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TITLE 7—AGRICULTURE

Chapter I—Agricultural Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture

Subchapter C—Regulations and Standards Under the Farm Products Inspection Act

PART 56—GRADING AND INSPECTION OF SHELL EGGS AND UNITED STATES STANDARDS, GRADES, AND WEIGHT CLASSES FOR SHELL EGGS

REVISION OF PART

A notice of a proposed revision of the regulations governing the grading and inspection of shell eggs and the United States standards, grades, and weight classes for shell eggs was published in the FEDERAL REGISTER on November 25, 1954 (19 F. R. 7607). The revised regulations hereinafter set forth will bring the regulations, standards, and grades for shell eggs together under a single new Part 56 of the Code of Federal Regulations. The program is currently in effect pursuant to regulations contained in Part 55 and U. S. Standards, Grades, and Weight Classes contained in Part 42. The provisions of Parts 55 and 42 applicable to shell eggs are hereby superseded as of the effective date of the revision herein promulgated. The provisions of Part 55 applicable to the inspection of egg products are not changed by this action.

The revised regulations, standards, and grades hereinafter set forth establish requirements for facilities and operating procedures with respect to grading and packing eggs that are to bear a grade mark, prescribe the form of the grade mark, and change the standards of quality and weight classes for shell eggs. This revision is essentially the same as was proposed and published in the aforesaid notice.

After consideration of all relevant matters presented, the revision hereinafter set forth is promulgated to become effective March 1, 1955, except as otherwise provided in §§ 56.75, 56.218, 56.223, 56.226 and 56.228.

The revised regulations are as follows:

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CODIFICATION GUIDE

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AUTHORITY: §§ 56.1 to 56.228 issued under sec. 205, 60 Stat. 1090; 7 U. S. C. 1624.

SUBPART A—GRADING AND INSPECTION OF SHELL EGGS

DEFINITIONS

§ 56.1 *Meaning of words.* Under the regulations in this part, words in the singular shall be deemed to import the plural and vice versa, as the case may demand.

§ 56.2 *Terms defined.* For the purpose of the regulations in this part, unless the context otherwise requires, the following terms shall be construed, respectively, as follows:

(a) "Act" means the applicable provisions of the Agricultural Marketing Act of 1946 (60 Stat. 1087; 7 U. S. C. 1621 et seq.), or any other act of Congress conferring like authority.

(b) "Administrator" means the Administrator of the Agricultural Marketing Service of the Department or any other officer or employee of the Department to whom there has heretofore been delegated, or to whom there may hereafter be delegated the authority to act in his stead.

(c) "Applicant" means an interested party who requests any grading service, appeal grading, or regrading with respect to any product.

(d) "Case" means, when referring to containers, an egg case, as used in commercial practice in the United States, holding 30 dozens of shell eggs.

(e) "Class" means any subdivision of a product based on essential physical characteristics that differentiate between major groups of the same kind, species, or method of processing.

(f) "Condition" means any condition (including, but not being limited to, the state of preservation, cleanliness, soundness, wholesomeness, or fitness for human food) of any product which affects its merchantability.

(g) "Department" means the United States Department of Agriculture.

(h) "Eggs of current production" means shell eggs which have moved through usual marketing channels since the time they were laid, and have not been held in refrigerated storage in excess of 60 days.

(i) "Grader" means any employee of the Department authorized by the Secretary, or any other person to whom a license has been issued by the Secretary, to investigate and certify, in accordance with the act and this part, to shippers of products and other interested parties the class, quality, quantity, and condition of such products.

(j) "Grading" or "grading service" means: (1) The act whereby a grader determines, according to the regulations in this part, the class, quality, quantity, or condition of any product by examining each unit thereof or each unit of the representative sample thereof drawn by a grader or sampler and issues a grading certificate with respect thereto, except that with respect to grading service performed on a contract basis the issuance of a grading certificate shall be pursuant to a request therefor by the applicant or the Service; (2) the act whereby the grader identifies, according to the regulations in this part, the graded product; (3) continuous supervision, in an official plant, of the handling or packaging of any product; and (4) any regrading or any appeal grading of a previously graded product.

(k) "Grading certificate" means a statement, either written or printed, issued by a grader pursuant to the act and this part, relative to the class, quantity, quality, or condition of products.

(l) "Inspector" means any employee of the Department authorized by the Secretary, or any other person to whom a license has been issued by the Secretary, to inspect and certify the quality, quantity and condition of products.

(m) "Interested party" means any person financially interested in a transaction involving any grading, appeal grading, or regarding of any product.

(n) "National supervisor" means (1) the officer in charge of the egg grading service of the Agricultural Marketing Service, and (2) such other employee of the Service as may be designated by him.

(o) "Office of grading" means the office of any grader or sampler.

(p) "Official identification" means the symbol represented by a stamp, label, seal, mark, or other device approved by the Administrator, affixed to any product or to any container thereof, stating that the product was graded or inspected and indicating the class, quality, grade, or condition of such product as determined by a grader.

(q) "Official plant" means any plant in which the facilities and methods of operation therein have been found by the Administrator to be suitable and adequate for grading service in accordance with this part and in which grading service is carried on.

(r) "Person" means any individual, partnership, association, business trust, corporation, or any organized group of persons, whether incorporated or not.

(s) "Product" or "products" means shell eggs of the domesticated chicken.

(t) "Quality" means the inherent properties of any product which determine its relative degree of excellence.

(u) "Regulations" means the provisions in this part.

(v) "Sampler" means any employee of the Department authorized by the Secretary, or any other person to whom a license has been issued by the Secretary, to draw samples of products for grading by a grader or for lot analysis under the act and this part.

(w) "Sampling" means the act of taking samples of any product for grading.

(x) "Sampling report" means a statement, either written or printed, issued by a sampler, identifying samples taken by him for grading.

(y) "Secretary" means the Secretary of the Department or any other officer or employee of the Department to whom there has heretofore been delegated, or to whom there may hereafter be delegated, the authority to act in his stead.

(z) "Service" means the Agricultural Marketing Service of the Department.

(aa) "Supervisor of packaging" means any employee of the Department authorized by the Secretary, or any other person to whom a license has been issued by the Secretary, to supervise the packaging and grade labeling of products.

ADMINISTRATION

§ 56.3 *Administration.* The Administrator shall perform, for and under the supervision of the Secretary, such duties as the Secretary may require in the enforcement or administration of the provisions of the act and this part. The Administrator is authorized to waive for limited periods any particular provisions of the regulations in this part to permit experimentation so that new procedures, equipment, and processing techniques may be tested to facilitate definite improvements and at the same time to determine full compliance with the spirit and intent of the regulations in this part.

GENERAL

§ 56.4 *Basis of grading service.* (a) Any grading service in accordance with the regulations in this part shall be for class, quality, quantity, or condition or any combination thereof. Grading service with respect to the determination of the quality of products shall be on the basis of the "United States Standards, Grades, and Weight Classes" as contained in Subpart C of this part. However, grading service may be rendered with respect to products which are bought and sold on the basis of institutional contract specifications and such service, when approved by the Administrator, shall be rendered on the basis of the specifications of such contract. The supervision of packaging shall be in accordance with such instructions as may be approved or issued by the Administrator.

(b) Unless otherwise approved by the area supervisor, continuous grading service in an official plant may be rendered only when a majority of the grader's time each month is utilized in performing grading for quality on the basis of the United States Standards set forth in Subpart C of this part.

(c) Whenever grading service is performed on a representative sample basis, such sample shall be drawn and consist of not less than the minimum number of cases as indicated in the following table:

MINIMUM NUMBER OF CASES COMPRISING A REPRESENTATIVE SAMPLE

Case in lot:	*Cases in sample*
1 case	1
2 to 10, inclusive	2
11 to 25, inclusive	3
26 to 50, inclusive	4
51 to 100, inclusive	5
101 to 200, inclusive	8
201 to 300, inclusive	11
301 to 400, inclusive	13
401 to 500, inclusive	14
501 to 600, inclusive	16

For each additional 35 cases, or fraction thereof, in excess of 600 cases, one additional case shall be included in the sample.

§ 56.5 *Accessibility and condition of product.* (a) Each product for which grading service is requested shall be so conditioned and placed as to permit a proper determination of the class, quality, quantity, or condition of such product.

(b) Notwithstanding other applicable provisions of this part, product may be graded on the basis of a sample drawn by an employee of a public warehouse; and any certificate issued with respect to such product shall have the words "SAMPLE DRAWN BY WAREHOUSE EMPLOYEES," in all capital letters, typed thereon.

§ 56.6 *Supervision.* All grading service shall be subject to supervision at all times by the applicable State supervisor, circuit supervisor, area supervisor, and national supervisor. Such service shall be rendered where the facilities and conditions are satisfactory for the conduct of the service, and the requisite graders, inspectors, and samplers are available. Whenever the supervisor of a grader has evidence that such grader incorrectly graded a product, such supervisor shall take such action as is necessary to correct the grading and to cause any improper grade marks which appear on the product or the containers thereof to be corrected prior to shipment of the product from the place of initial grading.

§ 56.7 *Publications.* Publications under the act and this part shall be made in the FEDERAL REGISTER, the Service and Regulatory Announcements of the Department, and such other media as the Administrator may approve for the purpose.

§ 56.8 *Other applicable regulations.* Compliance with the regulations in this part shall not excuse failure to comply with any other Federal, or any State, or municipal applicable laws or regulations.

LICENSED GRADERS, INSPECTORS, SAMPLERS, AND SUPERVISORS OF PACKAGING

§ 56.10 *Who may be licensed.* (a) Except as otherwise provided in paragraph (c) of this section, any person possessing proper qualifications, as determined by an examination for competency, and who is to perform grading service may be licensed by the Secretary as a grader.

(b) All licenses issued by the Secretary shall be countersigned by the officer in charge of the poultry grading service of the Agricultural Marketing Service or any other designated officer of such Service.

(c) No person may be licensed to grade, inspect, or sample any product in which he is financially interested.

§ 56.11 *Limited license may be issued.* To any person possessing proper qualifications, as determined by the Administrator, there may be issued a limited license by the Secretary to candle and grade eggs on the basis of the "United States Standards for quality of Individual Shell Eggs," with respect to eggs purchased from producers or eggs to be packaged with official identification. No person to whom a limited license is issued by the Secretary shall have the authority to issue any grading certificate; and all eggs which are graded by any such person shall thereafter be check-graded by a grader. All limited licenses, issued by the Secretary, are to be countersigned by the officer in charge of the poultry grading service of the Agricultural Marketing Service or by any other official of such service designated by such officer.

§ 56.12 *Suspension of license.* Pending final action by the Secretary, the aforesaid officer in charge of the poultry grading service may, whenever he deems such action necessary, suspend any license or limited license issued pursuant to this part, by giving notice of such suspension to the respective licensee or limited licensee, accompanied by a statement of the reasons therefor. Within seven days after the receipt of the aforesaid notice and statement of reasons by such licensee or limited licensee, he may file an appeal in writing, with the Secretary supported by any argument or evidence that he may wish to offer as to why his license or limited license should not be suspended or revoked. After the expiration of the aforesaid seven day period and consideration of such argument and evidence, the Secretary will take such action as he deems appropriate with respect to such suspension or revocation. When no appeal is filed within the prescribed seven days, the license is revoked.

§ 56.13 *Cancellation of license.* Upon termination of his services as a grader, inspector, sampler, or supervisor of packaging, each licensee and limited licensee shall surrender his license immediately for cancellation.

§ 56.14 *Surrender of license.* Each license and each limited license which is cancelled, suspended, or has expired shall immediately be surrendered by the licensee or limited licensee to the office of grading serving the area in which he is located.

§ 56.15 *Political activity.* All graders, inspectors, and samplers are forbidden during the period of their respective appointments or licenses, to take an active part in political management or in political campaigns. Political activities in city, county, State, or national elections,

whether primary or regular, or in behalf of any party or candidate, or any measure to be voted upon, is prohibited. This applies to all appointees, including, but not being limited to, temporary and cooperative employees, and employees on leave of absence with or without pay. Wilful violation of this section will constitute grounds for dismissal in the case of appointees and revocation of licenses in the case of licensees.

§ 56.16 *Identification.* All graders, inspectors, samplers, supervisors of packaging, and persons holding limited licenses shall each have in possession at all times, and present upon request, while on duty, the means of identification furnished by the Department to such person.

APPLICATION FOR GRADING, INSPECTION, AND SAMPLING

§ 56.20 *Who may obtain grading, inspection, and sampling service.* An application for grading, inspection, or sampling service may be made by any interested person, including, but not being limited to, the United States, any State, county, municipality, or common carrier, and any authorized agent of the foregoing.

§ 56.21 *How to make application for grading*—(a) *On a fee basis.* An application for any grading service may be made in any office of grading, or with any grader, sampler, or inspector at or nearest the place where the service is desired. Such application for service may be made orally (in person or by telephone), in writing, or by telegraph. If an application for grading service is made orally, the office of grading, grader, sampler, or inspector with whom such application is made, or the Administrator, may require that the application be confirmed in writing.

(b) *On a contract basis.* An application for continuous grading service on a contract basis to be rendered in an official plant must be made in writing on forms approved by the Administrator and filed with the Administrator.

§ 56.22 *Filing of application.* An application for grading, inspection, or sampling of a specified lot of any product shall be regarded as filed only when made pursuant to this part.

§ 56.23 *Form of application.* Each application for grading, inspecting, or sampling a specified lot of any product shall include such information as may be required by the Administrator in regard to the product and the premises where such product is to be graded, inspected, or sampled.

§ 56.24 *When application may be rejected.* An application for grading service, inspection service, or sampling service may be rejected by the Administrator (a) whenever the applicant fails to meet the requirements of the regulations prescribing the conditions under which the service is made available; (b) whenever the product is owned by or located on the premises of a person currently denied the benefits of the act; (c) where any individual holding office or a responsible position with or having a substantial financial interest or share in the applicant is currently denied the benefits of the act or was responsible in whole or in part for the current denial of the benefits of the act to any person; or (d) where he determines that the application is an attempt on the part of a person currently denied the benefits of the act to obtain grading or inspection service. Each such applicant shall be promptly notified by registered mail of the reasons for the rejection. A written petition for reconsideration of such rejection may be filed by the applicant with the Administrator if postmarked or delivered within 10 days after the receipt of notice of the rejection. Such petition shall state specifically the errors alleged to have been made by the Administrator in rejecting the application. Within 20 days following the receipt of such a petition for reconsideration, the Administrator shall approve the application or notify the applicant by registered mail of the reasons for the rejection thereof.

§ 56.25 *When application may be withdrawn.* An application for grading service may be withdrawn by the applicant at any time before the service is performed upon payment, by the applicant, of all expenses incurred by the Service in connection with such application.

§ 56.26 *Authority of applicant.* Proof of the authority of any person applying for any grading service may be required at the discretion of the Administrator.

§ 56.27 *Order of service.* Grading service shall be performed, insofar as practicable, in the order in which applications therefor are made except that precedence may be given to any application for an appeal grading. The service shall not be liable in damages accruing through acts of commission or omission in the administrative of this part.

VIOLATIONS

§ 56.30 *Report of violations.* Each grader, inspector, sampler, and supervisor of packaging shall report, in the manner prescribed by the Administrator, all violations and noncompliances under the act and this part of which such grader, inspector, sampler, or supervisor of packaging has knowledge.

§ 56.31 *Denial of service.* (a) The following acts or practices may be deemed sufficient cause for the debarment of any person by the Administrator from any or all benefits of the act for a specified period, after notice and opportunity for hearing has been accorded him:

(1) *Misrepresentation, deceptive, or fraudulent act or practice.* Any wilful misrepresentation or any deceptive or fraudulent act or practice found to be made or committed by any person in connection with:

(i) The making or filing of any application for any grading service, inspection service, or sampling service, appeal, or regrading service;

(ii) The making of the product accessible for sampling, grading, or inspection;

(iii) The use of any grading certificate or inspection certificate issued pursuant to the regulations in this part or the use of any official stamp, label, or identification;

(iv) The use of the terms "United States," or "U. S." in conjunction with the grade of the product;

(v) The use of any of the aforesaid terms or an official stamp, label, or identification in the labeling or advertising of any product; or

(vi) The use of the terms "Government graded," "Federal-State graded," "U. S. Inspected," "Government inspected," or terms of similar import in the labeling or advertising of any product.

(2) *Use of facsimile forms.* The unauthorized use of a form which simulates in whole or in part any official certificate, stamp, label, or identification authorized to be issued or used under the regulations in this part to evidence the inspection or grade of any product.

(3) *Wilful violation of the regulations.* Any wilful violation of the regulations in this part.

(4) *Interfering with a grader or inspector.* Any interference with or obstruction of any grader or inspector in the performance of his duties by intimidation, threat, bribery, assault, or any other improper means.

(5) *Misleading labeling.* The use of the terms "Government graded," "Federal-State graded," or terms of similar import in the labeling of any product without stating in the label the U. S. grade of the product as determined by an authorized grader.

(6) *Miscellaneous.* The existence of any of the conditions set forth in § 56.24 constituting a basis for the rejection of an application for grading or inspection service.

(b) Whenever the Administrator has reason to believe that any person, or his employee, agent, or representative has flagrantly or repeatedly committed any of the acts or practices specified in paragraph (a) of this section, he may without hearing direct that the benefits of the act be denied such person pending investigation and hearing and shall give notice thereof by registered mail. A written petition for reconsideration of such interim denial may be filed with the Administrator by any person so denied the benefits of the act if postmarked or delivered within 10 days after notice of the interim denial. Such petition shall state specifically the errors alleged to have been made by the Administrator in denying the benefits of the act pending investigation and hearing. Within 20 days following the receipt of such a petition for reconsideration, the Administrator shall reinstate the benefits of the act or notify the petitioner by registered mail of the reasons for continued interim denial.

IDENTIFYING AND MARKING PRODUCTS

§ 56.35 *Authority to use official identification.* Whenever the Administrator determines that the granting of authority to any person to package any product, graded pursuant to this part, and to use official identification, pursuant to §§ 56.36 to 56.43, both inclusive, will not be inconsistent with the act and this part, he may authorize such use of official identification. An application for such authority shall be submitted to the Ad-

ministrator in such form as he may require.

