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TITLE 7—AGRICULTURE

Chapter VIII—Production and Marketing Administration (Sugar Branch), Department of Agriculture

Subchapter F—Determination of Normal Yields and Eligibility for Abandonment and Crop Deficiency Payments

[Sugar Determination 846.2]

PART 846—HAWAII

1950 AND SUBSEQUENT CROPS

Pursuant to the provisions of section 303 of the Sugar Act of 1948, the following determination is hereby issued:

§ 846.2 *Normal yields and eligibility for abandonment and crop deficiency payments*—(a) *Farm normal yields.* The normal yield of commercially recoverable sugar per acre for any sugarcane farm in Hawaii shall be established for the 1950 and each subsequent crop year as follows:

(1) For a farm on which sugarcane was grown and marketed (or processed by the producer) for the extraction of sugar in three or more of the next preceding five crop years, the normal yield shall be the simple average of the annual average yields of sugar per acre of sugarcane harvested from the farm for the extraction of sugar for all of such years in which sugarcane was harvested.

(2) For a farm on which sugarcane was grown and marketed (or processed by the producer) for the extraction of sugar in less than three of the next preceding five crop years, the normal yield shall be that established by the Director of the Hawaiian Area Office of the Production and Marketing Administration (hereinafter referred to as "Area Office of PMA") on the basis of the average yield which could have been reasonably expected on the farm in the next preceding five crop years considering the average yield of other farms in the same local producing area (as defined in paragraph (c) of this section), variations in soil productivity, climatic conditions, cultural practices and other pertinent factors.

(b) *Eligibility for abandonment and deficiency payments.* The Director of the Area Office of PMA shall approve for abandonment and/or deficiency payments any farm located in whole or in part in a local producing area in which the actual yields of sugar from 10 percent or more of the sugarcane acreage harvested from all farms or parts of farms in such local producing area, were not in excess of 80 percent of the applicable normal yields: *Provided*, That (1) such acreage abandonment and/or crop deficiency was directly due to drought, flood, storm, freeze, disease, or insects, (2) the acreage abandoned or the acreage with respect to which there was a crop deficiency was suitable for the production of sugarcane and was cared for up to the time of harvest or abandonment, as the case may be, in a manner which could have been expected under average conditions to produce a normal crop of sugarcane, and (3) the other conditions for payment specified in Title III of the act with respect to the farm have been met. Such approval on the application for payment by the Director of the Area Office of PMA shall constitute determination that such farm is eligible for abandonment and/or deficiency payments.

(c) *Definitions.* (1) Acreage of sugarcane "harvested" shall mean the acreage from which sugarcane was harvested for the extraction of sugar plus the acreage of sugarcane with respect to which there was bona fide abandonment as a result of drought, flood, storm, freeze, disease, or insects.

(2) "Sugar" shall mean hundredweight of sugar commercially recoverable from the sugarcane grown on the farm and marketed (or processed) for the extraction of sugar.

(3) "Local producing area" shall mean all contiguous or nearby farms or parts of farms which are similar with respect to types of soil or with respect to topography, as determined by the Director of the Area Office of PMA: *Provided, however*, That farms separated from other farms by any natural barrier or large area of land shall not be included within the same local producing area.

This determination supersedes, with respect to the 1950 and subsequent crop years, the "Determination of Normal Yield of Commercially Recoverable Sugar per Acre and Eligibility for Payment with

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FEDERAL REGISTER

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CODIFICATION GUIDE

A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.

CODIFICATION GUIDE—Con.

Respect to Abandonment and Crop Deficiency for Sugarcane Farms in Hawaii," issued May 25, 1945 (10 F. R. 6154).

STATEMENT OF BASES AND CONSIDERATIONS

Requirements of the Sugar Act of 1948. Section 303 of the act authorizes the Secretary to make payment to producers of sugar beets or sugarcane with respect to bona fide abandonment of planted acreage and crop deficiencies of harvested acreage under certain conditions. The payments are based on normal yields of commercially recoverable sugar as established for individual farms under determinations issued by the Secretary.

Historical background. Normal yields for farms in Hawaii have been based heretofore on the average yields of commercially recoverable sugar per acre obtained during base periods consisting of three consecutive crop years deemed to be representative of the yields to be expected under normal conditions. For the crop years 1937–1942 the base period consisted of the crop years 1934, 1935, and 1936. Beginning with the 1943 crop the base years were the crop years 1939, 1940, and 1941. The average yield in Hawaii for the 1934–1936 base period was 7.64 tons of sugar per acre as compared to 7.19 tons for the period 1939–1941. The average yield for the 1942–1949 period increased to approximately 8.00 tons. This increase in yields has been due largely to higher yielding varieties of cane and improved production methods.

Base periods. The use of fixed base periods covering selected crop years does not adequately reflect changes in yields. It also tends to benefit those producers who obtained abnormally high yields in the selected base years, while the effect is the reverse with respect to those producers who obtained subnormal yields in the base years. It is believed that the use of moving base periods will reflect current changes more adequately, will assure equitable treatment among all producers, and will provide a sounder basis for the computation of any acreage abandonment and crop deficiency payments which may be applied for in the future. Accordingly, the foregoing determination provides that normal yields for any crop year will be estab-

lished from the average yields obtained during the next preceding five crop years. The average yield per acre in Hawaii for the base period (1945–1949) which will be effective for the 1950 crop is 8.15 tons.

Computation of farm normal yields. Under this determination normal yields for farms will be computed directly in terms of hundredweight of sugar commercially recoverable per acre from applicable data on harvested acreage and yields of sugar. This is a more direct method than that formerly used whereby normal yields were computed by multiplying the average number of tons of cane produced per acre by the average yield of sugar per ton of cane. The normal yield for each farm having a sugarcane production record for three or more years of the applicable base period will be computed by averaging the annual yields obtained on the farm within such period.

The former determination provided that if sugarcane was not harvested on the farm during each year of the three-year base period, the normal yield was based upon the average yield of all farms in the same local producing area. Since this could have resulted in unrealistic normal yields in some cases, the proposed determination provides that for farms with production history in less than three years of the applicable five-year base period the normal yields shall be established by the Director of the Area Office of PMA on the basis of the yields which could have been reasonably expected on the farms during such base period. This will permit the Area Office to take into account variations in soil productivity, climatic conditions, cultural practices and other pertinent factors when establishing such normal yields.

Eligibility for abandonment and deficiency payments. The provisions regarding eligibility for these payments have been in effect for several years and have proven to be generally satisfactory. Except for the inclusion of the phrase "or nearby farms or parts of farms" in the definition of a local producing area, other provisions remain the same.

Accordingly, I hereby find and conclude that the foregoing determination will effectuate the provisions of section 303 of the Sugar Act of 1948.

(Sec. 403, 61 Stat. 932; 7 U. S. C. Sup., 1153. Interprets or applies sec. 303, 61 Stat. 930; 7 U. S. C. Sup., 1133)

Issued this 7th day of July 1950.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

[F. R. Doc. 50-5990; Filed, July 11, 1950; 8:45 a. m.]

Chapter IX—Production and Marketing Administration (Marketing Agreements and Orders), Department of Agriculture

[Grapefruit Reg. 125]

PART 933—ORANGES, GRAPEFRUIT, AND TANGERINES GROWN IN FLORIDA

LIMITATION OF SHIPMENTS

§ 933.479 *Grapefruit Regulation 125*—(a) *Findings.* (1) On June 20, 1950, notice of rule-making was published in the FEDERAL REGISTER (15 F. R. 3965) regarding a proposed limitation of shipments of grapefruit, grown in the State of Florida, during the period July 31, 1950, to September 15, 1950, pursuant to Marketing Agreement No. 84, as amended, and Order No. 33, as amended (7 CFR, Part 933), regulating the handling of oranges, grapefruit, and tangerines grown in the State of Florida. This regulatory program is effective pursuant to the Agricultural Marketing Agreement Act of 1937, as amended. After consideration of all relevant matters presented, including the proposals, set forth in the aforesaid notice, which were submitted by the Growers Administrative Committee (established pursuant to the amended marketing agreement and order) it is hereby found that the limitation of shipments of grapefruit, in the manner and during the period hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that good cause exists for not postponing the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) and for making the provisions hereof effective at the time hereinafter specified in that: Shipments of grapefruit, grown in the State of Florida, are currently regulated, by grades and sizes, but such regulation is effective only until July 31, 1950; because of the hurricane during the early portion of the current season, a late grapefruit bloom resulted; the grapefruit of such bloom may be available for shipment during the period hereinafter specified thereby causing a somewhat longer-than-normal marketing season; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period hereinafter set forth so as to provide for the continued regulation of the handling of such grapefruit; compliance with this section will not require any special preparation on the part of persons subject thereto which cannot be completed by the effective time hereof; and a reasonable time is permitted, under the circumstances, for preparation for such effective time.

(b) *Order.* (1) During the period beginning at 12:01 a. m., e. s. t., July 31, 1950, and ending at 12:01 a. m., e. s. t., September 15, 1950, no handler shall ship:

(i) Any grapefruit of any variety, grown in the State of Florida, which do not grade at least U. S. No. 2 Russet;

(ii) Any seeded grapefruit, other than pink grapefruit, grown in the State of Florida, which are of a size smaller than a size that will pack 80 grapefruit, packed in accordance with the requirements of a standard pack, in a standard nailed box;

(iii) Any seedless grapefruit, other than pink grapefruit, grown in the State of Florida, which are of a size smaller than a size that will pack 126 grapefruit, packed in accordance with the requirements of a standard pack, in a standard nailed box; or

(iv) Any pink grapefruit, grown in the State of Florida, which are of a size smaller than a size that will pack 126 grapefruit, packed in accordance with the requirements of a standard pack, in a standard nailed box.

(2) As used in this section, "handler", "variety," and "ship," shall have the same meaning as when used in said amended marketing agreement and order; and "U. S. No. 2 Russet," "standard pack," and "standard nailed box" shall have the same meaning as when used in the revised United States Standards for Grapefruit (7 CFR 51.191; 14 F. R. 6828).

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. and Sup., 608c)

Done at Washington, D. C., this 7th day of July 1950.

[SEAL] S. R. SMITH,
Director, Fruit and Vegetable Branch, Production and Marketing Administration.

[F. R. Doc. 50-6012; Filed, July 11, 1950; 8:50 a. m.]

TITLE 8—ALIENS AND NATIONALITY

Chapter I—Immigration and Naturalization Service, Department of Justice

Subchapter B—Immigration Regulations

PART 119—VISITORS

PART 125—STUDENTS

EXTENSION OF STAY OF ALIEN VISITORS AND STUDENTS

APRIL 27, 1950.

The following amendments to Chapter I, Title 8 of the Code of Federal Regulations, are hereby prescribed:

1. Paragraph (b) of § 119.12, *Extension of stay; procedure,* is amended to read as follows:

(b) After making such inquiry as may be necessary, the district director shall make a decision on the application and such decision shall be final, (1) except that the Commissioner may from time to time require certain classes of cases or individual cases to be submitted to him for review or for decision; and (2) except that, if the applicant has gone to another district and further information from him is needed, the district director may send the application to the other district for final action. In all cases, the district director shall send to the visitor written notice of the decision, accompanied by any passport and Form 257a or I-94 submitted with the application. That shall be done even though the visitor has, after submitting the application, moved to another district. If the decision is favorable and if a Form 257a or I-94 was submitted with the application, such notice may be given by placing a signed endorsement on the Form 257a or I-94. Such endorsement shall include the date through which the stay is extended. If the application is denied, the district director making that decision shall take appropriate action with a view to enforcing the alien's departure or removal from the United States, and the notice to the alien of the denial shall include advice as to such intended action.

2. Paragraph (b) of § 125.13, *Extension of stay; procedure*, is amended to read as follows:

(b) After making such inquiry as may be necessary, the district director shall make a decision on the application and such decision shall be final: *Provided*, That the Commissioner may from time to time require in individual cases or in certain classes of cases that district directors submit to him for review or decision cases of applications on Form I–535 on which they have acted or which they receive. In all cases the district director shall send notice of the decision to the student. If the decision is favorable, such notice shall be made by placing a signed endorsement on the duplicate Form I–94, showing the date to which the stay is extended and by returning the duplicate Form I–94 and the passport to the student. The district director of the district in which is located the institution which a student is attending shall to the extent practicable notify by form letter each student of the imminent expiration of authorized stay unless the district director is in receipt of an application for an extension of such stay or of information that the student will depart from the United States at the expiration of the period of authorized stay.

This order shall become effective on the date of its publication in the FEDERAL REGISTER. The requirements of section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U. S. C. 1003) as to notice of proposed rule making and delayed effective date are inapplicable for the reason that the regulations hereby prescribed pertain solely to agency procedure.

(Sec. 23, 39 Stat. 892, sec. 24, 43 Stat. 166, sec. 37, 54 Stat. 675; 8 U. S. C. 102, 222, 458)

WATSON B. MILLER,
Commissioner of Immigration and Naturalization.

Approved: July 8, 1950.

PEYTON FORD,
Acting Attorney General.

[F. R. Doc. 50-6009; Filed, July 11, 1950; 8:47 a. m.]

TITLE 14—CIVIL AVIATION

Chapter I—Civil Aeronautics Board

[Civil Air Reg., Amdt. 20-7]

PART 20—PILOT CERTIFICATES

CERTIFICATION OF GLIDER PILOTS

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 6th day of July 1950.

Currently effective Part 20 establishes the certification requirements for glider pilots, but it does not require that an applicant for a pilot certificate with a glider rating have any amount of supervised training. Moreover, the provisions of Part 20 do not provide for the issuance of a flight instructor rating to a pilot holding a pilot certificate with only a glider rating.

This amendment is designed to clarify and simplify the certification requirements for the issuance of pilot certificates with glider ratings, to provide that all applicants for pilot certificates with glider ratings have at least one hour of flight instruction in the recovery from stalls, and to provide that flight instructor ratings may be issued to glider pilots. This amendment also establishes a clearer and more appropriate method of computing glider flight time by providing that 10 short-patterned and released glider flights may be counted as one hour of flight time. Glider flight time is normally logged in terms of the number of flights flown rather than the number of hours flown. Thus, this amendment will eliminate the difficulty currently experienced by providing a standard for the conversion of glider flights into glider flight time.

Part 43 is being amended concurrently, *infra*, with this amendment to provide that a commercial glider pilot may give flight instruction in gliders and that a flight instructor shall not give flight instruction in a category of aircraft in which he has not demonstrated to an authorized representative of the Administrator his proficiency as a flight instructor.

