee by districts and the selection of handler members and alternates on a production area basis, in the manner set forth in the marketing agreement and order, will provide fair and equitable representation of all producers and handlers in the production area. The representation provided gives weight, on as fair and reasonable a basis as possible, to the various factors, such as acreage, number of producers, size of district, and variation in producing and marketing conditions, necessary to establish assurance of a fair and equitable representation of all portions of the production area on the committee.

Committee members and alternates should be reimbursed for expenses necessarily incurred when acting on committee business. Since such members and alternates will be serving in the interest of the potato industry in the production area, they should not be required to bear such expenses as they incur in attending to committee business.

The powers of the committee, as set forth in the notice of hearing, should be granted to the committee because such powers are authorized by the act and are essential to the committee in order for it to discharge its responsibilities under the marketing agreement and order.

Each and all of the duties set forth in the notice of hearing should be given to the committee because such duties are necessary and essential to the accomplishment of the declared policy of the act and for the committee to discharge its obligations to the Secretary. These duties are similar to duties given to other administrative committees under other marketing agreement and order programs.

(b) The declared policy of the act is to establish and maintain such orderly marketing conditions for potatoes, among other commodities, as will tend to establish parity prices for such potatoes. The regulation of shipments of potatoes by grade, size, or quality, authorized in the marketing agreement and order, provides a means of carrying out such policy.

The procedures which are outlined in the marketing agreement and order for the development and institution of marketing policies relating to grade, size, or quality regulations provide a practical basis for the committee to obtain appropriate and adequate information regarding marketing problems. In turn, members of the industry are also provided an appropriate and adequate means of being informed regarding the policies and regulations the committee recommends and, if issued, the regulations that are effective. The factors which the committee should take into consideration in developing its marketing policy are the ones commonly or usually taken into account by growers and handlers in marketing potatoes.

In order that the Secretary may most effectively carry out his responsibilities in connection with the marketing agreement and order, it is provided that the committee should prepare and submit to

the Secretary a report on its proposed policy, or amendments thereto, for the marketing of potatoes during each fiscal year. Further provision should be made for the committee to make available the contents of such reports to producers and handlers in the production area.

In making recommendations for regulation, it is provided that the committee shall investigate enumerated relevant factors of supply and demand for potatoes. This requirement is necessary so that the committee will be in the best position to develop sound and practical recommendations for regulation and to advise the Secretary with respect to such supply and demand conditions. The committee will be well qualified to determine marketing conditions for potatoes produced in the production area and to recommend specific regulations which will tend to effectuate the declared policy of the act.

The limitation of shipments of the poorer grades, qualities, and less desirable sizes of potatoes grown in the production area will tend to increase the prices of the more desirable grades, qualities, and sizes, and to increase the returns to producers therefrom. Less desirable sizes include not only small potatoes but also excessively large potatoes. Such limitation of shipments will also help to improve the long-run demand for and competitive position of potatoes grown in the production area.

It is a necessary and desirable exercise of the authority granted by the act for the committee to recommend and the Secretary to establish grade, size, or quality regulations for any or all portions of the production area, and different grade, size, or quality regulations for different packs, for different time periods within the shipping season, for different varieties, or any combination of the foregoing. Such administrative flexibility is needed in the marketing agreement and order to effectuate the declared policy of the act through the issuance of appropriate regulations adapted to different and changing circumstances encountered in the marketing of potatoes.

Authority to issue different regulations applicable to different portions of the production area is necessary because a particular portion or portions of such area may have adverse growing conditions which cause an abnormally high percentage of the potatoes grown therein to fall within restricted grades, sizes, or qualities. To meet the administrative problems that would arise from a situation of this kind and to provide fair and equitable regulation of all shipments of potatoes grown in the production area, it would be appropriate to establish a less restrictive regulation applicable to such affected portion or portions of the area.

Supply and demand conditions for potatoes are subject to frequent and substantial changes during the course of a particular marketing season. For this reason, it is absolutely essential that the committee have authority to recommend different regulations at any time during the season in order to carry out the declared policy of the act.

Different regulations should be authorized for different varieties of potatoes because varieties differ in particular

characteristics such as shape and in susceptibility to certain defects. For these reasons, an appropriate grade and size regulation for one variety might not be appropriate for another. Moreover, a new variety may be introduced in the area which should be regulated differently than the varieties now being grown.

It is necessary to provide for different regulations, under appropriate circumstances, for different packs of potatoes to improve and maintain consumer acceptance for potatoes grown in the production area. For example, it may be desirable to establish different regulations for consumer packs than for wholesale packs. Consumer packs of potatoes require different size composition than wholesale packs; authority should be provided, therefore, to establish regulations with respect to minimum or maximum sizes of potatoes, or both, differently for consumer packs than for wholesale packs. Consumer acceptance of potatoes is more adversely affected by inferior grades and undesirable sizes in consumer packs than in wholesale packs. In the case of consumer packs, the consumer accepts the package relatively "sight unseen" and does not have an adequate opportunity to make a selection of individual potatoes. The consumer, however, can make the desired selection from bulk displays made up by dumping the contents of wholesale packs into a bin, as is standard procedure in the retail grocery business. Consumers demand a better and more uniform grade, size, and quality of potatoes in consumer packs than in wholesale packs and failure to maintain such grade, size, and quality in consumer packs will disproportionately decrease the total returns of growers of potatoes in the production area.

The Secretary, upon the recommendation of the committee, or other available information, should be authorized to modify, suspend, or terminate grade, size, or quality regulations with respect to shipments outside of the normal commercial markets for table stock potatoes. The committee should be well qualified, because of the experience and knowledge of individual members, to recommend such modifications, suspensions, or terminations as will be in the best interests of the potato industry in the production area and which will tend to effectuate the declared policy of the act. Shipments of potatoes to the noncompetitive outlets, hereinafter set forth, which otherwise could not be marketed under the regulations, would tend to increase the total returns of potato growers in the production area.

In the notice of hearing provision was made to treat shipments of potatoes for grading within the production area as a special shipment to be subject to modified regulation, or with respect to which regulations could be suspended or terminated. Inasmuch as the sale or transportation of potatoes prior to the grading thereof is excluded from the definition of ship there is no occasion or need to permit special treatment of such shipments.

The nature of the demand for seed potatoes differs from the demand for table stock in that small sizes are pre-

ferred for seed, whereas the same sizes are discounted in the table stock market. However, certain characteristics which constitute grade defects in table stock potatoes do not necessarily detract from the value of seed potatoes. It is desirable, in order to promote more orderly marketing conditions for potatoes, to authorize the committee to recommend and the Secretary to modify, grade, size, or quality regulations with respect to seed potatoes, or to suspend or terminate regulations relating to such seed shipments.

Export outlets are not an important factor in the demand for potatoes grown in the production area. Export markets, however, may assume greater importance in the future and since certain export markets offer premium prices for certain grades, sizes, or qualities of potatoes which usually sell at a discount in the domestic market, it is desirable that the committee be authorized to recommend, and the Secretary to establish, modifications, suspensions, or terminations of regulations applicable to export shipments. Such shipments to export would tend to increase returns to producers in the production area and result in added increment to the value of the crop, thereby tending to effectuate the declared policy of the act.

Substantial shipments of potatoes to the Federal Government have been made in recent years in carrying out price support obligations administered by the Secretary. It is necessary, therefore, to authorize the committee to recommend and the Secretary to modify, suspend, or terminate regulations to facilitate such shipments, which will increase grower returns from potatoes grown in the production area and thereby tend to effectuate the declared policy of the act.

The committee should be authorized to recommend and the Secretary to modify, suspend, or terminate regulations with respect to potatoes shipped for manufacture or conversion into specified products such as glucose, alcohol, etc., because such shipments reduce the supply of such potatoes available for shipment to the table stock market and, therefore, such shipments tend to increase the total value of the entire crop of potatoes. The committee should be given authority to recommend which shipments should be classed as being for manufacture or for conversion into specified products because committee members are in an advantageous position to know whether and when such end products constitute outlets that are not competitive with table stock potatoes. It is concluded that the committee should have authority to recommend and the Secretary to specify such products because some products compete on a basis virtually equal to table stock potatoes and, further, because new end products may be developed from time to time, some of which may, and some of which may not be competitive with table stock potatoes. Shipments of potatoes to potato chip or french fry plants should not be included thereunder and made subject to modification, suspension, or termination of regulations because such products, i. e., potato chips and french fried

potatoes, compete on a basis virtually equal to table stock potatoes.

The committee should be authorized to recommend that shipments of potatoes for distribution by relief agencies, or for consumption by charitable institutions, should not be regulated, or to recommend modification or suspension of regulations with respect to such shipments. Although such shipments are competitive to some extent with table-stock shipments it is desirable to permit special treatment of them so that such agencies and institutions may receive donations of potatoes, which otherwise could not be shipped, from handlers and growers in the production area, or purchase potatoes of grades and sizes acceptable for relief purposes but which should be withheld from normal table stock channels.

The committee should be authorized to recommend that shipments of potatoes for livestock feed, or for other specified purposes, should not be regulated, or to recommend modification or suspension of regulations governing such shipments. Livestock feed provides an outlet for potatoes that is not competitive with the table stock market. When such outlets are available it will tend to promote objectives sought under regulation to exempt shipments for this purpose from grade, size, and quality regulations. The committee should be authorized to recommend that shipments of potatoes for a particular purpose or type of utilization should not be regulated, or to recommend modification or suspension of regulations with respect to such shipments, when it is found that such shipments are not competitive with table stock shipments in commerce. The Secretary, on the basis of such recommendations, or other available information, should be authorized to modify, suspend, or terminate regulations with respect thereto, when such action will tend to effectuate the declared policy of the act.

The aforesaid authorizations for the modification, suspension, or termination of regulations with respect to shipments of potatoes for each enumerated special purpose, should permit the modification, suspension, or termination of one or more regulatory provision and the simultaneous retention of other regulatory provisions, because such shipments may require expenditures of administrative funds to police and they may compete, to some extent, with shipments of potatoes for table stock purposes.

The administrative difficulties of regulating small shipments, under some circumstances, may make it uneconomical, undesirable, and impractical to attempt to do so under the marketing agreement and order. Under such circumstances, which can be readily determined by the committee, regulation of such small shipments would not tend to effectuate the declared policy of the act. It is concluded that the committee should be authorized to recommend, and the Secretary to establish, the minimum quantities which should not be subject to any or all regulations issued under the marketing agreement and order. It is desirable to permit the maintenance of one or more regulatory requirements, while relieving such minimum quantities from

other regulatory requirements. It may be desirable, for example, to waive the inspection requirement on small shipments but require that handlers pay assessments or comply with grade, size, and quality regulations with respect to such shipments. This provision provides authority to arrange flexible operation of the marketing agreement and order to meet the local situation in the most practical way.

The requirement that the Secretary shall notify the committee of any regulations, or of any modifications, suspensions, or terminations of regulations, is appropriate and necessary to enable the committee to be informed of such actions. The committee's obligation to give reasonable notice (which shall be given through newspapers, radio, mail, or such combinations thereof as may be deemed desirable by the committee) of orders issued by the Secretary is appropriate and necessary for proper and efficient administration of the marketing agreement and order.

Authority should be provided for the committee to recommend, and the Secretary to prescribe, adequate safeguards to prevent any potatoes, including seed potatoes, which may be subject to special modified, suspended, or terminated regulation, from entering the current of commerce contrary to the provisions hereof. Such safeguards, among others, may include inspection to provide the committee with an accurate record of the grade, size, and quality of such shipments of potatoes. In order to maintain appropriate identification of such shipments of potatoes, the committee should be authorized to issue Certificates of Privilege to handlers thereof and to require that such handlers obtain such certificates on all such shipments. Certificates of Privilege should be issued in accordance with rules and regulations established by the Secretary, on the basis of committee recommendations, or other available information, so that the issuance of such certificates may be handled in an orderly and efficient manner.

The committee also should be authorized to deny or rescind Certificates of Privilege when such action is necessary to prevent abuse of the privileges conferred thereby. The committee should be authorized to take such rescinding or denial action upon evidence satisfactory to the committee that a handler to whom a Certificate of Privilege has been issued has handled potatoes contrary to the provisions thereof. Action by the committee denying a handler such certificates should be in terms of a specified time period. Handlers affected by the aforesaid rescinding or denial action should have the right of appeal to the committee for reconsideration.

The Secretary should have the right to modify, change, alter, or rescind any safeguards prescribed or any Certificates of Privilege issued by the committee 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 the committee of any action taken by him in connection therewith and the committee should currently notify all persons affected by the indicated action.

The committee should maintain detailed records relevant to Certificates of Privilege and should submit, when requested to do so, reports thereon to the Secretary to supply pertinent information requisite for him to discharge his duties under the act and the marketing agreement and order.

(c) The committee should be authorized to recommend, and the Secretary to establish, such minimum standards of quality and maturity and such grading and inspection requirements during any and all periods of marketing even when potato prices are above parity, as will be in the public interest. Some potatoes are of such defective quality that they do not give consumer satisfaction at any time because of the great waste and time involved in their preparation. The cost of such potatoes to the consumer per edible unit is frequently greater than the cost per edible unit of potatoes of better quality.

The shipment of immature potatoes causes an adverse consumer reaction to potatoes from the production area and tends to demoralize the market for later shipments of mature potatoes. There is a tendency for immature potatoes to deteriorate in transit and to develop undesirable cooking properties. Limitation of shipment of such potatoes would be in the interests of both consumers and of the potato industry in the production area. Continued shipments of low quality and immature potatoes may result in a permanent reduction in demand for potatoes grown in the production area.

(d) Provision is made in the marketing agreement and order for inspection by the Federal Inspection Service of all shipments of potatoes grown in the production area, except as hereinafter indicated. Inspection certificates issued by this Service are a common and usual means of specifying the grade, size, and quality of potatoes and are generally used and recognized in the production area. Such certificates constitute prima facie evidence of the grade, size, and quality of the commodity to which they apply and they are accepted in court as such evidence. It is necessary to provide the handler, the committee, or any other interested party with a means of determining whether a shipment or shipments, of potatoes complies with the requirements of any particular grade, size, and quality regulation which may be in effect under the marketing agreement and order. Inspection certificates provide such a means. The Federal Inspection Service can provide reasonably prompt inspection at all points within the production area at a reasonable fee if inspection is requested at a reasonable time prior to the anticipated sale or transportation of the commodity to be inspected. Effective regulation of the handling of potatoes grown in the production area requires that the grade, size, and quality of each shipment thereof be authoritatively established based upon an unrestricted inspected of each such shipment. Accordingly, the marketing agreement and order should provide, except as hereinafter indicated, that no handler shall ship potatoes unless, prior thereto, such shipment was inspected by the aforesaid Service.