§ 56.36 *Approval of official identification.* Any label or packaging material which bears any official identification shall be used only in such manner as the Administrator may prescribe. No label or packaging material bearing official identification may be used unless finished copies or samples of such labels and packaging material have been approved by the Administrator. No label bearing the official identification shall be printed for use until the printer's final proof has been approved by the Administrator; and no label bearing any official identification shall be used until finished copies or samples of such label have been approved by the Administrator. A label which bears official identification shall not bear any statement that is false or misleading. If the label is printed or otherwise applied directly to the container, the principal display panels of such container shall for this purpose be considered as the label. The label shall contain the name and address of the packer or distributor of the product, the name of the product and a statement of the net contents of the container

§ 56.37 *Information required on grade mark.* Except as otherwise authorized, each grade mark which is to be used shall conspicuously indicate the letters "USDA," the U. S. grade of the product it identifies and if not shown prominently elsewhere on the labeling material, the appropriate weight class of the eggs. The plant number of the official plant where the eggs were graded and packed shall be set forth if it does not appear elsewhere on the packaging material. In addition, one of the following terms shall be included: "Graded Under Federal-State Supervision," or "Graded Under U. S. and (State) Supervision," or an appropriate term of similar import. Such grade marks shall be contained within the outline of a shield of such design as may be approved by the Administrator. When eggs have been graded pursuant to this part and are packaged, the grade mark affixed to each such package shall have stamped thereon the date of grading unless such label is printed on the carton, in which case the date of grading shall be legibly applied to the carton in a manner satisfactory to the Administrator.

§ 56.38 *Form of grade mark.* The grade mark permitted to be used to officially identify cartons containing one dozen shell eggs, which are graded pursuant to the regulations in this part, shall be contained in a shield of the form and design indicated in the examples in Figure 1 of this section. The information (including the form and arrangement of its wording) which is to be included in such marks shall be: (1) The letters "USDA," (2) the U. S. grade, such as, "U. S. A Grade," (3) the size or weight class of the product, such as, "large," and (4) shall include one of the following phrases: "Graded Under Federal-State Supervision," or "Graded Under U. S. and (State) Supervision," or a term of similar import. The grade mark shall be printed on the carton or on a label used to seal the carton. When the grade mark is printed on a tape used to seal the carton automatically, the size or weight class of the product may be shown on the main panel of the carton rather than within the grade mark and in such instances the form of the grade mark shall be as indicated in Figure 2 of this section. The grade mark shall also include the plant number of the official plant where the product was packed, if the appropriate plant number does not appear elsewhere on the packaging material. In addition, the date the eggs were graded shall be shown either on the grade mark used to seal the carton or applied in a legible manner elsewhere on the carton and such date of the grading shall be expressed as the month and day or as the consecutive day of the year. The grade mark shall not be less than 1⅛ inches in height, and should not exceed 1¾ inches in height. The size of the letters designating the grade and size shall be not less than ¼ inch in height. The size of the print and the arrangement of the other information within the shield shall be in approximately the same proportion as is shown in the examples in Figures 1 and 2 of this section.

FIGURE 1.

FIGURE 2.

PREREQUISITES TO PACKAGING PRODUCTS WITH GRADE IDENTIFICATION LABELS

§ 56.40 *Supervisor of packaging required.* The official identification of any graded or inspected product, as provided in §§ 56.36 to 56.43, both inclusive, shall be done only under the supervision of a grader, inspector, or supervisor of packaging. The authority to use grade identification labels may be granted by the Administrator only to applicants who make the services of a grader, inspector, or supervisor of packaging available for use in accordance with this part. The grader, inspector, or supervisor of packaging shall have supervision over the use and handling of all material bearing any official identification.

§ 56.41 *Candling and grading requirements of shell eggs for packaging with grade identification labels.* Shell eggs shall not be packaged with any grade identification label unless such eggs are first candled and graded (a) by a grader, or (b) by a limited licensee, pursuant to § 56.11 and thereafter check-graded by a grader.

§ 56.42 *Check-grading officially identified eggs.* Shell eggs which have been officially graded and which bear a grade mark or grade identification label, if temporarily held at the place where graded in excess of four days from the time they were graded, shall be check-graded prior to shipment from the place of initial grading. Such check-grading shall be in addition to any check-gradings which are made to determine the initial grade of the lot.

§ 56.43 *Limitations applicable to grade marking consumer packages of A and AA grade eggs.* Eggs which are to be grade marked as U. S. A or AA grade and packed in consumer packages shall be packed from eggs of current production. Eggs known to possess undesirable odors and flavors shall not be officially identified as U. S. Grade A or AA.

FEES AND CHARGES

§ 56.45 *Payment of fees and charges.* (a) Fees and charges for any grading service shall be paid by the interested party making the application for such grading service, in accordance with the applicable provisions of this section and §§ 56.46 to 56.53, both inclusive; and, if so required by the grader, inspector, or sampler, such fees and charges shall be paid in advance.

(b) Fees and charges for any grading service shall, unless otherwise required pursuant to paragraph (c) of this section, be paid by the interested party making application for such grading service by check, draft, or money order payable to the Agricultural Marketing Service and remitted promptly to the Service.

(c) Fees and charges for any grading service under a cooperative agreement with any State or person shall be paid in accordance with the terms of such cooperative agreement by the interested party making application for any such grading service.

§ 56.46 *On a fee basis.* (a) Unless otherwise provided in this part, the fees to be charged and collected for any service (other than for an appeal grading) performed, in accordance with this part, on a fee basis shall be based on the applicable rates specified in §§ 56.48 and 56.50.

(b) In the event the aforesaid applicable rates are deemed by the Administrator to be inadequate fully to reimburse the Service for all costs and other items paid or incurred by the Service in connection with such service, the fees for such service shall not be based on the rates specified in § 56.50, but shall be based on the time required to perform such service and the travel of each sampler, grader, inspector, and supervisor of packaging at the rate of $4.00 per hour for the time actually required.

(c) If an applicant requests that any grading service be performed on a holiday or a non-work day, he may be charged for such service at a rate one and one-half times the rate which would

otherwise be applicable for such service if performed other than on a holiday or non-work day.

§ 56.47 *Fees for appeal grading.* The fees to be charged for any appeal grading shall be double the fee specified in the grading certificate from which the appeal is taken: *Provided,* That, the fee for any appeal grading requested by the United States, or any agency or instrumentality thereof, shall be the same as set forth in the grading certificate from which the appeal is taken. If the fee on the certificate from which the appeal is taken is based on a contract, then the fee for such appeal grading shall be double the amount specified in § 56.50 for the applicable volume of product appeal graded. If the result of any appeal grading discloses that a material error was made in the grading appealed from, no fee shall be required.

§ 56.48 *Fees for additional copies of grading certificates.* Additional copies of any grading certificates, other than those provided for in § 56.57, may be supplied to any interested party upon payment of a fee of $1.50 for each set of five or fewer copies.

§ 56.49 *Travel expenses and other charges.* Charges may be made to cover the cost of travel and other expenses incurred by the Service in connection with the performance of any grading service. Such charges shall include the costs of travel, per diem, and other expenses, plus a charge of 10 percent of the amount charged for said travel, per diem, and other expenses to cover administrative costs of the Department. When travel and other expenses are charged in connection with any grading the minimum charge which shall be made shall be $0.50.

§ 56.50 *Egg grading fees.* For each grading, or regrading pursuant to § 56.60, of any lot of eggs, the following fees shall be applicable and shall be computed on the basis of the number of packages in such lot, except in instances where more than one lot of eggs is involved in a single grading for contract acceptance of products to be delivered to an individual receiver the charge for examining each lot in excess of one may be based on the time required at the rate specified in § 56.46 (b):

	Fee
For 10 packages or less	$1.80
For 11 to 25 packages, inclusive	3.00
For 26 to 50 packages, inclusive	4.00
For 51 to 100 packages, inclusive	5.50
For 101 to 200 packages, inclusive	8.50
For 201 to 300 packages, inclusive	11.50
For 301 to 400 packages, inclusive	13.50
For 401 to 500 packages, inclusive	15.50
For 501 to 600 packages, inclusive	17.50
For each additional 35 packages, or fraction thereof, in excess of 600 packages	1.00

§ 56.51 *Additional charges.* With respect to any grading service performed in a freight or express car or any other place where the entire lot of the product is not readily accessible to the grader, inspector, or sampler, if the time required for the performance of such service is greater than would otherwise be required if the entire lot were readily accessible, as aforesaid, a fee of $4.00 shall be charged in addition to the applicable rates specified in § 56.50.

§ 56.52 *On a contract basis.* Fees to be charged and collected for any service, other than for an appeal grading, on a contract basis shall be such as are provided in such contract. The fees to be charged for any appeal grading shall be as provided in § 56.47.

§ 56.53 *Fees for grading service performed under cooperative agreement.* The fees to be charged and collected for any service performed under cooperative agreement shall be those provided for by such agreement.

GRADING CERTIFICATES

§ 56.55 *Grading certificates and sampling report forms.* Grading certificates and sampling report forms shall be issued on forms approved by the Administrator.

§ 56.56 *Grading certificate issuance.* Each grader shall issue a grading certificate covering each product graded except that with respect to grading service performed on a contract basis the issuance of a grading certificate shall be pursuant to a request therefor by the applicant or the Service. A grader shall not sign any certificate covering any product not graded by him.

§ 56.57 *Disposition of grading certificates.* The original of any grading certificate, issued pursuant to § 56.56, and not to exceed three copies thereof, shall, immediately upon issuance, be delivered or mailed to the applicant or person designated by him. One copy shall be filed in the office of grading serving the area in which the grading service was performed, and all other copies shall be filed in such manner as the Administrator may approve. Additional copies of any such certificate may be supplied to any interested party as provided in § 56.48.

§ 56.58 *Advance information.* Upon request of an applicant, all or part of the contents of any grading certificate issued to such applicant may be telephoned or telegraphed to him, or to any person designated by him, at his expense.

REGRADING AND APPEAL GRADING

§ 56.60 *Regrading of a graded product—(a) Application for regrading.* An application for a regrading may be made by any interested party who questions the representativeness of the sample upon which a previous grading was made, if the identity of the product has not been lost, and the product has not been subjected to conditions which may have caused a change in the product. Such application shall be made within two days following the day on which the grading was performed. Upon approval of the Administrator, the time within which such application for a regrading may be made may be extended. An application for a regrading may be granted only after the original grading certificate covering the product in question has been surrendered by the applicant to the Service.

(b) *Regrading procedure.* A regrading of a previously graded lot shall be made by examining an additional sample drawn from the product in question. The additional sample shall be not less than the minimum number of cases specified in § 56.4 (c). The grade assigned to the regraded product shall be determined on the basis of the averaged findings of both the original and regrade samples.

(c) *Regrading certificate.* Immediately after a regrading has been completed, a regrading certificate shall be issued showing the results of such regrading; and such certificate shall supersede the grading certificate previously issued for the product involved. Each regrading certificate shall clearly identify the number and date of the grading certificate it supersedes, and such supersedure shall be effective as of the time of issuance of such regrading certificate. The provisions of §§ 56.55 to 56.58, both inclusive, shall, whenever applicable, also apply to regrading certificates except that copies of such regrading certificates shall be furnished each interested party of record.

§ 56.61 *When appeal grading may be requested.* An application for an appeal grading may be made by any interested party who is dissatisfied with any determination stated in any grading certificate, if the identity of the samples, or the product, has not been lost; and such application for an appeal grading shall be made within two days following the day on which the grading was performed. Upon approval by the Administrator, the time within which an application for an appeal grading may be made may be extended.

§ 56.62 *How to obtain appeal grading.* Appeal grading may be obtained by filing a request therefor (a) with the Administrator, (b) with the grader or inspector who issued the grading certificate with respect to which the appeal grading is requested, (c) with the immediate superior of such grader or inspector, or (d) with the officer in charge of any office of grading. The application for appeal grading shall state the reasons therefor and may be accompanied by a copy of the aforesaid grading certificate or any other information the applicant may have secured regarding the product, at the time of grading, from which the appeal is requested. Such application may be made orally (in person or by telephone), in writing, or by telegraph. If made orally, written confirmation may be required.

§ 56.63 *Record of filing time.* A record showing the date and hour when each such application for appeal grading is received shall be maintained in such manner as the Administrator may prescribe.

§ 56.64 *When an application for an appeal grading may be refused.* If it appears to the Administrator that the reasons for an appeal grading are frivolous or not substantial, or that the quality or condition of the products has undergone a material change since the grading from which the appeal is made, or the identical products graded cannot be made accessible for regrading, or the act or this part has not been complied

with, the Administrator may refuse the applicant's request for the appeal grading; and such applicant shall be promptly notified of the reasons for such refusal.

§ 56.65 *When an application for an appeal grading may be withdrawn.* An application for appeal grading may be withdrawn by the applicant at any time before the appeal grading is made upon payment, by the applicant, of all expenses incurred by the Service in connection with such application.

§ 56.66 *Order in which appeal gradings are performed.* Appeal gradings shall be performed, insofar as practical, in the order in which applications therefor are received; and any such application may be given precedence pursuant to § 56.27.

§ 56.67 *Who shall make appeal gradings.* An appeal grading of any graded product shall be made by any grader (other than the one from whose grading the appeal is made) designated for this purpose by the Administrator; and, whenever practical, such appeal grading shall be conducted jointly by two such graders.

§ 56.68 *Appeal grading certificate.* Immediately after an appeal grading has been completed, an appeal grading certificate shall be issued showing the results of such appeal grading; and such certificate shall supersede the grading certificate previously issued for the product involved. Each appeal grading certificate shall clearly identify the number and date of the grading certificate which it supersedes; and such certificate shall thereupon supersede the grading certificate for the product involved, and such supersedure shall be effective as of the time of issuance of the grading certificate with respect to which the appeal is made. The provisions of §§ 56.55 to 56.58, both inclusive, shall, whenever applicable, also apply to appeal grading certificates except that copies of such appeal grading certificates shall be furnished each interested party of record.

§ 56.69 *Superseded certificates.* Whenever any grading certificate is superseded in accordance with this part, such certificate shall become null and void and, after the effective time of the supersedure, shall no longer represent the class, quality, quantity, or condition of the product described therein. If the original and all copies of such superseded certificate are not delivered to the person issuing the regrading or appeal grading certificate, he shall notify such persons as he considers necessary to prevent fraudulent use of the superseded certificate.

FACILITY REQUIREMENTS

§ 56.75 *Applicability of facility and operating requirements.* The provisions of § 56.76 shall become effective January 1, 1956, and shall apply to grading service with respect to shell eggs that are graded and packed in consumer packages (such as one-dozen cartons) and which bear a grade mark. The provisions of § 56.76 also shall be applicable to any grading service that is provided on a resident or contract basis.

§ 56.76 *Minimum facility and operating requirements for shell egg grading and packing plants*—(a) *General requirements for buildings and plant facilities.* (1) Buildings shall be of sound construction so as to prevent, insofar as practicable, the entrance or harboring of vermin.

(2) Grading and packing rooms shall be of sufficient size to permit installation of necessary equipment and the conduct of grading and packing in a sanitary manner. These rooms shall be kept reasonably clean during grading and packing operations and shall be thoroughly cleaned at the end of each operating day.

(3) Adequate lavatory and toilet accommodations shall be provided; and toilet and locker rooms shall be kept in a clean and sanitary condition.

(b) *Grading room requirements.* The grading room shall be adequately darkened to make possible accurate quality determination of the candled appearance of eggs.

(1) There shall be no crossbeams of light, and light reflection from candling lights shall be kept at a minimum.

(2) Candling benches shall be constructed so as to permit cleaning and provide ample shelf space for convenient placement of the different grades to be packed.

(3) The candling lights shall be capable of delivering reasonably uniform intensity of light at the candling aperture to facilitate accurate quality determinations; and the lights shall provide ample case light for detection of stained and dirty shells and the condition of the packing material.

(4) Individual egg scales shall be provided to check accuracy of weight classing.

(5) Weighing equipment, whether manual or automatic, shall be protected against dust and shall be capable of ready adjustment.

(6) Adequate ventilation shall be provided.

(c) *Cooler room requirements.* (1) Cooler rooms shall have refrigeration facilities capable of reducing within 24 hours and holding the maximum volume of eggs handled to 55° F., if eggs are to be held not longer than one week. If eggs are held for longer periods than one week, refrigeration facilities sufficient to hold the eggs at 40° F. or below are required.

(2) Cooler rooms shall be free from objectionable odors and from mold, and shall be maintained in a sanitary condition.

(d) *Shell egg treating operations.* Shell egg treating (oil processing) operations shall be conducted in a manner as will avoid contamination of the product and maximize conservation of its quality.

(1) Eggs with apparent moisture on the shell shall not be shell treated.

(2) The processing oil shall always be warmer than the eggs.

(3) Oil having any off odor, or that is obviously contaminated, shall not be used in shell egg treatment.

(4) Processing oil that has been previously used and which has become contaminated shall be filtered and heat treated at 180° F. for three minutes prior to use.

(5) Shell egg processing equipment shall be washed, rinsed, and treated with a bactericidal agent each time the oil is removed. It is preferable to filter and heat treat processing oil, and clean processing equipment daily when in use.

(6) Adequate coverage and protection against dust and dirt shall be provided when the equipment is not in use.

(e) *Shell egg cleaning operations.* (1) Shell egg cleaning equipment shall be kept in good repair and shall be cleaned after each day's use or more frequently if necessary.

(2) The wash water temperature shall always be warmer than the eggs.

(3) The wash water shall be replaced frequently and the detergent and sanitizer shall be kept at an effective level at all times.

(4) Washed eggs shall be dry before casing.

(f) *Requirements for eggs to be officially grade marked.* (1) Shell eggs which are to bear the official grade mark shall meet the following temperature requirements: They shall be cooled or tempered to within 45° F. to 70° F. before the official grading is made. Eggs which are to be temporarily held in the plant shall be placed under refrigeration of 55° F. or below within 24 hours after grading. If held longer than one week, they shall be held at 40° F. or below.

(2) Every reasonable precaution shall be exercised to prevent "sweating" of eggs.