Interested persons have been afforded an opportunity to participate in the making of this amendment, and due consideration has been given to all relevant matter presented.

In consideration of the foregoing the Civil Aeronautics Board hereby amends Part 20 of the Civil Air Regulations (14 CFR, Part 20, as amended) as follows, effective August 10, 1950:

1. By adding a new § 20.13 to read as follows:

§ 20.13 *Computation of flight time.* Flight time shall be computed as follows:

(a) *Powered aircraft.* Flight time had in powered aircraft shall be computed in hours and minutes.

(b) *Glider.* Flight time had in a glider may be computed either in hours and minutes or by number of glider flights. Ten short-patterned and released glider flights may be counted as one hour of flight time.

2. By amending § 20.25 (b) to read as follows:

§ 20.25 *Aeronautical experience.* * * *

(b) *Glider.* An applicant for a glider rating shall have had at least 100 glider flights, or 10 hours of glider flight time including at least 50 glider flights. At least 25 of the required total number of flights shall have included 360° turns. As part of his aeronautical experience an applicant shall have had at least one hour of flight instruction in the recovery from stalls entered from all normally anticipated flight attitudes.

3. By amending § 20.26 (b) to read as follows:

§ 20.26 *Aeronautical skill.* * * *

(b) *Glider.* (1) At least 2 flights, one of which shall include a 360° approach to the right and one to the left, landing each time within 200 feet beyond a designated line or point;

(2) Recovery from stalls entered from all normally anticipated flight attitudes. (Stall maneuvers may be demonstrated in airplanes.)

4. By amending § 20.35 (b) to read as follows:

§ 20.35 *Aeronautical experience.* * * *

(b) *Glider.* An applicant for a glider rating shall have had at least 250 glider flights, or 25 hours of glider flight time including at least 125 glider flights. At least 25 of the required total number of flights shall have included 360° turns. As part of his aeronautical experience an applicant shall have had at least one hour of flight instruction in the recovery from stalls entered from all normally anticipated flight attitudes.

5. By amending § 20.36 (b) to read as follows:

§ 20.36 *Aeronautical skill.* * * *

(b) *Glider.* (1) At least 2 flights, one of which shall include a 360° approach to the right and one to the left, landing each time within 100 feet beyond a designated line or point;

(2) A spiral in each direction of not less than 3 full turns in a banked attitude of not less than 45°;

(3) A demonstration of satisfactory technique in the performance of glider flight when towed by an automobile or a winch;

(4) A demonstration of satisfactory technique in the performance of glider flight when towed by an airplane during climb, and when above, below, and to one side of the towing airplane slipstream while in level flight; and

(5) Recovery from stalls entered from all normally anticipated flight attitudes. (Stall maneuvers may be demonstrated in airplanes.)

6. By amending § 20.41 to read as follows:

§ 20.41 *Flight instructor rating.* A flight instructor rating may be issued to an applicant who meets the following requirements:

(a) *Age.* 18 years.

(b) *Knowledge.* An applicant shall pass a theoretical and practical examination on his competency to instruct students in flight.

(c) *Experience.* An applicant shall be a commercial pilot or a private pilot who has met the experience requirements for the issuance of a pilot certificate with a commercial pilot rating.

(d) *Skill.* An applicant shall demonstrate in each category of aircraft in which he desires to give flight instruction his ability to perform with precision and to teach such flight maneuvers as are necessary and appropriate for instruction in the safe piloting of that category of aircraft.

(Sec. 205, 52 Stat. 984; 49 U. S. C. 425. Interpret or apply secs. 601, 602, 52 Stat. 1007, 1008; 49 U. S. C. 551, 552)

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN,
Secretary.

[F. R. Doc. 50-6014; Filed, July 11, 1950; 8:50 a. m.]

[Civil Air Regs., Amdt. 43-2]

PART 43—GENERAL OPERATION RULES

FLIGHT INSTRUCTOR PRIVILEGES AND LIMITATIONS

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 6th day of July 1950.

Currently effective Part 43 provides that a commercial pilot may pilot aircraft for hire and also establishes flight instruction limitations. However, the current regulations do not specify the categories in which an individual holding a flight instructor rating may give flight instruction, but they do provide that a flight instructor rating be given only for powered aircraft.

Part 20 is concurrently, *supra*, being amended to provide that an applicant for a pilot certificate with a glider rating have at least one hour of flight instruction in the recovery from stalls. We have been advised that the Soaring Society of America has, in the absence of regulation by the Board, recognized flight instruction given by glider pilots holding at least commercial ratings and that their experience with this procedure has been satisfactory. While flight instructors instructing in aircraft other than gliders are required to hold instructor ratings, nevertheless, we believe that the method of instructing persons to pilot gliders (i. e. on the ground rather than in flight) and the inherent differences between glider and powered aircraft are sufficient to authorize commercial glider pilots to instruct in gliders even though they do not hold instructor ratings. We do not believe that the level of safety will be lowered if commercial glider pilots not holding instructor ratings are permitted to give flight instruction in gliders. However, a glider pilot will now be able to secure a flight instructor rating, and it is anticipated that most instructors will secure such rating.

Part 20 is also being amended to require a flight instructor to demonstrate his proficiency as such in each category of aircraft in which he desires to give certified flight instruction. Heretofore the regulations have permitted a pilot holding a flight instructor rating, secured by passing the appropriate tests in one category of aircraft, to give flight instruction in any category of aircraft for which he might be rated as pilot. We believe that the category rating test is sufficient to determine a pilot's ability to pilot an aircraft safely but may not be adequate, considering the marked differences between categories of aircraft, to make a determination that the pilot's ability is sufficiently comprehensive to give flight instruction in that category. On the other hand, it is our opinion that a category rating test sufficiently comprehensive to determine pilot ability and instructor ability would impose an undue burden on many persons who apply for a category rating but do not desire to give flight instruction in that category. Accordingly, we are amending Part 43 to provide that a flight instructor shall not give flight instruction in a category of aircraft in which he has not demonstrated his proficiency as a flight instructor.

Interested persons have been afforded an opportunity to participate in the making of this amendment, and due consideration has been given to all relevant matter presented.

In consideration of the foregoing the Civil Aeronautics Board hereby amends Part 43 of the Civil Air Regulations (14 CFR, Part 43, as amended) as follows, effective August 10, 1950:

1. By amending § 43.61 to read as follows:

§ 43.61 *Commercial pilot.* A commercial pilot may pilot aircraft for hire. A commercial glider pilot may give flight instruction in gliders.

2. By adding paragraph (d) to § 43.64 to read as follows:

§ 43.64 *Flight instruction limitations.* * * *

(d) *Aircraft category limitations.* A flight instructor shall not give flight instruction in a category of aircraft in which he has not demonstrated to an authorized representative of the Administrator his proficiency as a flight instructor.

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

By the Civil Aeronautics Board.

[SEAL] M. C. MULLIGAN, *Secretary.*

[F. R. Doc. 50-6015; Filed, July 11, 1950; 8:51 a. m.]

TITLE 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

PART 2—RULES OF PRACTICE

HEARINGS IN ADVERSARY PROCEEDINGS

The Commission on June 29, 1950, amended paragraph (a) of § 2.15 of its Rules of Practice (§§ 2.1 to 2.31), so as to make said section read as follows, effective on date of publication in the FEDERAL REGISTER.

NOTE: In said section, the number to the right of the decimal point corresponds with the Roman numbers in the Commission's Rules of Practice, as included in its publication, rules, policy, organization, and acts.

§ 2.15 *Hearings in adversary proceedings.* All hearings pursuant to formal complaint shall be public unless otherwise ordered by the Commission, and such hearings shall be subject to the following conditions and requirements:

(a) Every party respondent shall have the right of due notice, cross-examination, presentation of evidence, objection, exception, motion, argument, appeal and all other fundamental rights. Whenever a witness, on examination by the party calling him, is an adverse party, or is an officer, agent or employee of an adverse party, or appears to be hostile, unwilling, or evasive, such witness may be interrogated by leading questions, and may be contradicted in all respects as if he had been called by the adverse party. The witness thus called may be contradicted and impeached by or on behalf of the adverse party and may be cross-examined by the adverse party only upon the subject matter of his examination by the party who called him.

(b) The taking of evidence and subsequent proceedings shall proceed with all reasonable diligence and with the least practicable delay.

(c) Not less than five (5) days' notice of the time and place of any indefinitely postponed hearing shall be given to counsel of record or to parties, but in appointing such hearings due regard shall be had for the convenience and necessity of all parties or their representatives.

(d) The trial examiner may withdraw from a case when he deems himself disqualified, or he may be withdrawn by the Commission after timely affidavits alleging personal bias or other disqualifications have been filed and the matter has been heard by the Commission or by a trial examiner whom it has delegated to investigate and report.

(e) Hearings shall be stenographically reported by the official reporter of the Commission under supervision of the presiding trial examiner. A transcript of said report shall be a part of the record and the sole official transcript of the proceeding. Transcripts will be supplied to respondents and to the public by the official reporter at rates not to exceed the maximum rates fixed by contract between the Commission and the reporter.

(f) Changes in the official transcript may be made only when they involve errors affecting substance and then only in the manner herein provided. No physical changes shall be made in or upon the official record or copies thereof in the custody of the Commission. Lists of changes agreed to in writing by opposing counsel may be incorporated into the record, if and when approved by the trial examiner, at the close of evidence in support of the complaint, or at the final hearing before the trial examiner, or at any time thereafter before he files his decision, and at no other times. If any changes are ordered by the trial examiner without such written agreement between opposing counsel they shall be subject to objection and exception.

Promulgated as of this date in pursuance of the action of the Federal Trade Commission under date of June 29, 1950, effective on date of publication in the FEDERAL REGISTER.

(Sec. 6, 38 Stat. 722; 15 U. S. C. 46)

By direction of the Commission.

[SEAL] D. C. DANIEL, *Secretary.*

[F. R. Doc. 50-6046; Filed, July 11, 1950; 8:53 a. m.]

TITLE 24—HOUSING AND HOUSING CREDIT

Chapter VIII—Office of Housing Expediter

[Controlled Housing Rent Reg., Amdt. 261]

[Controlled Rooms in Rooming Houses and Other Establishments Rent Reg., Amdt. 258]

PART 825—RENT REGULATIONS UNDER THE HOUSING AND RENT ACT OF 1947, AS AMENDED

OKLAHOMA

The Controlled Housing Rent Regulation (§§825.1 to 825.12) and the Rent Regulation for Controlled Rooms in Rooming Houses and Other Establishments (§§825.81 to 825.92) are amended in the following respect:

Schedule A, Item 242b, is amended to read as follows:

(242b) [Revoked and decontrolled.]

This decontrols (1) the City of Bartlesville in Washington County, Oklahoma, the Bartlesville, Oklahoma, Defense-Rental Area, and all unincorporated localities in said defense-rental area, based on a resolution submitted with respect to said City of Bartlesville in accordance with section 204 (j) (3) of the Housing and Rent Act of 1947, as amended, said City of Bartlesville, being the major portion of said defense-rental area, and (2) the remainder of said defense-rental area on the Housing Expediter's own initiative in accordance with section 204 (c) of said act.

(Sec. 204, 61 Stat. 197, as amended; 50 U. S. C. App. Sup. 1894)

This amendment shall become effective July 10, 1950.

Issued this 7th day of July 1950.

TIGHE E. WOODS,
Housing Expediter.

[F. R. Doc. 50-6002; Filed, July 11, 1950; 8:47 a.m.]

TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans' Administration

PART 36—SERVICEMEN'S READJUSTMENT ACT OF 1944

SUBPART A—TITLE III; LOAN GUARANTY

1. In § 36.4301, paragraphs (a), (i), and (cc) are amended to read as follows:

§ 36.4301 *Definitions.* * * *

(a) "Act" means Public Law 346, 78th Congress (58 Stat. 284), cited as the "Servicemen's Readjustment Act of 1944," as amended by Public Law 268, 79th Congress (59 Stat. 626), Public Law 864, 80th Congress, Chapter 784, 2d Session (62 Stat. 1206), and Public Law 475, 81st Congress, Chapter 94, 2d Session (38 U. S. C. and sup., 694 et seq.).

* * * * *

(i) "Designated appraiser" means a person requested by the Administrator to render an estimate of the reasonable value of a property, or of a specified type of property, within a stated area for the purpose of justifying the extension of credit to an eligible veteran for any of the purposes stated in Title III of the act. An appraiser on a fee basis is not an agent of the Administrator.

* * * * *

(cc) "Reasonable value" means that figure which represents the amount a reputable and qualified appraiser, unaffected by personal interest, bias, or prejudice, would recommend to a prospective purchaser as a proper price or cost in the light of prevailing conditions.

* * * * *

2. In § 36.4302, paragraphs (a), (b), and (c) are amended and new paragraphs (h), (i), and (j) are added as follows:

§ 36.4302 *Computation of guaranties or insurance credits.* (a) For the purpose of computing guaranty in respect to a loan to a veteran, the following maxima cannot be exceeded:

(1) *Real estate loans.* (i) 505 (a) Loans: 100 percent of the original principal amount of the secondary loan, but not to exceed 20 percent of the purchase price or cost of the property, or $4,000, whichever is less (Public Law 268, 79th Congress).

(ii) 501 (b) Loans: Subject to the provisions of paragraph (j) of this section, 60 percent of the original principal amount, or $7,500, whichever is less.

(iii) All other real estate loans: 50 percent of the original principal amount, or $4,000, whichever is less.

(2) *Non-real estate loans.* 50 percent of the original principal amount, or $2,000, whichever is less.

(3) *Combination real estate and non-real estate loans.* 50 percent of the original principal amount, or $4,000, whichever is less. On the real estate portion of the loan allow not to exceed 50 percent of such portion but not to exceed $4,000. Subtract the amount of guaranty so allowed from $4,000. If any guaranty entitlement remains available not to exceed one-half thereof may be allowed on the non-real estate portion of the loan but the amount so allowed shall not exceed 50 percent of such portion. The aggregate amount of guaranty shall relate to the entire loan.

(b) The maximum credit to the insurance account of a lender relative to any insured loan shall be 15 percent of the original principal amount of such loan: *Provided*, That the sum of all credits to insurance accounts covering loans made to an individual shall not exceed $2,000 for non-real estate loans, nor $4,000 for real estate loans.

(c) The following formula shall govern the ascertainment of the amount of the guaranty or insurance entitlement which remains available to an eligible veteran after prior use of entitlement: Add to the amount of such entitlement previously used for realty, twice the amount previously used for non-realty purposes. Subtract this sum from $4,000. The sum remaining is the amount available for the guaranty or insurance of a real estate loan, and one-half of such sum is so available for a non-real estate loan.