Although all shipments of potatoes grown in the production area must meet the minimum grade, size, and quality requirements in effect at the time of such shipments, to tend to effectuate the declared policy of the act, Federal inspection and certification is primarily an administrative device, essential and necessary for the administration of the marketing agreement and order, to permit the committee, and other interested parties to definitely ascertain the grade, size, and quality of the potatoes involved in such shipments.

Copies of inspection certificates issued pursuant to the requirements of the marketing agreement and order should be supplied to the committee promptly, so that it may promptly discharge its administrative responsibilities thereunder. In instances where potatoes previously inspected are regraded, resorted, or in any other way subjected to further preparation for market in the production area, such potatoes should be and are required to be inspected and a copy of the inspection certificate should be furnished to the committee because such further preparation for market destroys the validity of the original inspection certificate as evidence of the grade, size, and quality of the potatoes involved. All of the aforesaid requirements are necessary for proper administration and enforcement of the provisions of the marketing agreement and order.

(e) Certain hazards are incidental to the production of potatoes grown in the production area which are beyond the control or reasonable expectation of the producer of such potatoes. Because of these circumstances and to prevent undue hardship among producers with respect to any regulations which may be issued under the marketing agreement and order, the committee should be authorized to issue exemption certificates to producers to permit each producer to handle or cause to be handled his equitable proportion of all potatoes shipped from the production area if the grade, size, or quality of his potatoes have been adversely affected by conditions beyond his control and by conditions beyond reasonable expectation. In determining such equitable proportion, the committee should be authorized to estimate the average percentage of production which has been and will be shipped by all producers in the producer's immediate area of production under a given regulation (which will be such equitable proportion). For such purpose, the committee will need a representative sample of the grade, size, and quality composition of the total crop in such area, a part of which, at any given time during the shipping season, may have been harvested and marketed and another part unharvested.

Restricting the aforesaid exemptions to cases involving conditions beyond the producer's control, and to conditions beyond reasonable expectation, is necessary to preclude the granting of such hardship exemptions where the producers could have avoided the condition responsible for their hardships.

The committee, by reason of its knowledge of the conditions and prob-

lems applicable to the production and handling of potatoes grown in the production area and the information which it will have available in each case, will be well qualified to judge each producer's application in a fair and equitable manner and to fix the quantity of exempted potatoes which each such applicant may handle or cause to be handled.

The provisions contained in the notice of hearing relevant to the procedure to be followed in issuing exemption certificates, in transferring such certificates, in investigating exemption claims, in appealing exemption claim determinations, and in recording and reporting exemption claim determinations to the Secretary, are necessary to the orderly and equitable operation of the marketing agreement and order and they should, therefore, be incorporated in the marketing agreement and order.

Provision should be made for the Secretary to modify, change, alter, or rescind the procedure established by the committee for granting of exemptions, and any exemptions granted pursuant to such procedure. This is necessary to guard against inequities in the granting of exemptions and to preclude the issuance of exemption certificates in unjustifiable cases.

(f) The operation of the committee and the marketing agreement and order require funds for the payment of necessary administrative expenses. The committee is the logical agency to recommend what expenses are necessary and appropriate for operation of the program. It is also necessary that assessments be levied on the handlers to meet such expenses since no other source of funds is authorized under the act for defraying such expenses. The committee should be required, each year, to prepare and submit to the Secretary a budget showing its estimated expenses and a proposed rate of assessment. This is desirable in order that the Secretary will have the best possible information on probable expenses of the committee and the proper rate of assessment to be levied to meet such expenses.

Assessments should be levied against each handler who first ships potatoes, herein called the first handler, to establish an appropriate basis for each handler paying his pro rata share of necessary administrative expenses. Each first handler is required to pay assessments to the committee, at its request, to conform with normal business procedures and to preclude multiple assessments in connection with individual shipments of potatoes. Each first handler's pro rata share of such expenses shall be a percentage of such expenses equal to the percentage his total season's first handling of potatoes subject to regulation is of the total season's handling of potatoes subject to regulation by all first handlers. The Secretary, upon the basis of the committee's recommendation, or other available information, should fix a rate of assessment per given unit of shipment which first handlers must pay as an equitable share of the expenses of administering the program.

The Secretary should be authorized to increase the rate of assessment which

first handlers should pay if he finds, during the course of a given season, that the then current rate of assessment is insufficient to cover expenses. Such increased rate should apply on a retroactive basis to all assessable potatoes previously handled during that season to preclude inequities among handlers.

Revenues collected through assessments in excess of expenses for any fiscal year should, at the end of such fiscal year, be credited pro rata to each contributing handler's account, or, upon demand, refunded to any handler.

The committee should be authorized to maintain, with the approval of the Secretary, suits in its own name, or in the name of its members, against any handler for collection of such handler's pro rata share of the committee's expenses. Such authority is contained in the act.

The committee should be permitted to make such expenditures during a fiscal year as are authorized and are necessary for effective administration and proper functioning of the marketing agreement and order program, within the limitations of the budget submitted by the committee and approved by the Secretary for such year.

Any committee member or alternate responsible for or having in his custody any of the property, funds, records, or any other possessions of the committee, should be required to transfer it to his successor or to such person as may be designated by the Secretary, and to execute such instruments as may be necessary to effect such transfers. The committee, and such members and alternates, should be required to give an accounting for all committee receipts and disbursements and for all committee property whenever requested by the Secretary and whenever, in the case of members and alternates, they cease to be such members or alternates. These transfer and accounting requirements represent sound business procedure and are necessary in order that there will be an unbroken succession in committee possessions.

(g) For proper and efficient administration of the marketing agreement and order, the committee needs information on potatoes with respect to supplies, movement, prices, and sundry other relevant factors which are best obtainable from handlers. The committee should be authorized to request, with the approval of the Secretary, such information as may be required by the committee to exercise its powers and perform its duties under the marketing agreement and order. The Secretary should retain the right to modify, change, alter, or rescind any requests by the committee for information in order to protect handlers from unreasonable requests for reports.

(h) The provisions of sections 7 through 20, as published in the FEDERAL REGISTER of April 14, 1950 (15 F. R. 2109), are common to marketing agreements and orders now operating. Each of such sections sets forth certain rights, obligations, privileges, or procedures which are necessary and appropriate for the effective operation of the 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 other provisions of the marketing agreement and order and to effectuate the declared policy of the act. The substance of such provisions, therefore, should be included in the marketing agreement and order.

General findings. Upon the basis of the evidence introduced at such hearing, and the record thereof, it is found that:

(1) The order, as hereinafter set forth, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) Such order regulates the handling of 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 activity specified in, a proposed marketing agreement upon which a hearing has been held;

(3) The said order is limited in its application to the smallest regional production area which is practicable, consistent with carrying out the declared policy of the act; and the issuance of several orders applicable to any subdivision of the production area would not effectively carry out the declared policy of the act;

(4) The said order prescribes, so 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 said area;

(5) All handling of potatoes, as defined in said order, is in the current of interstate or foreign commerce, or directly burdens, obstructs, or affects such commerce.

Rulings on proposed findings and conclusions. Interested parties were allowed until May 26, 1950, to file briefs with respect to findings of facts and conclusions based on evidence introduced at the hearing. No such brief was filed; hence no ruling is necessary.

Recommended marketing agreement and order. The following marketing agreement and order are recommended as the detailed means by which the aforesaid conclusions may be carried out.

DEFINITIONS

§ 922.1 **Secretary.** "Secretary" means the Secretary of Agriculture of the United States, or any officer, or employee of the United States Department of Agriculture, who is, or may hereafter be authorized to exercise the powers and to perform the duties of the Secretary of Agriculture.

§ 922.2 **Act.** "Act" means Public Act No. 10, 73d Congress, as amended and reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.; 61 Stat. 202, 707; 62 Stat. 1247; 63 Stat. 1051).

§ 922.3 **Person.** "Person" means an individual, partnership, corporation, association, or any organized group or business unit.

§ 922.4 **Production area.** "Production area" means all territory included

within the Counties of Phelps, Loup, Garfield, Custer, Valley, Greeley, Sherman, Howard, Hall, Buffalo, Dawson, and Kearney in Nebraska.

§ 922.5 **Potatoes.** "Potatoes" means all varieties of Irish potatoes grown within the production area.

§ 922.6 **Handler.** "Handler" is synonymous with shipper and means any person (except a common or contract carrier of potatoes owned by another person) who ships potatoes.

§ 922.7 **Ship.** "Ship" or "handle" means to transport, sell, or in any other way to place potatoes in the current of commerce within the production area, or between the production area and any point outside thereof: *Provided*, That the definition of "ship" or "handle" shall not include or be applicable to the sale or transportation of ungraded potatoes within the production area to a recognized dealer or packer within the production area for the purpose of having such potatoes prepared for market.

§ 922.8 **Producer.** "Producer" means any person engaged in the production of potatoes for market.

§ 922.9 **Fiscal year.** "Fiscal year" means the period beginning on March 1 of each year and ending on the last day of February following.

§ 922.10 **Committee.** "Committee" means the Central Nebraska Potato Committee, established pursuant to § 922.22.

§ 922.11 **Varieties.** "Varieties" means and includes all classifications or subdivisions of Irish potatoes according to those definitive characteristics now or hereafter recognized by the United States Department of Agriculture.

§ 922.12 **Seed potatoes.** "Seed potatoes" means and includes all potatoes officially certified and tagged, marked or otherwise appropriately identified, under the supervision of the official seed potato certifying agency of the State of Nebraska or such other seed certification agencies as the Secretary may designate.

§ 922.13 **Table stock potatoes.** "Table stock potatoes" means and includes all potatoes not included within the definition of "seed potatoes."

§ 922.14 **Pack.** "Pack" means a unit of potatoes contained in a bag, crate, or other type of container and falling within specific weight limits recommended by the committee and approved by the Secretary.

§ 922.15 **Grade.** "Grade" means any one of the officially established grades of potatoes, and "size" means any one of the officially established sizes of potatoes, as defined and set forth in:

(a) The United States Standards for Potatoes issued by the United States Department of Agriculture (14 F. R. 1955, 2161), or amendments thereto, or modifications thereof, or variations based thereon;

(b) The United States Consumer Standards for Potatoes issued by the United States Department of Agriculture (12 F. R. 7281), or amendments thereto,

or modifications thereof, or variations based thereon.

§ 922.16 **Export.** "Export" means shipment of potatoes beyond the boundaries of continental United States.

§ 922.17 **District.** "District" means each one of the geographical divisions of the production area established pursuant to § 922.24.

§ 922.18 **Part and subpart.** "Part" means the order regulating the handling of Irish potatoes grown in the production area, and all rules, regulations, and supplementary orders issued thereunder, and the aforesaid order shall be a "subpart" of such "part."

COMMITTEES

§ 922.22 **Establishment and membership.** (a) The Central Nebraska Potato Committee, consisting of 8 members of whom 6 shall be producers and 2 shall be handlers, is hereby established. For each member of the committee there shall be an alternate who shall have the same qualifications as the member.

(b) Persons selected as committee members or alternates to represent producers shall be individuals who are producers, or officers or employees of a corporate producer, in the respective district for which selected and residents therein. Persons selected as committee members or alternates to represent handlers shall be individuals who are handlers, or officers or employees of a corporate handler in the production area.

§ 922.23 **Term of office.** (a) The term of office of committee members and alternates shall be two fiscal years: *Provided*, That the terms of office of one-half of the initial members and their respective alternates shall be one fiscal year.

(b) Committee members and alternates shall serve during the term of office for which they are selected and have qualified, or during that portion thereof beginning on the date on which they qualify during the term of office and continuing until the end thereof, and until their successors are selected and have qualified.

§ 922.24 **Districts.** (a) For the purpose of selecting producer committee members and alternates, the following districts of the production area are hereby established:

District No. 1. Dawson County.

District No. 2. Buffalo County.

District No. 3. Hall County.

District No. 4. All the remaining counties within the production area.

(b) The Secretary, upon the recommendation of the committee, may reestablish districts within the production area and may reapportion committee membership among the various districts; *Provided*, That in recommending any such changes in districts or representation the committee shall give consideration to: (1) The relative importance of new areas of production; (2) changes in the relative position, with respect to production, of existing districts; (3) the geographic locations of areas of production, insofar as they affect the efficiency

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of administering the marketing agreement and order; and (4) other relevant factors; *Provided further*, That there shall be no change in the total number of committee members and alternates, or in the total number of districts.

§ 922.25 *Nomination*. The Secretary may select the members of the committee and their respective alternates from nominations which may be made in the following manner:

(a) Nominations for initial committee members and alternates may be submitted by producers, handlers, or groups thereof, and such nominations may be by virtue of elections conducted by groups of producers and by groups of handlers.

(b) In order to provide nominations for succeeding committee members and alternates:

(1) The committee shall hold or cause to be held prior to January 1 of each year, after the effective date of this subpart, a meeting or meetings of producers in each of the districts designated in § 922.24, in which producer committee vacancies will occur at the end of the then current fiscal year. In like manner, the committee shall hold or cause to be held prior to January 1 of each year, after the effective date of this subpart, a meeting or meetings of handlers to nominate handler committee members and alternates to fill vacancies which will occur at the end of the then current fiscal year.

(2) At each such meeting at least two nominees shall be designated for each position as member and for each position as alternate member on the committee which is vacant or which is to become vacant at the end of the then current fiscal year.

(3) Nominations for committee members and alternate members shall be supplied to the Secretary in such manner and form as he may prescribe, not later than 30 days prior to the end of each fiscal year.

(4) Only producers may participate in designating nominees for producer committee members and alternates and only handlers may participate in designating nominees for handler committee members and alternates. For the purpose of designating nominees for handler committee members and alternates, a handler shall be considered to be a person who produces not more than 50 percent of the total volume of potatoes handled by himself; each person who is both a handler and a producer may vote either as a handler or as a producer and may elect, subject to such 50 percent limitation, the group in which he votes.

(5) Each producer and each handler of potatoes is entitled to cast only one vote on behalf of himself, his agents, subsidiaries, affiliates, and representatives, for producer or handler committee members and alternates, respectively; *Provided*, That producers in more than one district shall elect the district in which they will participate in nominating producer committee members and alternates; *Provided further*, That an eligible voter's privilege of casting only one vote, as aforesaid, shall be construed to permit a voter to cast one vote for

each position to be filled at a nomination meeting.

§ 922.26 *Selection*. The Secretary shall select two producer members of the committee with their respective alternates from each of Districts No. 1 and 2; and one producer member with his respective alternate from each of Districts No. 3 and 4, as such districts are defined in § 922.24. The Secretary shall select two handler members with their respective alternates from the production area. Each person selected as a handler member or alternate shall not produce more than 50 percent of the potatoes handled by himself.