(3) Only new or good used (free from obvious stains, mold, dirt, off odor, or breakage, and of sufficient strength and durability to adequately protect the product during normal distribution) packing materials and cases shall be used for eggs which are officially identified.

SUBPART B—FORMS AND INSTRUCTIONS

APPLICATION FOR GRADING SERVICE

§ 56.100 *Application for grading service with respect to shell eggs.*

Application is hereby made, in accordance with the applicable provisions of the regulations (7 CFR Part 56) governing the grading and inspection of shell eggs and the United States standards, grades, and weight classes for shell eggs, for grading service to be performed at the plant hereinafter designated:

---------- ----------
(Name of plant) (Street address)

(City and State)

(a) Upon approval of this application by the Agricultural Marketing Service, United States Department of Agriculture (hereinafter referred to as "AMS"), AMS will furnish grading service in accordance with the terms and conditions hereof.

(b) In making this application, the applicant agrees to comply with the terms and conditions of the aforesaid regulations (including such applicable instructions as may be issued from time to time by the Administrator), and such other conditions as hereinafter enumerated.

(c) The applicant agrees to pay for the full cost of the grading service covered hereby to AMS at the time the respective invoices are rendered by AMS. The full costs shall comprise such of the following items as may be due and may be included, from time to time, in the invoices covering the period or periods during which the grading service may be rendered:

(i) A charge of $4.00 per hour and expenses for the initial survey of the designated plant and its premises prior to the performance by the Service of the grading service covered hereby;

(ii) A charge of $100.00 for the final survey and inauguration of the grading service including the assignment of one grader and one alternate grader, provided they are installed at the same time;

(iii) A charge of $50.00 for each additional grader or replacement of a previously assigned grader to the designated plant: *Provided*, That, in the sole discretion of the Service no such charge will be made for a temporary replacement when such replacement is made by the use of a regular employee of the Service, or when the replacement is made necessary by the transfer of an employee of the Service for the sole benefit of the Service.

(iv) A charge equal to the salary costs paid to each grader assigned to the applicant's plant by AMS, including earned annual leave and, if necessary, earned sick leave: *Provided*, That, no charge is to be made for salary costs of any assigned grader of the designated plant while temporarily reassigned by AMS to perform grading service for other than the applicant except when the assigned grader is performing inspections for the Department of Defense on products accepted for delivery by the applicant to the Department of Defense, in which case the applicant will be given credit for the service rendered based on a formula concurred in jointly by the Departments of Defense and Agriculture.

(v) A charge equal to the salary costs, travel expenses and per diem paid by AMS to any grader whose services are required for relief purposes when regular graders are on annual or sick leave;

(vi) A charge for the actual cost to AMS of any travel and per diem incurred by each grader assigned to the plant while in the performance of grading service rendered the applicant;

(vii) A charge, at the sole discretion of AMS, of an amount not in excess of the actual cost to AMS of the travel (including the cost of movement of household goods and dependents) and per diem with respect to each grader who is transferred from an official station to the designated plant;

(viii) A charge included in salary costs equal to the Employer's tax imposed under the United States Internal Revenue Code (26 U. S. C.) for Old Age and Survivor's benefits under the Social Security System; and

(ix) An administrative service charge based upon the aggregate number of thirty-dozen cases of shell eggs handled in the plant per month, and computed in accordance with the following table:

COMPUTATION OF ADMINISTRATIVE SERVICE CHARGES

0 to 500 cases	$25.00
501 to 1,750 cases	33.25
1,751 to 2,750 cases	38.00
2,751 to 3,750 cases	42.75
3,751 to 5,000 cases	47.50
5,001 to 6,000 cases	52.25
6,001 to 7,000 cases	57.00
7,001 to 8,000 cases	61.75
8,001 to 9,000 cases	66.50
9,001 to 10,000 cases	71.25
10,001 to 11,000 cases	76.00
11,001 to 12,000 cases	80.75
12,001 to 13,000 cases	85.50
13,001 to 14,000 cases	90.25
14,001 and over	95.00

(x) A charge of $4.00 per hour plus actual costs to AMS for per diem and travel costs incurred in rendering services not specifically covered by this contract; such as, surveys in addition to the initial and final;

(xi) A charge equal to 7 percent of the salary paid by AMS of each grader exclusive of one regular grader whose salary is paid by AMS.

(d) The applicant shall designate, in writing, the employees of the applicant who will be required and authorized, to furnish each grader with such information as may be necessary for the performance of the grading service.

It is agreed that:

(a) AMS will provide an adequate number of graders to perform the grading service covered hereby;

(b) At the sole discretion of AMS the graders may be either a Federal or State employee or a licensed employee of the applicant;

(c) AMS shall not be responsible for damages accruing through any acts of commission or omission on the part of any grader;

(d) The provisions hereof shall continue in full force and effect from its effective date until suspended, withdrawn, or terminated, by (i) mutual consent of the applicant and AMS, (ii) written notice given by either party to the other to take effect on a specific date not less than 30 days from the date of the giving of such notice; (iii) one (1) day's written notice by AMS to the applicant, if the applicant fails to honor any invoice within thirty (30) days after date of invoice covering the cost of the grading service as herein provided; or (iv) termination of the services requested herein pursuant to the provisions in the following paragraph (e);

(e) The services to be rendered hereunder shall be terminated by AMS at any time AMS, acting pursuant to any applicable laws, rules, or regulations, debars the applicant from receiving any further benefits of the service, or the services hereunder may be suspended or terminated at any time AMS concludes that the applicant has not conformed, or cannot conform, hereto;

(f) All terms used herein shall have the same meaning as when used in the aforesaid regulations and instructions;

(g) A federally employed grader will be required to confine his activities to those duties necessary in the rendering of grading service and such closely related activities as may be approved by AMS: *Provided*, That, in no instance will the federally employed grader assume the duties of management;

(h) No member of or Delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of this agreement or to any benefit that may arise therefrom unless derived through the agreement made with a corporation for its general benefit.

(i) Special provisions and limitations:

_____
(Applicant)
By _____
_____
(Street)
_____ _____
(City) (State)
_____
(Date)

Approved:
By _____
_____
(Title)
_____
(Date)

Agricultural Marketing Service,
U. S. Department of Agriculture.

§ 56.101 *Application for the privilege to use official identification and grade labels on consumer packages of graded products.*

Application is hereby made, in accordance with the provisions of the regulations (7 CFR Part 56) governing the grading and inspection of shell eggs and the United States standards, grades, and weight classes for shell eggs, for the privilege of using, subject to such regulations, official identification and grade labels on consumer packages of shell eggs.

In requesting this privilege, the applicant agrees to conform to the aforesaid regulations and such instructions covering grading and inspection of shell eggs as may be issued by the Administrator of the Agricultural Marketing Service. The applicant further agrees to furnish the official identification and grade labels at no cost to the Government, and to place them in the custody of the supervisor of packaging or grader who is designated for such purpose by the Administrator.

The applicant further agrees not to package any graded product bearing official identification or grade label under a trade name other than that of the applicant unless such trade name is submitted, together with the proper address, to the Administrator at the time approval is requested of the cartons, packaging material, grade labels, and official identification to be used in packaging such graded shell eggs.

In the event the privilege to use official identification or grade labels on graded products is withdrawn in accordance with the applicable provisions of the regulations, the applicant agrees promptly to deliver or cause to be delivered into the custody of the immediate superior officer of the grader or supervisor of packaging all supplies of the official identification and of the grade labels, together with all packaging and packing materials bearing printed reference to the graded character of the products for such subsequent use by the applicant as may be approved by the Administrator.

All terms which are used herein shall have the meaning applicable to such terms when used in the aforesaid regulations.

This application is submitted in triplicate.

_____
(Applicant)
By _____
Street No. _____
Dated at _____
This ___ day of ____, 195_.

Approved:
Date _____
Name _____
Title _____
Agricultural Marketing Service.

SUBPART C—UNITED STATES STANDARDS, GRADES, AND WEIGHT CLASSES FOR SHELL EGGS

UNITED STATES STANDARDS FOR QUALITY OF INDIVIDUAL SHELL EGGS

§ 56.200 *Application.* (a) The United States standards for quality of individual shell eggs contained in this subpart are applicable only to eggs that are the product of the domesticated chicken hen and are in the shell. Such standards are with respect to individual eggs with clean or dirty unbroken shells, and checked or cracked shells.

(b) Interior egg quality specifications for these standards are based on the apparent condition of the interior contents of the egg as it is twirled before the candling light. Any type or make of candling light may be used that will enable the particular grader to make consistently accurate determinations of the interior quality of shell eggs. It is desirable to break out an occasional egg and, by use of the USDA color chart "Interior Quality of Eggs," compare the broken-out and candled appearance, thereby aiding in correlating candled and broken-out appearance.

§ 56.201 *AA Quality.* The shell must be clean, unbroken, and practically normal. The air cell must not exceed ⅛

inch in depth and be practically regular. The white must be clear and firm so that the yolk appears well centered and its outline only slightly defined when the egg is twirled before the candling light. The yolk must be free from apparent defects.

§ 56.202 *A Quality.* The shell must be clean, unbroken, and practically normal. The air cell must not exceed ⅜ inch in depth and must be practically regular. The white must be clear and at least reasonably firm so that the yolk appears at least fairly well centered and its outline only fairly well defined when the egg is twirled before the candling light. The yolk must be practically free from apparent defects.

§ 56.203 *B Quality.* The shell must be unbroken and may be slightly abnormal and may show slight stains but no adhering dirt, provided, that they do not appreciably detract from the appearance of the egg. When the stain is localized, approximately 1/32 of the shell surface may be slightly stained, and when the slightly stained areas are scattered, approximately 1/16 of the shell surface may be slightly stained. The air cell must not exceed ⅜ inch in depth, may show unlimited movement, and may be free but not bubbly. The white must be clear and may be slightly weak so that the yolk may appear off-center, with its outline well defined when the egg is twirled before the candling light. The yolk may appear slightly enlarged or slightly flattened and may show other definite, but not serious, defects.

§ 56.204 *C Quality.* The shell must be unbroken and may be abnormal and may have slight to moderate stained areas covering not more than ¼ of the shell surface, but no adhering dirt. Prominent stains are not permitted. The air cell may be over ⅜ inch in depth and be free or bubbly. The white may be weak or watery so that the yolk may appear off-center and its outline plainly visible when the egg is twirled before the candling light. The yolk may appear dark, enlarged, and flattened, and may show clearly visible germ development but no blood due to such development. It may show other serious defects that do not render the egg inedible. Small blood clots or spots may be present.

§ 56.205 *Dirty.* The shell must be unbroken and it has adhering dirt or prominent stains.

§ 56.206 *Check.* An individual egg that has a broken shell or crack in the shell but with its shell membranes intact and its contents do not leak.

§ 56.207 *Leaker.* An individual egg that has a crack or break in the shell and shell membranes to the extent that the egg contents are exuding or free to exude through the shell. An egg which has a portion of the shell missing (in excess of an area ¼ inch square) is considered a leaker even though the shell membrane is intact.

§ 56.208 *Terms descriptive of shell*—(a) *Clean.* A shell that is free from foreign material and from stains or discolorations that are readily visible. An egg may be considered clean if it has only very small specks or stains, if such specks or stains are not of sufficient number or intensity to detract from the generally clean appearance of the egg. Eggs that show traces of processing oil on the shell are considered clean unless otherwise soiled.

(b) *Dirty.* A shell which has dirt adhering to its surface or which has prominent stains.

(c) *Practically normal.* A shell that approximates the usual shape and that is of good even texture and strength and is free from rough areas or thin spots. Slight ridges and rough areas that do not materially affect the shape, texture, and strength of the shell are permitted.

(d) *Slightly abnormal.* A shell that may be somewhat unusual in shape or that may be slightly faulty in texture or strength. It may show definite ridges but no pronounced thin spots or rough areas.

(e) *Abnormal.* A shell that may be decidedly misshapen or faulty in texture or strength or that may show pronounced ridges, thin spots, or rough areas.

§ 56.209 *Terms descriptive of the air cell*—(a) *Depth of air cell (air space between shell membranes, normally in the large end of the egg).* The depth of the air cell is the distance from its top to its bottom when the egg is held air cell upward.

(b) *Practically regular.* An air cell that maintains a practically fixed position in the egg and shows a fairly even outline with not more than ⅜-inch movement in any direction as the egg is rotated.

(c) *Free air cell.* An air cell that moves freely toward the uppermost point in the egg as the egg is rotated slowly.

(d) *Bubbly air cell.* A ruptured air cell resulting in one or more small separate air bubbles usually floating beneath the main air cell.

§ 56.210 *Terms descriptive of the white*—(a) *Clear.* A white that is free from discolorations or from any foreign bodies floating in it. (Prominent chalazas should not be confused with foreign bodies such as spots or blood clots.)

(b) *Firm.* A white that is sufficiently thick or viscous to permit but limited movement of the yolk from the center of the egg, thus preventing the yolk outline from being more than slightly defined or indistinctly indicated when the egg is twirled.

(c) *Reasonably firm.* A white that is somewhat less thick or viscous than a firm white. A reasonably firm white permits the yolk to move somewhat more freely from its normal position in the center of the egg and approach the shell more closely. This would result in a fairly well defined yolk outline when the egg is twirled.

(d) *Slightly weak.* A white that is lacking in thickness or viscosity to an extent that permits the yolk to move quite freely from its normal position in the center of the egg. A slightly weak white will cause the yolk outline to appear well defined when the egg is twirled.

(e) *Weak and watery.* A white that is thin and generally lacking in viscosity. A weak and watery white permits the yolk to move freely from the center of the egg and to approach the shell closely, thus causing the yolk outline to appear plainly visible and dark when the egg is twirled.

(f) *Blood clots and spots (not due to germ development).* Blood clots or spots on the surface of the yolk or floating in the white. These blood clots may have lost their characteristic red color and appear as small spots or foreign material commonly referred to as meat spots. If they are small (aggregating not more than ⅛ inch in diameter), the egg may be classed as "C Quality." If larger, or showing diffusion of blood in the white surrounding them, the egg shall be classified as loss.

(g) *Bloody white.* An egg, the white of which has blood diffused through it. Such a condition may be present in new-laid eggs. Eggs with bloody whites are classed as loss.

§ 56.211 *Terms descriptive of the yolk*—(a) *Well centered.* A yolk that occupies the center of the egg and moves only slightly from that position as the egg is twirled.

(b) *Fairly well centered.* A yolk that is not more than one-fourth of the distance from its normal central position toward the ends of the egg and swings not more than one-half of the distance from its normal position toward the sides of the egg as it is twirled.

(c) *Off center.* A yolk which is distinctly above or below center and swings close to the sides of the egg as it is twirled.

(d) *Outline slightly defined.* A yolk outline that is indistinctly indicated and appears to blend into the surrounding white as the egg is twirled.

(e) *Outline fairly well defined.* A yolk outline that is discernible but not clearly outlined as the egg is twirled.

(f) *Outline well defined.* A yolk outline that is quite definite and distinct as the egg is twirled.

(g) *Outline plainly visible.* A yolk outline that is clearly visible as a dark shadow when the egg is twirled.

(h) *Slightly enlarged and slightly flattened.* A yolk in which the yolk membranes and tissues have weakened somewhat causing it to appear slightly enlarged and slightly flattened.

(i) *Enlarged and flattened.* A yolk in which the yolk membranes and tissues have weakened and moisture has been absorbed from the white to such an extent that it appears definitely enlarged and flat.

(j) *Free from defects.* A yolk that shows no spots or areas on its surface indicating the presence of germ development or other defects.

(k) *Practically free from defects.* A yolk that shows no germ development but may show other very slight defects on its surface.

(l) *Definite but not serious defects.* A yolk that may show definite spots or areas on its surface but with only slight indication of germ development or other pronounced or serious defects.

(m) *Other serious defects.* A yolk that shows well developed spots or areas and other serious defects, such as olive

yolks, which do not render the egg inedible.

(n) *Clearly visible germ development.* A development of the germ spot on the yolk of a fertile egg that has progressed to a point where it is plainly visible as a definite circular area or spot with no blood in evidence.

(o) *Blood due to germ development.* Blood caused by development of the germ in a fertile egg to the point where it is visible as definite lines or as a blood ring. Such an egg is classified as inedible.

§ 56.212 *General terms*—(a) *Loss.* An egg that is inedible, smashed, or broken so that contents are leaking, cooked, frozen, contaminated, or containing bloody whites, large blood spots, large unsightly meat spots, or other foreign material.

(b) *Inedible eggs.* Eggs of the following descriptions are classed as inedible: black rots, white rots, mixed rots (addled eggs), sour eggs, eggs with green whites, eggs), sour eggs, eggs with green whites, eggs with stuck yolks, moldy eggs, musty taining embryo chicks (at or beyond the blood ring stage), and any eggs that are adulterated as such term is defined pursuant to the Federal Food, Drug, and Cosmetic Act.

UNITED STATES CONSUMER GRADES AND WEIGHT CLASSES FOR SHELL EGGS

§ 56.215 *General.* (a) These grades are applicable to edible shell eggs in "lot" quantities rather than on an "individual" egg basis. A lot may contain any quantity of 2 or more eggs. Reference in these standards to the term "case" means 30 dozen egg cases as used in commercial practice in the United States.

(b) Terms used in this part that are defined in the United States standards for quality of individual shell eggs (§ 56.200 et seq.) have the same meaning in this part as in those standards.

(c) An aggregate tolerance of 20 percent is permitted within each consumer grade only as an allowance for variable efficiency and interpretation of graders, normal changes under favorable conditions during reasonable periods between grading and inspection, and reasonable variation of inspector's interpretation.

(d) Substitution of higher qualities for the lower qualities specified is permitted.

§ 56.216 *Grades.* (a) "U. S. Consumer Grade AA" shall consist of eggs of which at least 80 percent are AA Quality. Within the maximum tolerance of 20 percent, which may be below AA Quality, not more than 5 percent may be of the qualities below A, in any combination, but not including Dirties and Leakers.

(b) "U. S. Consumer Grade A" shall consist of eggs of which at least 80 percent are A Quality or better. Within the maximum tolerance of 20 percent which may be below A Quality, not more than 5 percent may be of the qualities below B, in any combination but not including Dirties and Leakers.