* * * * *

(h) Notwithstanding the provisions of paragraph (g) of this section, if real or personal property acquired or improved with the proceeds of a guaranteed or insured loan be thereafter:

(1) Taken (by condemnation or otherwise) by the United States or any State or local government agency for public use; or

(2) Destroyed or damaged by fire or other natural hazard to the extent that occupancy, use or restoration is impractical, and which destruction or damage is not resultant from an act or omission wilfully designed by the veteran to bring about such destruction or damage; or

(3) Disposes of because of other compelling reasons devoid of fault on the part of the veteran;

the Administrator in the exercise of discretion in any such case may exclude the entitlement used in respect to such loan and the entitlement so excluded shall be disregarded in determining the subsequent use of entitlement by the veteran except for the calculation of the gratuity payable on a new loan. Exclusion of entitlement used in connection with a guaranteed or insured loan shall not be authorized so long as the Administrator remains liable thereon as guarantor or insurer.

(i) The amount of guaranty entitlement, available and unused, of an eligible unremarried widow (whose eligibility does not result from her own service) is determinable in the same manner as in the case of any veteran, and any entitlement which the decedent (who was her husband) used shall be disregarded. A certificate as to the eligibility of such widow, issued by the Administrator, shall be a condition precedent to the guaranty or insurance of any loan made to her in such capacity.

(j) A loan for the purchase or construction of residential property to be occupied by the veteran as his home may be guaranteed under section 501 (b) of the act, if otherwise eligible: *Provided*, That at the time the loan is reported to the Administrator pursuant to § 36.4303 the veteran shall not have used any portion of his entitlement, except such as shall have been excluded under paragraph (h) of this section.

3. In § 36.4303, paragraphs (a) (1), (b), and (f) are amended to read as follows:

§ 36.4303 *Reporting requirements.* (a) * * *

(1) No default exists thereunder which has continued for more than 30 days;

* * * * *

(b) Loans made pursuant to section 501 (b), 505 (a) or 508 of the act although not entitled to automatic guaranty or insurance thereunder, may, when made by a lender of a class described in section 500 (d) thereof, be reported for issuance of a guaranty or of an insurance credit, or a certificate of commitment as provided in paragraph (a) of this section.

* * * * *

(f) Evidence of a guaranty will be issued by the Administrator by appropriate endorsement on the note or other instrument evidencing the obligation, or

by a separate certificate at the option of the lender. Notice of credit to an insurance account will be given to the lender. Unused certificates of eligibility issued prior to March 1, 1946, are void. In the event loans are reported to the Administrator for guaranty or insurance in respect to which entitlement of the veteran shall not have been reserved, any unused and unreserved entitlement of a veteran shall be applied to the loans in the order they are reported to, or made by, the Administrator. Entitlement reserved by the Administrator may not be so applied or otherwise used until released by the lender for whose benefit the reservation is outstanding. No certificate of commitment shall be issued and no loan shall be guaranteed or insured unless the lender, the veteran, and the loan are shown to be eligible.

4. In § 36.4305, paragraphs (d) and (e) are amended and paragraphs (f) and (g) are deleted.

§ 36.4305 *Partial disbursement.* • • •

(d) There has been full compliance with the provisions of the act and of the applicable regulations up to the time of the last disbursement.

(e) In the case of a construction loan when the construction is not fully completed, the amount and percentage of the guaranty and the amount of the loan for the purposes of insurance or accounting to the Administrator shall be based upon such portion of the amount disbursed out of the proceeds of the loan which, when added to any other payments made by or on behalf of the veteran to the builder or the contractor, does not exceed 80 percent of the value of that portion of the construction performed (basing value on the contract price) plus the sum, if any, disbursed by the lender out of the proceeds of the loan for the land on which the construction is situated: *And provided further*, That the lender shall certify as follows:

(1) Any amount advanced for land is protected by title or lien as provided in the regulations concerning guaranty or insurance of loans to veterans; and

(2) No enforceable liens, for any work done or material furnished for that part of the construction completed and for which payment has been made out of the proceeds of the loan, exist or can come into existence.

(f) [Canceled.]

(g) [Canceled.]

5. In § 36.4306, the preamble in paragraph (a) and paragraph (a) (1) are amended and a new paragraph (e) is added as follows:

§ 36.4306 *Refunding of outstanding indebtedness.* (a) If otherwise eligible, a loan is eligible for guaranty or insurance if the proceeds thereof are used to refinance existing indebtedness of the veteran-applicant or to reimburse him for expenditures he made, *Provided:*

(1) The proceeds of such indebtedness were actually paid out in full, or the last expenditure by the veteran occurred, within 60 days prior to the date of his application to any lender for such loan, or

• • • • •

(e) If a loan is approved for guaranty or insurance pursuant to § 36.4346 the guaranty or insurance shall not be impaired by reason of the disbursement from such loan of an amount which is reasonably necessary to obtain the release from existing liens of the homesite on which the farmhouse is to be constructed or improved. Such amount shall not exceed the reasonable value of the homesite.

6. In § 36.4308, a new paragraph (f) is added as follows:

§ 36.4308 *Transfer of title by borrower or maturity by demand or acceleration.* • • •

(f) The holder of any guaranteed or insured obligation shall have the right, notwithstanding the absence of express provision therefor in the instruments evidencing the indebtedness, to accelerate the maturity of such obligation at any time after the continuance of any default for the period specified in § 36.4316.

7. In § 36.4312, paragraph (a) is amended to read as follows:

§ 36.4312 *Closing costs.* (a) Any costs or expenses incurred in closing a loan or financing a purchase and normally required to be paid by a purchaser or lienor incident to the making of a loan under local lending customs may be included in the amount paid out of the proceeds of a guaranteed or insured loan, except that no brokerage or service charge or their equivalent not expressly approved under schedules set up in advance by the Administrator may be charged against the debtor or the proceeds of the loan either initially, periodically, or otherwise: *Provided*, That no loan for the purchase or construction of a dwelling unit on which the Administrator receives a request for a determination of reasonable value on or after July 17, 1950, shall be guaranteed or insured unless,

(1) The lender certifies to the Administrator that it has not imposed and will not impose any charges or fees against the veteran in excess of those allowed in such schedules; or

(2) If such request relates to a new dwelling unit which has not been occupied previously and which is to be purchased by a veteran, the lender certifies to the Administrator that in connection with financing the construction or sale of such dwelling unit it has not imposed and will not impose upon the builder or veteran any fees or charges in excess of those allowed in the applicable schedule so approved by the Administrator, and, if the loan to be guaranteed or insured is made by a lender other than that which financed the construction of such unit, the Administrator is furnished a further certification either

(i) By the builder that he has not paid and will not pay any charges or fees in excess of those allowed in applicable schedules or

(ii) By the lender which made the construction loan that it has not imposed and will not impose charges in relation to such unit which are in excess of those allowed in the said schedules.

Loans guaranteed or insured pursuant to section 505 (a) of the act shall not exceed 20 percent of the purchase price as defined in § 36.4301 (aa).

• • • • •

8. In § 36.4324, paragraph (f) is amended to read as follows:

§ 36.4324 *Release of security.* • • •

(f) The release of the personal liability of any obligor on a guaranteed or insured obligation resultant from the act or omission of any holder without the prior approval of the Administrator shall release the obligation of the Administrator as guarantor or insurer, except when such act or omission consists of: (1) Failure to establish the debt as a valid claim against the assets of the estate of any deceased obligor provided no lien for the guaranteed or insured debt is thereby impaired or destroyed; or, (2) an election and appropriate prosecution of legally available effective remedies with respect to the repossession or the liquidation of the security in any case, irrespective of the identity or the survival of the original or of any subsequent debtor, if holder shall have given such notice as required by § 36.4317 and if after receiving such notice, the Administrator shall have failed to notify the holder within 15 days to proceed in such manner as to effectively preserve the personal liability of the parties liable, or such of them as the Administrator indicates in such notice to the holder; or, (3) the release of an obligor, or obligors, from liability on an obligation secured by a lien on property, which release is an incident of and contemporaneous with the sale of such property to an eligible veteran who assumed such obligation, which assumed obligation is guaranteed on his account pursuant to the act.

• • • • •

9. In § 36.4330, paragraph (a) is amended to read as follows:

§ 36.4330 *Accounting records.* (a) The holder shall maintain a record of the amounts of payments received on the obligation and disbursements chargeable thereto, and the dates thereof. For the purpose of any accounting with the Administrator or computation of claim against him, any holder who fails to maintain such record shall be presumed to have received on the dates due all sums which by the terms of the contract are payable prior to date of claim for default and the burden of going forward with evidence and of ultimate proof of the contrary shall be on such holder.

• • • • •

10. Section 36.4336 is amended to read as follows:

§ 36.4336 *Eligibility of loans; reasonable value requirements.* No loan made for the purchase of property, or for construction, alterations, repairs or improvements thereof, shall be eligible for guaranty or insurance if the purchase price or cost to the veteran exceeds the reasonable value thereof as determined by a proper appraisal made by an appraiser designated by the Administrator. Notwithstanding that the aggregate of the purchase price or cost to the veteran, and the amount remaining unpaid on taxes, special assessments, prior mort-

gage indebtedness, or other obligations of any character secured by enforceable superior liens or a right to such lien existing as of the date the loan is closed exceeds the reasonable value of such property as of said date and that evidence of guaranty or insurance credit is issued in respect thereof, as between the holder and the Administrator (for the purpose of computing the claim on the guaranty or insurance and for the purposes of § 36.4320, and all accountings), the indebtedness which is the subject of the guaranty or insurance shall be deemed to have been reduced as of the date of the loan by a sum equal to such excess, less any amounts secured by liens released or paid on the obligations secured by such superior liens or rights by a holder or others without expense to or obligation on the debtor resulting from such payment, or release of lien or right; and all payments made on the loan shall be applied to the indebtedness as so reduced. Nothing in this section affects any right or liability resulting from fraud or wilful misrepresentation.

11. Sections 36.4339 and 36.4340 are amended to read as follows:

§ 36.4339 *Qualification for designated fee appraisers.* To qualify for approval as a designated fee appraiser, an applicant must show to the satisfaction of the Administrator that his character, experience, and the type of work in which he has had experience for at least 5 years, qualifies him competently to appraise and value within a prescribed area the type of property to which approval relates.

§ 36.4340 *Restriction on designated fee appraisers.* (a) A designated fee appraiser shall not make an appraisal, excepting of alterations, improvements, or repairs to real property entailing a cost of not more than $1,000, if such appraiser is an officer, director, trustee, employer, or employee of the lender, contractor, or vendor: *Provided,* That appraisals of non-real estate loans may be made by an officer, director, trustee, employer, or employee of a lender of a class specified under sections 500 (d) or 508 of the act.

(b) An appraisal made by a designated fee appraiser shall be subject to review and adjustment by the Administrator. The amount determined to be proper upon any such review or adjustment shall constitute the "reasonable value" for the purpose of determining the eligibility of the related loan.

12. In § 36.4342, paragraph (c) is amended to read as follows:

§ 36.4342 *Delegation of authority.* * * *

(c) Nothing in this section shall be construed (1) to authorize any such employee to exercise the authority vested in the Administrator under section 504 or section 508 (b) of the act or to sue, or enter appearance for and on behalf of the Administrator or confess judgment against him in any court without his prior authorization; or, (2) to include the authority to exercise those powers reserved to the Administrator under §§ 36.4335, 36.4343, and 36.4344, or those delegated to the assistant administrator for finance, or director, loan guaranty service, under § 36.4343 or § 36.4344: *Provided,* That in any case where a loan which is sought to be guaranteed or insured under the provisions of § 36.4343 or § 36.4355 is made by a lender of the class described in section 500 (d) of the act without obtaining prior approval, the assistant administrator for finance, if he finds that such loan otherwise meets the requirements of the act and the regulations concerning guaranty or insurance of loans to veterans, may authorize the issuance of evidence of guaranty or insurance thereon: *And provided further,* That anything in the regulations concerning guaranty or insurance of loans to veterans to the contrary notwithstanding, any evidence of guaranty or insurance issued on or after July 1, 1948, by any of the employees designated in paragraph (b) of this section shall be deemed to have been issued by the Administrator, subject to the defenses reserved in section 511 of the act.

13. Following existing centerhead "Real Estate Loans," new §§ 36.4346, 36.4347, and 36.4348 are added to read as follows:

§ 36.4346 *Construction or improvement of farm housing.* No loan for constructing or improving a farmhouse shall be eligible for guaranty or insurance pursuant to section 502 (b) of the act unless such loan is approved by the Administrator prior to disbursement.

§ 36.4347 *Minimum construction requirements.* No loan made for the purchase or construction of residential property on which construction is begun after June 19, 1950, shall be guaranteed or insured unless the Administrator determines that the property conforms to the applicable minimum construction requirements prescribed by the Administrator for the area in which the property is situated.

§ 36.4348 *Purchase or construction loans made under section 501 (b).* Loans for the purchase or construction of residential property shall be ineligible for guaranty or insurance under section 501 (b) of the act if made in combination with a section 502 or section 503 loan or which include the purchase or construction of any business unit nor is a loan to refinance delinquent indebtedness pursuant to section 507 of the act eligible under section 501 (b) thereof.

14. Section 36.4350 is amended to read as follows:

§ 36.4350 *Estate of veteran in real property.* (a) The estate in the realty acquired by the veteran, wholly or partly with the proceeds of a guaranteed or insured loan, or owned by him and on which construction, or repairs, or alterations or improvements are to be made, shall be not less than:

(1) A fee simple estate therein, legal or equitable; or

(2) A leasehold estate running or renewable at the option of the lessee for a period of not less than 14 years from the maturity of the loan, or to any earlier date at which the fee simple title will vest in the lessee, which is assignable or transferable, if the same be subjected to the lien, or

(3) A life estate, provided that the remainder and reversionary interests are subjected to the lien. The title to such estate shall be such as is acceptable to informed buyers, title companies, and attorneys, generally, in the community in which the property is situated, except as modified by paragraph (b) of this section.