§ 922.27 *Failure to nominate*. If nominations are not made within the time and in the manner specified by the Secretary pursuant to § 922.25, the Secretary may select the committee members and alternates without regard to nominations, which selection shall be on the basis of the representation provided for in § 922.26.

§ 922.28 *Acceptance*. Any person selected as a committee member or alternate shall qualify by filing a written acceptance with the Secretary within ten days after being notified of such selection.

§ 922.29 *Vacancies*. To fill any vacancy occasioned by the failure of any person selected as a committee member or alternate to qualify, or in the event of the death, removal, resignation, or disqualification of any qualified member or alternate, a successor for his unexpired term may be selected from nominations made in the manner specified in § 922.25, or the Secretary may select such committee member or alternate from previously unselected nominees on the current nominee list. If the names of nominees to fill any such vacancy are not made available to the Secretary within 30 days after such vacancy occurs, such vacancy may be filled without regard to nominations, which selection shall be made on the basis of the representation provided for in § 922.26.

§ 922.30 *Alternate members*. An alternate member of the committee shall act in the place and stead of the member for whom he is an alternate, during such member's absence. In the event of the death, removal, resignation, or disqualification of a member, his alternate shall act for him until a successor for such member is selected and has qualified.

§ 922.31 *Procedure*. (a) Five members of the committee shall be necessary to constitute a quorum, and five concurring votes shall be required to pass any motion or approve any committee action.

(b) The committee may provide for meetings by telephone, telegraph, or other means of communication, and any vote cast at such a meeting shall be confirmed promptly in writing; *Provided*, That all votes shall be cast in person at assembled meetings.

§ 922.32 *Expenses and compensation*. Committee members and alternates shall be reimbursed for expenses necessarily incurred by them in the performance of

their duties and in the exercise of their powers under this part.

§ 922.33 *Powers*. The committee shall have the following powers:

(a) To administer the provisions of this part in accordance with its terms;

(b) To make rules and regulations to effectuate the terms and provisions of this part;

(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.

§ 922.34 *Duties*. It shall be the duty of the committee:

(a) To act as intermediary between the Secretary and any producer or handler;

(b) To select a chairman and such other officers for each fiscal period as may be necessary, to select subcommittees of committee members and to adopt such rules and regulations for the conduct of its business as it may deem advisable;

(c) To appoint such employees, agents, and representatives as it may deem necessary and to determine the salaries and define the duties of each such person;

(d) To investigate, from time to time, and to assemble data on the growing, harvesting, shipping, and marketing conditions with respect to potatoes, and to engage in such research and service activities, which relate to the handling or marketing of potatoes, as may be approved by the Secretary;

(e) To furnish to the Secretary such available information as he may request;

(f) To keep minutes, books, and records which clearly reflect all of the acts and transactions of the committee and such minutes, books, and records shall be subject to examination at any time by the Secretary or his authorized agent or representative;

(g) To recommend the rate of assessment to cover the expenses set forth in the budget;

(h) At the beginning of each fiscal year, to submit to the Secretary a budget of its expenses for such fiscal year, together with a report thereon;

(i) To cause the books of the committee to be audited by a competent accountant at least once each fiscal year, and at such other time as the committee may deem necessary or as the Secretary may request. The report of such audit shall show the receipt and expenditure of funds collected pursuant to this part; a copy of each such report shall be furnished to the Secretary and a copy of each such report shall be made available at the principal office of the committee for inspection by producers and handlers; and

(j) To consult, cooperate and exchange information with other potato marketing committees and other individuals or agencies in connection with all proper committee activities and objectives under this part.

EXPENSES, ASSESSMENTS, AND BUDGETS

§ 922.40 *Budget*. The committee shall prepare a budget for each fiscal year, showing its anticipated expenses and a proposed rate of assessment to

cover such expenses. The committee shall transmit such budget to the Secretary, together with a report accompanying the budget showing the basis for its calculation of expenses and the proposed rate of assessment.

§ 922.41 *Expenses.* The committee is authorized to incur such expenses as the Secretary, upon the basis of the aforesaid budget, or other available information, finds may be necessary during each fiscal year to perform its functions under this part and for such other purposes as may be appropriate pursuant to the provisions of this part.

§ 922.42 *Rate of assessment.* The funds to cover such expenses shall be acquired by the levying on handlers of assessments which shall be at a rate fixed by the Secretary, upon the basis of the committee's recommendation, or other available information. Each handler who first ships potatoes shall pay assessments to the committee, upon demand, which assessments shall be such handler's pro rata share of the expenses which will be appropriately incurred by the committee during each fiscal year. Such 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 the applicable fiscal year, and the total quantity of potatoes handled by all handlers as the first handler thereof, during the same fiscal year.

§ 922.43 *Increasing rate of assessment.* Upon recommendation of the committee, or upon the basis of a later finding relative to the committee's expenses or revenue, the Secretary may increase the rate of assessment to cover expenses which shall be appropriately incurred. Such increase shall be applicable to all potatoes handled during the given fiscal year.

§ 922.44 *Accounting.* If at the end of a fiscal year, it shall appear that assessments collected are in excess of expenses incurred, each handler entitled to a proportionate refund of the excess assessments shall be credited with such refund against the operations of the following fiscal year, unless he demands payment thereof, in which event such proportionate refund shall be paid to him.

§ 922.45 *Funds.* All funds received by the committee, pursuant to any provision of this part, shall be used solely for the purposes specified in this part and shall be accounted for in the following manner:

(a) The Secretary may at any time require the committee and its members to account for all receipts and disbursements; and

(b) Whenever any person ceases to be a committee member or alternate, he shall account for all receipts and disbursements and deliver all property and funds in his hands, together with all books and records in his possession, to his successor in office or to such person as the Secretary may designate, and shall execute such assignments and other instruments as may be necessary or appropriate to vest in such successor

or in such designated person the right to all the property, funds, or claims vested in such member or alternate.

§ 922.46 *Collection of funds.* (a) The committee may, with the approval of the Secretary, maintain in its own name or in the name of its members, a suit against any handler for the collection of such handler's pro rata share of the expenses of the committee.

(b) In order to provide funds to carry out the functions of the committee, handlers may make advance payment of assessments.

REGULATION

§ 922.50 *Marketing policy preparation.* At the beginning of each fiscal year the committee shall consider and prepare a proposed policy for the marketing of potatoes during such fiscal year. In developing its marketing policy the committee shall investigate relevant supply and demand conditions for potatoes, giving appropriate consideration to:

(a) Market prices of potatoes, including prices by grade, size, and quality, and in different packs;

(b) Supply of potatoes, by grade, size, and quality, in the production area and in other production areas;

(c) The trend and level of consumer income; and

(d) Other relevant factors.

§ 922.51 *Marketing policy report.* (a) The committee shall submit to the Secretary a report setting forth the aforesaid marketing policy; a copy of such report shall be made available to producers and handlers.

(b) In the event it becomes advisable to deviate from such marketing policy, because of changed supply or demand conditions, the committee shall formulate a new marketing policy in the manner outlined in § 922.50, which shall be submitted to the Secretary and made available to producers and handlers.

§ 922.52 *Recommendation for regulations.* The committee shall recommend regulation to the Secretary whenever it finds that such regulation, as provided in § 922.53, will tend to effectuate the declared policy of the act. The committee may also recommend modification, suspension, or termination of regulations in order to facilitate shipments of potatoes for the specified purposes set forth in § 922.54.

§ 922.53 *Issuance of regulations.* The Secretary shall limit the shipment of potatoes whenever he finds from the recommendations and information submitted by the committee, or from other available information, that such regulation will tend to effectuate the declared policy of the act. Such limitation may:

(a) Regulate, in any or all portions of the production area, the shipment of particular grades, sizes, or quality of any or all varieties of potatoes during any period; or

(b) Regulate the shipment of particular grades, sizes, or quality of potatoes differently for different varieties, for different portions of the production area, for different packs, or any combination of the foregoing, during any period; or

(c) Regulate the shipment of potatoes by establishing and maintaining, in terms of grades, sizes, or both, minimum standards of quality and maturity.

§ 922.54 *Modification, suspension or termination.* The Secretary, whenever he finds upon the basis of recommendations and information submitted by the committee, or other available information, that it will tend to effectuate the declared policy of the act, shall modify, suspend, or terminate regulations issued pursuant to §§ 922.42, 922.43, 922.53, 922.65, or any combination thereof, in order to facilitate shipments of potatoes for the following purposes:

(a) For seed;

(b) For export;

(c) For distribution by the Federal Government;

(d) For manufacture or conversion into specified products;

(e) For distribution by relief agencies, or for consumption by charitable institutions;

(f) For livestock feed;

(g) For other purposes which may be specified.

§ 922.55 *Minimum quantity regulation.* The Secretary may establish, upon the basis of a committee recommendation, or other available information, for any or all portions of the production area, minimum quantities below which shipments will be free from regulations issued or in effect pursuant to §§ 922.42, 922.43, 922.53, 922.65, or any combination thereof.

§ 922.56 *Notification of regulation.* The Secretary shall notify the committee of any regulations issued, or of any modifications, suspension, or termination thereof. The committee shall give reasonable notice thereof to handlers.

§ 922.57 *Safeguards.* (a) The committee may recommend and the Secretary, upon the basis of such recommendation, or other available information, may prescribe adequate safeguards to prevent shipments effected pursuant to §§ 922.54 and 922.55, from entering channels of trade for other than the specific purpose authorized therefor, and rules governing the issuance and the contents of Certificates of Privilege if such certificates are prescribed as safeguards. Such safeguards may include requirements that:

(1) Handlers shall file applications with the committee to ship potatoes pursuant to §§ 922.54 and 922.55;

(2) Handlers shall obtain inspection required by § 922.65, or pay the pro rata share of expenses provided by § 922.42, or both, in connection with potato shipments effected under the provisions of §§ 922.54 and 922.55; *Provided,* That such inspection, or payment of expenses, or both may be required at different times than otherwise specified by the aforesaid sections; and

(3) Handlers shall obtain Certificates of Privilege from the committee for shipments of potatoes effected or to be effected under provisions of §§ 922.54 and 922.55.

(b) The committee may rescind or deny Certificates of Privilege to any handler if proof is obtained that potatoes

shipped by him for the purposes stated in §§ 922.54 and 922.55 were handled contrary to the requirements applicable thereto.

(c) The Secretary shall have the right to modify, change, alter, or rescind any safeguards prescribed and any certificates issued by the committee pursuant to the provisions of this section.

(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 shipped under duly issued certificates, and such other information as may be requested.

INSPECTION

§ 922.65 *Inspection and certification.* During any period in which shipments of potatoes are regulated pursuant to the provisions of §§ 922.42, 922.43, or 922.53, or any combination thereof, no handler shall ship potatoes unless, prior thereto, such shipment was inspected by an authorized representative of the Federal Inspection Service, or such other inspection service as the Secretary shall designate. Each handler procuring inspections pursuant to this section, shall make arrangements with the inspecting agency to forward promptly to the committee a copy of the inspection certificate. *Provided*, That the regrading, resorting, repacking, or other further preparation of inspected potatoes for market shall invalidate prior inspection thereon and subsequent shipment of such potatoes after regrading, resorting, repacking, or other preparation for market shall not be effected unless, prior thereto, such shipment is inspected as provided in this section.

EXEMPTIONS

§ 922.70 *Procedure.* The committee may adopt, subject to approval of the Secretary, the procedures pursuant to which certificates of exemption will be issued to producers.

§ 922.71 *Granting exemptions.* (a) The committee may issue certificates of exemption to any producer who applies for such exemption and furnishes adequate evidence to the committee that, by reason of a regulation issued pursuant to § 922.53, he will be prevented from handling, or causing to be handled, as large a proportion of his production as the average proportion of production handled, or caused to be handled, during the entire season by all producers in said applicant's immediate area of production, and that the grade, size, or quality of the applicant's potatoes have been adversely affected by acts beyond the applicant's control and by acts beyond reasonable expectation. Each such certificate shall permit the producer to handle, or cause to be handled, the amount of potatoes specified thereon. Such certificate shall be transferred with such potatoes at time of transportation or sale.

(b) The committee shall be permitted, at any time, to make a thorough investigation of any producer's claim pertaining to exemptions.

§ 922.72 *Appeal.* If an applicant for exemption certificates is dissatisfied with the determination by the committee with respect to his application, said applicant may file an appeal with the committee. Such an appeal must be taken promptly after the determination by the committee from which the appeal is taken. Any applicant filing an appeal shall furnish evidence satisfactory to the committee for a determination on the appeal. The committee shall thereupon reconsider the application, examine all available evidence, and make a final determination concerning the application. The committee shall notify the appellant of the final determination and shall furnish the Secretary with a copy of the appeal and a statement of considerations involved in making the final determination.

§ 922.73 *Records and reports and review of exemptions.* (a) The committee shall maintain a record of all applications submitted for exemption certificates, a record of all exemption certificates issued and denied, the quantity of potatoes covered by such exemption certificates, a record of the amount of potatoes shipped under exemption certificates, a record of appeals for reconsideration of applications, and such additional information as may be requested by the Secretary. Periodic reports on such records shall be compiled and issued by the committee upon request of the Secretary.

(b) The Secretary shall have the right to modify, change, alter, or rescind any procedure and any exemptions granted pursuant to §§ 922.70, 922.71, 922.72, or any combination thereof.

MISCELLANEOUS PROVISIONS

§ 922.80 *Reports.* Upon the request of the committee, with the approval of the Secretary, every handler shall furnish to the committee, in such manner and at such time as may be prescribed, such information as will enable the committee to exercise its powers and perform its duties under this part. The Secretary shall have the right to modify, change, or rescind any requests for reports made pursuant to this section.

§ 922.81 *Compliance.* Except as provided in this part, no handler shall ship potatoes, the shipment of which has been prohibited by the Secretary in accordance with the provisions of this part, and no handler shall ship potatoes except in conformity to the provisions of this part.

§ 922.82 *Right of the Secretary.* The members of the committee (including successors and alternates), and any agent or employee appointed or employed by the 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 the 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.

§ 922.83 *Effective time.* The provisions of this subpart 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.

§ 922.84 *Termination.* (a) The Secretary may, at any time, terminate the 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.

(b) The Secretary may terminate or suspend the operation 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 year whenever he finds that such termination is favored by a majority of producers who, during the preceding fiscal year, have been engaged in the production for market of potatoes; *Provided*, That such majority has, during such year, produced for market more than fifty percent of the volume of such potatoes produced for market; but such termination shall be effective only if announced on or before February 1 of the then current fiscal year.

(d) The provisions of this subpart shall, in any event, terminate whenever the provisions of the act authorizing them cease to be in effect.