(c) "U. S. Consumer Grade B" shall consist of eggs of which at least 80 percent are B Quality or better. Within the maximum tolerance of 20 percent which may be below B Quality, 10 percent may be of C Quality, and not over 10 percent may be Dirties or Checks in any combination.

(d) "U. S. Consumer Grade C" shall consist of eggs of which at least 80 percent are C Quality or better, and the balance may be Dirties or Checks in any combination.

(e) *Additional tolerances.* (1) Within the maximum tolerance permitted, an allowance will be made at receiving points or shipping destination for ½ percent Leakers in U. S. Consumer Grades AA, A, and B, and 1 percent in Grade C.

(2) In lots of two or more cases, no individual case may fall below 70 percent of the specified quality and no individual case may contain more than double the tolerance specified for the respective grade (i. e., in lots of Grade A, not more than 10 percent of the qualities in individual cases within the sample may be C or Check, provided the average is not over 5 percent).

(f) "No grade" means eggs of possible edible quality that fail to meet the requirements of an official U. S. Grade or that have been contaminated by smoke, chemicals, or other foreign material which has seriously affected the character, appearance, or flavor of the eggs.

§ 56.217 *Summary of grades.* The summary of the U. S. Consumer Grades for Shell Eggs follows as Table I of this section:

TABLE I—SUMMARY OF U. S. CONSUMER GRADES FOR SHELL EGGS

U. S. consumer grade	At least 80 per cent (lot over age) [1] must be—	Tolerance permitted [2]	
		Percent	Quality
Grade AA	AA Quality	15 to 20 Not over 5 [3]	A. B, C, or Check.
Grade A	A Quality or better.	15 to 20 Not over 5 [3]	B. C or Check.
Grade B	B Quality or better.	10 to 20 Not over 10 [3]	C. Dirty or Check.
Grade C	C Quality or better.	Not over 20	Dirty or Check.

[1] In lots or two or more cases, no individual case may fall below 70 percent of the specified quality and no individual case may contain more than double the tolerance specified for the respective grade (i. e., in lots of Grade A, not more than 10 percent of the qualities in individual cases within the sample may be C or Check, provided the average is not over 5 percent).

[2] Within tolerance permitted, an allowance will be made at receiving points or shipping destination for ½ percent leakers in Grades AA, A, and B, and 1 percent in Grade C.

[3] Substitution of higher qualities for the lower qualities specified is permitted.

§ 56.218 *Weight classes.* (a) The weight classes for U. S. Consumer Grades for Shell Eggs shall be as indicated in Table I of this section and shall apply to all consumer grades.

TABLE I—U. S. WEIGHT CLASSES FOR CONSUMER GRADES FOR SHELL EGGS

Size or weight class	Minimum net weight per dozen	Minimum net weight per 30 dozen	Minimum weight for individual eggs at rate per dozen
	Ounces	*Pounds*	*Ounces*
Jumbo	30	56	29
Extra large	27	50½	26
Large	24	45	23
Medium	21	39½	20
Small	18	34	17
Peewee	15	28	----------

(b) Minimum weights listed for individual eggs at the rate per dozen are permitted in the various size classes only to the extent that they will not reduce the net weight per dozen below the required minimum.

(c) Effective January 1, 1956, the weight classes for U. S. Consumer Grades for Shell Eggs shall be as indicated in Table II of this section and shall thereupon supersede the weight classes set forth in Table I of this section.

TABLE II—U. S. WEIGHT CLASSES FOR CONSUMER GRADES FOR SHELL EGGS

Size or weight class	Minimum net weight of individual eggs at rate per dozen [1]	Minimum net weight per 30 dozen case
	Ounces	*Pounds*
Jumbo	30	56
Extra large	27	50½
Large	24	45
Medium	21	39½
Small	18	34
Peewee	15	28

[1] A tolerance of not more than 5 percent of the individual eggs within the lot may be less than the minimum net weight for individual eggs specified for the respective weight class but such eggs shall weigh not less than the specified minimum weight for the next lower weight class. Individual cases may contain not more than 10 percent of individual eggs below minimum weight.

UNITED STATES PROCUREMENT GRADES AND WEIGHT CLASSES FOR SHELL EGGS

§ 56.220 *General.* (a) These procurement grades are applicable only to shell eggs in lot quantities. They are designed primarily for Government and institutional procurement. A lot may contain any quantity of one or more cases. Reference to the term "case" means a 30-dozen egg case as used in commercial practice in the United States.

(b) All terms in the United States standards for quality of individual shell eggs (§ 56.200 et seq.) shall, when used in this part have the same meaning as is given to them in such standards.

(c) Substitution of higher qualities for the lower qualities specified is permitted.

§ 56.221 *Grades.* (a) "U. S. Procurement Grade I" shall consist of eggs of which at least 80 percent are A Quality or better. Within the maximum of 20 percent which may be below A Quality, not more than 5 percent may be of the qualities below B. Said maximum tolerance of 5 percent may consist of C Quality, not more than 3 percent Checks, and not more than 3/10 percent Dirties, Leakers, and Loss combined.

(b) "U. S. Procurement Grade II" shall consist of eggs of which at least 60 percent are A Quality or better. Within the maximum of 40 percent which may be below A Quality, not more than 10 percent may be of the qualities below B. Said maximum tolerance of 10 percent may consist of C Quality, not more than 3 percent Checks, and not more than 3/10 percent Dirties, Leakers, and Loss combined.

(c) "U. S. Procurement Grade III" shall consist of eggs of which at least 40 percent are A Quality or better. Within the maximum of 60 percent which may be below A Quality, not more than 11.7 percent may be of the qualities below B. Said maximum tolerance of 11.7 percent

may consist of C Quality, not more than 3 percent Checks, and not more than 3/10 percent Dirties, Leakers, and Loss combined.

(d) "U. S. Procurement Grade IV" shall consist of eggs of which at least 20 percent are A Quality or better. Within the maximum of 80 percent which may be below A Quality, not more than 11.7 percent may be of the qualities below B. Said maximum tolerance of 11.7 percent may consist of C Quality, not more than 3 percent Checks, and not more than 3/10 percent Dirties, Leakers, and Loss combined.

(e) *Individual case tolerance within a lot applying to each of the procurement grades.* (1) Individual cases may contain not over 10 percent less A Quality eggs than specified for any procurement grade provided the average percentage of A Quality eggs for the lot is not less than the percentage specified. In lots of 200 cases or more, one case in each 10 examined may contain not over 20 percent less A Quality eggs than the minimum percentage specified for the grade.

(2) Individual cases may contain not over 18 percent eggs below B Quality provided the average percentage for the lot is not more than is specified for the grade.

§ 56.222 *Summary of grades.* The summary of the U. S. Procurement Grades for Shell Eggs follows as Table I of this section:

TABLE I—SUMMARY OF U. S. PROCUREMENT GRADES FOR SHELL EGGS

U. S. Procurement Grade	A quality or better (lot average) at least [1]	Maximum tolerance permitted [2] (lot average)	
	Percent	Percent	Quality
I	80	15 to 20	B.
		Not over 5	C, Check, Dirty, Leaker, and Loss.
II	60	30 to 40	B.
		Not over 10	C, Check, Dirty, Leaker, and Loss.
III	40	48.3 to 60	B.
		Not over 11.7	C, Check, Dirty, Leaker, and Loss.
IV	20	68.3 to 80	B.
		Not over 11.7	C, Check, Dirty, Leaker, and Loss.

[1] Individual cases may contain not over 10 percent less A Quality eggs than permitted for the lot, provided the average for the lot is not more than the tolerance permitted in any grade. In lots of 200 cases or more, one case in each 10 examined may contain not over 20 percent less A Quality eggs than is permitted in any grade.
[2] Within each tolerance for qualities below B, each of the grades may contain not over 3 percent Checks, and a combined total of not over 3/10 percent Dirties, Leakers, and Loss. Individual cases may contain not over 18 percent of qualities below B, provided the average for the lot does not exceed the tolerances permitted in any grade.

§ 56.223 *Weight classes.* (a) The weight classes for United States Procurement Grades for Shell Eggs shall be as indicated in Table I of this section and shall apply to all procurement grades.

TABLE I—WEIGHT CLASSES FOR UNITED STATES PROCUREMENT GRADES

Weight classes	Average net weight on lot basis 30-dozen case	Minimum net weight individual 30-dozen case	Minimum weight of individual eggs, at net rate per dozen	Maximum average percent of individual eggs below minimum weight lot average [1]
	Pounds	*Pounds*	*Ounces*	*Percent*
Extra large	50.5	50	26	3.33
Large	45	44.5	23	3.33
Medium	39.5	39	20	3.33
Small	34	33.5	17	3.33

[1] Individual cases may contain not over 10 percent of individual eggs below minimum weights specified in any weight class but such eggs shall weight not less than the minimum specified for the next lower weight class. Individual cases may contain not more than 10 percent of individual eggs below minimum weight.
[2] A tolerance of ½ pound per individual case is permitted in each of the listed weight classes but only to the extent that will not reduce the required minimum net weight per case of the lot on a lot average basis.

(b) Effective January 1, 1956, the weight classes for United States Procurement Grades for Shell Eggs shall be as indicated in Table II of this section and shall thereupon supersede the weight classes indicated in Table I of this section.

TABLE II—WEIGHT CLASSES FOR UNITED STATES PROCUREMENT GRADES

Weight classes	Minimum net weight of individual eggs at rate per dozen [1]	Minimum net weight per 30-dozen case [2]
	Ounces	*Pounds*
Extra large	27	50½
Large	24	45
Medium	21	39½
Small	18	34
Peewee	15	28

[1] A tolerance of 5 percent is permitted for individual eggs weighing less than the minimum specified in any weight class, but such eggs shall weigh not less than the minimum specified for the next lower weight class.

UNITED STATES WHOLESALE GRADES AND WEIGHT CLASSES FOR SHELL EGGS

§ 56.225 *General.* (a) These wholesale grades are applicable only to shell eggs.

(b) All terms in the United States standards for quality of individual shell eggs (§ 56.200 et seq.) shall, when used in this part, have the same meaning as is given to them in such standards.

(c) Substitution of higher qualities for the lower qualities specified is permitted.

(d) The term "refrigerator eggs" means eggs which have been held under refrigeration for a period of not less than 30 days.

§ 56.226 *Grades.* (a) "U. S. Specials --% AA Quality" shall consist of eggs of which at least 20 percent are AA Quality; and the actual percentage of AA Quality eggs shall be stated in the grade name. The balance may be A Quality except for permitted tolerances, per 30 dozen of eggs, of which 27 eggs (7.5 percent) may be B Quality, C Quality, Dirties, or Checks in any combination, and 6 eggs (1.7 percent) may be Loss.

(b) "U. S. Extras --% A Quality" shall consist of eggs of which at least 20 percent are not less than A Quality; and the actual total percentage of A Quality and better quality eggs shall be stated in the grade name. The balance may be B Quality except for permitted tolerances, per 30 dozen of eggs, of which 42 eggs (11.7 percent) may be of C Quality, Dirties, or Checks in any combination, and 8 eggs (2.2 percent) may be Loss. For the period beginning on August 1 of any year and extending through January 31 of the next year, the permitted tolerance for Loss with respect to "refrigerator eggs" is 12 eggs (3.3 percent).

(c) "U. S. Standards --% B Quality" shall consist of eggs of which at least 20 percent are not less than B Quality; and the actual total percentage of B Quality and better quality eggs shall be stated in the grade name. The balance may be C Quality except for permitted tolerances, per 30 dozens of eggs, of which 42 eggs (11.7 percent) may be Dirties or Checks in any combination, and 10 eggs (2.8 percent) may be Loss. For the period beginning on August 1 of any year and extending through January 31 of the next year, the permitted tolerance of Loss with respect to "refrigerator eggs" is 15 eggs (4.2 percent).

(d) "U. S. Trades --% C Quality" shall consist of eggs of which at least 83.3 percent are not less than C Quality; and the actual total percentage of C Quality and better quality eggs shall be stated in the grade name. The permitted tolerances, per 30 dozen of eggs, are 42 eggs (11.7 percent) which may be Dirties or Checks in any combination, and 18 eggs (5 percent) may be Loss.

(e) "U. S. Dirties" shall consist of eggs that are Dirty and contain, per 30 dozen of eggs, not more than 42 eggs (11.7 percent) which are Checks, and 18 eggs (5 percent) which may be Loss.

(f) "U. S. Checks" shall consist of eggs that are Checks and contain, per 30 dozen of eggs, not more than 18 eggs (5 percent) that are Loss.

(g) "No grade" means eggs of possible edible quality that fail to meet the requirements of an official U. S. Grade or that have been contaminated by smoke, chemicals, or other foreign material that has seriously affected the character, appearance, or flavor of the eggs.

(h) Effective January 1, 1956, the percentage of Loss eggs permitted in U. S. Specials --% AA Quality, U. S. Extras --% A Quality, and U. S. Standards --% B Quality, will be 2.0 percent, 3.0 percent, and 4.0 percent, respectively and will thereupon supersede the requirements of paragraphs (a), (b), and (c) of this section with respect to Loss.

§ 56.227 *Summary of grades.* A summary of the United States Wholesale Grades for Shell Eggs follows as Table I of this section:

TABLE I—SUMMARY OF UNITED STATES WHOLESALE GRADES FOR SHELL EGGS

Wholesale grade designation	Minimum percentage of eggs of specific qualities required [1]				Tolerances in terms of maximum number and percentage of eggs, for each 30 dozen of eggs									
	AA Quality	A Quality or better	B Quality or better	C Quality or better	B Quality, C Quality, Dirties, and Checks		C Quality, Dirties, and Checks		Dirties and Checks		Checks		Loss	
					Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
U. S. Specials ____ % AA Quality [2]	20	Balance	None permitted except for tolerances		27	7.5							6	1.7
U. S. Extras ____ % A Quality [2]		20	Balance	None permitted except for tolerances			42	11.7					8	[3] 2.2
U. S. Standards ____ % B Quality [2]			20	Balance					42	11.7			10	[3] 2.8
U. S. Trades ____ % C Quality [2]				83.3					42	11.7			18	5
U. S. Dirties											42	11.7	18	5
U. S. Checks													18	5

[1] Substitution of eggs possessing higher qualities for those possessing lower specified qualities is permitted.
[2] The actual total percentage must be stated in the grade name.
[3] For the period beginning on August 1 of one year and extending through January 31 of the next year, the permitted tolerance for loss with respect to "refrigerator eggs" is 12 eggs (3.3 percent) and 15 eggs (4.2 percent) for U. S. Extras ____ % A Quality and U. S. Standards ____ % B Quality, respectively.

§ 56.228 *Weight classes.* (a) The weight classes for the United States Wholesale Grades for Shell Eggs shall be as indicated in Table I of this section and, subject to the stated tolerance of 10 percent, shall apply to all wholesale grades except U. S. Dirties and U. S. Checks. There are no weight classes for U. S. Dirties or U. S. Checks.

TABLE I—WEIGHT CLASSES FOR UNITED STATES WHOLESALE GRADES FOR SHELL EGGS

Weight classes	Per 30 dozen eggs		Weights for individual eggs at rate per dozen	
	Average net weight on a lot [1] basis	Minimum net weight individual case [2] basis	Minimum weight	Weight variation tolerance for not more than 10 percent, by count, of individual eggs
	At least—			
Extra large	50½ pounds	50 pounds	26 ounces	Under 26 but not under 24 ounces.
Large	45 pounds	44 pounds	23 ounces	Under 23 but not under 21 ounces.
Medium	39½ pounds	39 pounds	20 ounces	Under 20 but not under 18 ounces.
Small	34 pounds	None	None	None.

[1] Lot means any quantity of 30 dozen or more eggs.
[2] Case means standard 30 dozen egg case as used in commercial practice in the United States.

(b) Effective January 1, 1956, the weight classes for United States Wholesale Grades for Shell Eggs shall be as indicated in Table II of this section and shall thereupon supersede the weight classes indicated in Table I of this section.

TABLE II—WEIGHT CLASSES FOR UNITED STATES WHOLESALE GRADES FOR SHELL EGGS

Weight classes	Minimum net weight of individual eggs at rate per dozen [1]	Minimum net weight per 30 dozen case [2]
	Ounces	*Pounds*
Extra large	27	50½
Large	24	45
Medium	21	39½
Small	18	34
Peewee	15	28

[1] A tolerance of not more than 5 percent of the individual eggs may be below the minimum weights specified but such eggs shall weigh not less than the specified minimum weight for the next lower weight class. No individual case may contain more than 10 percent of eggs below the weight specified for a particular weight class.
[2] A tolerance of ½ pound per case is permitted for individual cases within the lot but only to the extent that the average weight of the lot is not reduced below the required minimum.

Issued at Washington, D. C., this 27th day of January 1955.

[SEAL] ROY W. LENNARTSON,
Deputy Administrator,
Agricultural Marketing Service.

[F. R. Doc. 55-921; Filed, Jan. 31, 1955; 8:49 a. m.]

Chapter III—Agricultural Research Service, Department of Agriculture

PART 301—DOMESTIC QUARANTINE NOTICES

SUBPART—HAWAIIAN FRUITS AND VEGETABLES

REGULATED ARTICLES; CONDITIONS OF MOVEMENT

EDITORIAL NOTE: In F. R. Doc. 55-587, appearing at page 481 of the issue for Friday, January 21, 1955, the entry for coconuts in § 301.13-2 (b) was incomplete. It now reads:

Coconuts (Cocos nucifera), in mature green or mature brown condition.

TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

DEPARTMENT OF COMMERCE

Effective upon publication in the FEDERAL REGISTER, subparagraphs (1) and (2) of § 6.112 (j) are revoked and subparagraph (3) is added to paragraph (j) as set out below.

§ 6.112 *Department of Commerce.*
* * *
(j) *Business and Defense Services Administration* * * *

(3) Not to exceed 30 positions, at grades GS-13 and higher, to be filled by appointment of persons, qualified as industrial specialists, who possess specialized knowledge and experience in the field of industrial production, industrial operations and related problems, applicable to one or more of the current segments of industry served by the Business and Defense Services Administration. Appointments under this authority may be made for a period not to exceed two years, and may, with prior approval of the Commission, be extended for an additional period of two years.