(b) Any such property or estate will not fail to comply with the requirements in paragraph (a) of this section by reason of the following:

(1) Encroachments;

(2) Easements;

(3) Servitudes;

(4) Reservations for water, timber, or subsurface rights;

(5) Right in any grantor or co-tenant in the chain of title, or a successor of either, to purchase for cash, which right by the terms thereof is exercisable only if:

(i) An owner elects to sell,

(ii) The option price is not less than the price at which the then owner is willing to sell to another, and

(iii) Exercised within 30 days after notice is mailed by registered mail to the address of optionee last known to the then owner, of the then owner's election to sell, stating his price and the identity of the proposed vendee;

(6) Building and use restrictions whether or not enforceable by a reverter clause if there has been no breach of the conditions affording a right to an exercise of the reverter;

(7) Any other covenant, condition, restriction, or limitation approved by the Administrator in the particular case. Such approval shall be a condition precedent to the guaranty or insurance of the loan;

Provided, That the limitations on the quantum or quality of the estate or property that are indicated in this paragraph, insofar as they may materially affect the value of the property for the purpose for which it is used, are taken into account in the appraisal of reasonable value required by the act; *And provided further,* That, as to home loans guaranteed or insured subsequent to February 15, 1950, the title to any such property or estate shall not be acceptable under § 36.4320 (h) if it is subject to restrictions against sale or occupancy on the ground of race, color, or creed, which have been created and filed of record subsequent to that date.

15. In § 36.4351, a new paragraph (c) is added as follows:

§ 36.4351 *Loans, first, second, or unsecured.* * * *

(c) Neither paragraph (a) nor (b) of this section shall be applicable to any loan to be guaranteed or insured pursuant to section 502 (b) of the act for the construction or improvement of a "farmhouse" unless otherwise stated incident to the prior approval required by § 36.4346.

16. Section 36.4353 is amended to read as follows:

§ 36.4353 *Dual purpose loans, residential and business property.* If otherwise eligible a loan for the purchase or construction of a combination of residential property and business property which the veteran proposes to occupy in part as a home will not be ineligible under section 501 (a) if not more than two business units are included. A loan for the purchase or construction of residential property containing more than four separate family units plus an added unit for each veteran participating in the ownership thereof, or more than two business units, must be classed as a business loan and satisfy the requirements of eligibility prescribed under section 503.

17. The centerhead "Section 505 (a) Loans," immediately preceding § 36.4354 is hereby deleted and reinserted immediately preceding § 36.4360.

18. In § 36.4355, paragraph (b) is amended to read as follows:

§ 36.4355 *Supplemental loans.* • • •

(b) Such loans shall be secured as required in §§ 36.4337 and 36.4351: *Provided,* That a lien of lesser dignity than therein specified will suffice if the lien obtained is immediately junior to the lien of the original guaranteed or insured obligation.

• • • • •

19. Section 36.4360 is amended to read as follows:

§ 36.4360 *Concurrent with primary loan.* A second loan is eligible for guaranty or insurance under section 505 (a) only if the proceeds thereof are used concurrently with and as part of the same transaction which is partially financed through the proceeds of the primary loan, or by continuing the primary loan in effect by assumption or otherwise, except that no loan shall be guaranteeable or insurable under section 505 (a) subsequent to October 20, 1950, unless the Administrator has received on or prior to October 20, 1950, a loan report thereon showing actual payment of the full proceeds of the loan or has received on or prior to September 20, 1950, an application or loan report showing earmarked or escrowed funds, on which the Administrator has issued a certificate of commitment.

(Sec. 504, 58 Stat. 293, as amended; 38 U. S. C. 694d)

This regulation becomes effective July 12, 1950.

[SEAL] O. W. CLARK,
Deputy Administrator.

[F. R. Doc. 50-5996; Filed, July 11, 1950; 8:46 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Production and Marketing Administration

[7 CFR, Part 919]

[Docket No. AO-220]

HANDLING OF IRISH POTATOES GROWN IN UPSTATE NEW YORK

NOTICE OF RECOMMENDED DECISION AND OPPORTUNITY TO FILE WRITTEN EXCEPTIONS WITH RESPECT TO A 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 State of New York (except the counties of Suffolk, Nassau, Queens, Kings, New York, Bronx and Richmond), to be effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, 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 Rochester, New York, on May 15-17, 1950, pursuant to notice thereof which was published in the FEDERAL REGISTER (15 F. R. 2364). Such notice set forth a proposed marketing agreement and order which was submitted to the Secretary of Agriculture by the Upstate New York Potato Committee (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 requirement that all potato containers must be branded;

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

(g) 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 the State of New York (except the counties of Suffolk, Nassau, Queens, Kings, New York, Bronx and Richmond), 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 or seed potatoes within the production area, or the State of New York, 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 New York 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.

Such movements 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 New York and then be diverted en route to markets outside of the State. Conversely, such potatoes, destined originally for markets outside of the State, may be diverted en route 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 New York and to markets outside of the State of New York 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 (hereinafter called "in commerce"), and (ii) it is impractical to regulate effectively the transportation and sale of such potatoes without regulating all transportation and sale thereof, except to the extent hereinafter indicated.

(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.

Seasonal average farm prices for potatoes grown in Upstate New York have been below the applicable parity levels for 11 seasons and above such levels for 6 seasons since 1932, of which four (1942–45, inclusive) seasons were during war years. Such prices were below parity during the 1946–48 season, inclusive. The estimated 1949 seasonal average farm price for potatoes grown in Upstate New York is $1.20 per bushel, which is only 70 percent of the applicable parity price for such potatoes as of May 1950.

During the 1946–48 seasons an average of 16 percent of the potatoes produced in Upstate New York was purchased by the Government in supporting prices at 90 percent of parity. Potato prices in 1949 were supported at 60 percent of parity and 24 percent of the Upstate New York 1949 potato crop has been purchased under the support program as of May 10, 1950.

Since the estimated seasonal average farm prices for the 1949 crop of potatoes in Upstate New York is 30 percent below parity, and since the indicated potato acreage for 1950 in Upstate New York is only slightly below that of 1949, it is anticipated that seasonal average farm prices received by growers in the production area for potatoes produced in 1950 will not exceed 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 market tends to equalize market supply and the demand therefor, and tends to increase the growers' 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 potatoes of poor quality do not, under any circumstances, represent value to the consumers thereof, 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 (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 the term "handler" so that persons to be regulated 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 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 community 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 or contract carriers should be borne solely by the person or persons responsible for delivering such commodity to such carriers.

Other 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 any of such functions is necessary under the marketing agreement and order to effectuate the declared policy of the act. Therefore, the term "handler" or "shipper" should be defined to mean any person (except a common or contract carrier of potatoes owned by another person) who ships potatoes.

(b) Processing activities (such as storing, packing, washing and grading) with respect to Irish potatoes are handling functions in commerce. However, it would be impracticable, if not impossible, to require persons engaged in such activities to meet grade, quality, and size requirements, under regulations issued pursuant to the marketing agreement and order, prior thereto except as hereinafter indicated. Therefore, such handling activities should be exempt from regulation under the marketing agreement and order. Such exemption should be limited to storing, washing, packing, grading, and other preparatory handling functions accomplished in the production area because such activities are customarily accomplished therein. 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 handling transactions which should be subject to regulation under the marketing agreement and order because such sales are generally made on the basis of grades, qualities, and sizes or any combination thereof; and because such sales introduce or continue such potatoes in commerce. Therefore, if such sellers fail to meet the requirements of regulations issued under the marketing agreement and order they should be responsible, except as hereinafter indicated, for such introduction or continuation of the potatoes in commerce. 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 field run or grade-out basis, such sale by the producer does not constitute a handling transaction 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 prior to their introduction in commerce, the potatoes will be prepared as aforesaid for market. It is necessary to restrict the scope of this producer-packer sale to packers operating processing facilities in the production area because such restriction conforms to customary practice therein.

However, if a producer of Irish potatoes, grown in the production area, sells such 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. It may be assumed under such circumstances, that the producer intended 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 may 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 should be considered in the same category as potatoes sold in commerce because the former activities are merely different methods of selling potatoes. Such potatoes should also meet the minimum grade, quality, and size requirements in effect under the marketing agreement and order at the time they are so introduced into commerce to effectuate the declared policy of the act. The consignor or individual otherwise placing such potatoes in commerce should, therefore, be subject to regulation.

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 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 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 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 for storing, or the sale or transportation of potatoes 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 grown commercially in every county in the production area. Present production, however, tends to concentrate in particular parts of the production area where soil, climate, alternative land uses, and other factors are favorable to producing a potato crop. Upstate New York potato production is more concentrated in the western portion of the State, but is generally spread throughout the production area in varying degrees of concentration.

The development of new potato acreage depends, as previously indicated, upon the proper combination of soil, water resources, climate, and alternative land uses, which are difficult to forecast specifically. It is known, however, that basic soil structures, and climate in all counties within the production area are such that, under favorable circumstances, considerable increases in potato production could be developed in many parts of the production area which do not now produce potatoes in appreciable volume. Although commercial production tends to be concentrated in some counties of the production area, it would be impractical to exclude the counties of lesser commercial importance from the production area. The exclusion of any county, or portion thereof, from the area would create enforcement problems of such magnitude as to jeopardize the successful operation of the marketing agreement and order.

Production, harvesting, and marketing conditions and methods are essentially the same throughout the production area. Such differences in these factors as do exist are not of such magnitude to 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 throughout the production area and potatoes from each part thereof compete in markets both within and outside the area during each season. 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, 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 business-like 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 inactivty 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. Marketing of the potato crop grown in the production area begins about August 1 of each year and is completed prior to July 1 of the following year. July 1 of each year is, therefore, an appropriate date 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," "table stock potatoes," and "pack" 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 New York. 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. "Pack" is defined because the order authorizes regulations, under certain circumstances, differently for different types of packs. The notice of hearing defined consumer packs as those containers weighing less than 50 pounds and wholesale packs as those weighing 50 or more pounds. The most commonly used packages in the production area are 10, 15, 50 and 100 pound bags. Ordinarily 10 and 15 pound packages are considered consumer packs, but during the fall months many 50 pound sacks are consumer packages, however, during most of the remainder of the season these packages are normally handled as wholesale packages. A differentiation

between wholesale and consumer packs will provide a basis for establishing different regulations for each. Therefore, the committee is authorized to recommend and the Secretary to establish differentiation among packs which will provide a means of meeting various marketing situations in a practical way, to vary the weight limitation of consumer and wholesale packages, and to recommend different regulations for different packs.

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 may be issued, should be defined as comprehending the equivalents of the meanings assigned to these terms in (i) the official standards for potatoes issued by the United States Department of Agriculture, (ii) the State of New York Standards issued by the Commissioner of Agriculture of such State, or (iii) modification or amendment 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 such modification or amendment of such terms as may be effected through amendment of such standards, or such 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 modification, amendment, 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" is incorporated in the marketing agreement and order to delineate the geographical divisions of the production area for the purpose of electing nominees for membership on the committee. The production and marketing problems within each of the established districts are similar and election of 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.

"Branding" is defined in the marketing agreement and order because regulations could require branding of all containers of potatoes during any period when grade, size, and quality regulations are in effect. Many containers of potatoes currently marketed in commerce fail to meet the requirements of the grade and size specified on the container thereby tending to lower prices and consumer acceptance of all potatoes grown in the production area. Such misbranding is an unfair method of competition and an unfair trade practice in the handling of potatoes grown in the production area. Therefore, each handler who first handles potatoes should be required to brand such potatoes prior to such handling by indicating the grade, size, quality and net contents thereof and his name and address. No handler should be permitted to handle potatoes unless the containers thereof are branded. The net contents of a container may at times be determinative of the type of pack and particular regulation applicable thereto. The branding requirement is also necessary as a means of maximizing compliance under the program. Since small grower handlers cannot afford to purchase branded sacks, it is necessary and desirable to permit attaching tags to the container to comply with the branding provisions.

(a) The marketing agreement and order should provide for the selection by the Secretary of an administrative committee, called the Upstate New York Potato Committee, composed of six producer and three handler members. 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 members if the alternates are to represent the same industry interests as such members. A committee of nine 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 therefrom, will be of such sufficient size to give adequate representation to all producers and handlers in the production area.

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

A nomination procedure is provided 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 and handlers at meetings in the respective districts 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 Upstate New York 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 sixty days prior to the end of each fiscal year. By holding, or causing to be held, nomination meetings sixty days prior to the end of each fiscal year, 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.

Identical limitations and requirements should be applied to handler participation in nominating handler committee members and alternates, for reasons similar to the application of such limitations and requirements 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. 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 provide 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 three years. A three-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 three years gives producers and handlers adequate opportunity to vote for a change in their representation, while providing for efficient operation of the committee.

Provision is made in the marketing agreement and order for staggered terms of office of committee members and alternates. Under this provision, two-thirds 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-third 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 term of office of three members and alternates of the initial committee shall be one year, the term of office of three members and alternates shall be two years and the term of office for the three remaining members and alternates shall be three years. 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 six members (including one handler member), and six concurring votes (including the vote of at least one handler member) should be necessary for passing any motion or approving any action of the committee. These requirements are reasonable and are necessary to insure that any action of the committee will be representative of a majority of the committee and that the interests of both producers and handlers will be reflected in committee actions.

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 in the manner set forth in the marketing agreement and order will provide fair and equitable representation of all producers 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. Therefore, selection of the members and alternates should be as follows: Three committee producer members and alternates from District No. 1; one producer member and alternate from District No. 2; and two producer members and alternates from District No. 3.

The handler representatives are to be selected from the production area at large except that not more than two of the members may be from District No. 1. This is necessary to preclude the selection af all handler members from this district and to establish assurance of a fair and equitable representation on the committee for all handlers in the production area.

Committee members and alternates should be compensated at a rate not to exceed $10.00 per day, or portion thereof, and 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. Compensation at not to exceed the rate prescribed herein will offset, to some extent, the losses which such members and alternates will sustain through committee service.

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. The initial marketing policy in each fiscal year should be prepared and submitted to the Secretary at the beginning of the fiscal year, to give all interested parties the maximum notice of regulatory possibilities, consistent with affording the committee sufficient time to prepare sound policies. 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 evaluate 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 other than seed 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 such 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 to improve and maintain consumer acceptance for potatoes grown in the production area. Since the weight limitation on a consumer pack varies during the season and may vary from one year to the next, the committee should be authorized to recommend the specifications of weight limits for consumer packs and wholesale packs and different regulations for such 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.

The nature of the demand for seed potatoes differs from the demand for table stock in that small sizes are preferred 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 therefore, 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, while relatively small, are an important factor in the demand for potatoes grown in the production area. 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 because such shipments, such as glucose, alcohol, etc., 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.

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 wih 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 necessary 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, for the inspection requirement to be waived on small shipments but that handlers be required to 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 such situations in a practical way. Such authority will promote more orderly marketing and prevent the imposition of undue burdens upon handlers making such small shipments.