(e) The Secretary shall terminate the provisions of this agreement at the end of any fiscal year, upon the written request of handlers signatory to this agreement who submit evidence satisfactory to the Secretary that they handled not less than sixty-seven percent of the total volume of potatoes handled by the signatory handlers during the preceding fiscal year; but such termination shall be effective only if announced on or before February 1 of the then current fiscal year.²

§ 922.85 *Proceedings after termination.* (a) Upon the termination of the provisions of this subpart, the then functioning members of the committee shall continue as trustees, for the purpose of liquidating the affairs of the committee, of all the 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 the committee and of the trustees, to such person as the Secretary may direct; and shall, upon request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title and right to

² Applicable only to the proposed marketing agreement.

all of the funds, property, and claims vested in the committee or the trustees pursuant to this subpart.

(c) Any person to whom funds, property, or claims have been transferred or delivered by the committee or its members, pursuant to this section, shall be subject to the same obligations imposed upon the members of the committee and upon the said trustees.

§ 922.86 *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 regulation 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 violation.

§ 922.87 *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.

§ 922.88 *Agents.* The Secretary may, by designation in writing, name any person, including any officer or employee of the government, or name any bureau or division of the United States Department of Agriculture, to act as his agent or representative in connection with any of the provisions of this part.

§ 922.89 *Derogation.* Nothing contained in this subpart is, or shall be construed to be, in derogation or in modifications 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.

§ 922.90 *Personal liability.* No member or alternate member of the committee, nor 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.

§ 922.91 *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.

§ 922.92 *Amendments.* Amendments to this subpart may be proposed, from time to time, by the committee or by the Secretary.

§ 922.93 *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

§ 922.94 *Additional parties.* After the effective date of this agreement, any handler who has not previously executed this agreement may become a party to this agreement if a counterpart of this agreement 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 benefits, privileges, and immunities conferred by this agreement shall then be effective as to such new contracting party.¹

§ 922.95 *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

Done at Washington, D. C., this 8th day of June 1950.

[SEAL] JOHN I. THOMPSON,
Assistant Administrator.

[P. R. Doc. 50-5060; Filed, June 12, 1950;
8:52 a. m.]

[7 CFR, Part 974]

HANDLING OF MILK IN COLUMBUS, OHIO, MARKETING AREA

NOTICE OF RECOMMENDED DECISION AND OPPORTUNITY TO FILE WRITTEN EXCEPTIONS WITH RESPECT TO PROPOSED AMENDMENTS TO TENTATIVELY APPROVED MARKETING AGREEMENT AND TO ORDER, AS AMENDED

Pursuant to the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and orders (7 CFR, 900.1 et seq.), notice is hereby given of the filing with the Hearing Clerk of this recommended decision of the Assistant Administrator, Production and Marketing Administration, United States Department of Agriculture, with respect to proposed amendments to the tentatively approved marketing agreement and to the order, as amended, regulating the handling of milk in the Columbus, Ohio, marketing area, to be effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.).

Interested parties may file exceptions to this recommended decision with the Hearing Clerk, Room 1353, South Building, United States Department of Agriculture, Washington 25, D. C., not later than the close of business on the 12th day after its publication in the FEDERAL REGISTER.

Preliminary statement. A public hearing was called by the Production and Marketing Administration, United States

¹ Applicable only to the proposed marketing agreement.

Department of Agriculture, on the request of the Central Ohio Cooperative Milk Producers, Inc., of Columbus and was held in Columbus on January 19 and 20, 1950. Proposed amendments were submitted by the petitioning association, and by handlers in the Columbus market.

The issues presented on the record of the hearing and covered by this decision were whether the order should be amended to provide for:

(1) An increase in Class I and Class II prices;

(2) A lower price for skim milk used in animal feed;

(3) A credit to handlers on butterfat and skim milk sold to nonhandlers in any form except fluid milk and cream in the months of April, May, June, and July computed at the difference between Class III butterfat and skim milk prices and any higher class prices otherwise applicable.

Findings and conclusions. The following findings and conclusions on the issues decided herein are hereby made upon the basis of the record of the hearing:

(1) The Class I and Class II price differentials should be increased 10 cents from the effective date of the amendment through September 30, 1950, and for the months of October 1950 through January 1951 if the total receipts of producer milk in the months of May through August 1950, are lower in relation to total Class I and Class II milk than during the corresponding period of 1949.

Producers requested a 35-cent per hundredweight increase in the prices of Class I and Class II milk as compensation for increased production costs due to the enforcement of new Grade A milk regulations to become effective May 1, 1950. Testimony of a number of producer witnesses indicated a wide variation in costs of meeting the changed health regulations. Some farms require extensive new construction and increased investment in equipment, while others require little or no change in existing buildings and equipment. All producer testimony indicated that some increase in operating costs would result from changes required by the new regulations, but the estimated amount of this increase also varied widely between producers.

Handlers opposed a price increase. A plentiful supply of milk would be produced for the market, they contended, at present prices. Survey results were introduced to show that the average cost per hundredweight of meeting Grade A requirements of a sample group of producers would be 3.4 cents for 1950 and 2.9 cents for later years. The probable decrease in volume of milk receipts due to enforcement of the Grade A regulations was variously estimated at 3 to 6 percent.

The milk supply appears to be closely adjusted to the needs of the Columbus market. In the year of 1949 only about 8 percent of producer milk was classified as Class IV. The amount of other source milk brought into the market was small and in the last ten months of the year was insignificant. In the last half of

1949 receipts of producer milk increased 7.3 percent from the corresponding period of 1948, while Class I utilization increased 6.6 percent. Either an increase or decrease of any magnitude in the supply of milk in relation to demand would be undesirable. Official notice is taken of a loss of over 300 producers from the market as a result of the Grade A regulations. It appears that at least a temporary encouragement in the form of somewhat higher prices is needed to induce producers to comply with the Grade A regulations. This higher price should be continued for the fall and winter months if the supply of milk in relation to Class I and II sales falls below the 1949 level for the period of May through August 1950. An increase of 10 cents in the Class I and Class II price differentials should be sufficient to accomplish the purpose set forth above.

It is concluded, therefore, that the Class I and Class II price differentials should be increased 10 cents from the effective date of the amendment through September 30, 1950, and also for the period of October 1950 through January 1951 if milk production in relation to Class I and Class II utilization declines from the level of 1949, as measured by comparative production and sales in the four-month period May through August 1950. Prices should then return to the previous levels unless the need of a continued higher price level is shown upon the basis of market conditions and prospects at that time.

(2) A lower price should not be provided for skim milk used as animal feed.

One handler testified in support of a proposal to provide a price 30 cents below the Class III skim milk price for skim milk used in animal feed. Cost data on producing condensed buttermilk with skim milk added were presented showing a loss on this product at current market prices. However, skim milk costs were based on prices prevailing prior to the recent amendment of the Columbus order which reduced the Class III skim milk price. The proponent combines skim milk with churn buttermilk in a 20-80 ratio in producing condensed buttermilk for animal feed, but condensed buttermilk may be made without the addition of skim milk.

It was not shown that there is no higher value use for skim milk available in the market, or that there is any interest among other handlers in the use of skim milk to produce animal feed. The price of skim milk for all Class III uses was reduced substantially effective January 1, 1950, and no further reduction appears necessary at this time.

(3) Handlers should receive a credit with respect to noncondensed skim milk disposed of to nonhandlers in the months of April, May, June, and July.

A proposal by handlers would, in effect, set a Class III price on skim milk and butterfat in products other than fluid milk and cream disposed of to nonhandlers in the months of April, May, June, and July. The proposal was intended, according to proponents' testimony, to permit disposal of condensed skim milk to nonhandlers in the spring months of high production at a Class

III charge to handlers. Condensed skim milk is a Class II product.

Ice cream sold in Columbus must be made from inspected milk or from products made from inspected milk. For several years most or all of the producer skim milk was needed for products requiring inspected milk; including ice cream. Condensed skim milk was therefore classified as Class II (formerly Class III) at a price higher than that applicable to products competing on the un-inspected market. In 1948 handlers claimed an excess of skim milk over that needed in products requiring inspected milk. A shortage still existed in the fall months, however, and disposal of condensed skim milk to nonhandlers subject to a Class III price credit was allowed only in January, February, and March, if made from producer milk after April 1 and in excess of needs for ice cream. Handlers now propose such credit on condensed skim milk disposed of in the April-July period.

The requirement that condensed skim milk be accounted for at the Class II price and a credit allowed at the Class II-Class III price difference only after January 1 was based on the probable need for most of the excess spring and summer production for use in ice cream in the fall months. Market conditions have changed greatly since early 1948. In 1949 handlers produced nearly 6½ million pounds of condensed skim milk. Less than 2½ million pounds was used by handlers in ice cream, leaving a surplus of over 4 million pounds. In the short production months of October-December, condensed skim milk production failed to meet ice cream needs by only 10,275 pounds. If all of the production during the April-July period had been disposed of outside the market, production in the other eight months would have exceeded all needs by handlers for ice cream for the year by nearly ¼ million pounds.

There appears to be no need, under present market conditions, for requiring excess spring production of condensed skim milk to be stored until January before permitting disposal subject to the Class III credit. It is concluded that handlers should be permitted to receive a credit computed at the difference between the Class II and Class III prices on producer skim milk received in April, May, June and July in excess of needs for ice cream and disposed of as condensed skim milk to nonhandlers who do not receive inspected milk. The latter provision will prevent receipt of the credit on sales to local ice cream manufacturers who must use inspected products. The credit allowed in January, February and March on skim condensed made from producer milk after April 1 in excess of the handler's use in ice cream will not be needed after the change recommended above and this provision should be deleted from the order.

General findings. (a) The proposed marketing agreement and the order, as amended and as hereby proposed to be further 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 produced for sale in the said marketing area 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 of and demand for such milk, and the minimum prices specified in the proposed marketing agreement and the order, as amended, and as hereby proposed to be further amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest, and

(c) The proposed marketing agreement and the order, as amended, and as hereby proposed to be further 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 hearings have been held.

Rules on proposed findings and conclusions.— Briefs were filed on behalf of the handlers and the Central Ohio Co-operative Milk Producers, Inc. The briefs contained proposed findings of fact, conclusions and argument with respect to the proposals discussed at the hearing. Every point covered in the briefs was carefully considered along with the evidence in the record in making the findings and reaching the conclusions hereinbefore set forth. To the extent that such suggested findings and conclusions contained in the briefs are inconsistent with the findings and conclusions contained herein, the request to make such findings or reach such conclusions are denied on the basis of the facts found and stated in connection with the conclusions in the recommended decision.

Recommended marketing agreement and amendment to the order. The following amendments to the order, as amended, are recommended as the detailed and appropriate means by which these conclusions may be carried out. The proposed marketing agreement is not included because the regulatory provisions thereof would be the same as those contained in the order, as amended, and as proposed here to be further amended:

1. Change the period at the end of subparagraph (1) of § 974.5 (b) to a colon and add the following:

Provided further, That through September 1950, there shall be added to the price of Class I milk so computed 10 cents per hundredweight; *And provided also,* That for the months of October, November and December 1950, and January 1951, there shall be added to the price of Class I milk so computed 10 cents per hundredweight if the total receipts of milk from producers by all handlers during the period May 1 through August 31, 1950, inclusive, are less than 113 percent of the gross combined volume of Class I milk and Class II milk of all handlers during such period.

2. Change the period at the end of subparagraph (1) of § 974.5 (c) to a colon and add the following:

Provided, That through September 1950, there shall be added to the price of Class II milk so computed 10 cents per hundredweight: And provided also, That for the months of October, November and December 1950, and January 1951, there shall be added to the price of Class II milk so computed 10 cents per hundredweight if the total receipts of milk from producers by all handlers during the period May 1 through August 31, 1950, inclusive, are less than 113 percent of the gross combined volume of Class I milk and Class II milk of all handlers during such period.

3. Delete the fourth proviso in paragraph (a) of § 974.6 and substitute therefor the following:

And provided also, That such handler shall be credited with the difference between the Class II and Class III prices for skim milk with respect to skim milk received in producer milk in excess of skim milk classified as Class I milk or Class II milk (other than that used to produce condensed skim milk) in each of the months of April, May, June, and July which is disposed of in such month in the form of condensed skim milk to a person whose supply of milk is not produced under permits as specified in § 974.1 (g).

Filed at Washington, D. C., this 8th day of June 1950.

[SEAL] JOHN I. THOMPSON,
Assistant Administrator.

[F. R. Doc. 50-5059; Filed, June 12, 1950; 8:52 a. m.]

DEPARTMENT OF LABOR

Wage and Hour Division

[29 CFR, Parts 656, 662, 687, 688]

ARTIFICIAL FLOWER, HOSIERY, HAIRNET, AND CEMENT INDUSTRIES IN PUERTO RICO

NOTICE OF HEARING ON MINIMUM WAGE RECOMMENDATIONS

Notice of hearing on the minimum wage recommendations of Special Industry Committee No. 7 for Puerto Rico for the artificial flower industry; hosiery industry; hairnet industry; and cement industry.

The Administrator of the Wage and Hour Division of the United States Department of Labor, acting pursuant to the Fair Labor Standards Act, as amended (52 Stat. 1060; 63 Stat. 910; 29 U. S. C. 201), on March 16, 1950, by Administrative Order No. 395, appointed Special Industry Committee No. 7 for Puerto Rico, composed of residents of Puerto Rico and of the United States outside of Puerto Rico, to investigate conditions in and to recommend minimum wage rates for employees engaged in commerce or in the production of goods for commerce in a number of industries in Puerto Rico specified in the order, including the Artificial Flower Industry; Hosiery Industry; Hairnet Industry; and Cement Industry.

The Committee included disinterested persons representing the public, a like number of persons representing employ-

ees in these industries, and a like number representing employers in these industries.

Special Industry Committee No. 7 for Puerto Rico has made separate minimum wage recommendations and has duly filed with the Administrator reports containing such recommendations, pursuant to section 8 (d) of the act and § 511.19 of the regulations issued under the act, for each of the aforementioned industries.

The Administrator is required under section 8 (d) of the act, after due notice to interested persons and giving them an opportunity to be heard, to approve and carry into effect by order each of the recommendations of Special Industry Committee No. 7 for Puerto Rico if he finds that the recommendations are made in accordance with law, are supported by the evidence adduced at the hearing and, taking into consideration the same factors as are required to be considered by the Industry Committee, will carry out the purposes of section 8 of the act; and, if he finds otherwise, to disapprove such recommendations. Now, therefore, notice is hereby given that:

A. The separate minimum wage recommendations of Special Industry Committee No. 7 for employees engaged in commerce or in the production of goods for commerce in the above-named industries in Puerto Rico are as follows:

Industry	Recommended minimum (Cents an hour)
Artificial Flower Industry.....	43
Hosiery Industry.....	40
Hairnet Industry.....	40
Cement Industry.....	65

B. The definitions of the above-named industries in Puerto Rico (as set forth in Administrative Order No. 395) for which Special Industry Committee No. 7 for Puerto Rico has made the foregoing separate minimum wage recommendations are as follows:

Artificial Flower Industry. The manufacturing and assembling of artificial flowers, buds, berries, foliage, leaves, fruits, plants, stems and branches.