(R. S. 1753, sec. 2, 22 Stat. 403; 5 U. S. C. 631, 633; E. O. 10440, 18 F. R. 1823, 3 CFR, 1953 Supp.)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] WM. C. HULL,
Executive Assistant.

[F. R. Doc. 55-967; Filed, Jan. 31, 1955; 8:55 a. m.]

TITLE 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket 6231]

PART 3—DIGEST OF CEASE AND DESIST ORDERS

BROADMORE FASHIONS, INC., ET AL.

Subpart—*Misbranding or mislabeling:* § 3.1190 *Composition: Wool Products Labeling Act;* § 3.1325 *Source or origin:* Maker or seller, etc.: *Wool Products Labeling Act.* Subpart—*Neglecting, unfairly or deceptively, to make material disclosure:* § 3.1845 *Composition:* Wool Products Labeling Act; § 3.1900 *Source or origin:* Wool Products Labeling Act. In connection with the introduction or manufacture for introduction into commerce, or the offering for sale, sale, transportation or distribution in commerce of ladies' coats or other "wool products", as such products are defined in and are subject to the said Wool Products Labeling Act of 1939; which products contain, purport to contain, or in any manner are represented as containing "wool", "reprocessed wool", or "reused wool", as such terms are defined in said act: misbranding said

products by: I. Falsely or deceptively stamping, tagging, labeling, or otherwise identifying such products as to the character or amount of the constituent fibers included therein; II. Failing to securely affix to or place on each such product a stamp, tag, label, or other means of identification showing in a clear and conspicuous manner; (a) The percentage of the total fiber weight of such wool product, exclusive of ornamentation not exceeding five percentum of said total fiber weight, of (1) wool, (2) reprocessed wool, (3) reused wool, (4) each fiber other than wool where said percentage by weight of such fiber is five percentum or more, and (5) the aggregate of all other fibers; (b) the maximum percentage of the total weight of such wool product of any nonfibrous loading, filling, or adulterating matter; and (c) the name or the registered identification number of the manufacturer of such wool product or of one or more persons engaged in introducing such wool product into commerce, or in the offering for sale, sale, transportation, distribution, or delivery for shipment thereof in commerce, as "commerce" is defined in the Wool Products Labeling Act of 1939; III. falsely or deceptively stamping, tagging, labeling, or otherwise identifying such products as containing hair or fleece of the Cashmere or Kashmir goat; and IV. failing to separately set forth on the stamps, tags, labels, or other means of identification, the true character and amount of constituent fibers of the interlinings of any such wool product; prohibited, subject to the proviso, however, that the foregoing provisions concerning misbranding shall not be construed to prohibit acts permitted by paragraphs (a) and (b) of section 3 of the Wool Products Labeling Act of 1939; and to the further provision that nothing contained in the order shall be construed as limiting any applicable provisions of said act or the rules and regulations promulgated thereunder.

(Sec. 6, 38 Stat. 721; 15 U. S. C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, secs. 2–5, 54 Stat. 1128–1130; 15 U. S. C. 45, 68–68c) [Cease and desist order, Broadmore Fashions, Inc., et al., New York, N. Y., Docket 6231, January 18, 1955]

In the Matter of Broadmore Fashions, Inc., a Corporation; Dan-Del Coat Corp., a Corporation; and Bernard Drobes and Harry Brody, Individually and as Officers of Said Corporations

This proceeding was heard by Loren H. Laughlin, hearing examiner, theretofore duly designated by the Commission, upon the complaint of the Commission, which charged respondents in certain particulars with having violated the provisions of the Federal Trade Commission Act and the Wool Products Labeling Act of 1939, and the rules and regulations promulgated under the latter; upon respondents' amended answer which, in substance, admitted all the allegations of the complaint except that respondent Brody denied being an officer of respondent Dan-Del Coat Corp., and all respondents stated they were without any knowledge as to whether the ladies' coats referred to in the complaint contained any of the hair or fiber of the Cashmere or Kashmir goat, as alleged therein, respondents reserving the right to submit proposed findings and conclusions of law and the right to appeal under the rules of practice of the Commission; and upon a hearing before said examiner upon the issues presented by said complaint and amended answer, at which it was agreed between counsel supporting the complaint and all respondents by their attorneys that in lieu of the introduction of oral testimony and other evidence by the parties, the proceeding would be submitted for decision on the basis of a "stipulation as to the facts".

It was agreed that said hearing examiner might in his discretion proceed to make his initial decision upon said stipulation, stating in said initial decision his findings as to the facts, including inferences to be drawn from said stipulation, and that an order might be entered by him disposing of the proceeding as to each and all of the respondents, in form and substance as set forth in the "Notice" portion of the complaint, without the filing of proposed findings and conclusions, or the presentation of oral argument, but with no waiver by respondents of their right to appeal, it being stipulated that if the proceeding should come before the Commission upon appeal from the examiner's initial decision or by review upon the Commission's own motion, it might set aside the stipulation and remand the case to the examiner for further proceedings under the complaint.

Thereafter, upon the statements of counsel and upon due consideration of said stipulation by the hearing examiner, said stipulation was accepted by him and received in evidence subject only to a reservation made by counsel for respondents that later in the hearing he might also submit in evidence a photostatic copy of a certain bank resolution purporting to prove that respondent Brody had first become an officer of respondent Dan-Del Coat Corp. on March 12, 1954; an exhibit purporting to be such resolution was offered in evidence without objection and received by said examiner; and an argument was also made by counsel for respondents purporting to bear upon mitigation, which explained business losses claimed to have been sustained by respondent Dan-Del Coat Corp. prior to its dissolution in connection with the sale or resale of certain of the misbranded coats involved, that a newly organized corporation, namely, Brae Burn Coats, Inc., had succeeded to the business of said dissolved corporation, that respondents Drobes and Brody were officers of said corporation and formulated its policy, and that it was conducting its business in accordance with the Wool Products Labeling Act.

Thereafter the proceeding having come on for final consideration and initial decision by said hearing examiner upon the complaint, answer, stipulation, evidence and statements and arguments of counsel made at the hearing, counsel having stipulated not to file proposed findings and conclusions, and said examiner having found, among other things, that the document referred to was not a bank resolution and did not tend to prove or disprove any of the issues presented in the matter and did not in any manner affect the agreed facts set forth in the stipulation in question, and that the matters in alleged mitigation had no bearing in the particular proceeding involving alleged misbranding in violation of the Wool Products Labeling Act, made his initial decision in which he set forth the aforesaid matters and his findings, having duly considered the whole record in the matter, that the proceeding was in the interest of the public, that the complaint stated in each alleged particular a cause for complaint under the aforesaid acts and rules and regulations, and that the Commission had jurisdiction of the subject matter and of each of the parties respondent, and in which he made findings of facts as stipulated, conclusions drawn therefrom, and order.

No appeal having been filed from said initial decision of said hearing examiner, as provided for in Rule XXII of the Commission's rules of practice, nor any other action taken as thereby provided to prevent said initial decision becoming the decision of the Commission thirty days from service thereof upon the parties, said initial decision,[1] including said order, accordingly, under the provisions of said Rule XXII became the decision of the Commission on January 18, 1955.

Said order is as follows:

It is ordered, That respondent Broadmore Fashions, Inc., a corporation; respondent Dan-Del Coat Corp., a corporation; respondents Bernard Drobes and Harry Brody, individually and as officers of said corporations; and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction or manufacture for introduction into commerce, or the offering for sale, sale, transportation or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act and the Wool Products Labeling Act of 1939, of ladies' coats or other "wool products," as such products are defined in and are subject to the said Wool Products Labeling Act of 1939; which products contain, purport to contain, or in any manner are represented as containing "wool," "reprocessed wool" or "reused wool," as such terms are defined in said act, do forthwith cease and desist from misbranding said products by:

1. Falsely or deceptively stamping, tagging, labeling or otherwise identifying such products as to the character or amount of the constituent fibers included therein;

2. Failing to securely affix to or place on each such product a stamp, tag, label or other means of identification showing in a clear and conspicuous manner;

(a) The percentage of the total fiber weight of such wool product, exclusive of ornamentation not exceeding five percentum of said total fiber weight, of (1) wool, (2) reprocessed wool, (3) reused wool, (4) each fiber other than wool where said percentage by weight of such fiber is five percentum or more, and (5) the aggregate of all other fibers;

[1] Filed as part of the original document.

(b) The maximum percentage of the total weight of such wool product of any non-fibrous loading, filling or adulterating matter;

(c) The name or the registered identification number of the manufacturer of such wool product or of one or more persons engaged in introducing such wool product into commerce, or in the offering for sale, sale, transportation, distribution or delivery for shipment thereof in commerce, as "commerce" is defined in the Wool Products Labeling Act of 1939.

3. Falsely or deceptively stamping, tagging, labeling, or otherwise identifying such products as containing hair or fleece of the Cashmere or Kashmir goat.

4. Failing to separately set forth on the stamps, tags, labels or other means of identification, the true character and amount of constituent fibers of the interlinings of any such wool product.

Provided, That the foregoing provisions concerning misbranding shall not be construed to prohibit acts permitted by paragraphs (a) and (b) of section 3 of the Wool Products Labeling Act of 1939: *And provided further,* That nothing contained in this order shall be construed as limiting any applicable provisions of said act or the rules and regulations promulgated thereunder.

By "Decision of the Commission and Order to File Report of Compliance", Docket 6231, January 18, 1955, which announced and decreed fruition of said initial decision, report of compliance was required as follows:

It is ordered, That the respondents herein shall within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Issued: January 18, 1955.

By the Commission.

[SEAL] ROBERT M. PARRISH, *Secretary.*

[F. R. Doc. 55-928; Filed, Jan. 31, 1955; 8:51 a. m.]

[Docket 6234]

PART 3—DIGEST OF CEASE AND DESIST ORDERS

NATHAN FARBER ET AL.

Subpart—*Misrepresenting oneself and goods*—Goods: § 3.1650 *History of product;* § 3.1745 *Source or origin:* Place: *Foreign, in general.* Subpart—*Neglecting, unfairly or deceptively, to make material disclosure:* § 3.1854 *History of product:* § 3.1900 *Source or origin:* Fur Products Labeling Act: *Place.* Subpart—*Using misleading name*—Goods: § 3.2345 *Source or origin:* Place: *Foreign, in general.* In connection with the introduction into commerce, or the sale, or offering for sale in commerce, or the transportation or distribution in commerce, of fur: (1) Failing to invoice furs to show in a clear and conspicuous manner: (a) The name or names of the animal or animals producing the fur as set forth in the Fur Products Name Guide and as permitted under the rules and regulations; and (b) the name of the country of origin of imported furs; and (2) using terms descriptive of the breed, species, strain, or coloring of an animal which connotes a false geographical origin of the animal; prohibited.

(Sec. 6, 38 Stat. 721; 15 U. S. C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, sec. 8, 65 Stat. 179; 15 U. S. C. 45, 69f). [Cease and desist order, Nathan Farber et al. d. b. a. S. Farber and Sons, New York, N. Y., Docket 6234, January 16, 1955]

In the Matter of Nathan Farber, Jack Farber, Samuel Farber and Max Farber, Individuals and Copartners Doing Business as S. Farber and Sons

This proceeding was heard by Loren H. Laughlin, hearing examiner, upon the complaint of the Commission, which charged respondents in certain particulars with having violated the provisions of the Federal Trade Commission Act and the Fur Products Labeling Act, and the rules and regulations promulgated under the latter; and upon a stipulation in writing entered into by respondents with counsel supporting the complaint, in which respondents waived the filing of an answer and agreed that a consent order against them be entered in terms identical with those contained in the notice issued and served on respondents as a part of the complaint.

By said stipulation, which was approved in writing by the Director and Assistant Director of the Commission's Bureau of Litigation, respondents admitted all the jurisdictional allegations of the complaint and agreed that the record in the matter might be taken as if the Commission had made findings of jurisdictional facts in accordance with such allegations, and the parties expressly waived a hearing before the hearing examiner or the Commission and all further and other procedure to which respondents might be entitled under the Federal Trade Commission Act or the rules of practice of the Commission; and it was also agreed that the order to cease and desist issued in accordance with said stipulation should have the same force and effect as if made after a full hearing, the parties having waived specifically therein any and all right, power, or privilege to contest the validity of said order.

It was also stipulated and agreed therein that the complaint in the matter might be used in construing the terms of the order provided for in said stipulation, and that the signing of said stipulation was for settlement purposes only and did not constitute an admission by respondents that they had violated the law as alleged in the complaint, and said stipulation for consent order, as so approved, was submitted to said hearing examiner for his consideration in accordance with Rule V of the Commission's rules of practice.

Thereafter said examiner made his initial decision in which he set forth the aforesaid matters, and in which he found, upon due consideration of the complaint and stipulation, which was accepted and ordered filed as part of the record (it having been stipulated that they should constitute the entire record in the matter on which such order might be entered), that the Commission had jurisdiction of the subject matter of the proceeding and of each and all of the parties respondent; that the complaint stated a legal cause for complaint under the aforesaid acts and rules and regulations against respondents as a whole and in each of the particulars alleged therein; that the proceeding was in the interest of the public; and that the order as proposed therein was appropriate for the disposition of the proceeding, the same to become final when it became the order of the Commission; and in which he entered the same.

No appeal having been filed from said initial decision of said hearing examiner, as provided for in Rule XXII of the Commission's rules of practice, nor any other action taken as thereby provided to prevent said initial decision becoming the decision of the Commission thirty days from service thereof upon the parties, said initial decision,[1] including said order, accordingly, under the provisions of said Rule XXII became the decision of the Commission on January 16, 1955.

Said order is as follows:

It is ordered, That respondents Nathan Farber, Jack Farber, Samuel Farber, and Max Farber, as individuals and as copartners trading as S. Farber and Sons, or under any other name, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction into commerce, or the sale, or offering for sale in commerce, or the transportation or distribution in commerce, of fur, as "commerce" and "fur" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

(1) Failing to invoice furs to show in a clear and conspicuous manner:

(a) The name or names of the animal or animals producing the fur as set forth in the Fur Products Name Guide and as permitted under the rules and regulations.

(b) The name of the country of origin of imported furs.

(2) Using terms descriptive of the breed, species, strain, or coloring of an animal which connotes a false geographical origin of the animal.

By "Decision of the Commission and Order to File Report of Compliance", Docket 6234, January 14, 1955, which announced and decreed fruition of said initial decision, report of compliance was required as follows:

It is ordered, That the respondents herein shall within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Issued: January 14, 1955.

By the Commission.

[SEAL] ROBERT M. PARRISH, *Secretary.*

[F. R. Doc. 55-927; Filed, Jan. 31, 1955; 8:50 a. m.]

[1] Filed as part of the original document.

TITLE 24—HOUSING AND HOUSING CREDIT

Chapter IV—Federal National Mortgage Association

PART 400—MORTGAGE PURCHASES, SERVICING AND SALES

SCOPE OF PART; LOCATION OF OFFICES AND AREA SERVED

In § 400.0 *Scope of part*, the location of offices and area served is hereby amended to read as follows:

LOCATION OF OFFICES AND AREA SERVED

Atlanta 3, Ga., 449 West Peachtree Street NE.: Alabama, Florida, Georgia, Kentucky, North Carolina, Mississippi, South Carolina, Puerto Rico, Tennessee.

Chicago 2, Ill., 30 North LaSalle Street: Illinois, Indiana, Iowa, Michigan, Minnesota, Nebraska, North Dakota, Ohio, South Dakota, Wisconsin.

Dallas 2, Tex., 1000 Main Street: Arkansas, Colorado, Kansas, Louisiana, Missouri, New Mexico, Oklahoma, Texas.

Los Angeles 57, Calif., 2601 Wilshire Boulevard: Alaska, Arizona, California, Guam, Hawaii, Idaho, Montana, Nevada, Oregon, Utah, Washington, Wyoming.

Philadelphia 7, Pa., Lincoln-Liberty Building, Broad and Chestnut Streets: Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia.

SALES OFFICE

45 Broadway, Room 913, New York 6, N. Y.

(Sec. 309, 68 Stat. 620)

FEDERAL NATIONAL MORTGAGE ASSOCIATION,
J. STANLEY BAUGHMAN,
President.

[F. R. Doc. 55-894; Filed, Jan. 31, 1955; 8:45 a. m.]

TITLE 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

Subchapter A—Income and Excess Profits Taxes

[T. D. 6121; Regs. 118]

PART 39—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1951

ABATEMENT OF JEOPARDY ASSESSMENTS

On August 12, 1954, a notice of proposed rule making with respect to amendment of Regulations 118 (26 CFR Part 39) to conform to Public Law 274 (83d Congress), approved August 14, 1953, relating to the abatement of jeopardy assessments, was published in the FEDERAL REGISTER (19 F. R. 5088). Since no comments with respect to the rules proposed have been received, the amendments to Regulations 118 set forth below are hereby adopted:

PARAGRAPH 1. Section 39.273 is amended by adding at the end thereof the following:

(a) [k] *Abatement if jeopardy does not exist.* The Secretary may abate the jeopardy assessment if he finds that jeopardy does not exist. Such abatement may not be made after a decision of The Tax Court of the United States in respect of the deficiency has been rendered, or, if no petition is filed with The Tax Court of the United States, after the expiration of the period for filing such petition. The period of limitation on the making of assessments and the beginning of distraint or a proceeding in court for collection, in respect of any deficiency, shall be determined as if the jeopardy assessment so abated had not been made, except that the running of such period shall in any event be suspended for the period from the date of such jeopardy assessment until the expiration of the tenth day after the day on which such jeopardy assessment is abated.

[Sec. 273, as amended by Pub. Law 274 (83d Cong.). Such Public Law added subsection (a) [k] and made such subsection applicable to all jeopardy assessments made, or in existence, on the date of enactment of such act (August 14, 1953) and all jeopardy assessments made thereafter.]

PAR. 2. Section 39.273–1 is amended by adding at the end thereof the following:

(g) (1) The district director may abate a jeopardy assessment which existed on August 14, 1953, or which is made on or after such date, if it is shown to his satisfaction that jeopardy does not exist. An abatement may not be made under this paragraph after a decision of the Tax Court in respect of the deficiency has been rendered or, if no petition is filed with such Court, after the expiration of the period for filing such petition.