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 commmittee to recommend, and the Secretary to prescribe, adequate safeguards to prevent potatoes, including seed potatoes, which may be exempted as aforesaid, from regulation, from being placed, or continuing, in commerce contrary to the provisions of this program. Such safeguards, among others, may require 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, 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 undue amount of 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-State 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-State Inspection Service can provide reasonably prompt inspection at all points for most potato shipments at a reasonable fee, if inspection is requested at a reasonable time prior to the anticipated shipment. 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. 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.

A sizable portion of the potato crop grown in the production area is graded and marketed by the producer in relatively small lot shipments made at infrequent intervals. Some of these small lot shipments may contain other vegetables in so-called mixed load shipments. Most of these small growers own their own grading equipment either power or hand operated. Nearly all of these growers run their potatoes over the grader before shipment. Some of these small lot shipments are made at regular intervals to supply regular customers while others depend upon the shipper's evaluation of market requirements on the day of shipment. The handler of such small lot shipments is almost always the producer of the potatoes involved. Where the quantity of potatoes involved in such small lot shipments is relatively small, modification, suspension, or termination of the Federal-State inspection requirements with respect thereto should be effected, in appropriate circumstances, on the basis of and for the reasons hereinbefore indicated for so-called minimum quantity or "small shipments."

When the quantity of potatoes contained in a shipment exceeds the aforesaid minimum quantity, the handler of such shipment in nearly all instances can obtain reasonably prompt inspection at a reasonable fee. However, in some instances and under some circumstances, it would require a large inspection force to promptly inspect all loads, thereby greatly increasing the costs to cover a relatively small portion of the shipments. In some instances these conditions could be caused by unusual weather such as snowstorms or blizzards. Immediately after these storms, shipments are above normal at a time when it is difficult for the inspector to travel to outlying points and make all inspections promptly upon request. Also in some instances while one inspector can inspect nearly all of the shipments in a given locality, but two inspectors would be required to cover all of the shipments and thereby materially increase the cost of the service. Therefore, it is imperative to provide procedures whereby a waiver of inspection under the aforesaid conditions can be provided.

If a handler-applicant for inspection requests such service at a reasonable time prior to shipment, the inspection service should either perform the inspection within a reasonable time or notify the applicant and the committee that inspection could not be performed within this time limit. The time limits both on application and performance should not be specified in the agreement and order, as it is not possible in all instances and under all conditions to determine the most appropriate time limits. It may be necessary and desirable to specify different time limits for different portions of the marketing season such as early and late potatoes and from season to season. Therefore, the authority in the agreement and order should be sufficiently flexible to permit the committee to recommend reasonable and practical procedures for handling the inspection waivers. Also, provisions are made to specify adequate safeguards to prevent abuse of this privilege. The committee should be authorized to refuse the issuance of additional waivers when such action is necessary to prevent abuse of the waivers conferred thereby. Action by the committee in denying an inspection waiver should be in terms of a specified time period. Handlers affected by such aforesaid action should have the right of appeal to the committee for reconsideration.

There is substantial evidence in the hearing record that such waiver procedures are necessary and incidental to operation of the agreement for the granting of such waivers will provide methods for eliminating overburdening nuisances in connection with inspection on small lots. The elimination of such nuisances will benefit growers, the committee, and the Secretary in the operation of the agreement and order and promote orderly marketing to a greater extent than would the compulsory inspection of the small lots that may be relieved of this burden. In addition, recommendations with respect to the extent to which such lots will be relieved will be subject to the continuing test of practical operation, so that discretion regarding the extent to which such methods should be used will remain in the hands of the committee and of the Secretary.

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) Many of the shipments originating within the production area are not inspected but most of the containers are branded or tagged showing the grade, size, or quality designation along with the name and address of the handler. A large percentage of these potatoes fail to meet the grade and size designation on the container. These potatoes, below the specified grade and size are either sold at a discount or the handler in many instances is required to make an adjustment in the selling price. This practice of misbranding has become so widespread that it has tended to lower the price of all potatoes produced in the production area. Also, the consumer acceptance of potatoes produced in this area has been adversely affected by such unfair methods of competition.

There has been a sharp upward trend in the use of consumer size packages, mostly 10 and 15 pound closed paper sacks. Nearly all of these packages are branded U. S. No. 1 or better. Since the consumer cannot see or have a choice of selection, these off grade potatoes result in both a decline in price and sales volume. Evidence in the record shows that generally the potatoes produced in the area sell at an appreciable discount from those potatoes shipped in from other areas particularly from the State of Maine. The elimination of these unfair trade practices will tend to effectuate the declared policy of the act.

Therefore, the agreement and order should contain a provision whereby the committee could recommend and the Secretary require that all containers should be branded or tagged showing the correct grade, size, quality, net contents and name and address of the first handler during periods when grade and size regulations are in effect.

(f) 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.

Similar hazards are prevalent in the handling of potatoes grown in the production area and equitable treatment of each handler, under the marketing agreement and order, requires that he be permitted to handle as large a proportion of his storage holdings of ungraded potatoes (acquired during or immediately following the digging season) as the average proportion of ungraded storage holdings handled by all handlers in an applicant-handler's immediate shipping area, if the grade, size, or quality of such applicant's potatoes have been adversely affected by conditions beyond the applicant's control and by conditions beyond reasonable expectation. Restricting the aforesaid exemptions to cases involving conditions beyond the producer's and handler's control, respectively, and to conditions beyond reasonable expectation, is necessary to preclude the granting of such hardship exemptions where the producers and handlers could have avoided the condition responsible for their hardships.

The committee, by reason of its knowledge of the conditions and problems 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 and handler'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 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.

(g) 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 should pay assesments to the committee, at its request, 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 first handling of potatoes subject to regulation by all first handlers. The Secretary, upon the basis of the committee's recomendation, 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 adminfstering the program.

The Secretary shall be authorized to increase the rate of assessment which first handlers should pay if he finds, during or after the fiscal year, that the then applicable rate of assessment is insufficient to cover expenses. Such increased rate should apply to all assessable potatoes handled during that fiscal year 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.

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, and every handler should be required to maintain records of such facts and furnish to the committee upon request, with the approval of the Secretary, such information therefrom as may be required for the committee to exercise its powers and perform its duties under the marketing agreement and order. The committee should be authorized to audit such records to verify reports submitted as aforesaid. 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 §§ 919.8 through 919.20, as published in the FEDERAL REGISTER of April 26, 1950 (15 F. R. 2364), 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. With respect to the announcement prior to May 31 that the program will be terminated at the end of the fiscal year, growers and handlers will be afforded sufficient time to plan accordingly for the next marketing season.

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 June 15, 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

§ 919.1 *Secretary.* "Secretary" means the Secretary of Agriculture of the United States, or any other 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.

§ 919.2 *Act.* "Act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.; 61 Stat. 202, 707; 62 Stat. 1247; 63 Stat. 1051).

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

§ 919.4 *Production area.* "Production area" means all territory included within the boundaries of the State of New York (except the counties of Suffolk, Nassau, Queens, Kings, New York, Bronx, and Richmond).

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

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

§ 919.7 *Ship; handle.* "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 such definition shall not include or be applicable to the sale or transportation of ungraded potatoes within the production area for storing, or the sale or transportation of potatoes to a recognized dealer or packer within the production area for the purpose of having such potatoes prepared for market.

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

§ 919.9 *Fiscal year.* "Fiscal year" means the period beginning July 1 of each year and ending June 30 following.

§ 919.10 *Committee.* "Committee" means the administrative committee called the Upstate New York Potato Committee established pursuant to § 919.23.

§ 919.11 *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.

§ 919.12 *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 New York.

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

§ 919.14 *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.

§ 919.15 *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; or

(c) State of New York Standards for Potatoes issued by the Commissioner of Agriculture of the State of New York, or amendments thereto, or modifications thereof, or variations based thereon.

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

§ 919.17 *District.* "District" means each one of the geographical divisions of the production area established pursuant to § 919.25.

§ 919.18 *Brand.* "Brand" means to mark, tag, or label the grade, size, quality, net contents, in terms of weight, measure, or numerical count, and the name and address of the first handler on each container of potatoes.

§ 919.19 *Part and subpart.* "Part" means the order regulating the handling of Irish Potatoes grown in the State of New York (except the counties of Suffolk, Nassau, Queens, Kings, New York, Bronx, and Richmond), and all rules, regulations, and supplementary orders issued thereunder, and the aforesaid order shall be a "subpart of such part."

ADMINISTRATIVE COMMITTEE

§ 919.23 *Establishment and membership.* (a) The Upstate New York Potato Committee consisting of 9 members of whom 6 shall be producers and 3 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) (1) Each person selected as a committee member or alternate to represent producers shall be an individual who is a producer or an officer or employee of a producer in the district for which selected.

(2) Each person selected as a committee member or alternate to represent handlers shall be an individual who is a handler or an officer or employee of a handler in the production area.

§ 919.24 *Term of office.* (a) The term of office of committee members and their alternates shall be three fiscal years: *Provided*, That the terms of office of 3 of the initial members and their respective alternates shall be one year, and of 3 other members and alternates shall be two years. Each member and alternate shall continue to serve until the respective successor is selected and has qualified.

(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.

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

District No. 1. Shall include the counties of Wayne, Seneca, Schuyler, Chemung, and all the counties west thereof;

District No. 2. Shall include the counties of St. Lawrence, Franklin, Clinton, Essex, Warren, and Washington;

District No. 3. Shall include all the remaining counties in the production area not included in Districts Nos. 1 and 2.

(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 location of production areas

as it would affect the efficiency of administering this subpart; and (4) other relevant factors: *Provided further*, That there shall be no change in the total number of committee members or in the total number of districts.

§ 919.26 *Nomination.* The Secretary may select the members of the Upstate New York Potato Committee and their respective alternates from nominations which may be made in the following manner:

(a) Nominations for initial members of the committee and their respective 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 Upstate New York Potato Committee shall hold or cause to be held 60 days prior to the end of each fiscal year, after the effective date of this subpart, a meeting or meetings of producers and of handlers respectively in each of the districts designated in § 919.25 in which the terms of office of committee members, and their respective alternates, will terminate 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 their alternates and only handlers may participate in designating nominees for handler committee members and their 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 in the respective district in which he elects to vote.

§ 919.27 *Selection.* The Secretary shall select three producer members of the committee with their respective alternates from District No. 1; one producer member of the committee with his respective alternate from District No. 2; and two producer members with their respective alternates from District No. 3, as such districts are defined in § 919.25. The Secretary shall select three handler members of the committee with their respective alternates from the production area at large: *Provided*, That not more than two of such handler members will be from District No. 1. Each person selected as a handler member or alternate shall not produce more than 50 percent of the potatoes handled by himself.

§ 919.28 *Failure to nominate.* If nominations are not made within the time and in the manner specified by the Secretary pursuant to § 919.26, the Secretary may, without regard to nominations, select the committee members and alternates which selection shall be on the basis of the representation provided for in § 919.27.

§ 919.29 *Acceptance.* Any person selected as a committee member or as an alternate shall qualify by filing a written acceptance with the Secretary within 10 days after being notified of such selection.

§ 919.30 *Vacancies.* To fill any vacancy occasioned by the failure of any person selected as a committee member or as an 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 § 919.26, or the Secretary may select such committee member or alternate from previously unselected nominees on the current nominee list from the district involved. 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 § 919.27.

§ 919.31 *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 of such member is selected and has qualified.

§ 919.32 *Procedure.* (a) Six members of the committee shall be necessary to constitute a quorum and six concurring votes, including the vote of at least one handler member, will 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 if any assembled meeting is held, all votes shall be cast in person.

§ 919.33 *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 hereunder, and shall receive compensation at a rate to be determined by the committee, which rate shall not exceed $10.00 for each day, or portion thereof, spent in attending to committee business.

§ 919.34 *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 violations of the provisions of this part; and

(d) To recommend to the Secretary amendments to this part.

§ 919.35 *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 make available to producers and handlers the committee voting record on recommended regulations and on other matters of policy;

(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 activties and objectives under this part.

EXPENSES, ASSESSMENTS, AND BUDGETS

§ 919.41 *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 also transmit to the Secretary a report accompanying the budget showing the basis for its calculation of expenses and the proposed rate of assessment.

§ 919.42 *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.

§ 919.43 *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 handlers thereof, during the same fiscal year.

§ 919.44 *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.

§ 919.45 *Refunds.* 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.

§ 919.46 *Accounting.* 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.

(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.

§ 919.47 *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

§ 919.51 *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. In such investigations the committee shall give appropriate consideration to the following:

(a) Market prices of potatoes, including prices by grade, size, and quality in wholesale or in consumer packs, or any other shipping unit;

(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.

§ 919.52 *Marketing policy report.* (a) The committee shall submit to the Secretary a report setting forth the aforesaid marketing policy. The committee shall also notify producers and handlers of the contents of such reports.

(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 accordance with the manner previously outlined in § 919.51. The committee shall also submit a report thereon to the Secretary and notify producers and handlers of such revised or amended marketing policy.

§ 919.53 *Recommendation for regulation; committee recommendations.* The committee shall recommend regulation to the Secretary whenever it finds that such regulation, as provided in § 919.54, will tend to effectuate the declared policy of the act. The committee may also recommend modification, suspension, or termination of any regulation in order to facilitate shipments of potatoes for the specified purposes set forth in § 919.55.

§ 919.54 *Issuance of regulations.* (a) 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:

(1) 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;

(2) 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

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

(b) During any period when grade, size, or quality regulations are in effect the Secretary may require that potato containers shall be branded whenever such requirements will tend to effectuate the declared policy of the act.

(c) During any period when branding is required pursuant to this subpart, each handler who first handles potatoes shall, prior to such handling, brand, or cause to be branded, each container of such potatoes; and no person shall handle any potatoes during such period unless the respective container thereof is branded.

§ 919.55 *Modification, suspension, or termination.* The Secretary, whenever he finds, upon the basis of the recommendations and information submitted by the committee, or from other available information, that it will tend to effectuate the declared policy of the act, shall modify, suspend, or terminate regulations issued pursuant to §§ 919.43, 919.44, 919.54, 919.66, 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 livestock feed;

(f) For other purposes which may be specified.

§ 919.56 *Minimum quantity regulation.* The committee, with the approval of the Secretary, may establish, 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 §§ 919.43, 919.44, 919.54, 919.66, or any combination thereof.