This definition does not include such products as are not commonly or commercially known as "artificial", such as flowers made by blowing glass, molding plastic, or carving wood.

This definition supersedes the definitions contained in any and all wage orders heretofore issued for other industries in Puerto Rico to the extent that such definitions include products or operations covered by the definition of this industry.

Hosiery Industry. The manufacturing or processing of full-fashioned and seamless hosiery including among other processes the knitting, dyeing, clocking, and all phases of finishing hosiery, but not including the manufacturing or processing of yarn or thread.

This definition supersedes the definitions contained in any and all wage orders heretofore issued for other industries in Puerto Rico to the extent that such definitions include products or operations covered by the definition of this industry.

Hairnet Industry. The manufacturing and packaging of hairnets from any material.

This definition supersedes the definitions contained in any and all wage orders heretofore issued for other industries in Puerto Rico to the extent that such definitions include products or operations covered by the definition of this industry.

Cement Industry. The manufacture of hydraulic cement including the extraction of raw materials therefor.

This definition supersedes the definitions contained in any and all wage orders heretofore issued for other industries in Puerto Rico to the extent that such definitions include products or operations covered by the definition of this industry.

C. The full texts of the reports and recommendations of Special Industry Committee No. 7 for Puerto Rico for each of the above industries will be available for inspection by any person between the hours of 9:00 a. m. and 4:30 p. m. at the following offices of the United States Department of Labor, Wage and Hour and Public Contracts Divisions:

Old South Building, 294 Washington Street, Boston 8, Mass.

1216 Widener Building, Chestnut and Juniper Streets, Philadelphia 7, Pa.

4237 Main Post Office, W. Third and Prospect Avenue, Cleveland 13, Ohio.

Fidelity Building, 911 Walnut Street, Kansas City 6, Mo.

144 Federal Office Building, Fulton and Leavenworth Streets, San Francisco 2, Calif.

Fourteenth Street and Constitution Avenue, Washington 25, D. C.

Old Parcel Post Building, 341 Ninth Avenue, New York 1, N. Y.

1007 Comer Building, 2026 Second Avenue, North, Birmingham 3, Ala.

1200 Merchandise Mart Building, 222 West North Bank Drive, Chicago 54, Ill.

Room 222, 1114 Commerce Street, Dallas 2, Tex.

Room 412, New York Department Store Building, Stop 16½, Ponce de Leon Avenue, Santurce, San Juan, P. R.

Copies of the Committee's reports and recommendations may be obtained by any person upon request addressed to the Administrator of the Wage and Hour Division, United States Department of Labor, Washington 25, D. C., or the Wage and Hour Division, United States Department of Labor, Room 412, New York Department Store Building, Stop 16½, Ponce de Leon Avenue, Santurce, San Juan, Puerto Rico.

D. Public hearings will be held at 10:00 a. m., on the dates and at the places set forth below before the Administrator of the Wage and Hour Division, or a representative designated to preside in his place, for the purpose of taking evidence on the question of whether the separate recommendations of Special Industry Committee No. 7 for Puerto Rico set forth above shall be approved or disapproved.

Artificial Flower Industry—July 11, 1950, in Room 5406, Department of Labor Building, Washington 25, D. C.

Hosiery Industry—July 12, 1950, in Room 5406, Department of Labor Building, Washington 25, D. C.

Hairnet Industry—July 12, 1950, in Room 5406, Department of Labor Building, Washington 25, D. C.

Cement Industry—July 13, 1950, in Room 5406, Department of Labor Building, Washington 25, D. C.

E. Any interested person supporting or opposing any of the recommendations of Special Industry Committee No. 7 for Puerto Rico which are set forth above may appear at any of the aforesaid hearings to offer evidence, either on his own behalf or on behalf of any other person; provided that not later than seven days preceding any hearing at which he intends to appear, such person shall file with the Administrator of the Wage and Hour Division, United States Department of Labor, Washington 25, D. C., or at the office of the Wage and Hour Division, United States Department of Labor, Room 412, New York Department Store Building, Stop 16½, Ponce de Leon Avenue, Santurce, San Juan, Puerto Rico, notice of his intention to appear which shall contain the following information:

1. The name and address of the person appearing;

2. If such person is appearing in a representative capacity, the name and address of the person or persons whom he is representing;

3. The recommendation or recommendations of Special Industry Committee No. 7 for Puerto Rico in which he is interested and whether he proposes to appear for or against such recommendation or recommendations;

4. The approximate length of time requested for his presentation. Such notice may be mailed to the Administrator, Wage and Hour Division, United States Department of Labor, or to the Wage and Hour Division, United States Department of Labor, Room 412, New York Department Store Building, Stop 16½, Ponce de Leon Avenue, Santurce, San Juan, Puerto Rico, and shall be deemed filed upon receipt.

F. Any person interested in supporting or opposing any of the above recommendations of Special Industry Committee No. 7 for Puerto Rico may secure further information concerning the aforesaid hearings by inquiry directed to the Administrator, Wage and Hour Division, United States Department of Labor, or to the Territorial Representative, Wage and Hour Division, United States Department of Labor, Room 412, New York Department Store Building, Stop 16½, Ponce de Leon Avenue, Santurce, San Juan, Puerto Rico, or by consulting with attorneys representing the Administrator who will be available at the Office of the Solicitor, United States Department of Labor, in Washington, D. C.

G. The records made at the public hearings on conditions in the above-named industries in Puerto Rico held before Special Industry Committee No. 7 in San Juan, Puerto Rico on April 18-21 and 24-26, 1950, inclusive, may be examined by any interested person at the offices of the Wage and Hour Division, United States Department of Labor, at 14th and Constitution Avenue, Washington 25, D. C., and Room 412, New York Department Store Building, Stop 16½, Ponce de Leon Avenue, Santurce, San

Juan, Puerto Rico. The records of the public hearing before the Industry Committee with respect to each of the above-named industries in Puerto Rico will be offered in evidence at the appropriate public hearing before the Administrator or his representative on such industry.

H. The hearings will be conducted in accordance with the following rules, subject, however, to such subsequent modifications by the Presiding Officer (the Administrator or his authorized representative, as the case may be) as are deemed appropriate:

1. The hearing shall be stenographically reported and a transcript made which will be available to any person at prescribed rates upon request addressed to the Administrator, Wage and Hour Division, United States Department of Labor, Fourteenth and Constitution Avenue NW., Washington 25, D. C.

2. At the discretion of the Presiding Officer, the hearing may be continued from day to day or adjourned to a later date, or to a different place by announcement thereof at the hearing or by other appropriate notice.

3. At any stage of the hearing, the Presiding Officer may call for further evidence upon any matter. After the hearing has been closed, no further evidence shall be taken, except at the request of the Administrator, unless provision has been made at the hearing for the later receipt of such evidence. In the event that the Administrator shall cause the hearing to be reopened for the purpose of receiving further evidence, due and reasonable notice of the time and place fixed for such taking of testimony shall be given to all persons who have filed a notice of intention to appear at the hearing.

4. All evidence must be presented under oath or affirmation.

5. Except as otherwise permitted by the Presiding Officer, written documents or exhibits submitted personally at the hearing must be offered in evidence by a person who is prepared to testify as to the authenticity and trustworthiness thereof, and who shall, at the time of offering the documentary exhibit, make a brief statement as to the contents and manner of preparation thereof. Written, sworn statements may be filed any time prior to the date of the hearing by persons who cannot appear personally.

6. Written documents and exhibits shall be tendered in quadruplicate. When evidence is embraced in a document containing matter not intended to be put in evidence, such a document will not be received, but the person offering the same may present to the Presiding Officer the original document together with two copies of those portions of the document intended to be put in evidence.

7. Subpoenas requiring the attendance of witnesses or the presentation of a document from any place in the United States at any designated place of hearing shall be issued by the Administrator upon request and upon a timely showing, in writing, of the general relevance and reasonable scope of the evidence sought. Any person appearing in the proceeding may apply for the issuance by the Administrator of the subpoena. Such application shall identify exactly the

witness or document and state fully the nature of the evidence proposed to be secured.

8. Witnesses summoned by the Administrator shall be paid the same fees and mileage as are paid witnesses in the courts of the United States. Witness fees and mileage shall be paid by the party at whose instance witnesses appear and the Administrator, before issuing a subpoena, may require a deposit of an amount adequate to cover the fees and mileage involved.

9. The rules of evidence prevailing in courts of law or equity shall not be controlling. However, it shall be the policy to exclude irrelevant, immaterial, or unduly repetitious evidence.

10. The Presiding Officer shall, upon request, permit any person appearing in the proceeding to conduct such cross-examination of any witness offered by another person as may be required for a full and true disclosure of the facts, and to object to the admission or exclusion of evidence. Objections to the admission or exclusion of evidence shall be stated briefly with the reasons relied on. Such objections shall become a part of the record, but this record shall not include argument thereon except as ordered by the Presiding Officer.

11. Before the close of the hearing, written requests shall be received from persons appearing in the proceeding for permission to make oral arguments before the Administrator upon the matters in issue. If the Administrator, in his discretion, allows the request, he shall give such notice thereof as he deems suitable to all persons appearing in the proceeding and shall designate the time and place at which the oral arguments shall be heard. If such requests are allowed, all persons appearing at the hearing will be given opportunity to present oral argument.

12. Briefs (4 copies) on particular questions may be submitted to the Administrator following the close of the hearing, by any persons appearing therein. Notice of the final dates for filing such briefs shall be given by the Administrator in such manner as shall be deemed suitable by him.

13. (a) Where the hearing is held before the Administrator, within fifteen (15) days after the close of the hearing, any interested person appearing at the hearing may submit for the consideration of the Administrator an original and four copies of a statement in writing containing proposed findings and conclusions, together with supporting reasons therefor.

(b) Where the hearing is held before a representative of the Administrator designated to preside in his place, a complete record of the proceedings shall be certified to the Administrator upon the close of the hearing. The Administrator shall thereupon issue a tentative decision in the matter, which shall become a part of the record and include a statement of his findings and conclusions, as well as the reasons or basis therefor, upon all the material issues of fact, law, or discretion presented on the record, and the appropriate order. Notice of the Administrator's tentative decision shall be published in the FEDERAL REGISTER.

(c) Within fifteen (15) days after such notice of the Administrator's tentative decision is published in the FEDERAL REGISTER, any interested person appearing at the hearing may file with the Administrator a statement in writing (original and four copies) setting forth any exceptions he may have to such decision, together with supporting reasons for such exceptions.

(d) After the expiration of the fifteen-day periods referred to in paragraphs

13 (a) and (c) above, and after consideration of all relevant matter presented as provided in such paragraphs, the Administrator shall make his final decision in the matter, and shall issue an order approving or disapproving the recommendations of the industry committee. Such order shall be published in the FEDERAL REGISTER.

14. Any wage order issued as a result of hearings held hereunder shall take effect 30 days after due notice is given of

the issuance thereof by publication in the FEDERAL REGISTER, or at such time prior thereto as may be provided therein upon good cause found and published therewith.

Signed at Washington, D. C., this 9th of June 1950.

Wm. R. McCOMB,
Administrator,
Wage and Hour Division.

[F. R. Doc. 50-5080; Filed, June 12, 1950; 8:51 a. m.]

NOTICES

DEPARTMENT OF THE TREASURY

United States Coast Guard

[CGFR 50-17]

APPROVAL OF EQUIPMENT

By virtue of the authority vested in me as Commandant, United States Coast Guard, by R. S. 4405 and 4491, as amended, 46 U. S. C. 375, 489, and section 101 of Reorganization Plan No. 3 of 1946 (11 F. R. 7875, 60 Stat. 1097, 46 U. S. C. 1), as well as the additional authorities cited with specific items below, the following approvals of equipment are prescribed and shall be effective for a period of five years from date of publication in the FEDERAL REGISTER unless sooner canceled or suspended by proper authority:

BUOYANT CUSHIONS, KAPOK, STANDARD

Note: Cushions are for use on motorboats of classes A. 1, or 2 not carrying passengers for hire.

Approval No. 160.007/95/0, Standard kapok buoyant cushion, U. S. C. G. Specification 160.007, manufactured by Willis Manufacturing Co., 3007 Huldy, Houston, Tex.

(54 Stat. 164, 166; 46 U. S. C. 526e, 526p; 46 CFR 25.4-1, 160.007)

GAS MASKS, SELF-CONTAINED BREATHING APPARATUS, AND SUPPLIED-AIR RESPIRATORS

Approval No. 160.011/19/1, "CHE-MOX," 45-minute self-contained oxygen-generating breathing apparatus, with standard facepiece assembly or with Cleartone speaking diaphragm facepiece assembly, Bureau of Mines Approval No. BM-1307, MSA Assembly Dwg. No. A-1212-1 dated November 28, 1945, Rev. 12 dated December 13, 1949, manufactured by Mine Safety Appliances Co., Braddock, Thomas and Meade Streets, Pittsburgh 8, Pa. (Supersedes Approval No. 160.011/19/0, published in the FEDERAL REGISTER dated July 31, 1947.)

(R. S. 4417a, 4426, 49 Stat. 1544, 54 Stat. 1028, and sec. 5 (e), 55 Stat. 244, as amended; 46 U. S. C. 367, 391a, 404, 463a, 50 U. S. C. 1275; 46 CFR 35.4-5, 61.16, 77.18, 95.17, 114.18, 160.011)

DAVITS, LIFEBOAT

Approval No. 160.032/112/0, gravity davit, type 36.5-150, approved for maximum working load of 35,000 pounds per set (17,500 pounds per arm), using 2 part falls, identified by General Arrangement Dwg. No. 451-1, Alt. F, dated November 24, 1948, and revised April 10,

1950, manufactured by Marine Safety Equipment Corp., Point Pleasant, N. J.

(R. S. 4417a, 4426, 4481, 4488, 49 Stat. 1544, 54 Stat. 346, and sec. 5 (e), 55 Stat. 244, as amended; 46 U. S. C. 367, 391a, 404, 474, 481, 1333, 50 U. S. C. 1275; 46 CFR 37.1-4, 59.3, 60.21, 76.15, 94.14, 113.23)

MECHANICAL DISENGAGING APPARATUS, LIFEBOAT

Approval No. 160.033/38/0, Mills type R releasing gear, approved for maximum working load of 20,000 pounds per set (10,000 pounds per hook), identified by Assembly Dwg. No. M-105-1, dated August 31, 1949, and revised April 27, 1950, for use on all vessels other than Ocean and Coastwise over 3,000 gross tons, manufactured by Marine Safety Equipment Corp., Point Pleasant, N. J.