(2) The abatement of a jeopardy assessment, because jeopardy does not exist, will have the effect of abating any proceedings to collect the tax so assessed. The district director may then proceed to assess and collect a deficiency in the manner authorized by law as if the jeopardy assessment so abated had not existed. If a notice of deficiency had been sent to the taxpayer prior to the abatement of the jeopardy assessment, whether such notice was sent before or after the making of the assessment, the abatement of such assessment will not affect the validity of the notice or of any proceedings for redetermination based thereon. The period of limitation on the making of assessments and the beginning of distraint or a proceeding in court for collection in respect of any deficiency shall be determined as if the jeopardy assessment so abated had not been made, except that the running of such period shall in any event be suspended for the period from the date of such jeopardy assessment until the expiration of the tenth day after the date on which such jeopardy assessment is abated. The provisions of this subparagraph may be illustrated by the following example.

Example. On February 15, 1954, twenty-eight days before the three-year statutory period of limitations on assessments would otherwise have expired, a jeopardy assessment was made in respect of a supposed deficiency. On April 2, 1954, before the mailing of the notice of deficiency provided for by section 273 (b), this assessment was abated. By virtue of this subparagraph, the period of limitations for the making of an assessment did not expire prior to May 10, 1954, i. e., the thirty-eighth day after the date of the abatement. If the notice of deficiency provided for in section 273 (b) had been sent prior to the abatement, the running of the statute of limitations on assessments would have been suspended pursuant to the provisions of section 277.

(3) Request for abatement of a jeopardy assessment, because jeopardy does not exist, should be filed with the district director and must state fully the reasons for the request and must be supported by such evidence as will enable the district director to determine that the collection of the deficiency is not in jeopardy. See section 273 (c) and paragraph (b) of this section with respect to the abatement of jeopardy assessments which are excessive in amount.

(53 Stat. 32, 467; 26 U. S. C. 62, 3791)

[SEAL] JUSTIN F. WINKLE,
Acting Commissioner of Internal Revenue.

Approved: January 27, 1955.

M. B. FOLSOM,
Acting Secretary of the Treasury.

[F. R. Doc. 55-931; Filed, Jan. 31, 1955; 8:51 a. m.]

TITLE 26—INTERNAL REVENUE, 1954

Chapter I—Internal Revenue Service, Department of the Treasury

Subchapter G—Regulations Under Tax Conventions

[T. D. 6122]

PART 503—INCOME TAX WITHHOLDING; FEDERAL REPUBLIC OF GERMANY

Release of excess tax withheld, and exemption from, or reduction in rate of, withholding of tax at source in the case of residents of the Federal Republic of Germany and of German companies, as affected by the income tax convention between the United States and the Federal Republic of Germany proclaimed by the President of the United States on December 24, 1954.

Sec.
503.1 Introductory.
503.2 Dividends.
503.3 Interest.
503.4 Patent and copyright royalties and film rentals.
503.5 Private pensions and private life annuities.
503.6 Release of excess tax withheld at source.
503.7 Information to be furnished in ordinary course.
503.8 Beneficiaries of a domestic estate or trust.
503.9 Land Berlin.

AUTHORITY: §§ 503.1 to 503.9 issued under sec. 7805, 68A Stat. 917; 26 U. S. C. 7805.

§ 503.1 *Introductory.* (a) The income tax convention between the United States and the Federal Republic of Germany, signed on July 22, 1954, and proclaimed by the President of the United States on December 24, 1954, hereinafter referred to as the convention, provides in part as follows, effective for taxable years beginning on or after January 1, 1954:

ARTICLE I

(1) The taxes referred to in this Convention are:

(a) In the case of the United States of America: The Federal income taxes, including surtaxes and excess profits taxes;

(b) In the case of the Federal Republic: The income tax, the corporation tax and the Berlin emergency contribution (Notopfer).

(2) The present Convention shall also apply to any other income or profits tax of a substantially similar character which may be imposed by one of the contracting States after the date of signature of the present Convention.

ARTICLE II

(1) As used in this Convention:

(a) The term "United States" means the United States of America, and when used in a geographical sense means the States, the Territories of Alaska and Hawaii, and the District of Columbia;

(b) The term "Federal Republic" means the Federal Republic of Germany and when used in a geographical sense means the territory over which the Basic Law for the Federal Republic of Germany is in effect;

(c) The term "permanent establishment" means a branch, office, factory, workshop, warehouse, mine, stone quarry or other place of exploitation of the ground or soil, permanent display and sales office, or a construction or assembly project or the like the duration of which exceeds or will likely exceed twelve months, or other fixed place of business; but does not include the casual and temporary use of mere storage facilities, nor does it include an agent or employee unless the agent or employee has full power for the negotiation and concluding of contracts on behalf of the enterprise and also habitually exercises this power, or has a stock of merchandise from which he regularly fills orders on behalf of the enterprise. An enterprise of one of the contracting States shall not be deemed to have a permanent establishment in the other State merely because it carries on business dealings in such other State through a commission agent, broker, custodian or other independent agent, acting in the ordinary course of his business as such. The fact that an enterprise of one of the contracting States maintains in the other State a fixed place of business exclusively for the purchase of goods and merchandise shall not of itself constitute such fixed place of business a permanent establishment of the enterprise. The fact that a corporation of one contracting State has a subsidiary corporation which is a corporation of the other State or which is engaged in trade or business in the other State shall not of itself constitute that subsidiary corporation a permanent establishment of its parent corporation. The maintenance within the territory of one of the contracting States by an enterprise of the other contracting State of a warehouse for convenience of delivery and not for purposes of display shall not of itself constitute a permanent establishment within that territory;

(d) The term "enterprise of one of the contracting States" means, as the case may be, "United States enterprise" or "German enterprise";

(e) The term "United States enterprise" means an industrial or commercial enterprise or undertaking carried on in the United States by a resident (including an individual in his individual capacity or as a member of a partnership) or a fiduciary of the United States or by a United States corporation or other entity; the term "United States corporation or other entity" means a corporation or other entity created or organized under the law of the United States or of any State or Territory of the United States;

(f) The term "German enterprise" means an industrial or commercial enterprise or undertaking carried on in the Federal Republic by a natural person (including an individual in his individual capacity or as a member of a partnership) resident in the Federal Republic or by a German company; the term "German company" means juridical persons together with entities treated as juridical persons for tax purposes under the laws of the Federal Republic; and

(g) The term "competent authorities" means, in the case of the United States, the Commissioner of Internal Revenue as authorized by the Secretary of the Treasury; and in the case of the Federal Republic, the Federal Ministry of Finance.

(2) In the application of the provisions of this Convention by one of the contracting States any term not otherwise defined shall, unless the context otherwise requires, have the meaning which the term has under its own applicable laws. For the purposes of this Convention "residence" in the Federal Republic shall include the customary place of abode therein.

* * * * *

ARTICLE VI

(1) The rate of tax imposed by the United States shall not exceed 15 percent in the case of dividends from sources within the United States derived by a German company not having a permanent establishment in the United States and owning at least 10 percent of the voting stock of the corporation paying such dividend.

* * * * *

(3) If, subsequent to the date of signature of this Convention, the percentage of stock ownership provided in section 131 (f) (1) of the Internal Revenue Code [of 1939] is reduced, the percentage of stock ownership provided in paragraphs 1 and * * * of this Article shall likewise be deemed to be simultaneously reduced.

ARTICLE VII

Interest on bonds, notes, debentures, securities or on any other form of indebtedness (exclusive of interest on debts secured by mortgages on farms, timberlands or real property used wholly or partly for housing purposes) derived, bona fide as interest,

(A) by a natural person resident in the Federal Republic, or by a German company, not having a permanent establishment in the United States, shall be exempt from tax by the United States; or

* * * * *

ARTICLE VIII

Royalties and other amounts derived as bona fide consideration for the right to use copyrights, artistic and scientific works, patents, designs, plans, secret processes and formulae, trade-marks and other like property and rights (including rentals and like payments in respect to motion picture films or for the use of industrial, commercial or scientific equipment), derived

(A) by a natural person resident in the Federal Republic, or by a German company, not having a permanent establishment in the United States, shall be exempt from tax by the United States; or

* * * * *

ARTICLE IX

(1) Income from real property situated in one of the contracting States (including gains derived from the sale or exchange of such property and interest on debts secured by mortgages on farms, timberlands, or real property used wholly or partly for housing purposes) and royalties in respect of the operation of mines, stone quarries or other natural resources derived by a resident or corporation or other entity or company of the other contracting State, shall be taxable only by the former State.

(2) (a) A natural person resident in the Federal Republic or a German company deriving from sources within the United States any item of income coming within the scope of paragraph (1) of this Article, may, for any taxable year, elect to be subject to tax by the United States on a net income basis as if such resident or company were engaged in trade or business within the United States through a permanent establishment therein.

* * * * *

ARTICLE XI

(1) (a) Wages, salaries and similar compensation and pensions paid by the United States or by its states, territories or political subdivisions, to an individual (other than a German citizen) shall be exempt from tax by the Federal Republic.

(b) Wages, salaries and similar compensation and pensions paid by the Federal Republic, Laender or municipalities, or by a public pension fund, to an individual (other than a citizen of the United States and other than an individual who has been admitted to the United States for permanent residence therein) shall be exempt from tax by the United States.

(c) For the purposes of this paragraph the term "pensions" shall be deemed to include annuities paid to a retired civilian government employee.

(2) Private pensions and private life annuities which are from sources within one of the contracting States and are paid to individuals residing in the other contracting State shall be exempt from taxation by the former State.

(3) The term "pensions", as used in this Article, means periodic payments made in consideration for services rendered or by way of compensation for injuries received.

(4) The term "life annuities", as used in this Article, means a stated sum payable periodically at stated times during life, or during a specified number of years, under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

* * * * *

ARTICLE XIV

(1) Dividends and interest paid by a German company (other than a United States corporation) shall be exempt from United States tax where the recipient is a nonresident alien or a foreign corporation.

* * * * *

ARTICLE XVI

(1) The competent authorities of the contracting States shall exchange such information (being information available under the respective taxation laws of the contracting States) as is necessary for carrying out the provisions of the present Convention or for the prevention of fraud or the like in relation to the taxes which are the subject of the present Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons other than those concerned with the assessment and collection of the taxes which are the subject of the present Convention. No information shall be exchanged which would disclose any trade, business, industrial or professional secret or any trade process.

(2) Each of the contracting States may collect such taxes imposed by the other contracting State as though such taxes were the taxes of the former State as will ensure that any exemption or reduced rate of tax granted under the present Convention by such other State shall not be enjoyed by persons not entitled to such benefits.

(3) In no case shall the provisions of this Article be construed so as to impose upon either of the contracting States the obligation to carry out administrative measures at variance with the regulations and practice of either contracting State or which would be contrary to its sovereignty, security or public policy or to supply particulars which are not procurable under its own legislation or that of the State making application.

ARTICLE XVII

* * * * *

(2) For the settlement of difficulties or doubts in the interpretation or application of the present Convention or in respect of its relation to Conventions of the contracting States with third States the competent authorities of the contracting States shall

reach a mutual agreement as quickly as possible.

ARTICLE XVIII

(1) The provisions of this Convention shall not be construed to deny or affect in any manner the right of diplomatic and consular officers to other or additional exemptions now enjoyed or which may hereafter be granted to such officers.

(2) The provisions of the present Convention shall not be construed to restrict in any manner any exemption, deduction, credit or other allowance now or hereafter accorded, by the laws of one of the contracting States in the determination of the tax imposed by such State, or by any other agreement between the contracting States.

* * * * *

ARTICLE XIX

(1) The competent authorities of the two contracting States may prescribe regulations necessary to carry into effect the present Convention within the respective States.

(2) The competent authorities of the two contracting States may communicate with each other directly for the purpose of giving effect to the provisions of this Convention.

ARTICLE XX

(1) The present Convention shall also apply from the date specified in paragraph (1) of Article XXI to Land Berlin which for the purposes of this Convention comprises those areas over which the Berlin Senate exercises jurisdiction.

(2) It is a condition to the application of this Convention to Berlin in accordance with the preceding paragraph that the Government of the Federal Republic shall previously have furnished to the Government of the United States of America a notification that all legal procedures in Berlin necessary for the application of this Convention therein have been complied with.

(3) After application of this Convention to Land Berlin in accordance with paragraphs (1) and (2) of this Article, references in this Convention to the Federal Republic shall also be considered references to Land Berlin.

ARTICLE XXI

(1) The present Convention shall be ratified and the instruments of ratification shall be exchanged at Bonn as soon as possible. It shall have effect for the taxable years beginning on or after the first day of January of the year in which such exchange takes place.

(2) The present Convention shall continue effective for a period of five years beginning with the calendar year in which the exchange of the instruments of ratification takes place and indefinitely after that period, but may be terminated by either of the contracting States at the end of the five-year period or at any time thereafter, provided that at least six months' prior notice of termination has been given and, in such event, the present Convention shall cease to be effective for the taxable years beginning on or after the first day of January next following the expiration of the six-month period.

* * * * *

(b) As used in this part, any term defined in the convention shall have the meaning so assigned to it; any term not so defined shall, unless the context otherwise requires, have the meaning which such term has under the internal revenue laws.

§ 503.2 *Dividends*—(a) *General.* (1) Dividends paid by a German company (other than a United States corporation) and received in taxable years beginning on or after January 1, 1954, by a nonresident alien or a foreign corporation are exempt from United States tax under the provisions of Article XIV of the convention. Such dividends are, therefore, not subject to the withholding of United States tax at source.

(2) The rate of United States tax imposed by the Internal Revenue Code upon dividends (other than dividends falling within the scope of subparagraph (1) of this paragraph) derived from sources within the United States in taxable years beginning on or after January 1, 1954, by a German company (other than a United States corporation) shall not exceed 15 percent under the provisions of Article VI of the convention if (i) such company at no time during the taxable year in which such dividends are derived has a permanent establishment in the United States and (ii) such company owns, at the time the dividends are paid, 10 percent or more of the voting stock of the paying corporation.

(b) *Application of reduced rate of withholding.* (1) To secure withholding of United States tax at the rate of 15 percent at source in the case of dividends to which paragraph (a) (2) of this section is applicable, the German company shall notify the withholding agent by letter in duplicate that such income is subject to the reduced rate of United States tax under the provisions of Article VI of the convention. The letter of notification shall be signed by an officer of the company and shall show the name and address of the corporation paying the dividend, the name and address of the German company receiving the dividend, and the official title of the officer signing the letter. It shall contain a statement (i) that the owner of the dividend is a German company (other than a United States corporation), (ii) that the owner at no time during the current taxable year had a permanent establishment in the United States, and (iii) that the German company owns 10 percent or more of the voting stock of the corporation paying such dividend.

(2) This letter of notification, which shall constitute authorization for application of the reduced rate of withholding of United States tax at source, shall be filed with the withholding agent for each successive 3-calendar-year period during which such income is paid. For this purpose, the first such period shall commence with the beginning of the calendar year in which such income is first paid on or after January 1, 1954. Each such letter filed with any withholding agent shall be filed not later than 20 days preceding the date of the first payment within each successive period, or, if that is not possible because of special circumstances, as soon as possible after such first payment.

(3) If such letter is also to be used as authorization for the release, pursuant to § 503.6 (a) (3), of excess tax withheld from dividends, it shall also contain a statement (i) that, at the time when the dividends were derived from which the excess tax was withheld, the owner was a German company (other than a United States corporation), (ii) that the owner at no time during the taxable year in which such dividends were derived had a permanent establishment in the United States, and (iii) that the German company owned, at the time when such dividends were paid, 10 percent or more of the voting stock of the corporation paying such dividends.

(4) Once a letter has been filed in respect of any 3-calendar-year period, no additional letter need be filed in respect thereto unless the Commissioner of Internal Revenue notifies the withholding agent that an additional letter shall be filed by the taxpayer. If, after filing a letter of notification, the taxpayer ceases to be eligible for the reduction in rate of United States tax granted by the convention in respect to such dividends, such taxpayer shall promptly notify the withholding agent by letter in duplicate. When any change occurs in the ownership of the stock as recorded on the books of the payer, the reduction in the rate of withholding of United States tax shall no longer apply unless the new owner of record is entitled to and does properly file a letter of notification with the withholding agent.

(5) Each letter of notification, or the duplicate thereof, shall be immediately forwarded by the withholding agent to the District Director of Internal Revenue, Audit Division, Alien Returns Section, Baltimore 2, Maryland.

(c) *Dividends paid to German company where degree of stock ownership uncertain.* (1) In any case in which a German company (other than a United States corporation) anticipates the receipt of dividends described in paragraph (a) (2) of this section and the relationship existing between the German company and the paying corporation is such as to render uncertain whether, by reason of the requirement as to stock ownership, the reduction in rate of United States tax granted by Article VI of the convention will apply to such dividends, the German company shall not undertake to file the letter of notification prescribed by paragraph (b) (1) of this section unless it has, prior to such filing, applied for and received from the Commissioner of Internal Revenue, Washington 25, D. C., a determination that such German company owns 10 percent or more of the voting stock of the paying corporation. The application to the Commissioner shall contain a full statement of all the facts pertinent to a determination of the question.

(2) As soon as practicable after the application has been filed, the Commissioner of Internal Revenue will determine whether the German company owns sufficient voting stock of the paying corporation to permit it to claim the benefit of Article VI of the convention in the case of such dividends and shall notify the German company of his determination. The German company shall forthwith file with the paying corporation a copy of the Commissioner's letter of notification.

(3) If the Commissioner's determination is that the German company does own 10 percent or more of the voting stock of the paying corporation, the German company may thereafter, if otherwise qualified, secure the reduced rate of withholding at the source with respect to subsequent payments of such dividends, by filing the letter of notification

in accordance with paragraph (b) of this section.

(4) A determination by the Commissioner that the German company does own sufficient voting stock of the paying corporation to permit it to claim the benefit of Article VI of the convention will apply until such time as the stock ownership of the paying corporation has changed to the extent that, because of such change, dividends to be received from the paying corporation by the German company no longer qualify for the reduced rate of United States tax under Article VI of the convention. If such change in stock ownership occurs, the German company shall promptly notify both the Commissioner of Internal Revenue and the paying corporation of the then existing facts with respect to such stock ownership.