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

§ 919.58 *Safeguards.* (a) The committee, with the approval of the Secretary, may prescribe, (1) adequate safeguards to prevent shipments pursuant to §§ 919.55 and 919.56 from entering channels of trade for other than the specific purpose authorized therefor, (2)

adequate safeguards to assure that shipments made without inspection pursuant to §919.66 meet effective grade, size or quality regulations, and (3) rules governing the issuance and the contents of Certificates of Privilege if such certificates are prescribed as safeguards by the committee.

(b) Safeguards, as prescribed herein, may include requirements that:

(1) Handlers shall file applications with the committee to ship potatoes pursuant to §§ 919.55 and 919.56;

(2) Handlers shall obtain inspection provided by § 919.66 or pay the pro rata share of expenses provided by § 919.43, or both, in connection with potato shipments effected under the provisions of §§ 919.55 and 919.56: *Provided*, That such inspection or payment of expenses 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 §§ 919.55 and 919.56 and shipments made without inspection pursuant to § 919.66.

(c) The committee may rescind or deny Certificates of Privilege to any shipper if proof is obtained that potatoes shipped by him for the purposes stated in §§ 919.55, 919.56, and 919.66 were handled contrary to the requirements applicable thereto.

(d) 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.

(e) 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

§ 919.66 *Inspection and certification.* During any period in which shipments of potatoes are regulated, pursuant to the provisions of §§ 919.43, 919.44, or 919.54, or any combination thereof, no handler shall ship potatoes unless, prior thereto, such shipment was inspected by an authorized representative of the Federal-State 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: *Provided further*, That the committee may adopt, subject to the approval of the Secretary, procedures permitting the shipment of potatoes without the required prior inspection thereon; such procedures shall include a requirement that each handler-applicant for a waiver show that he requested shipping point inspection and that the appropriate inspection agency stated that it could not supply reasonably prompt service in connection with such request; and such procedures may require that each applicant agrees, as a condition for the issuance of a waiver, to one or more of the following:

(a) That the potatoes to be shipped under such waiver will be inspected and certified at destination if an inspector is available for such purpose;

(b) That, where inspection indicates that potatoes shipped under a waiver fail to meet minimum grade, size, and quality requirements in effect at the time of such inspection, the potatoes will be removed from all normal domestic commercial channels, except for disposition pursuant to § 919.55; and

(c) That additional waivers will not be granted to an applicant, for the remainder of the fiscal year, if the potatoes shipped under a waiver and failing to meet minimum grade, size, and quality requirements, are not removed from all normal domestic market channels, except for disposition pursuant to § 919.55.

EXEMPTIONS

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

§ 919.72 *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 § 919.54, 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 (or such portion thereof as may be determined by the committee) 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 may issue certificates of exemption to any handler who applies for such exemption and furnishes adequate evidence to the committee that, by reason of a regulation issued pursuant to § 919.54, he will be prevented from handling as large a proportion of his storage holdings of ungraded potatoes, acquired during or immediately following the digging season, as the average proportion of ungraded storage holdings handled by all handlers in said applicant's immediate shipping area, 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 certificate shall permit the handler to handle the amount of potatoes specified thereon. Such certificate shall be transferred with such potatoes at time of transportation or sale.

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

§ 919.73 *Appeal.* If any 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.

§ 919.74 *Records, 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 §§ 919.71, 919.72, 919.73, or any combination thereof.

MISCELLANEOUS PROVISIONS

§ 919.81 *Reports.* Upon the request of the committee, with 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. Handlers shall maintain records from which such reported information can be verified by the committee. The secretary shall have the right to modify, change, or rescind any requests for reports pursuant to this section.

§ 919.82 *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.

§ 919.83 *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.

§ 919.84 *Effective time.* The provisions of this subpart shall become effective at such time as the Secretary may declare above his signature attached to this subpart, and shall continue in force until terminated in one of the ways specified in this subpart.

§ 919.85 *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 May 31 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 May 31 of the then current fiscal year.[1]

§ 919.86 *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 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.

§ 919.87 *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) affect 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.

§ 919.88 *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.

§ 919.89 *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.

§ 919.90 *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.

§ 919.91 *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.

§ 919.92 *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.

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

§ 919.94 *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]

§ 919.95 *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]

§ 919.96 *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 7th day of July 1950.

[SEAL] JOHN I. THOMPSON,
Assistant Administrator.

[F. R. Doc. 50-6013; Filed, July 11, 1950; 8:50 a. m.]

[1] Applicable only to the proposed marketing agreement.

SECURITIES AND EXCHANGE COMMISSION

[17 CFR, Part 269]

APPLICATIONS FOR QUALIFICATION OF INDENTURES

NOTICE OF PROPOSED RULE MAKING

Notice is hereby given that the Securities and Exchange Commission has under consideration a proposal for the amendment of Form T-3 (§ 269.3) under the Trust Indenture Act of 1939. The proposed amendment would add a requirement that there be filed as an exhibit to applications for qualification of indentures on this form a copy of each prospectus, notice, circular, letter, or other written communication which is to be distributed to security holders generally in connection with the issuance or distribution of the identure securities.

The proposed amendment would be in the form of an additional paragraph in the Instructions as to Exhibits in Form T-3 reading as follows:

Exhibit T3E. A copy of every prospectus, notice, circular, letter, or other written communication which is to be sent or given to security holders in connection with the issuance or distribution of the indenture securities. Copies of replies to inquiries from security holders, however, need not be filed.

All interested persons are invited to submit data, views and comments on the above-mentioned proposal in writing to the Securities and Exchange Commission at its principal office, 425 Second Street NW., Washington 25, D. C., on or before July 20, 1950.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

JULY 6, 1950.

[F. R. Doc. 50-5987; Filed, July 11, 1950; 8:45 a.m.]

[17 CFR, Part 270]

APPLICATIONS REGARDING BONUS, PROFIT-SHARING AND PENSION PLANS AND ARRANGEMENTS

NOTICE OF PROPOSED RULE MAKING

Notice is hereby given that the Securities and Exchange Commission has under consideration a proposal for the amendment of § 270.17d–1 (Rule N-17D–1) under the Investment Company Act of 1940. The proposed amendment would make it unnecessary for any registered investment company to file applications with respect to certain Christmas or other annual bonus plans where the payment of the bonus is wholly discretionary with the company and the amount of the bonuses paid thereunder is within specified limits. Similarly, no application would need to be filed with respect to the plan of any controlled company which is not an investment company provided no director, officer or other affiliated person of any investment company is eligible to participate therein. Under the existing rule applications are required with respect to all such plans.

In addition the proposed amendment would include a definition of the term "plan" as used in the rule so as to make it clear that the term is not limited to formal, written plans but includes the payment of any bonus, share in profits or pension benefit.

The section as amended would read as follows:

§ 270.17d–1 *Applications regarding bonus, profit-sharing and pension plans.* (a) No affiliated person of any registered investment company, or of any company controlled by any such registered company, shall participate in, or effect any transaction in connection with, any bonus, profit-sharing or pension plan in which any such registered or controlled company is a participant unless an application regarding such plan has been filed with the Commission and has been granted by an order entered prior to the submission of such plan to security holders for approval, or prior to the adoption thereof if not so submitted.

(b) In passing upon such applications, the Commission will consider:

(1) Whether participation in the plan by any such registered or controlled company is on a basis substantially different from or less advantageous than that of other participants therein;

(2) Whether the provisions of the plan are consistent with the policy and purposes set forth in section 1 (b) of the act; and

(3) Whether the provisions of the plan are in contravention of section 18 or 23 (a) of the act or any other provisions of the act.

(c) Notwithstanding the foregoing, no application need be filed pursuant to this section with respect to any of the following Christmas or other annual, year-end bonus plans;

(1) Any such plan provided by any investment company for its officers or employees if (i) the payment of such bonuses and the determination of the amount thereof to be paid to each person is wholly discretionary with the company, (ii) the amount paid to any individual will not in any one year exceed 5 percent of the remuneration of such individual exclusive of such bonus, and (iii) if the total amount paid pursuant to the plan does not in any one year exceed 5 percent of the net income of such company for its latest fiscal year;

(2) Any such plan provided by any controlled company, which is not an investment company, for its officers or employees, provided no affiliated person of any investment company is eligible to participate therein.

(d) The term "plan" as used in this section means any written or oral plan, contract, authorization, or arrangement, or any practice or understanding, pursuant to which any payment is made, whether such payment is obligatory upon or discretionary with the company making it.

All interested persons may submit data, views and comments, in writing, to the Securities and Exchange Commission at its principal office, 425 Second Street NW., Washington 25, D. C., on or before July 20, 1950.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

JULY 6, 1950.

[F. R. Doc. 50-5988; Filed, July 11, 1950; 8:45 a. m.]

[17 CFR, Part 270]

BONDING OF OFFICERS AND EMPLOYEES OF REGISTERED MANAGEMENT INVESTMENT COMPANIES

NOTICE OF PROPOSED RULE MAKING

Notice is hereby given that the Securities and Exchange Commission has under consideration a proposal for the amendment of § 270.17g–1 (Rule N-17G–1) under the Investment Company Act of 1940. The proposed amendment would define the terms "officer" and "employee", for the purposes of this rule, to include the depositor or investment adviser and its officers and employees in cases where the investment company is an unincorporated company managed by a depositor or investment adviser. Rule N-17G–1 requires the bonding of officers and employees of registered management investment companies who have access to the securities or funds of such companies.

The proposed amendment would consist of a new paragraph reading as follows:

§ 270.17g–1 *Bonding of officers and employees of registered management investment companies.* * * *

(d) Where the investment company is an unincorporated company managed by a depositor or investment adviser, the terms "officer" and "employee" shall include, for the purposes of this section, the depositor or investment adviser and its officers and employees.

All interested persons are invited to submit data, views and comments on the above-mentioned proposal, in writing, to the Securities and Exchange Commission, at its principal office, 425 Second Street NW., Washington 25, D. C., on or before July 20, 1950.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

JULY 6, 1950.

[F. R. Doc. 50-5986; Filed, July 11, 1950; 8:45 a. m.]

NOTICES

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 9716]

CORNING LEADER, INC. (WCLI)

ORDER DESIGNATING APPLICATION FOR HEARING ON STATED ISSUES

In re application of Corning Leader, Inc. (WCLI), Corning, New York, for modification of construction permit, Docket No. 9716, File No. BMP–5168.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 27th day of June 1950;

The Commission having under consideration the above-entitled application for modification of construction permit to change facilities from 1540 kc. to 1450 kc., and change hours of operation from daytime only to unlimited time at Station WCLI, Corning, New York;

It appearing, that the applicant is legally, technically, financially and otherwise qualified to operate Station WCLI as proposed, but that the application may involve interference with one or more existing stations and otherwise not comply with the Standards of Good Engineering Practice;

It is ordered, That, pursuant to section 309 (a) of the Communications Act of 1934, as amended, the said application is designated for hearing commencing at 10:00 a. m. on November 29, 1950, at Washington, D. C., upon the following issues:

1. To determine the areas and populations which may be expected to gain or lose primary service from the operation of the proposed station, and the character of other broadcast service available to such areas and populations.

2. To determine whether the operation of the proposed station would involve objectionable interference with Station WHDL, Allegany, New York, or with any other existing broadcast stations, and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other broadcast service to such areas and populations.

3. To determine whether the installation and operation of the proposed station would be in compliance with the Commission's rules and Standards of Good Engineering Practice Concerning Standard Broadcast Stations.

It is further ordered, That WHDL, Inc., licensee of Station WHDL, Allegany, New York, is made a party to this proceeding.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 50-6003; Filed, July 11, 1950; 8:47 a. m.]

[Docket No. 9717]

BELOIT BROADCASTING CO. (WGEZ)

ORDER DESIGNATING APPLICATION FOR HEARING ON STATED ISSUES

In re application of Sidney H. Bliss d/b as Beloit Broadcasting Company (WGEZ), Beloit, Wisconsin, for modification of license; Docket No. 9717, File No. BML-1423.

At a session of the Federal Communications Commission, held at its offices in Washington, D. C., on the 27th day of June 1950;

The Commission having under consideration the above-entitled application requesting a modification of license of Station WGEZ, Beloit, Wisconsin (1490 kc., 100 w., U) to increase power from 100 watts to 250 watts;

It appearing, that, except as specified in issue number 4, the applicant is legally, technically, financially, and otherwise qualified to operate Station WGEZ, as proposed, but that the application may involve interference with one or more existing stations and otherwise not comply with the Standards of Good Engineering Practice;

It is ordered, That, pursuant to section 309 (a) of the Communications Act of 1934, as amended, the said application is designated for hearing at Washington, D. C., at 10:00 a. m. on the 30th day of November 1950 upon the following issues:

1. To determine the areas and populations which may be expected to gain or lose primary service from the operation of Station WGEZ as proposed and the character of other broadcast service available to those areas and populations.

2. To determine whether the operation of Station WGEZ, as proposed, would involve objectionable interference with stations WEBS, Oak Park, Illinois; WKBB, Dubuque, Iowa, or with any other existing broadcast stations and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other broadcast service to such areas and populations.

3. To determine whether the installation and operation of Station WGEZ, as proposed, would be in compliance with the Commission's rules and Standards of Good Engineering Practice Concerning Standard Broadcast Stations.

4. To determine the overlap, if any, that will exist between the service areas of Station WGEZ, as proposed, and of Station WCLO, Janesville, Wisconsin, the nature and extent thereof, and whether such overlap, if any, is in contravention of § 3.35 of the Commission's rules.

It is further ordered, That, Joseph Triner, Charles M. Hickman, George Herrmann, Jr., Edward J. Flatysek and William L. Klein d/b as Village Broadcasting Company, licensee of Station WEBS, Oak Park, Illinois; and Dubuque Broadcasting Company, licensee of Station WKBB, Dubuque, Iowa, are made parties to this proceeding.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 50-6004; Filed, July 11, 1950; 8:47 a. m.]

[Canadian Change List 57]

CANADIAN BROADCAST STATIONS

LIST OF CHANGES, PROPOSED CHANGES, AND CORRECTIONS IN ASSIGNMENTS

JUNE 23, 1950.

Notification under the provisions of Part III, section 2 of the North American Regional Broadcasting Agreement.

List of changes, proposed changes, and corrections in assignments of Canadian broadcast stations modifying appendix containing assignments of Canadian Broadcast stations (Mimeograph 47214-3) attached to the recommendations of the North American Regional Broadcasting Agreement Engineering Meeting, January 30, 1941.