Approval No. 160.033/43/0, Rottmer Type L-1-A releasing gear, approved for maximum working load of 36,600 pounds per set (18,300 pounds per hook), identified by Hoist Gear Assembly Dwg. M-125-1-A dated March 27, 1950, and revised April 12, 1950, manufactured by Marine Safety Equipment Corp., Point Pleasant, N. J.

(R. S. 4417a, 4426, 4488, 49 Stat. 1544, 54 Stat. 346, and sec. 5 (e), 55 Stat. 244, as amended; 46 U. S. C. 367, 391a, 404, 481, 1333, 50 U. S. C. 1275; 46 CFR 37.1-7, 59.68, 76.82, 94.59)

HAND PROPELLING GEAR, LIFEBOAT

Approval No. 160.034/10/0, Type X hand propelling gear, identified by hand propelled gear unit Dwg. No. 99-2, dated July 7, 1949, revised April 17, 1950, and No. 99-2A, dated August 7, 1949, revised April 17, 1950, submitted by Marine Safety Equipment Corp., Point Pleasant, N. J.

(R. S. 4417a, 4426, 4488, 49 Stat. 1544, 54 Stat. 346, and sec. 5 (e), 55 Stat. 244; 46 U. S. C. 367, 391a, 404, 481, 1333, 50 U. S. C. 1275; 46 CFR 33.3-1, 59.11)

LIFEBOATS

Approval No. 160.035/239/0, 28.0' x 9.79' x 4.13' steel, hand-propelled lifeboat, 68-person capacity, identified by Construction and Arrangement Dwg. No. 28-4, dated February 11, 1949, and revised March 3, 1950, manufactured by Marine Safety Equipment Corp., Point Pleasant, N. J.

Approval No. 160.035/241/0, 36.5' x 12.5' x 5.33' aluminum, hand-propelled lifeboat, 150-person capacity, identified by Construction and Arrangement Dwg. No. 36-7C dated March 20, 1950, and re-

vised May 1, 1950, manufactured by Marine Safety Equipment Corp., Point Pleasant, N. J.

(R. S. 4417a, 4426, 4481, 4488, 4492, 35 Stat. 428, 49 Stat. 1544, 54 Stat. 346, and sec. 5 (e), 55 Stat. 244, as amended; 46 U. S. C. 367, 391a, 396, 404, 474, 481, 490, 1333, 50 U. S. C. 1275; 46 CFR 37.1-1, 59.13, 76.16, 94.15, 113.10)

TELEPHONE SYSTEMS, SOUND POWERED

Approval No. 161.005/39/0, Telephone station relay, electrical release, splash-proof, Dwg. No. 17, Alt. 1, dated February 1950, manufactured by Hose-McCann Telephone Co., Twenty-fifth Street and Third Avenue, Brooklyn 32, N. Y.

(R. S. 4417a, 4418, 4426, 49 Stat. 1544, 54 Stat. 346, and sec. 5 (e), 55 Stat. 244, as amended; 46 U. S. C. 367, 391a, 392, 404, 1333, 50 U. S. C. 1275; 46 CFR 32.9-4, 63.11, 79.12, 97.14, 116.10)

CORRECTION OF PRIOR DOCUMENT

In Federal Register Document 50-3975, Coast Guard Document CGFR 50-11, appearing on pages 2784 and 2785 of the FEDERAL REGISTER for Wednesday, May 10, 1950, under the center heading of "Fire Indicating and Alarm Systems" change the drawing number on the sixth line from "50-182, Alt. 2," to "50-082, Alt. 2."

Dated: June 7, 1950.

[SEAL] MERLIN O'NEILL,
Vice Admiral, U. S. Coast Guard,
Commandant.

[F. R. Doc. 50-5055; Filed, June 12, 1950; 8:51 a. m.]

FEDERAL POWER COMMISSION

[Docket No. E-6294]

OHIO EDISON CO.

NOTICE OF ORDER GRANTING PERMISSION TO AMORTIZE CHARGES ASSOCIATED WITH SECURITIES TO BE REDEEMED AND RETIRED

JUNE 7, 1950.

Notice is hereby given that, on June 7, 1950, the Federal Power Commission issued its order entered June 6, 1950, granting permission under Balance Sheet Accounts Instruction 6-E to amortize charges associated with securities to be redeemed and retired in the above-designated matter.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 50-5024; Filed, June 12, 1950; 8:46 a. m.]

[Docket Nos. IT-5696—IT-5698]

ALUMINUM CO. OF AMERICA ET AL.
ORDER POSTPONING DATE OF FURTHER
HEARING

JUNE 6, 1950.

In the matters of Aluminum Company of America, Docket No. IT-5696; Knoxville Power Company, Docket No. IT-5697; and Carolina Aluminum Company, Docket No. IT-5698.

On June 23, 1948, and April 20 and 27, 1950, the Commission issued its orders reopening the record in the above-entitled matters for the taking of additional evidence with respect to certain questions referred to therein and fixed the date for further hearing for June 26, 1950.

The Commission finds: It is appropriate and good cause exists to postpone the further hearing in this matter to July 10, 1950.

The Commission orders: The further hearing in the above-entitled matters now set to commence on June 26, 1950, be and the same is hereby postponed to commence on July 10, 1950, at the same time and place specified in the order of the Commission dated April 20, 1950.

Date of issuance: June 7, 1950.

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.[F. R. Doc. 50-5026; Filed, June 12, 1950;
8:46 a. m.]

[Docket No. G-1317]

PANHANDLE EASTERN PIPE LINE CO.
ORDER POSTPONING HEARING

JUNE 6, 1950.

On May 4, 1950, the Commission issued an order issuing a certificate of public convenience and necessity, amending order issuing certificate of public convenience and necessity, and providing for further hearings, in the matters of Trunkline Gas Supply Company, Docket No. G-882, Panhandle Eastern Pipe Line Company, Docket No. G-1317, and City of Port Huron, et al., Docket No. G-1152.

By paragraph (N) of said order, further hearings were ordered to be held in Docket No. G-1317, commencing on June 12, 1950, at Washington, D. C.

The Commission finds: Good cause exists and it would be in the public interest to postpone such further hearings to a date to be fixed by further order of the Commission.

The Commission orders: The public hearings in Docket No. G-1317 fixed by order of May 4, 1950, to commence on June 12, 1950, at Washington, D. C., be and the same is hereby postponed to a date to be fixed by further order of the Commission.

Date of issuance: June 7, 1950.

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.[F. R. Doc. 50-5025; Filed, June 12, 1950;
8:46 a. m.]

[Docket Nos. G-1355, G-1371, G-1385]

CITIES SERVICE GAS CO. ET AL.

NOTICE OF FINDINGS AND ORDERS ISSUING
CERTIFICATES OF PUBLIC CONVENIENCE AND
NECESSITY

JUNE 7, 1950.

In the matters of Cities Service Gas Company, Docket No. G-1355; United Gas Pipe Line Company, Docket No. G-1371; Texas Eastern Transmission Corporation, Docket No. G-1385.

Notice is hereby given that, on June 7, 1950, the Federal Power Commission issued its findings and orders entered June 6, 1950, issuing certificates of public convenience and necessity in the above-designated matters.

[SEAL] LEON M. FUQUAY,
Secretary.[F. R. Doc. 50-5023; Filed, June 12, 1950;
8:46 a. m.]

[Docket No. G-1378]

EAST OHIO GAS CO.

ORDER FIXING DATE OF HEARING

JUNE 6, 1950.

On April 18, 1950, The East Ohio Gas Company (Applicant), an Ohio corporation, having its principal place of business at Cleveland, Ohio, filed an application, amended May 17, 1950, for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, as amended, authorizing the construction and operation of certain natural-gas facilities, subject to the jurisdiction of the Commission, all as more fully described in such application on file with the Commission and open to public inspection.

The Commission finds: The proceedings is a proper one for disposition under the provisions of § 1.32 (b) of the Commission's rules of practice and procedure. Applicant having requested that its application be heard under the shortened procedure provided by the aforesaid rule for non-contested proceedings, and no request to be heard, protest or petition having been filed subsequent to the giving of due notice of the filing of the application, including publication in the FEDERAL REGISTER on May 5, 1950 (15 F. R. 2613).

The Commission orders:

(A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, as amended, a hearing be held on June 20, 1950, at 9:45 a. m. in the hearing room of the Federal Power Commission, 1800 Pennsylvania Avenue NW., Washington, D. C., concerning the matters involved and the issues presented by such application: *Provided, however,* That the Commission may, after a non-contested hearing, forthwith dispose of the proceeding pursuant to the provisions of § 1.32 (b) of the commission's rules of practice and procedure.

(B) Interested State commissions may participate as provided by §§ 1.8 and 1.37

(f) of the said rules of practice and procedure.

Date of issuance: June 7, 1950.

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.[F. R. Doc. 50-5027; Filed, June 12, 1950;
8:46 a. m.]

[Docket No. G-1402]

NEW YORK STATE NATURAL GAS CORP.

NOTICE OF APPLICATION

JUNE 7, 1950.

Take notice that New York State Natural Gas Corporation (Applicant), a New York corporation, having its principal office at 30 Rockefeller Plaza, New York, New York, filed on May 31, 1950, an application for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, authorizing the construction and operation of a natural-gas compressor station as hereinafter described.

Applicant proposes to construct a 1,320 hp. compressor station and appurtenant facilities on its existing pipeline in the Town of Otisco, Onondaga County, New York, for the sole purpose of assuring deliveries of the estimated future gas requirements of New York State Electric and Gas Corporation at Auburn, New York.

The estimated cost of the facilities proposed to be constructed is \$683,537.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before the 26th day of June 1950. The application is on file with the Commission for public inspection.

[SEAL] LEON M. FUQUAY,
Secretary.[F. R. Doc. 50-5044; Filed, June 12, 1950;
8:50 a. m.]

[Project No. 349]

ALABAMA POWER CO.

NOTICE OF APPLICATION FOR AMENDMENT OF
LICENSE

JUNE 7, 1950.

Public notice is hereby given that Alabama Power Company, of Birmingham, Alabama, licensee for Project No. 349, has filed application under the Federal Power Act (16 U. S. C. 791a-825r) for amendment of license for the project to provide for inclusion therein of the fourth generating unit with capacity of 68,000 horsepower. The project as constructed includes space for the additional unit. The project is located on the Tallapoosa River in Elmore, Tallapoosa, and Coosa Counties, Alabama.

Any protest against the approval of this application or request for hearing thereon, with the reason for such protest or request and the name and address of the party or parties so protesting or re-

questing should be submitted on or before July 21, 1950, to the Federal Power Commission.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 50-5045; Filed, June 12, 1950;
8:50 a. m.]

FEDERAL TRADE COMMISSION

[Docket No. 5722]

WHITTAKER CABLE CORP.

ORDER APPOINTING TRIAL EXAMINER

In the matter of Whitaker Cable Corp., a corporation, formerly titled Whitaker Battery Supply Co., a corporation.

This matter being at issue and ready for the taking of testimony and the receipt of evidence, and pursuant to authority vested in the Federal Trade Commission.

It is ordered, That Earl J. Kolb, a Trial Examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony and the receipt of evidence begin at a time and place to be later designated by the Trial Examiner.

Upon completion of the taking of testimony and receipt of evidence in support of the allegations of the complaint, the Trial Examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The Trial Examiner will then close the taking of testimony and evidence and, after all intervening procedure as required by law, will close the case and make and serve on the parties at issue an initial decision which shall include findings and conclusions, as well as the reasons or basis therefor, upon all the material issues of fact, law, or discretion presented on the record, and an appropriate order; all of which shall become a part of the record in said proceeding.

Issued: June 5, 1950.

By the Commission.

[SEAL] D. C. DANIEL,
Secretary.

[F. R. Doc. 50-5030; Filed, June 12, 1950;
8:47 a. m.]

[Docket No. 5723]

MOOG INDUSTRIES, INC.

ORDER APPOINTING TRIAL EXAMINER

In the matter of Moog Industries, Inc., a corporation, formerly titled St. Louis Spring Company, a corporation.

This matter being at issue and ready for the taking of testimony and the receipt of evidence, and pursuant to authority vested in the Federal Trade Commission,

It is ordered, That Earl J. Kolb, a Trial Examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony and the receipt of evidence begin at a time and place to be later designated by the Trial Examiner.

Upon completion of the taking of testimony and receipt of evidence in support of the allegations of the complaint, the Trial Examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The Trial Examiner will then close the taking of testimony and evidence and, after all intervening procedure as required by law, will close the case and make and serve on the parties at issue an initial decision which shall include findings and conclusions, as well as the reasons or basis therefor, upon all the material issues of fact, law, or discretion presented on the record, and an appropriate order; all of which shall become a part of the record in said proceeding.

Issued: June 5, 1950.

By the Commission.

[SEAL] D. C. DANIEL,
Secretary.

[F. R. Doc. 50-5029; Filed, June 12, 1950;
8:47 a. m.]

[Docket No. 5724]

AMERICAN MOTOR SPECIALTIES CO. ET AL.

ORDER APPOINTING TRIAL EXAMINER

In the matter of American Motor Specialties Co., Inc., a corporation, et al.

This matter being at issue and ready for the taking of testimony and the receipt of evidence, and pursuant to authority vested in the Federal Trade Commission,

It is ordered, That Earl J. Kolb, a Trial Examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony and the receipt of evidence begin at a time and place to be later designated by the Trial Examiner.

Upon completion of the taking of testimony and receipt of evidence in support of the allegations of the complaint, the Trial Examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondents. The Trial Examiner will then close the taking of testimony and evidence and, after all intervening procedure as required by law, will close the case and make and serve on the parties at issue an initial decision which shall include findings and conclusions, as well as the reasons or basis therefor, upon all the material issues of fact, law, or discretion presented on the record, and an appropriate order; all of which shall become a part of the record in said proceeding.

Issued: June 5, 1950.

By the Commission.

[SEAL] D. C. DANIEL,
Secretary.

[F. R. Doc. 50-5028; Filed, June 12, 1950;
8:46 a. m.]

GENERAL SERVICES ADMINISTRATION

[Temporary Reg. 5, Order 1]

ABANDONMENT, DESTRUCTION, OR DONATION OF PROPERTY TO PUBLIC BODIES

Nothing in Temporary Regulation No. 5, Abandonment, Destruction, or Donation of Property to Public Bodies, shall impair or affect any authority of the Librarian of Congress under section 1 of the act of March 4, 1909, 35 Stat. 858, Title 2, U. S. C., section 149, or any authority of the Librarian of Congress or the Register of Copyrights under 17 U. S. C., section 214, 61 Stat. 852.