(5) In any case in which a German company (other than a United States corporation) has received on or after January 1, 1954, dividends described in paragraph (a) (2) of this section and the relationship existing between the German company and the paying corporation was, at the time the dividends were paid, such as to render uncertain whether, by reason of the requirement contained in Article VI of the convention as to stock ownership, such dividends qualified for the reduced rate of United States tax, the German company shall apply to the Commissioner of Internal Revenue for a similar determination as to the degree of stock ownership at the time the dividends were paid. If the Commissioner's determination is that at such time the degree of stock ownership was such as to permit the application of the reduced rate of United States tax granted by Article VI of the convention, his letter of notification may, subject to the provisions of § 503.6 (b), authorize the release of excess tax withheld with respect to such dividends.

§ 503.3 *Interest*—(a) *General.* (1) Interest paid by a German company (other than a United States corporation) and received in taxable years beginning on or after January 1, 1954, by a nonresident alien or a foreign corporation is exempt from United States tax under the provisions of Article XIV of the convention. Such interest is, therefore, not subject to the withholding of United States tax at source.

(2) Interest (other than interest falling within the scope of subparagraph (1) of this paragraph) on bonds, notes, debentures, securities, or on any other form of indebtedness, including interest on obligations of the United States and of instrumentalities of the United States, which is derived, bona fide as interest, in taxable years beginning on or after January 1, 1954, by a natural person (other than a citizen or resident of the United States) resident in the Federal Republic of Germany, or by a German company (other than a United States corporation), is exempt from United States tax under the provisions of Article VII of the convention if such person or company at no time during the taxable year in which such interest is derived has a permanent establishment in the United States. Such interest is, therefore, not subject to the withholding of United States tax at source.

(3) The provisions of subparagraph (2) of this paragraph shall have no application to interest on debts secured by mortgages on farms, timberlands, or real property used wholly or partly for housing purposes.

(b) *Application of exemption from withholding.* (1) To avoid withholding of United States tax at source in the case of coupon bond interest to which paragraph (a) (2) of this section is applicable, the resident of the Federal Republic of Germany or the Germany company shall, for each issue of bonds, file Form 1001–GER in duplicate when presenting the interest coupons for payment. This form shall be signed by the owner of the interest, trustee, or agent and shall show the name and address of the obligor, the name and address of the owner of the interest, and the amount of the interest. It shall contain a statement (i) that the owner is neither a citizen nor a resident of the United States but is a resident of the Federal Republic of Germany, or, in the case of a company, the owner is a Germany company (other than a United States corporation), and (ii) that the owner has no permanent establishment in the United States.

(2) The exemption from United States tax contemplated by Article VII of the convention, insofar as it concerns coupon bond interest, is applicable only to the owner of the interest. The person presenting the coupon or on whose behalf it is presented shall, for the purpose of the exemption from tax, be deemed to be the owner of the interest only if he is, at the time the coupon is presented for payment, the owner of the bond from which the coupon has been detached. If the person presenting the coupon or on whose behalf it is presented is not the owner of the bond, Form 1001, and not Form 1001–GER, shall be executed.

(3) The original and duplicate of Form 1001–GER shall be forwarded by the withholding agent to the District Director of Internal Revenue, Audit Division, Alien Returns Section, Baltimore 2, Maryland, with the quarterly return on Form 1012. Form 1001–GER need not be listed on Form 1012.

(4) To avoid withholding of United States tax at source in the case of interest, other than coupon bond interest, to which paragraph (a) (2) of this section is applicable, the resident of the Federal Republic of Germany or the German company shall notify the withholding agent by letter in duplicate that such income is exempt from United States tax under the provisions of Article VII of the convention. The letter of notification shall be signed by the owner of the interest, trustee, or agent and shall show the name and address of the obligor and the name and address of the owner of the interest. It shall contain a statement (i) that the owner is neither a citizen nor a resident of the United States but is a resident of the Federal Republic of Germany, or, in the case of a company, the owner is a German company (other than a United States corporation), and (ii) that the owner has at no time during the current taxable year had a permanent establishment in the United States.

(5) This letter of notification, which shall constitute authorization for the payment of such interest without withholding of United States tax at source, shall be filed with the withholding agent for each successive 3-calendar-year period during which such income is paid. For this purpose, the first such period shall commence with the beginning of the calendar year in which such income is first paid on or after January 1, 1954. Each such letter filed with any withholding agent shall be filed not later than 20 days preceding the date of the first payment within each successive period, or, if that is not possible because of special circumstances, as soon as possible after such first payment.

(6) If such letter is also to be used as authorization for the release, pursuant to § 503.6 (a) (3), of excess tax withheld from interest, other than coupon bond interest, it shall also contain a statement (i) that, at the time when the interest was derived from which the excess tax was withheld, the owner was neither a citizen nor a resident of the United States but was a resident of the Federal Republic of Germany, or, in the case of a company, the owner was a German company (other than a United States corporation), and (ii) that the owner at no time during the taxable year in which such interest was derived had a permanent establishment in the United States.

(7) Once a letter has been filed in respect of any 3-calendar-year period, no additional letter need be filed in respect thereto unless the Commissioner of Internal Revenue notifies the withholding agent that an additional letter shall be filed by the taxpayer. If, after filing a letter of notification, the taxpayer ceases to be eligible for the exemption from United States tax granted by the convention in respect to such interest, such taxpayer shall promptly notify the withholding agent by letter in duplicate. When any change occurs in the ownership of the interest as recorded on the books of the payer, the exemption from withholding of United States tax shall no longer apply unless the new owner of record is entitled to and does properly file a letter of notification with the withholding agent.

(8) Each letter of notification, or the duplicate thereof, shall be immediately forwarded by the withholding agent to the District Director of Internal Revenue, Audit Division, Alien Returns Section, Baltimore 2, Maryland.

§ 503.4 *Patent and copyright royalties and film rentals*—(a) *General.* (1) Royalties and other amounts derived in taxable years beginning on or after January 1, 1954, by a natural person (other than a citizen or resident of the United States) resident in the Federal Republic of Germany, or by a German company (other than a United States corporation), as bona fide consideration for the right to use copyrights, artistic and scientific works, patents, designs, plans, secret processes and formulae, trade-marks, and other like property and rights, are exempt from United States tax under the provisions of Article VIII

of the convention if such person or company at no time during the taxable year in which such income is derived has a permanent establishment in the United States. Such items of income, are, therefore, not subject to the withholding of United States tax at source.

(2) The provisions of this section shall apply to rentals and like payments in respect to motion picture films or for the use of industrial, commercial, or scientific equipment.

(b) *Application of exemption from withholding.* (1) To avoid withholding of United States tax at source in the case of the income to which this section is applicable, the resident of the Federal Republic of Germany or the German company shall notify the withholding agent by letter in duplicate that such income is exempt from United States tax under the provisions of Article VIII of the convention. The provisions of § 503.3 (b) relating to the execution, filing, and effective period of the letter of notification prescribed therein with respect to interest, including its use for the release of excess tax withheld, are equally applicable with respect to the income falling within the scope of this section.

(2) Each letter of notification, or the duplicate thereof, shall be immediately forwarded by the withholding agent to the District Director of Internal Revenue, Audit Division, Alien Returns Section, Baltimore 2, Maryland.

§ 503.5 *Private pensions and private life annuities*—(a) *General.* Private pensions and private life annuities, as defined in Article XI (3) and (4) of the convention, which are received from sources within the United States in taxable years beginning on or after January 1, 1954, by a nonresident alien individual who is a resident of the Federal Republic of Germany are exempt from United States tax under the provisions of Article XI (2) of the convention. Such items of income are, therefore, not subject to the withholding of United States tax at source.

(b) *Application of exemption from withholding.* (1) To avoid withholding of United States tax at source in the case of the items of income to which paragraph (a) of this section is applicable, the nonresident alien individual who is a resident of the Federal Republic of Germany shall notify the withholding agent by letter in duplicate that such income is exempt from United States tax under the provisions of Article XI of the convention. The letter of notification shall be signed by the owner of the income, shall show the name and address of both the payer and the owner of the income, and shall contain a statement that the owner, an individual, is neither a citizen nor a resident of the United States but is a resident of the Federal Republic of Germany.

(2) If such letter is also to be used as authorization for the release, pursuant to § 503.6 (a) (3), of excess tax withheld from such items of income, it shall also contain a statement that the owner was, at the time when the income was received from which the excess tax was withheld, neither a citizen nor a resident of the United States but was a resident of the Federal Republic of Germany.

(3) This letter shall constitute authorization for the payment of such items of income without withholding of United States tax at source unless the Commissioner of Internal Revenue subsequently notifies the withholding agent that the tax shall be withheld with respect to payments of such items of income made after receipt of such notice. If, after filing a letter of notification, the owner of the income ceases to be eligible for the exemption from United States tax granted by the convention in respect to such income, he shall promptly notify the withholding agent by letter in duplicate. When any change occurs in the ownership of such income as recorded on the books of the payer, the exemption from withholding of United States tax shall no longer apply unless the new owner of record is entitled to and does properly file a letter of notification with the withholding agent.

(4) Each letter of notification, or the duplicate thereof, shall be immediately forwarded by the withholding agent to the District Director of Internal Revenue, Audit Division, Alien Returns Section, Baltimore 2, Maryland.

§ 503.6 *Release of excess tax withheld at source*—(a) *General.* (1) In order to give the convention effective application at the earliest practicable date, the exemptions from, and reduction in the rate of, withholding of United States tax at source granted by this Treasury decision are hereby made effective beginning January 1, 1954, contingent upon compliance with the applicable provisions of §§ 503.2 through 503.5.

(2) In the case of dividends and interest paid by a German company (other than a United States corporation) to a nonresident alien or to a foreign corporation, if United States tax at the statutory rate has been withheld on or after January 1, 1954, there shall be released by the withholding agent and paid over to the person from whom it was withheld, an amount equal to the tax so withheld from such items.

(3) In the case of every taxpayer whose address at the time of payment was in the Federal Republic of Germany and who furnishes to the withholding agent the letter of notification prescribed in §§ 503.2 (b), 503.3 (b), 503.4 (b), and 503.5 (b) as authorization for the release of excess tax withheld, if United States tax at the statutory rate has been withheld on or after January 1, 1954, from the items of income in respect of which such letter is prescribed in such sections, there shall be released (except as provided in paragraph (b) of this section) by the withholding agent and paid over to the person from whom it was withheld:

(i) In the case of dividends, the difference between the tax so withheld and the tax required to be withheld pursuant to § 503.2 (b); and

(ii) In the case of interest (other than coupon bond interest), copyright royalties and other items to which § 503.4 is applicable, and private pensions and private life annuities as defined in Article XI of the convention, an amount equal to the tax so withheld from such items.

(4) In the case of every taxpayer whose address at the time of payment was in the Federal Republic of Germany and who furnishes to the withholding agent Form 1001–GER clearly marked "Substitute" and executed in accordance with § 503.3 (b), if United States tax at the statutory rate has been withheld from coupon bond interest on or after January 1, 1954, there shall be released by the withholding agent and paid over to the person from whom it was withheld an amount equal to the tax so withheld from such interest. One such substitute form shall be filed in duplicate with respect to each issue of bonds and will serve with respect to that issue to replace all Forms 1001 previously filed by the taxpayer in the calendar year in which the excess tax was withheld and with respect to which such excess is released.

(5) The original and duplicate of substitute Form 1001–GER shall be forwarded by the withholding agent to the District Director of Internal Revenue, Audit Division, Alien Returns Section, Baltimore 2, Maryland, with the quarterly return on Form 1012. Substitute Form 1001–GER need not be listed on Form 1012.

(b) *Interest paid where degree of stock ownership is determined.* If United States tax at the statutory rate has been withheld on or after January 1, 1954, from dividends described in § 503.2 (a) (2) and paid to a German company (other than a United States corporation), and if the relationship existing between the German company and the paying corporation was, at the time the dividends were paid, such as to render uncertain whether, by reason of the requirement contained in Article VI of the convention as to stock ownership, such dividends qualified for the reduced rate of United States tax, the withholding agent shall release and pay over to the German company the difference between the tax so withheld and the tax required to be withheld pursuant to § 503.2 (b), only if the German company (1) furnishes to the withholding agent a copy of the Commissioner's authorization of release prescribed in § 503.2 (c) (5), and (2) files the letter of notification prescribed in § 503.2 (b) (1).

§ 503.7 *Information to be furnished in ordinary course*—(a) *General.* In compliance with the provisions of Article XVI of the convention the Commissioner of Internal Revenue will transmit to the Federal Ministry of Finance, as soon as practicable after the close of the calendar year 1955 and of each subsequent calendar year during which the convention is in effect, the following information relating to such preceding calendar year:

(1) The duplicate copy of each available Form 1042 Supplement filed pursuant to paragraph (b) of this section; and

(2) The duplicate copy of each available ownership certificate, Form 1001–GER, filed pursuant to § 503.3 (b), and substitute Form 1001–GER, filed pursuant to § 503.6 (a), in connection with coupon bond interest.

(b) *Information return.* (1) To facilitate compliance with Article XVI

of the convention, every United States withholding agent shall make and file in duplicate with the District Director of Internal Revenue, Baltimore 2, Maryland, an information return on Form 1042 Supplement, with respect to persons having addresses in the Federal Republic of Germany, which shall be filed for the calendar year 1955 and subsequent calendar years. This return shall be filed simultaneously with Form 1042.

(2) There shall be reported on such Form 1042 Supplement all items of fixed or determinable annual or periodical income (and amounts described in section 402 (a) (2), section 631 (b) and (c), and section 1235 of the Internal Revenue Code of 1954, which are considered to be gains from the sale or exchange of capital assets) derived from sources within the United States and paid to nonresident aliens and to nonresident foreign corporations, whose addresses at the time of payment were in the Federal Republic of Germany, including such items of income upon which, in accordance with this part, no withholding of United States tax is required; except that any of such items which constitute interest in respect of which Form 1001–GER or substitute Form 1001–GER has been filed in duplicate with the withholding agent are not required to be reported on such Form 1042 Supplement.

§ 503.8 *Beneficiaries of a domestic estate or trust.* A nonresident alien who is a resident of the Federal Republic of Germany and who is a beneficiary of a domestic estate or trust shall be entitled to the exemption from United States tax granted by Articles VII, VIII, and XIV of the convention with respect to dividends, interest, and copyright royalties and the like, to the extent such item or items are included in that portion of the income of such estate or trust which is (or would, but for such exemption, be) includible in the gross income of the beneficiary, provided that he otherwise satisfies the requirements of these respective articles. In order to be entitled in such instance to the exemption from withholding of United States tax such beneficiary must otherwise satisfy such requirements and shall, where applicable, execute and submit to the fiduciary of such estate or trust in the United States the appropriate letter of notification prescribed in §§ 503.3 (b) and 503.4 (b).

§ 503.9 *Land Berlin.* The convention shall also apply to Land Berlin effective for taxable years beginning on or after January 1, 1954, but only if the notification has been furnished to the United States Government in accordance with Article XX (2) of the convention. After application of the convention to Land Berlin in accordance with Article XX, references in the convention and in this part to the Federal Republic of Germany shall also be considered references to Land Berlin.

Because it is necessary to bring into effect at the earliest practicable date the rules of this Treasury decision respecting release of excess tax withheld, and exemption from, or reduction in the rate of, withholding of tax, it is hereby found that it is impracticable to issue this Treasury decision with notice and public procedure thereon under section 4 (a) of the Administrative Procedure Act, approved June 11, 1946, or subject to the effective date limitation of section 4 (c) of that act.

[SEAL] O. GORDON DELK,
Acting Commissioner of Internal Revenue.

Approved: January 28, 1955.

M. B. FOLSOM,
Acting Secretary of the Treasury.

[F. R. Doc. 55–976; Filed, Jan. 28, 1955; 2:55 p. m.]

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, Department of the Army

PART 203—BRIDGE REGULATIONS

SAGINAW RIVER, MICHIGAN

Pursuant to the provisions of section 5 of the River and Harbor Act of August 18, 1894 (28 Stat. 362; 33 U. S. C. 499), § 203.700 (j) is hereby amended to provide closed periods for downbound vessels of 50 gross tons and over for Belinda Street, Third Street, and Lafayette Street bridges across Saginaw River at Bay City, Michigan, as follows:

§ 203.700 *Saginaw River, Mich.; bridges.* * * *

(j) *Special regulations for highway bridges at Bay City.* (1) The draws of Belinda Street, Third Street, Lafayette Street, and Cass Avenue bridges shall not be required to be opened for the passage of any vessel under 50 gross tons between 6:30 and 8:30 a. m. and between 3:30 and 5:30 p. m., except on Sundays.

(2) The draws of Belinda Street, Third Street, and Lafayette Street bridges shall not be required to be opened for the passage of any downbound vessel over 50 gross tons between 7:30 and 8:30 a. m. and between 4:30 and 5:30 p. m., except on Sundays and legal holidays observed in the locality.

[Regs., January 17, 1955, 823.01 (Saginaw River, Mich.)—ENGWO] (28 Stat. 362; 33 U. S. C. 499)

[SEAL] JOHN A. KLEIN,
Major General, U. S. Army, The Adjutant General.

[F. R. Doc. 55–930; Filed, Jan. 31, 1955; 8:51 a. m.]

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

Appendix C—Public Land Orders

[Public Land Order 1037]

ALASKA

WITHDRAWING PUBLIC LAND FOR USE OF DEPARTMENT OF TERRITORIAL POLICE AS HEADQUARTERS SITE; PARTIALLY REVOKING PUBLIC LAND ORDER NO. 738 OF JULY 28, 1951; CORRECTION

JANUARY 26, 1955.

Federal Register Document 54–10143, appearing in the issue of December 13, 1954 (19 F. R. 8813) so far as it refers to lands in sec. 14, T. 1 S., R. 1 W., Seward Meridian, should read, "Fairbanks Meridian".

W. G. GUERNSEY,
Acting Director.

[F. R. Doc. 55–900; Filed, Jan. 31, 1955; 8:45 a. m.]