CANADA

Call letters	Location	Power	Radiation	Class	Probable date to commence operation
CKY	Winnipeg, Manitoba (present operation: 1080 kc., 5 kw., DA-2, Class II).	580 kilocycles, 5 kw.	DA-1	III-A	Apr. 1, 1951.
CJGX	Yorkton, Saskatchewan (delete daytime power increase as notified in Change List Number 52).	940 kilocycles, 1 kw.	----------	II	
CKSM	Shawinigan Falls, Quebec	1220 kilocycles, 1 kw.	DA-1	II	Assignment of call letters.
New	Toronto, Ontario	1400 kilocycles, 250 w.	DA-1	IV	Apr. 1, 1951.
CHUB	Nanaimo, British Columbia (present operation: 1570 kc., 250 w., Class II).	1480 kilocycles, 1 kw.	DA-1	III-B	Do.
CHVC	Niagara Falls, Ontario (increase in daytime power only).	1600 kilocycles, 1 kw.; 5 kw.-LS.	DA-N	III-B	Do.

[SEAL] FEDERAL COMMUNICATIONS COMMISSION,
T. J. SLOWIE,
Secretary.

[F. R. Doc. 50-6008; Filed, July 11, 1950; 8:47 a. m.]

[Docket No. 9718]

SIOUX FALLS BROADCAST ASSN., INC., (KSOO)

ORDER DESIGNATING APPLICATION FOR HEARING ON STATED ISSUES

In re application of Sioux Falls Broadcast Association, Inc. (KSOO), Sioux Falls, South Dakota, for construction permit; Docket No. 9718, File No. BP-7501.

At a session of the Federal Communications Commission, held at its offices in Washington, D. C., on the 27th day of June 1950;

The Commission having under consideration the above-entitled application requesting a construction permit to change the power and hours of operation of Station KSOO, Sioux Falls, South Dakota from 5 kilowatts, limited time to 10 kilowatts, unlimited time, to install a directional antenna for night use only, to install a new transmitter and to change transmitter location and also having under consideration (1) petition to designate the said application for hearing and name petitioner a party to the proceeding filed on April 6, 1950, by Larus & Brother Company, Incorporated, licensee of Station WRVA, Richmond, Virginia, (2) opposition to the petition filed on April 14, 1950, by Sioux Falls Broadcast Association, Incorporated, (3) reply to opposition filed on May 1, 1950, by Larus & Brother Company, Incorporated;

It appearing that the applicant is legally technically, financially and otherwise qualified to construct and operate Station KSOO as proposed, but that the application may involve interference with one or more existing stations and otherwise not comply with the Commission's rules and Standards of Good Engineering Practice;

It is ordered, That the petition of Larus & Brother Company, Incorporated

is granted and that pursuant to section 309 (a) of the Communications Act of 1934, as amended, the said aplication is designated for hearing at 10:00 a. m. on December 4, 1950, at Washington, D. C., upon the following issues;

1. To determine the areas and populations which may be expected to gain or lose primary service from the operation of Station KSOO as proposed and the character of other broadcast service available to those areas and populations.

2. To determine whether the operation of Station KSOO as proposed would involve objectionable interference with Station WRVA, Richmond, Virginia, or with any other existing United States broadcast stations and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other broadcast service to such areas and populations, and in particular to determine whether the proposed array at Station KSOO would have sufficient stability to afford constant protection to co-channel station WRVA, Richmond, Virginia.

3. To determine whether the operation of Station KSOO as proposed would involve objectionable interference with Station CJCJ, Calgary, Alberta, Canada, or with any other existing foreign broadcast stations and, if so, whether such interference would be in contravention of any international agreement or the Commission's rules and standards.

4. To determine whether the operation of Station KSOO as proposed would involve objectionable interference with the services proposed in any pending applications for broadcast facilities and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other broadcast service to such areas and populations.

5. To determine whether the installation and operation of Station KSOO as proposed would be in compliance with the Commission's rules and Standards of Good Engineering Practice Concerning Standard Broadcast Stations.

It is further ordered, That, Larus & Brother Company, Incorporated, licensee of Station WRVA, Richmond, Virginia, is made a party to the proceeding.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 50-6005; Filed, July 11, 1950; 8:47 a. m.]

[Docket Nos. 9719, 9720]

EAST PENN BROADCASTING CO. AND POTTSTOWN BROADCASTING CO.

ORDER DESIGNATING APPLICATIONS FOR CONSOLIDATED HEARING ON STATED ISSUES

In re applications of David W. Jefferies and Joseph V. Lentini d/b as East Penn Broadcasting Company, Pottstown, Pennsylvania, Docket No. 9719, File No. BP-7626; Herbert Wolin, Ralph E. P. Mellon, Margaret Levine, Charles Kinzer Bentz, d/b as Pottstown Broadcasting Company, Pottstown, Pennsylvania, Docket No. 9720, File No. BP-7691; for construction permits.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 27th day of June 1950;

The Commission having under consideration the above-entitled applications of David Jefferies and Joseph V. Lentini, d/b as East Penn Broadcasting Company, and Herbert Wolin et al., d/b as Pottstown Broadcasting Company, each requesting a construction permit for a new standard broadcast station to operate on frequency 1370 kc., with 1 kw. power, daytime only at Pottstown, Pennsylvania;

It is ordered, That, pursuant to section 309 (a) of the Communications Act of 1934, as amended, the above applications are designated for hearing in a consolidated proceeding commencing at 10:00 a. m. on December 7, 1950 at Washington, D. C., upon the following issues:

1. To determine the legal, technical, financial and other qualifications of the applicant partnerships and partners to construct and operate the proposed stations.

2. To determine the areas and populations which may be expected to gain or lose primary service from the operation of the proposed stations, and the character of other broadcast service available to such areas and populations.

3. To determine the type and character of program service proposed to be rendered and whether it would meet the requirements of the populations and areas proposed to be served.

4. To determine whether the operation of the proposed stations would involve objectionable interference with Station WAMS, Wilmington, Delaware or with any other existing broadcast stations, and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other broadcast to such areas and populations.

5. To determine whether the operation of the proposed stations would involve objectionable interference, each with the other, or with the services proposed in any other pending applications for broadcast facilities, and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other broadcast service to such areas and populations.

6. To determine whether the installation and operation of the proposed stations would be in compliance with the Commission's rules and standards of Good Engineering Practice Concerning Standard Broadcast Stations.

7. To determine on a comparative basis which, if either, of the applications in this consolidated proceeding should be granted.

It is further ordered, That Wilmington Tri-State Broadcasting Company, Inc., licensee of Station WAMS, Wilmington, Delaware, is made a party to this proceeding.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 50-6006; Filed, July 11, 1950; 8:47 a. m.]

[Docket Nos. 9721, 9722]

ROCK CITY BROADCASTERS AND ROBERT HARVARD DYE

ORDER DESIGNATING APPLICATIONS FOR CONSOLIDATED HEARING ON STATED ISSUES

In re applications of M. Robert Feldman & Arthur S. Feldman d/b as Rock City Broadcasters, Little Falls, New York, Docket No. 9721, File No. BP-7578; Robert Harvard Dye, Herkimer, New York, Docket No. 9722, File No. BP-7692; for construction permits.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 27th day of June 1950;

The Commission having under consideration the above-entitled applications of M. Robert Feldman and Arthur S. Feldman d/b as Rock City Broadcasters requesting a construction permit for a new standard broadcast station to operate on frequency 1230 kc., with 100 watts power, unlimited time at Little Falls, New York, and Robert Harvard Dye requesting a construction permit for a new standard broadcast station to operate on frequency 1230 kc., with 100 watts power, unlimited time at Herkimer, New York;

It is ordered, That, pursuant to section 309 (a) of the Communications Act of 1934, as amended, the above applications are designated for hearing in a consolidated proceeding commencing at 10:00 a. m. on December 6, 1950, at Washington, D. C., upon the following issues:

1. To determine the legal, technical, financial and other qualifications of the applicant partnership and its partners and of the individual to construct and operate the proposed standard broadcast stations.

2. To determine the areas and populations which may be expected to gain or lose primary service from the operation of the proposed stations, and the character of other broadcast service available to such areas and populations.

3. To determine the type and character of program service proposed to be rendered and whether it would meet the requirements of the populations and areas proposed to be served.

4. To determine whether the operation of the proposed stations would involve objectionable interference with station WHUC, Hudson, New York, or with any other existing broadcast stations, and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other broadcast service to such areas and populations.

5. To determine whether the operation of the proposed stations would involve objectionable interference, each with the other, or with the services proposed in any other pending applications for broadcast facilities, and, if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other broadcast service to such areas and populations.

6. To determine whether the installation and operation of the proposed stations would be in compliance with the Commission's rules and Standards of

Good Engineering Practice Concerning Standard Broadcast Stations.

7. To determine on a comparative basis which, if either, of the applications in this consolidated proceeding should be granted.

It is further ordered, That Robert P. Strakoz and John T. Kearney, a partnership d/b as Colgren Broadcasting Company, licensee of Station WHUC, Hudson, New York, is made a party to this proceeding.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 50-6007; Filed, July 11, 1950; 8:47 a. m.]

FEDERAL POWER COMMISSION

[Docket No. G-1019]

EL PASO NATURAL GAS CO.

NOTICE OF ORDER ACCEPTING RATE SCHEDULE

JULY 7, 1950.

Notice is hereby given that, on July 6, 1950, the Federal Power Commission issued its order entered July 6, 1950, accepting Rate Schedule G-2 and Service Agreement insofar as applicable to sale of gas to Pacific Gas and Electric Company authorized in the above designated matter.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 50-6023; Filed, July 11, 1950; 8:54 a. m.]

[Docket Nos. G-1210, G-1236, G-1264]

ERIE GAS SERVICE CORP. ET AL.

ORDER POSTPONING HEARING

JULY 6, 1950.

In the matters of Erie Gas Service Corporation, Docket No. G-1210, Lake Shore Pipe Line Company, Docket No. G-1236, and Grand River Gas Transmission Company, Docket No. G-1264.

On July 3, 1950, Erie Gas Service Corporation filed a motion requesting that the hearing in these proceedings heretofore ordered to resume on July 10, 1950, be postponed until a date not earlier than July 31, 1950.

On July 5, 1950, Grand River Gas Transmission Company filed an answer to said motion opposing any postponement.

The Commission finds: Good cause has been shown for the postponement of hearing in these proceedings as hereinafter ordered.

The Commission orders: The hearing in these matters now set to resume on July 10, 1950, be and it is hereby postponed to July 31, 1950, at the same hour and place.

Date of issuance: July 6, 1950.

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 50-5992; Filed, July 11, 1950; 8:45 a. m.]

[Docket Nos. G-1248, G-1267, G-1277, G-1306, G-1290, G-1311]

TENNESSEE GAS TRANSMISSION CO. ET AL.

ORDER FIXING DATE OF HEARING

JULY 6, 1950.

In the matters of Tennessee Gas Transmission Company, Docket No. G-1248, Northeastern Gas Transmission Company, Docket No. G-1267, Transcontinental Gas Pipe Line Corporation, Docket No. G-1277, New York State Natural Gas Corporation, Docket No. G-1306, Tennessee Gas Transmission Company, Docket No. G-1290, Niagara Mohawk Power Corporation, Docket No. G-1311.

On May 29, 1950, hearings in the above proceedings were recessed by the Presiding Examiner to reconvene at such time as the Commission may by order determine.

The Commission orders: Hearings in the above proceedings be resumed on July 24, 1950, at 10:00 a. m., e. d. s. t., in the Hearing Room of the Federal Power Commission, 1800 Pennsylvania Avenue NW., Washington, D. C.

Date of issuance: July 7, 1950.

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 50-5991; Filed, July 11, 1950; 8:45 a. m.]

[Docket No. G-1388]

HOPE NATURAL GAS CO.

ORDER FIXING DATE OF HEARING

JULY 5, 1950.

On May 9, 1950, Hope Natural Gas Company (Applicant), a West Virginia corporation having its principal place of business at Clarksburg, West Virginia, filed an application 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 transmission facilities, subject to the jurisdiction of the Commission, as fully described in said application on file with the Commission and open to public inspection.

The Commission finds this proceeding 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 19, 1950 (15 F. R. 3071).

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, and the Commission's rules of practice and procedure, a hearing be held on July 21, 1950, at 9:30 a. m., e. d. s. t., 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: July 6, 1950.

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 50-5994; Filed, July 11, 1950; 8:46 a. m.]

[Docket No. G-1397]

SOUTHERN CALIFORNIA GAS CO. AND SOUTHERN COUNTIES GAS CO. OF CALIFORNIA

ORDER FIXING DATE OF HEARING

JULY 5, 1950.

On May 25, 1950, Southern California Gas Company and Southern Counties Gas Company of California (Applicants), both California corporations having their principal place of business at Los Angeles, California, filed a joint application for a certificate of public convenience and necessity pursuant to section 7 (c) of the Natural Gas Act, as amended, authorizing the installation, construction and operation of certain natural-gas facilities, subject to the jurisdiction of the Commission, as fully described in such joint application on file with the Commission and open to public inspection.

The Commission finds: This proceeding is a proper one for disposition under the provisions of § 1.32 (b) of the Commission's rules of practice and procedure, Applicants having requested that their 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 June 8, 1950 (15 F. R. 3598).

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, and the Commission's rules of practice and procedure, a hearing be held on July 21, 1950, at 9:45 a. m., e. d. s. t., 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 joint 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: July 6, 1950.

By the Commission.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 50-5995; Filed, July 11, 1950; 8:46 a. m.]

[Docket No. G-1433]

EL PASO NATURAL GAS CO. AND EL PASO GAS TRANSPCRTATION CORP.

ORDER INSTITUTING INVESTIGATION

It appearing to the Commission that:

(a) El Paso Natural Gas Company, a Delaware corporation with its principal place of business in El Paso, Texas, is engaged in the transportation of natural gas in interstate commerce and the sale of natural gas in interstate commerce for resale for ultimate public consumption for domestic, commercial, industrial and other uses by means of facilities which include a gas transmission pipeline system extending from and within the States of Texas, New Mexico, and Arizona to the Arizona-California border and is a natural-gas company within the meaning of the Natural Gas Act.

(b) El Paso Gas Tranportation Corporation, a Delaware corporation with its principal place of business in El Paso, Texas, is a wholly owned subsidiary of El Paso Natural Gas Company and is engaged in the transportation of natural gas in interstate commerce for resale for ultimate public consumption for domestic, commercial, industrial and other uses by means of facilities which include a gas transmission pipeline extending from a point of interconnection on a main transmission pipeline of El Paso near the city limits of El Paso, Texas, into and through that city, and is a natural-gas company within the meaning of the Natural Gas Act.