JESS LARSON,
Administrator.

JUNE 6, 1950.

[F. R. Doc. 50-5046; Filed, June 12, 1950;
8:50 a. m.]

INTERSTATE COMMERCE COMMISSION

[4th Sec. Application 25157]

PETROLEUM FROM SOUTHWEST TO ARKANSAS, LOUISIANA, MISSISSIPPI, AND TENNESSEE

APPLICATION FOR RELIEF

JUNE 8, 1950.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: D. Q. Marsh, Agent, for and on behalf of carriers parties to the tariffs named below.

Commodities involved: Petroleum products, carloads.

From: Points in the southwest.

To: Points in Arkansas, Louisiana, Mississippi, and Tennessee.

Grounds for relief: Circuitous routes. Schedules filed containing proposed rates: D. Q. Marsh's tariff I. C. C. No. 3585, Supp. 409. D. Q. Marsh's tariff I. C. C. No. 3724, Supp. 114. Ira D. Dodge's tariff I. C. C. No. 516, Supp. 81.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 50-5040; Filed, June 8, 1950;
8:49 a. m.]

[4th Sec. Application 25158]

ETHYLENE GLYCOL FROM PORT NECHES,
TEX., TO WEST VIRGINIA

APPLICATION FOR RELIEF

JUNE 8, 1950.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: D. Q. Marsh, Agent, for and on behalf of carriers parties to his tariff I. C. C. No. 3721.

Commodities involved: Ethylene glycol, tank carloads.

From: Port Neches, Tex.

To: Charleston, South Charleston and Institute, W. Va.

Grounds for relief: Circuitous routes.

Schedules filed containing proposed rates: D. Q. Marsh's tariff I. C. C. No. 3721, Supplement 143.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 50-5041; Filed, June 12, 1950;
8:49 a. m.]

[4th Sec. Application 25159]

PIG IRON FROM TEXAS TO TOCCOA, GA.

APPLICATION FOR RELIEF

JUNE 8, 1950

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: D. Q. Marsh, Agent, for and on behalf of carriers parties to his tariff I. C. C. No. 3752.

Commodities involved: Pig iron, carloads.

From: Daingerfield and Lone Star, Tex.

To: Toccoa, Ga.

Grounds for relief: Competition with rail carriers and circuitous routes.

Schedules filed containing proposed rates:

D. Q. Marsh's tariff I. C. C. No. 3752, Supplement 443.

Any interested person desiring the Commission to hold a hearing upon such

application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 50-5042; Filed, June 12, 1950;
8:49 a. m.]

[4th Sec. Application 25160]

TEXAS COMMODITY RATES

APPLICATION FOR RELIEF

JUNE 8, 1950.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: Ira D. Dodge, Agent, for and on behalf of carriers parties to his tariff I. C. C. No. 666.

Commodities involved: Various commodities.

Between: Points in Texas over interstate routes.

Grounds for relief: To meet intrastate rates.

Schedules filed containing proposed rates: Ira D. Dodge's tariff I. C. C. No. 666, Supplement 114.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 50-5043; Filed, June 12, 1950;
8:49 a. m.]

SECURITIES AND EXCHANGE
COMMISSION

[File Nos. 59-22, 52-27, 54-125]

NORTH AMERICAN GAS AND ELECTRIC CO.
ET AL.

ORDER APPROVING AMENDMENT TO PLAN, SUBJECT TO CONDITIONS, FOR SUBMISSION TO THE DISTRICT COURT

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C. on the 7th day of June, A. D. 1950.

In the matter of North American Gas and Electric Company, Washington Gas and Electric Company, Nathan A. Smyth and Leo Loeb, trustees of the estate of Washington Gas and Electric Company, Southern Utah Power Company, et al., respondents, File No. 59-22; Nathan A. Smyth and Leo Loeb, as trustees in reorganization under chapter X of the bankruptcy act of Washington Gas and Electric Company, debtor, File No. 52-27; Nathan A. Smyth and Leo Loeb, as trustees in reorganization under chapter X of the bankruptcy act of Washington Gas and Electric Company, debtor, Southern Utah Power Company, File No. 54-125.

Nathan A. Smyth, Trustee for Washington Gas and Electric Company ("Washington"), a registered holding company and a debtor now in reorganization under Chapter X of the Bankruptcy Act, as amended, in the District Court of the United States for the Southern District of New York, having filed, pursuant to section 11 (f) of the Public Utility Holding Company Act of 1935 (the "act") and in accordance with the authorization granted by order of said District Court dated January 30, 1950, an amendment to a plan of reorganization heretofore approved by the Commission on January 24, 1949, and confirmed by said District Court on October 5, 1949, said amendment proposing the sale of the common stock of Washington's sole subsidiary, Southern Utah Power Company ("Southern Utah") and the distribution of most of the proceeds to the bondholders and general creditors of Washington;

Public hearings having been held on said amendment after appropriate notice, and the Commission having heard oral argument, having considered the record, and having issued its findings and opinion herein on May 19, 1950, finding that competitive conditions had not been maintained in the negotiations for the proposed sale of the common stock of Southern Utah, that it would not be inappropriate for the Trustee to submit for consideration of the District Court and of the bondholders and general creditors of Washington a proposal for the sale of Southern Utah stock at a price to be determined by arm's-length negotiation, such price to be not less than that proposed in the aforesaid amendment, and that the proposed transactions would be fair and equitable and feasible if the amendment were modified to provide for such a sale, for a specified procedure designed to expedite the reorganization of Washington, and for increasing the cash

distribution to the bondholders and general creditors of Washington;

The Trustee, having filed with the Commission, in accordance with said findings and opinion, a Second Amendment which provides, among other things, that the Trustee is authorized to sell the common stock of Southern Utah for a net price which shall be not less than the aggregate of a base price of \$550,000 plus adjustment payments equal to the net income applicable to the common stock of Southern Utah from September 1, 1949, to the closing date, that the proceeds of the sale less \$100,000 be distributed to the bondholders, certain general creditors of Washington, and to the holders of combined certificates of shares of stock of Washington Gas and Electric Company and of interest in shares of stock of Southern Utah Power Company ("Combined Certificates"), and that if the Second Amendment is approved and accepted by the bondholders and general creditors of Washington (with holders of Combined Certificates to have the same voting rights as if they were bondholders who had retained their bonds or general creditors entitled to Combined Certificates), the Trustee, after having given all interested parties a fair and equal opportunity to make their offers will, within 20 days after confirmation of the Second Amendment by the District Court, submit to this Commission for its approval the definitive terms of the transactions which he desires to consummate; and

The Commission finding that the Second Amendment is fair and equitable and feasible:

It is ordered, That the Second Amendment be and the same hereby is approved for submission to said District Court pursuant to section 11 (f) of said act, subject to the condition that jurisdiction be and it hereby is reserved

(1) With respect to the terms and provisions of the definitive transactions which the Trustee may desire to consummate;

(2) To entertain such further proceedings, to make such supplemental orders, and to take such further action as may be appropriate to dispose fully of the issues under and to effectuate the provisions of the act.

It is further ordered, That nothing herein contained shall authorize consummation of any of the transactions proposed in the Second Amendment until the said District Court shall have entered an order confirming the Second Amendment pursuant to the provisions of the Bankruptcy Act and a further order shall have been entered by the Commission with respect to the terms and provisions of the definitive transactions which the Trustee may desire to consummate, which order may contain such further terms and conditions as may then be deemed appropriate.

By the Commission,

[SEAL] ORVAL L. DuBois,
Secretary.

[F. R. Doc. 50-5036; Filed, June 12, 1950; 8:48 a. m.]

No. 113—4

[File No. 70-2351]

NORTHERN STATES POWER CO.
(MINNESOTA) ET AL.

NOTICE OF FILING

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 6th day of June A. D. 1950.

In the matter of Northern States Power Company (Minnesota), Interstate Light and Power Company (Wisconsin), Interstate Light and Power Company (Illinois), File No. 70-2351.

Notice is hereby given that a joint declaration with an amendment thereto has been filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("the act") by Northern States Power Company ("Minnesota"), a Minnesota corporation and registered holding company, and its wholly-owned public-utility subsidiaries Interstate Light and Power Company ("Wisconsin Company"), a Wisconsin corporation, and Interstate Light and Power Company ("Illinois Company"), an Illinois corporation. Declarants designate section 12 (d) of the act and Rules U-23, U-24, U-44 and U-46 thereunder as applicable to the proposed transactions.

All interested parties are referred to said declaration as amended on file in the office of the Commission for a statement of the transactions therein proposed, which are summarized as follows:

The Wisconsin Company proposes to sell the physical properties comprising its "Platteville Division" to Wisconsin Power and Light Company ("Wisconsin Power") for a base purchase price of \$560,500 ("Wisconsin Transaction"), pursuant to an agreement of sale between said companies, dated February 23, 1950; and the Illinois Company proposes to sell all of its physical properties to Northwestern Illinois Gas & Electric Company ("Northwestern") for a base purchase price of \$549,900 ("Illinois Transaction") pursuant to an agreement between the Illinois Company, seller, and Fred D. Ellis and Edmund J. Haugh, buyers, dated February 23, 1950, and an assignment from the said Ellis and Haugh to Northwestern, dated March 2, 1950. Copies of said agreements and assignment are on file with the Commission.

The Platteville Division of the Wisconsin Company, which constitutes approximately one-half of its properties, is located in Grant and Lafayette counties in southwestern Wisconsin, and is physically interconnected with the system of Wisconsin Power at two points. Said division furnishes electric service in areas contiguous to those served by Wisconsin Power. The remaining properties of the Wisconsin Company are located in and about Somerset, Hudson and Prescott, Wisconsin, and are not physically connected with the properties of the Platteville Division.

The electric properties of the Illinois Company are located in Jo Daviess County, in northwestern Illinois, and furnish electric service in Galena, Woodbine and Elizabeth, Illinois and adjacent

territory contiguous to that served by Northwestern. It is stated that Northwestern proposes to connect its electric system with the electric system of the Illinois Company if and when acquired.

The net book cost (depreciated original cost) at December 31, 1949 of the physical properties to be sold by the Wisconsin Company was \$498,714; and after the several adjustments provided for in the agreement of sale, the indicated net profit to the Wisconsin Company is \$45,674.

The net book cost (depreciated original cost) at December 31, 1949 of the physical properties to be sold by the Illinois Company was \$891,912; and after the several adjustments provided for in the agreement of sale, the indicated net loss to the Illinois Company is \$341,889.

Minnesota at December 31, 1949 carried its investment in the Wisconsin Company at \$999,098, represented by \$329,000 principal amount of 4% First Mortgage Bonds, \$106,188 due on open account, and \$550,000 of common capital stock. The Wisconsin Company proposes to pay its indebtedness to Minnesota in the aggregate amount of \$435,188 from the net cash of \$536,447 which it will realize from the sale of its Platteville Division, and to retain the remaining proceeds of such sale to increase its working capital.

Minnesota at December 31, 1949, carried its investment in the Illinois Company at \$1,000,000, represented by a 5% promissory note of \$500,000 and common capital stock of \$500,000 par value. The latter company will be liquidated and dissolved upon the sale of its assets, and the net proceeds thereof, estimated at approximately \$660,000, will be turned over to Minnesota. Minnesota proposes to charge the indicated loss to its Earned Surplus Account.

From the two transactions Minnesota will realize approximately \$1,095,000 in cash, and the net current position of the Wisconsin Company will be substantially improved. All moneys received by Minnesota in payment of the \$329,000 principal amount of First Mortgage Bonds of the Wisconsin Company, which bonds are now pledged with Harris Trust and Savings Bank as Trustee under Minnesota's First Mortgage Indenture, will be delivered to said Trustee and will be available to Minnesota under the provisions of said Indenture. All moneys received by Minnesota in the Illinois Transaction and upon liquidation of the Illinois Company will be delivered to said Trustee in consideration of the surrender by said Trustee of the \$500,000 promissory note and the \$500,000 par value common stock of the Illinois Company, which said Trustee now holds in pledge, and said moneys so delivered to the Trustee will be available to Minnesota under the provisions of said Indenture.

The two transactions are mutually related, the consummation of each being dependent upon consummation of the other. Upon their consummation it is proposed that a wholesale power purchase and interchange agreement be executed by the purchasers, in replacement of the existing power contract be-

tween the Wisconsin and Illinois companies.

It is stated that competitive conditions were maintained in the negotiation of said agreements of sale; that invitations for bids were mailed to all persons who over a period of several years, in response to Minnesota's efforts to sell said properties, had indicated any interest in purchasing same; and that said agreements of sale represent the best bids received.

None of the properties proposed to be sold herein is a part of Minnesota's principal integrated electric system. It is stated that the consummation of the proposed transactions will (a) simplify the corporate structure of Minnesota through the elimination of the Illinois Company as a subsidiary, (b) facilitate further simplification through the possible elimination of the Wisconsin Company as a subsidiary by the subsequent intrasystem disposition of its remaining properties and its liquidation and dissolution, (c) make substantial amounts of cash available to Minnesota for construction and other purposes through the reduction of its investment in subsidiary companies, (d) place the ownership of each disposed property in a company now operating in contiguous territory.

The Wisconsin Transaction is subject to the approval of the Wisconsin Public Service Commission, and the Illinois Transaction is subject to the approval of the Illinois Commerce Commission. Since the transactions involve the transfer of facilities used in the transmission of electric energy for sale at wholesale in interstate commerce, the acquisition of such facilities is subject to the approval of the Federal Power Commission.

The expenses of declarants in connection with said transactions are estimated at \$8,000, consisting of \$6,000 for legal fees and \$2,000 for miscellaneous expenses. The Wisconsin Company and the Illinois Company will each bear one-half of such expenses.

It is requested that the declaration as amended be permitted to become effective upon issuance by the Commission of its order herein.

Notice is further given that any interested person may, not later than June 15, 1950 at 5:30 p. m., e. d. s. t., request the Commission in writing that a hearing be held on such matter, stating the nature of his interest, the reason for such request, and the issues, if any, of law or fact proposed to be controverted; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 425 Second Street NW., Washington 25, D. C. At any time after said date said declaration as amended may be permitted to become effective as provided in Rule U-23 of the rules and regulations promulgated under the act, or the Commission may exempt such transactions as provided in Rules U-20 and U-100 thereof.

By the Commission,

[SEAL] — ORVAL L. DuBOIS,
Secretary.

[F. R. Doc. 50-5037; Filed, June 12, 1950;
8:48 a. m.]

[File No. 70-2386]

**SOUTHWESTERN GAS AND ELECTRIC CO. AND
ARKLAHOMA CORP.**

NOTICE OF FILING

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 6th day of June A. D. 1950.

Notice is hereby given that a joint application-declaration has been filed with this Commission, pursuant to the Public Utility Holding Company Act of 1935 ("act"), by Southwestern Gas and Electric Company ("Southwestern"), a subsidiary company of Central and South West Corporation, a registered holding company, and The Arklaoma Corporation ("Arklaoma"), a subsidiary company of Southwestern. Arklaoma is also an indirect subsidiary company of Central and South West Corporation and of Standard Gas and Electric Company (through Oklahoma Gas and Electric Company) and of Middle South Utilities, Inc. (through Arkansas Power & Light Company), registered holding companies not affiliated with Central and South West Corporation or with each other. Applicants-declarants designate sections 9 (a) and 12 of the act and Rule U-43 promulgated thereunder as applicable to the proposed transactions.

Notice is further given that any interested person may, not later than June 19, 1950, at 5:30 p. m., e. d. s. t., request the Commission in writing that a hearing be held on such matter, stating the reasons for such request, the nature of his interest, and the issues, if any, of fact or law raised by said application-declaration which he desires to controvert or may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 425 Second Street NW., Washington 25, D. C. At any time after June 19, 1950, said application-declaration, as filed or as amended, may be granted and permitted to become effective as provided in Rule U-23 of the rules and regulations promulgated under said act, or the Commission may exempt such transactions as provided in Rules U-20 and U-100 thereof.

All interested persons are referred to said application-declaration which is on file in the offices of this Commission for a statement of the transactions therein proposed, which are summarized as follows:

Southwestern and Arklaoma have entered into an agreement dated February 7, 1950, subject to appropriate regulatory approval, pursuant to which Arklaoma has agreed to construct, install, operate and maintain in its Markham's Ferry Substation a certain 115 kv. oil circuit breaker, with appropriate controls and switching structures, at an estimated cost of \$72,160. Southwestern has agreed to lease said facilities from Arklaoma at an annual rental of 14 percent of the actual cost to Arklaoma of such facilities (with appropriate adjustment to reimburse Arklaoma for Federal income and local taxes and insurance). The term of the agreement will be from June 15, 1950 (or the earliest date thereafter on which the facilities

are ready for operation, whichever is later) until July 1, 1977, unless sooner terminated pursuant to the provisions thereof. Southwestern may terminate said agreement at any time by giving Arklaoma 90 days written notice and by paying in a lump sum an amount equal to the original cost of such facilities less depreciation at the rate of 2.45 percent per annum, compounded annually at the rate of 3 percent. Also, Southwestern may terminate said agreement upon the termination of a Lease Agreement dated December 9, 1947, now existing between Arklaoma and Southwestern, Oklahoma Gas and Electric Company, and Arkansas Power & Light Company, and upon the payment to Arklaoma of a sum computed in accordance with the formula above stated. In the event the agreement runs the full and complete term, or in the event of a termination of the agreement by Southwestern and the payment by it of the formula sum, Southwestern will own the facilities. Arklaoma may terminate said agreement and require Southwestern to purchase the facilities by paying the formula price therefor upon the contingencies and conditions set forth in said agreement.

The proceeds to be received by Arklaoma from the agreement will be applied and used as ordinary income to the company, except that portion of the rental related to sinking fund depreciation which will be applied in accordance with the terms of the company's Mortgage and Deed of Trust securing its First Mortgage Bonds.

The total fees and expenses to be paid in connection with the proposed transactions are estimated at \$4,000, including \$2,000 of legal fees.

It is represented that the proposed transactions are not subject to the jurisdiction of any regulatory body, other than this Commission.

Applicants-declarants request that the Commission's Order be issued at the earliest possible date and be effective forthwith.

By the Commission,

[SEAL] — ORVAL L. DuBOIS,
Secretary.

[F. R. Doc. 50-5039; Filed, June 12, 1950;
8:48 a. m.]

[File No. 70-2389]

DELAWARE POWER & LIGHT CO. AND EASTERN SHORE PUBLIC SERVICE CO. OF MARYLAND

NOTICE OF FILING

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 6th day of June A. D. 1950.

Notice is hereby given that a joint application-declaration has been filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 by Delaware Power & Light Company ("Delaware"), a registered holding company and an electric utility company, and its wholly owned subsidiary, The Eastern Shore Public Service Company of Maryland ("Eastern Shore"), an

electric utility company. Applicants-declarants have designated sections 6 (b), 9 (a), 12 (d) and 12 (f) of the act as applicable to the proposed transactions.

Notice is further given that any interested person may, not later than June 19, 1950, at 5:30 p. m., e. d. s. t., request the Commission in writing that a hearing be held on such matter, stating the reasons for such request, the nature of his interest and the issues of fact or law raised by said joint application-declaration, which he desires to controvert or may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 425 Second Street NW., Washington 25, D. C. At any time after June 19, 1950, said joint application-declaration, as filed or as amended, may be permitted to become effective as provided in Rule U-23 of the rules and regulations promulgated under the act, or the Commission may exempt such transaction as provided in Rule U-20 (a) and Rule U-100 thereof.

All interested persons are referred to said joint application-declaration which is on file in the offices of this Commission for a statement of the transactions therein proposed, which are summarized as follows:

Eastern Shore will issue and sell, from time to time, but not later than December 31, 1951, up to \$3,000,000 principal amount of its 4 percent promissory notes due October 1, 1973, and 30,000 shares of its common stock of the par value of \$100 per share. Delaware will purchase said securities at the principal amount or par value, respectively, and upon the purchase of any notes, Delaware will purchase common stock of an aggregate par value equal to the principal amount of such notes. The proceeds from the sale of said notes and common stock, which will not exceed \$6,000,000 are to be used to finance Eastern Shore's construction program and to reimburse its treasury for money previously expended for such construction program. The notes and stock to be acquired by Delaware will be pledged by it with the Trustee under its mortgage dated October 1, 1943, in accordance with the provisions of the Indenture of Mortgage.

The proposed transactions have been submitted to the Public Service Commission of Maryland for its approval.

By the Commission.

[SEAL] ORVAL L. DuBOIS,
Secretary.

[F. R. Doc. 50-5035; Filed, June 12, 1950;
8:48 a. m.]

[File No. 70-2407]

NORTH AMERICAN CO. AND UNION ELECTRIC
CO. OF MISSOURI

NOTICE OF FILING

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 5th day of June 1950.

Notice is hereby given that a joint application-declaration has been filed with the Commission pursuant to the Public Utility Holding Company Act of 1935 ("act") by The North American Company ("North American"), a registered holding company, and its subsidiary, Union Electric Company of Missouri ("Union"), a public utility company and also a registered holding company. North American designates sections 9 (a) and 10 and Union designates sections 6 (b) or 6 (a) and 7 of the act as applicable to the proposed transactions.

Notice is further given that any interested person may, not later than June 20, 1950, at 5:30 p. m., e. d. s. t., request the Commission in writing that a hearing be held on such matters, stating the nature of his interest, the reasons for such request and the issues, if any, of fact or law raised by said joint application-declaration which he desires to controvert, or may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed to the Secretary, Securities and Exchange Commission, 425 Second Street NW., Washington 25, D. C. At any time after June 20, 1950, said joint application-declaration may be granted and permitted to become effective as provided in Rule U-23 of the rules and regulations promulgated under the act, or the Commission may exempt such transaction or transactions as provided in Rules U-20 (a) and U-100 thereof.

All interested persons are referred to said joint application-declaration, which is on file at the office of the Commission, for a statement of the transactions therein proposed, which may be summarized as follows:

Union proposes to issue and sell, and North American, which owns all of the outstanding common stock, without par value, of Union, proposes to acquire, 350,000 additional shares of such common stock for an aggregate cash consideration of \$5,000,000. The proceeds from the proposed issuance and sale will be applied toward the payment, in part, of the cost of the 1950 construction program of Union and its wholly owned subsidiary, Union Electric Power Company, estimated in the amount of \$37,500,000.

Union estimates that its fees and expenses in connection with said issuance and sale will amount to \$8,500, including \$500 for legal fees. North American estimates that its fees and expenses will be nominal, other than \$1,000 for legal fees.

Union has filed an application with the Public Service Commission of Missouri regarding the proposed issuance and sale and North American has filed an application with that Commission regarding the proposed acquisition.

Union requests that the Commission's order issue herein on or before June 26, 1950, and that it become effective forthwith.

By the Commission.

[SEAL] ORVAL L. DuBOIS,
Secretary.

[F. R. Doc. 50-5038; Filed, June 12, 1950;
8:48 a. m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

AUTHORITY: 40 Stat. 411, 55 Stat. 639, Pub. Laws 322, 671, 79th Cong., 60 Stat. 50, 925; 50 U. S. C. and Supp. App. 1, 616; E. O. 9193, July 6, 1942, 3 CFR, Cum. Supp., E. O. 9567, June 8, 1945, 3 CFR, 1945 Supp., E. O. 9788, Oct. 14, 1946, 11 F. R. 11981.

[Vesting Order 14652]

JOSEPHINE H. REDDELIEN AND
PENNSYLVANIA CO.

In re: Trust indenture dated August 14, 1930, between Josephine H. Reddellen, settlor, and the Pennsylvania Company for Insurance on Lives and Granting Annuities, trustee, and amendments thereto. File No. D-28-4382 G-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Dagmar von Eiche und Polwitz, Irene von der Wense, Oscar Reddellen, William Arthur Reddellen and Fritz Reddellen, whose last known address is Germany, are residents of Germany and nationals of a designated enemy country (Germany);

2. That the descendants, names unknown, of Oscar Reddellen, of William Arthur Reddellen and of Fritz Reddellen, who there is reasonable cause to believe are residents of Germany, are nationals of a designated enemy country (Germany);

3. That all right, title, interest and claim of any kind or character whatsoever of the persons identified in subparagraphs 1 and 2 hereof, and each of them, in and to and arising out of or under that trust indenture dated August 14, 1930, by and between Josephine H. Reddellen, settlor, and the Pennsylvania Company for Insurance on Lives and Granting Annuities, trustee, with amendments thereto dated January 31, 1931, May 19, 1933, and August 8, 1935, including particularly but not limited to the right of Dagmar von Eiche und Polwitz and of Irene von der Wense to withdraw the entire trust estate, presently being administered by the Pennsylvania Company for Banking and Trusts, Philadelphia 1, Pennsylvania,

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

and it is hereby determined:

4. That to the extent that the persons named in subparagraph I hereof and the descendants, names unknown, of Oscar Reddellen, of William Arthur Reddellen and of Fritz Reddellen, are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being

deemed necessary in the national interest.

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on May 15, 1950.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Acting Director,
Office of Alien Property.

[F. R. Doc. 50-5021; Filed, June 9, 1950;
8:54 a. m.]

[Return Order 618]

SOCIETE SECURIT'S E. D. L. C.

Having considered the claim set forth below and having issued a determination allowing the claim, which is incorporated by reference herein and filed herewith,

It is ordered, That the claimed property, described below and in the determination, including all royalties accrued thereunder and all damages and profits recoverable for past infringement thereof, be returned after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Notice of Intention To Return Published, and Property

Societe Securit's E. D. L. C., Paris, France; Claim No. 42513, April 1, 1950 (15 F. R. 1884); property described in Vesting Order No. 606 (8 F. R. 5047, April 17, 1943), relating to United States Letters Patent Nos. 2,021,051 and 2,265,961. This return shall not be deemed to include the rights of any licensees under the above patents.

Appropriate documents and papers effectuating this order will issue.

Executed at Washington, D. C., on June 7, 1950.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Acting Director,
Office of Alien Property.

[F. R. Doc. 50-5051; Filed, June 12, 1950;
8:51 a. m.]

[Vesting Order 14708]

JOHN KARL GOSCH

In re: Rights of John Karl Gosch under insurance contract. File No. F-28-24818-H-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That John Karl Gosch, who on or since the effective date of Executive Order 8389, as amended, and on or since December 11, 1941, has been a resident of Germany, is a national of a designated enemy country (Germany);

2. That the net proceeds due or to become due under a contract of insurance evidenced by policy No. 71,113,394, issued by The Prudential Insurance Company of America, Newark, New Jersey, to John Karl Gosch, together with the right to demand, receive and collect said net proceeds,

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

and it is hereby determined:

3. That the national interest of the United States requires that the said John Karl Gosch be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on June 1, 1950.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Acting Director,
Office of Alien Property.

[F. R. Doc. 50-5050; Filed, June 12, 1950;
8:50 a. m.]

[Return Order 635]

MME. ALICE PAUL HAZARD AND LIBRAIRIE ERNEST FLAMMARION

Having considered the claim set forth below and having issued a determination allowing the claim, which is incorporated by reference herein and filed herewith,

It is ordered, That the claimed property, described below and in the determination, including all royalties accrued thereunder and all damages and profits recoverable for past infringement thereof, be returned after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Notice of Intention To Return Published, and Property

Mme. Alice Paul Hazard, Paris, France; Claim No. 35094; April 7, 1950 (15 F. R. 2016); \$1,146.54 in the Treasury of the United States. Librairie Ernest Flammarion, Paris, France; Claim No. 36720; April 7, 1950 (15 F. R. 2016); \$573.26 in the Treasury of the United States.

Property to the extent owned by each of the claimants immediately prior to the vesting thereof by Vesting Order No. 500A-71 (9 F. R. 8217, July 20, 1944) relating to the literary work "Les livres, les enfants et les hommes, 1932" (listed in Exhibit A of said vesting order), and all rights and interests created in the Attorney General by virtue of a license agreement granted to The Horn Book Magazine on December 7, 1943 for the

exploitation of a work entitled "Les livres, les enfants et les hommes" by Paul Hazard.

Appropriate documents and papers effectuating this order will issue.

Executed at Washington, D. C., on June 7, 1950.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Acting Director,
Office of Alien Property.

[F. R. Doc. 50-5052; Filed, June 12, 1950;
8:51 a. m.]

[Vesting Order 14707]

EDWARD DOSTER

In re: Rights of Edward Doster under insurance contract. File No. F-28-30655-H-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Edward Doster, whose last known address is Germany, is a resident of Germany and a national of a designated enemy country (Germany);

2. That the net proceeds due or to become due under a contract of insurance evidenced by policy No. 5948402 A, issued by the Metropolitan Life Insurance Company, New York, New York, to Edward Doster, together with the right to demand, receive and collect said net proceeds,

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

and it is hereby determined:

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

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on June 1, 1950.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Acting Director,
Office of Alien Property.

[F. R. Doc. 50-5049; Filed, June 12, 1950;
8:50 a. m.]