(c) On April 24, 1950, the Commission issued an order in Docket No. G-1380 suspending, pending hearing, proposed changes in rates filed by El Paso applicable to service for Southern California Gas Company and Southern Counties Gas Company of California.

(d) On the basis of data available to the Commission, it appears that the rates, charges, services and classifications for and in connection with the transportation and sale of natural gas subject to the jurisdiction of the Commission and rules, regulations, practices and contracts relating thereto by El Paso Natural Gas Company and El Paso Gas Transportation Corporation may be unjust, unreasonable, unduly discriminatory or preferential.

The Commission finds: It is necessary and proper, in the public interest, and to aid in the enforcement of the provisions of the Natural Gas Act, that an investigation be instituted by the Federal Power Commission on its own motion into and concerning all rates, charges or classifications demanded, observed, charged or collected by El Paso Natural Gas Company and El Paso Gas Transportation Corporation for or in connection with any transportation or sale of natural gas, subject to the jurisdiction of the Commission, and any rules, regulations, practices or contracts affecting such rates, charges or classifications.

The Commission orders: An investigation of El Paso Natural Gas Company and El Paso Gas Transportation Corporation be and it hereby is instituted for the purpose of enabling the Commission (1) to determine with respect to the said El Paso Natural Gas Company and El Paso Gas Transportation Corporation whether in connection with any transportation or sale of natural gas subject to the jurisdiction of the Commission, any rates, charges or classifications demanded, observed, charged or collected, or any rules, regulations, practices or contracts affecting such rates, charges or classifications, are unjust, unreasonable, unduly discriminatory or preferential; and (2) if the Commission, after hearing has been had, shall find that any such rates, charges, classifications, rules, regulations, practices or contracts are unjust, unreasonable, unduly discriminatory or preferential, to determine and fix by appropriate order or orders just and reasonable rates, charges, classifications, rules, regulations, practices or contracts to be thereafter observed and in force.

Date of issuance: July 6, 1950.

By the Commission.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 50-5993; Filed, July 11, 1950; 8:46 a. m.]

NOTICE OF DELEGATION OF FINAL AUTHORITY FOR EXTENSIONS OF TIME

JULY 5, 1950.

Pursuant to the requirements of section 3 (a) (1) of the Administrative Procedure Act, notice is hereby given that, effective July 5, 1950, the Commission has made the following delegation of final authority for extensions of time:

Authorized the Secretary, or in his absence, the Acting Secretary, to pass upon questions of extending time for electric public utilities, licensees, natural gas companies, and other persons to file required reports, data and information and to do other acts required or allowed to be done at or within a specified time by any rule, regulation, license, permit, certificate, or order of the Commission, not to exceed in any event an extension of six months beyond the time or period originally prescribed.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 50-5952; Filed, July 11, 1950; 8:45 a. m.]

INTERSTATE COMMERCE COMMISSION

[Rev. 4th Sec. Application 25155]

ROAD BUILDING MATERIAL IN THE SOUTH

APPLICATION FOR RELIEF

JULY 7, 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: R. E. Boyle, Jr., Agent, for and on behalf of carriers parties to the tariff named below.

Commodities involved: Road building material, viz.: broken or ground oyster shells, carloads.

Between: Points in southern territory.

Grounds for relief: Circuitous routes and analogous commodity.

Schedules filed containing proposed rates: C. A. Spaninger's tariff I. C. C. No. 1159, Supplement 2.

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. 50-5997; Filed, July 11, 1950; 8:46 a. m.]

[4th Sec. Application 25221]

WOODPULP FROM WEST MONROE, LA., TO OFFICIAL TERRITORY

APPLICATION FOR RELIEF

JULY 7, 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. 3901.

Commodities involved: Woodpulp, carloads.

From: West Monroe, La.

To: Points in official territory.

Grounds for relief: Circuitous routes.

Schedules filed containing proposed rates: D. Q. Marsh's tariff I. C. C. No. 3901, Supplement 1.

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. 50-5998; Filed, July 11, 1950; 8:46 a. m.]

[4th Sec. Application 25222]

CAN ENDS FROM CHICAGO, ILL., TO FT. SMITH, ARK.

APPLICATION FOR RELIEF

JULY 7, 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. 3647.

Commodities involved: Can ends, iron, steel or tin, carloads.

From: Chicago, Ill., and points taking same rates.

To: Ft. Smith, Ark.

Grounds for relief: Circuitous routes.

Schedules filed containing proposed rates: D. Q. Marsh's tariff I. C. C. No. 3647, Supplement 257.

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. 50-5999; Filed, July 11, 1950; 8:47 a. m.]

[4th Sec. Application 25223]

SILICA SAND FROM GUION, ARK., TO KENTUCKY AND TENNESSEE

APPLICATION FOR RELIEF

JULY 7, 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 the Missouri Pacific Railroad Company and Louisville and Nashville Railroad Company.

Commodities involved: Silica sand, carloads.

From: Guion, Ark.

To: Bowling Green and Hopkinsville, Ky., Knoxville, Lewisburg and Nashville, Tenn.

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

Schedules filed containing proposed rates: D. Q. Marsh's tariff I. C. C. No. 3736, Supplement 135.

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. 50-6000; Filed, July 11, 1950; 8:47 a. m.]

[4th Sec. Application 25224]

CAUSTIC SODA FROM HUNTSVILLE AND HUNTSVILLE ARSENAL, ALA., TO NATCHEZ, MISS.

APPLICATION FOR RELIEF

JULY 7, 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: R. E. Boyle, Jr., Agent, for and on behalf of carriers parties to Agent C. A. Spaninger's tariff I. C. C. No. 1085.

Commodities involved: Caustic soda, liquid carloads.

From: Huntsville and Huntsville Arsenal, Ala.

To: Natchez, Miss.

Grounds for relief: Circuitous routes and market competition.

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. 50-6001; Filed, July 11, 1950; 8:47 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 812-676]

AMERICAN ELECTRIC SECURITIES CORP.

NOTICE OF APPLICATION

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 July A. D. 1950.

Notice is hereby given that American Electric Securities Corporation (hereinafter referred to as "Applicant"), a registered investment company, has filed an application pursuant to subdivision (c) of Rule N-23C-1 for an order of the Commission under section 23 (c) (3) of the Investment Company Act of 1940 permitting the purchase by Applicant from the Office of Alien Property, Department of Justice, of 7,000 shares of Participating Preferred Stock of Applicant held by the Office of Alien Property, at a price of $2 per share.[1]

Applicant is a closed-end non-diversified investment company. It was organized in 1928 under the laws of the State of Delaware and is qualified as a foreign corporation in the State of New York. It has its principal place of busi-

[1] Rule N-23C-1, which was promulgated pursuant to section 23 (c) (3) of the act, permits a registered closed-end investment company to purchase its outstanding securities provided certain conditions with respect to the securities are met. Among other things, the rule, in effect, prohibits the purchase of a security which is entitled to cumulative dividends, if such dividends are in arrears. Since the Participating Preferred Stock which is the subject of the instant application is entitled to cumulative dividends and since such dividends are in arrears, Applicant cannot purchase its outstanding Participating Preferred Stock pursuant to the rule. Subdivision (c) of the Rule provides that a company may file an application with the Commission for an order under section 23 (c) (3) of the act permitting the purchase of any security of which it is the issuer which does not meet the conditions of the rule and which is not to be made pursuant to section 23 (c) (1) or (2) of the act.

ness at 20 Pine Street, in the borough of Manhattan in the City of New York.

On June 26, 1950, Applicant received notice from the Office of Alien Property, Department of Justice, that such Department had available for sale 7,000 shares of Participating Preferred Stock of Applicant (seized from enemy aliens), and on the same day an offer of $2 per share for all of such shares was made by Applicant for such stock, the offer being subject to authorization of the purchase by this Commission, and subject also to withdrawal prior to receipt of such authorization in the event that prior thereto the securities markets do not remain relatively stable. The latter proviso was inserted because of the wide fluctuations in the market resulting from the Korean situation and which might conceivably reduce the value of such 7,000 shares of stock.

Applicant has issued and outstanding 138,000 shares of Participating Preferred Stock and 30,000 shares of Common stock. All shares have a par value of $1 per share. As at May 31, 1950, after giving effect to unrealized appreciation in the market value of the securities then owned by Applicant, the Participating Preferred Stock had an asset value of $3.75 per share, so that the purchase of such shares at the proposed price of $2 per share would represent a discount of $1.75 per share, or $12,250, from the asset value of such stock, and would result in a net increase of 9.8¢ per share in the asset value of each of the remaining 131,000 shares of Participating Preferred Stock. The Participating Preferred Stock has a priority on liquidation or dissolution of $5 per share plus accrued unpaid dividends. After giving effect to a dividend of 10¢ per share paid thus far in 1950, the dividend accruals on the Participating Preferred Stock will aggregate $1.50 per share at the end of June, 1950, so that the 7,000 shares would have an aggregate priority on dissolution of $45,500. Applicant urges that this priority would be entirely eliminated by the purchase of the 7,000 shares and should thereby shorten the time within which a plan of recapitalization leaving but one class of stock outstanding can be made acceptable to the holders of both classes of stock. Applicant had a surplus as of May 31, 1950, of $250,535.11 so that the purchase can be made from surplus without impairment of capital.

All interested persons are referred to said application which is on file in the offices of the Commission for a detailed statement of the proposed transactions and the matters of fact and law asserted.

Notice is further given that an order granting the application may be issued by the Commission on or at any time after July 17, 1950, unless prior thereto a hearing upon the application is ordered by this Commission, as provided in Rule N-5 of the rules and regulations promulgated under the act. Any interested person may submit to the Commission in writing, not later than July 15, 1950, at 5:30 p. m., his views or any additional facts bearing upon the application or the desirability of a hearing thereon, or a request to the Commission that a hearing be held thereon. Any such communication or request should state briefly the nature of the interest of the person submitting such information or requesting a hearing, the reasons for such request, and the issues of fact or law raised by the application which he desires to controvert. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 425 Second Street NW., Washington, D. C.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 50-5984; Filed, July 11, 1950; 8:45 a. m.]

[File No. 70-2421]

AMERICAN GAS AND ELECTRIC CO. AND CITIZENS HEAT, LIGHT AND POWER CO.

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 July A. D. 1950.

Notice is hereby given that American Gas and Electric Company ("American Gas") and one of its utility subsidiaries, Citizens Heat, Light and Power Company ("Citizens"), have filed a joint application-declaration pursuant to the Public Utility Holding Company Act of 1935 and have designated Rule U-45 of the rules and regulations promulgated thereunder as applicable to the proposed transactions which are summarized as follows:

American Gas proposes to make advances to Citizens on open account without interest from time to time prior to June 30, 1951, in an aggregate amount of not to exceed $300,000. Proceeds from the advances are proposed to be used to finance Citizens' construction program estimated at approximately $360,000 for the year 1950.

The application-declaration states that negotiations are now in progress for the disposition of the water properties of Citizens. When such disposition is effected, it is contemplated that the electric utility properties and facilities of Citizens will become a part of the properties and facilities of Indiana & Michigan Electric Company (which is also a subsidiary of American Gas) by merger or consolidation of the two companies or otherwise. At such time it is contemplated that the advances on open account proposed herein will be paid in full or otherwise terminated.

Applicant-declarant requests that the order herein issue as promptly as may be practicable and that such order become effective forthwith upon the issuance thereof.

Notice is further given that any interested person may not later than July 20, 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 reasons for such request 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 July 20, 1950, at 5:30 p. m., e. d. s. t., said application-declaration, as filed or as amended, may be granted and permitted to become effective as provided by Rule U-23 of the rules and regulations promulgated under said act or the Commission may exempt such transactions as provided in Rule U-20 (a) and Rule U-100 thereof. All interested persons are referred to said application-declaration which is on file with this Commission for a statement of the transactions therein proposed.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 50-5985; Filed, July 11, 1950; 8:45 a. m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

AUTHORITY: 40 Stat. 411, 55 Stat. 839, 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 14828]

SOPHIE BRENTANO

In re: Real property and a claim owned by Sophie Brentano.

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 Sophie Brentano, whose last known address is Germany, is a resident of Germany and a national of a designated enemy country (Germany);

2. That the property described as follows:

a. Real property situated in the County of Major, State of Oklahoma, particularly described as the West Half (W ½) of the Northeast Quarter (NE¼) and the East Half (E ½) of the Northwest Quarter (NW ¼) of Section Thirty (30), Township Twenty-one (21) North, Range Sixteen (16) W. I. M., together with all hereditaments, fixtures, improvements and appurtenances thereto, and any and all claims for rents, refunds, benefits or other payments, arising from the ownership of such property, and

b. That certain debt or other obligation owing to the person named in subparagraph 1 hereof, by Detjen and Detjen, 511 Locust Street, St. Louis, Missouri, arising out of the net income by reason of the collection of rents from the real property described in subparagraph 2-a hereof, and any and all rights to demand, enforce and collect the same,

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 in subparagraph 2-a hereof, subject to recorded liens, encumbrances and other rights of record held by or for persons who are not nationals of designated enemy countries, and

There is hereby vested in the Attorney General of the United States the property described in subparagraph 2-b hereof,

All such property so vested 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 July 5, 1950.

For the Attorney General.

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

[F. R. Doc. 50-6011; Filed, July 11, 1950; 8:48 a. m.]

[Vesting Order 14774]

CORNELIE THEODORE JOSEPHINE HEUBEL

In re: Debts owing to Cornelie Theodore Josephine Heubel, also known as Cornelie Theodore Josephine van Haren Noman. F-28-30719.

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 Cornelie Theodore Josephine Heubel, also known as Cornelie Theodore Josephine van Haren Noman, whose last known address is 6 Frankenberger Plan, Goslar, Germany, is a resident of Germany and a national of a designated enemy country (Germany);

2. That the property described as follows: Those certain debts or other obligations, matured or unmatured, evidenced by ten (10) Chicago, Milwaukee, St. Paul and Pacific Railroad Company Series A 5% Convertible Adjustment Mortgage Gold Bonds, due January 1, 2000, of $1,000 face value each, bearing the numbers M682, M2910, M4686, M70642, M86199, M100514, M158038, M158108, M167766 and M172990, in bearer form, and any and all rights to demand, enforce and collect the aforesaid debts or other obligations, together with all rights in, to and under said bonds and any and all rights under a Plan of Reorganization of December 1945, of the aforesaid company,

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, Cornelie Theodore Josephine Heubel, also known as Cornelie Theodore Josephine van Haren Noman, 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 20, 1950.

For the Attorney General.

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

[F. R. Doc. 50-6010; Filed, July 11, 1950; 8:48 a. m.]