[Public Land Order 1060]

IDAHO

RESERVING CERTAIN PUBLIC LANDS AS ADDITION TO DEER FLAT NATIONAL WILDLIFE REFUGE

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952, it is ordered as follows:

Subject to valid existing rights, the following-described public lands in Canyon County, Idaho, are hereby withdrawn from all forms of appropriation under the public-land laws, including the mining but not the mineral-leasing laws, and reserved as an addition to the Deer Flat National Wildlife Refuge, established by Executive Order No. 7655 of July 12, 1937, as the Deer Flat Migratory Waterfowl Refuge, the name of which was changed by Proclamation No. 2416 of July 25, 1940:

BOISE MERIDIAN

T. 3 N., R. 3 W.,
Sec. 22, NW¼NE¼
Sec. 27, W½NE¼, SE¼

The areas described aggregate 280 acres.

This order shall take precedence over, but shall not otherwise affect the Departmental order of April 8, 1935, establishing Grazing District No. 1.

ORME LEWIS,
Assistant Secretary of the Interior.

JANUARY 26, 1955.

[F. R. Doc. 55–901; Filed, Jan. 31, 1955; 8:45 a. m.]

TITLE 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 11236; FCC 55–88]

[Rules Amdt. 3–35]

PART 3—RADIO BROADCAST SERVICES

TABLE OF ASSIGNMENTS FOR TELEVISION BROADCAST STATIONS

In the matter of amendment of § 3.606 *Table of assignments,* rules governing television broadcast stations; Docket No. 11236.

1. The Commission has under consideration its notice of proposed rule making issued on December 17, 1954 (FCC 54–1540) and published in the FEDERAL REGISTER on December 23, 1954 (19 F. R. 8815) proposing to shift Channel 14 from Annapolis, Maryland, to Washington, D. C., and to substitute Channel 53 for Chanel 14 in Annapolis,

in response to a petition filed by the United Broadcasting Company, Inc.[1]

2. The last day for filing comments in this proceeding was January 14, 1955. No comments opposing the proposed amendments have been filed.

3. In support of its requested amendment, petitioner urges that the proposal complies with the rules and standards; that there is no application on file with the Commission for Channel 14 at Annapolis; that the proposed use of Channel 14 at Washington would effectuate closer frequency spacings on the UHF assignments in Washington and would result in a more effective UHF service in the area from the point of view of transmission and reception; and that the Commission has recognized the temporary differences among the UHF channels from an equipment standpoint even though it adheres to the basic policy of not making any distinctions for assignment purposes.

4. We are of the view that the proposed amendments would serve the public interest.

5. Authority for the adoption of the amendments is contained in sections 4 (i), 301, 303 (c), (d), (f), and (r) and 307 (b) of the Communications Act of 1934, as amended.

6. In view of the foregoing: *It is ordered*, That effective March 2, 1955, the Table of Assignments contained in § 3.606 of the Commission's rules and regulations is amended, insofar as the communities named are concerned, as follows:

City:	*Channel No.*
Washington, D. C	4—, 5—, 7+, 9—, 14—, 20+, *26—, 50—
Annapolis, Md	53—

(Sec. 4, 48 Stat. 1066, as amended; 47 U. S. C. 154. Interprets or applies secs. 301, 303, 307, 48 Stat. 1081, 1082, 1084; 47 U. S. C. 301, 303, 307)

Adopted: January 26, 1955.

Released: January 27, 1955.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 55-937; Filed, Jan. 31, 1955; 8:52 a. m.]

[Docket No. 11129; FCC 55-93]

[Rules Amdt. 3-36]

PART 3—RADIO BROADCAST SERVICES

TABLE OF ASSIGNMENTS FOR TELEVISION BROADCAST STATIONS

In the matter of amendment of § 3.606 *Table of assignments*, rules governing television broadcast stations; Docket No. 11129.

1. The Commission has before it for consideration a Petition for Rehearing and Reconsideration filed on December 20, 1954, by the Department of Education of Puerto Rico requesting the Commission to vacate its Report and Order (FCC 54-1577) issued in this proceeding on November 18, 1954.[1]

2. The problem which prompted the rule-making proposals advanced in this proceeding arose from a conflict in the choice of sites specified by two applicants in Puerto Rico. Radio Americas filed an application for a station on Channel 5 at Mayaguez and the Department of Education filed an application for an educational station on adjacent Channel 6 at San Juan. The sites failed to meet the required 60-mile minimum spacing. In an effort to eliminate this conflict of sites, a rule-making proposal was submitted to the Commission by Radio Americas suggesting that Channel 11 be substituted for Channel 6 at San Juan. The Department of Education of Puerto Rico opposed this proposal and submitted various counter-proposals. In a Report and Order issued in this proceeding on November 18, 1954, the Commission adopted the proposal of Radio Americas substituting Channel 11 for Channel 6 in San Juan and Channel 6 for Channel 11 in Caguas.

3. The Department of Education of Puerto Rico filed its instant Petition for Rehearing and Reconsideration on December 20, 1954. The Department of Education reaffirms its arguments urging that a low-band VHF channel is essential for the educational station in San Juan. The Department of Education states that it has now selected a new site in the same general area as the present site but one which will comply with the Commission's minimum adjacent-channel separation requirements and with other pertinent Commission rules. The Department represents that an amendment to its application for Channel 6 in San Juan specifying operation at the new site is now in preparation and will be filed with the Commission at an early date. The Department states that use of the new site will enable the educational station in San Juan to employ a low-band VHF channel which is deemed vital to the success of its educational program. The Department of Education points out that the elimination of the conflict-of-sites problem removes the necessity for the change in channel assignments adopted by the Commission in its Report and Order switching Channel 11 for Channel 6 in San Juan, and Channel 6 for Channel 11 in Caguas. Accordingly, the Department of Education requests the Commission to vacate its order substituting Channel 11 for Channel 6 in San Juan and that it restore the status quo with respect to the channel assignments in Puerto Rico.

4. As pointed out by the Department of Education, the only purpose for the rule-making proposals in this proceeding was to eliminate the conflict of sites between Radio Americas and the Department of Education. Since the Department of Education is now preparing to amend its application specifying a new site that will meet the minimum separation requirements, the rule-making changes adopted in this proceeding are no longer necessary.

5. In view of the foregoing: *It is ordered*, That the Commission's order issued November 18, 1954, in this proceeding substituting Channel 11 for Channel 6 in San Juan, Puerto Rico, and Channel 6 for Channel 11 in Caguas, Puerto Rico, is vacated, and the assignments of Channel 6 in Puerto Rico reserved for educational use in San Juan, and of Channel 11 in Caguas are retained.

(Sec. 4, 48 Stat. 1066, as amended; 47 U. S. C. 154. Interprets or applies secs. 301, 303, 307, 48 Stat. 1081, 1082, 1084; 47 U. S. C. 301, 303, 307)

Adopted: January 26, 1955.

Released: January 27, 1955.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 55-936; Filed, Jan. 31, 1955; 8:52 a. m.]

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[1] United Broadcasting also requested that the Commission order it to Show Cause why its authorization for Station WOOK-TV should not be modified to specify operation on Channel 14 in lieu of Channel 50. This Show Cause Order request was considered by the Commission and denied for the reasons set out in the Notice of Proposed Rule Making referred to above.

[1] In an Order issued December 30, 1954 (FCC 54-1577), the Commission extended the effective date of the amended assignments adopted in this Report and Order to January 31, 1955.

PROPOSED RULE MAKING

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 3]

[Docket No. 11168; FCC 55-95]

TELEVISION BROADCAST STATIONS

TABLE OF ASSIGNMENTS

1. The Commission has under consideration its notice of proposed rule making issued on September 16, 1954 (FCC 54-1172), and published in the FEDERAL REGISTER on September 22, 1954 (19 F. R. 6085), proposing to assign Channel 13 to Princess Anne, Virginia, by making other changes in the television table of assignments, in response to a petition filed by Commonwealth Broadcasting Corporation.

2. The last day for filing comments in this proceeding was October 15, 1954, and for replies, October 25, 1954. Upon request of Commonwealth, the time for filing replies was extended to October 29, 1954. Comments in opposition to the proposed amendment were filed by Peninsula Broadcasting Corporation, permittee of Station WVEC-TV operating on Channel 15 at Hampton, Virginia; Eastern Broadcasting Corporation, permittee of Station WACH-TV operating on Channel 33 at Newport News, Virginia; Portsmouth Radio Corporation,

applicant for Channel 10 at Portsmouth, Virginia; WAAM, Inc., licensee of Station WAAM operating on Channel 13 at Baltimore, Maryland; Nathan Frank, applicant for Channel 13 at New Bern, North Carolina; City of New Bern, North Carolina; and the New Bern Lions Club, Rotary Club, and Chamber of Commerce.

3. There are presently assigned to Norfolk-Portsmouth-Newport News, Virginia, VHF Channels 3 and 10 and UHF Channels 15, 21, and 33, with Channel 21 reserved for noncommercial educational use. In addition, UHF Channel 27 is assigned to Norfolk-Portsmouth. Stations are in operation on Channels 3, 15, and 33. Petitioner is the permittee of Station WTOV-TV authorized for operation on Channel 27, but is presently off the air. There are two mutually exclusive applications for Channel 10 in hearing status. The record in that proceeding (Dockets 10800 and 10801) was closed April 27, 1954 and the Initial Decision of the Examiner is now awaited. No application has been filed for Channel 21, the educational assignment. Petitioner seeks the addition of a third VHF assignment in the area;[1] however, since Channel 13 cannot be assigned to Norfolk-Portsmouth-Newport News in conformance with the spacing requirements of the Commission's rules, petitioner requested that Channel 13 be assigned to Princess Anne, a community approximately 15 miles from Norfolk. Petitioner suggests that this assignment may be made by means of one of the following alternative methods:

	City	Channel No.	
		Delete	Add
1.	Princess Anne, Va.		13−
	Arapahoe, N. C.		12+
	New Bern, N. C.	13−	
2.	Princess Anne, Va.		13−
	Arapahoe, N. C.		12+
	New Bern, N. C.	13−	36−
3.	Princess Anne, Va.		13−
	New Bern, N. C.	13−	36−
4.	Princess Anne, Va.		13−
	Arapahoe, N. C.		12+
	New Bern, N. C.	13−	36−
	Norfolk-Portsmouth, Va.	27	

4. In support of its proposal, petitioner submits that in spite of its efforts to obtain network programs and to promote the conversion of television receivers for UHF reception, Station WTOV-TV has continued to suffer financial loss and may be forced to leave the air (Station WTOV-TV suspended operations December 10, 1954). Petitioner urges that the assignment of Channel 13 to Princess Anne by means of one of the alternative methods proposed would conform to the Commission's rules; that it would represent an efficient utilization of available facilities; and that it would conform to the Commission's policies relating to the use of VHF assignments.

[1] Commonwealth also requested that the Commission order it to show cause why its authorization for Station WTOV-TV should not be modified to specify operation on Channel 13 in lieu of Channel 27. This show cause order request was considered by the Commission and denied for the reasons set out in the notice of proposed rule making referred to above.

Petitioner submits that previous Commission decisions authorizing the assignment of VHF channels to small communities near large cities, when the assignment of the VHF channels to the large cities themselves was not technically feasible, are precedents for its proposal.

5. The parties opposing the adoption of the instant request urge that the Norfolk-Portsmouth-Newport News area has been accorded its fair share of both VHF and UHF assignments as compared with other communities of comparable size and importance; that the addition of a third VHF assignment to that area, at the expense of deleting the sole VHF assignment from New Bern, a city of 16,000 persons, is without merit; and that the addition of a VHF assignment to Arapahoe, a community of only 307 persons at a distance of about 14 miles from New Bern, would contravene the established principles of television assignments. These parties submit that the basic concept of the allocation plan is the assignment of channels to communities, rather than to specific transmitter sites or small areas, based upon need, potential demand and a fair and equitable distribution of channels among the various states and communities. They point out that the assignment of channels to very small communities simply because such assignments cannot be made in conformance with the rules to nearby large cities presents problems with respect to studio location, station identification, and other matters. They urge that in the few instances in which such assignments have been made by the Commission, they were made upon a showing that the public interest necessitated the assignment. They urge, however, that in the instant case, no such showing has been made and that, in fact, the contrary is true. It is further asserted that the addition of a third VHF assignment in area would have an adverse effect on the UHF stations in operation.

6. WAAM, Inc., urges that it had made preliminary measurements in the Princess Anne area in order to determine the actual transmission conditions over the path between Princess Anne, where Channel 13 is proposed, and Baltimore, where Station WAAM–TV operates on Channel 13; that these measurements indicate that the field strengths may be as much as ten times the value predicted; that it proposes to have extensive measurements taken to determine more conclusively the actual transmission conditions existing over this path;[2] that the resulting objectionable interference which would result to WAAM-TV and the proposed station would be greater than that afforded by the minimum separation provided in the rules. WAAM, Inc., therefore, urges that Channel 13 should not be assigned to Princess Anne and requests rule making to amend the technical standards to bar assignment of Channel 13 in the Portsmouth-Newport News area. WAAM also requests that it be granted a hearing in the event petitioner's proposed amendment is adopted.

7. Nathan Frank, in opposition to the proposed amendment, argues, inter alia, that petitioner's contention that no applications were on file for Channel 13 at New Bern and none were likely to be filed and that unless the channel were deleted from New Bern and assigned to the Norfolk-Portsmouth-Newport News area a valuable TV facility would be wasted is invalid. He states that he has had under preparation an application for Channel 13 at New Bern for some time and that it is now on file with the Commission. (BPCT–1908, filed October 12, 1954.)

8. In reply to the comments of WAAM, Inc., Commonwealth argues that claims of interference to existing stations from assignments meeting the Commission's rules regarding minimum separations is not a valid reason for denial of a proposed assignment. Further, petitioner argues that the data on which the claims for excessive objectionable interference are made are based on only a very few measurements; and that it would require considerable time to prove that the prediction curves for a specific area are invalid. Similarly, petitioner argues that the economic effect on other stations of an assignment to an area is not a valid reason for a denial.[3]

9. Commonwealth Broadcasting Corporation requests the assignment of VHF Channel 13 to Princess Anne for the avowed purpose of providing a third VHF service to the Norfolk-Portsmouth-Newport News area. To accomplish this, petitioner suggests that Channel 13 be deleted from New Bern, North Carolina, and a UHF channel be substituted therefor. Petitioner further suggests that a VHF service may be made available to New Bern by assigning VHF Channel 12 to Arapahoe, North Carolina, a community about 14 miles from New Bern. Princess Anne is a small community of only 250 persons, about 15 miles from Norfolk. Assuming, arguendo, that the assignment of Channel 13 to Princess Anne would represent an assignment to the tri-city area of Norfolk-Portsmouth-Newport News, we are of the view that the assignment of a third VHF channel to this area at the expense of deleting the sole VHF assignment to New Bern, a community of

[2] On December 3, 1954, WAAM, Inc., filed a first report on measurements; on December 10, 1954, petitioner filed a motion to strike the report, and on December 15, 1954, WAAM, Inc., filed an opposition to the strike motion. On December 17, 1954, WAAM, Inc., also filed a complete report. Insofar as this proceeding is concerned, we have not considered it necessary to consider these reports and are therefore making no ruling with respect to the admissibility of these reports and pleadings filed subsequent to the expiration date for the filing of comments and replies herein.

[3] Petitioner, in its reply, also raises a question as to Nathan Frank's motives in applying for a television station on Channel 13 at New Bern, and his financial and other qualifications to own and operate a television station. A request for leave to file motion to strike and motion to strike these comments was filed on November 3, 1954, by Nathan Frank. Since the matter of Frank's qualifications as an applicant for a television station is not germane to this rule-making proceeding, it has been given no consideration.

16,000 people, is unwarranted. Nor are we convinced that the addition of a VHF assignment to Arapahoe, North Carolina, a community of only 307 persons about 14 miles from New Bern, would justify the proposed amendment. Petitioner points to previous actions of the Commission where VHF channels have been assigned to small communities near large cities because the assignments could not be made to the nearby cities in conformance with the separation requirements of the Rules. However, in these few instances (Parma-Onondaga, Michigan, FCC 54–66, Docket No. 10619; Hatfield, Indiana, FCC 53–1209, Docket No. 10618; Irwin, Pennsylvania, FCC 52–1350, Docket No. 10314; Old Hickory, Tennessee, FCC 52–1264, Docket No. 10318; Warner Robins, Georgia, FCC 53–20, Docket No. 10356; and Whitefish Bay, Wisconsin, FCC 53–1599, Docket No. 10713.) either an error in assignment was brought to the Commission's attention or a showing was made that the needs of the large city and the public interest required such assignments. We have carefully considered the comments and pleadings submitted in this proceeding and conclude that no such showing has been made. We are of the view, therefore, that the assignments in the Norfolk-Portsmouth-Newport News and New Bern areas should not be changed, and that no necessity now exists for the institution of the rule making proceedings requested by WAAM, Inc., to bar assignment of Channel 13 in this area.

10. In view of the foregoing: *It is ordered*, That the petition of Commonwealth Broadcasting Corporation is denied, and this proceeding is hereby terminated.

Adopted: January 26, 1955.

Released: January 27, 1955.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 55–941; Filed, Jan. 31, 1955; 8:53 a. m.]

[47 CFR Part 3]

[Docket No. 11261; FCC 55–89]

TELEVISION BROADCAST STATIONS

TABLE OF ASSIGNMENTS

1. Notice is hereby given that the Commission has received a proposal for rule making in the above-entitled matter.

2. WKNY–TV Corporation, permittee of television station WKNY–TV operating on Channel 66 at Kingston, New York filed a petition on November 16, 1954, and a supplement thereto on December 17, 1954, requesting that the Commission order it to show cause why its outstanding authorization should not be modified to specify operation on Channel 21 at Poughkeepsie, New York. It is suggested that this change in authorization can be accomplished by making the following alternative changes in § 3.606, *Table of assignments*, rules governing television broadcast stations:

City	Channel No.	
	Delete	Add
Proposal A:		
Hanover, N. H.	*21+	*27+
Concord, N. H.	27+	75+, 76, 78, or 83+
Proposal B:		
Hanover, N. H.	*21+	*43
Laconia, N. H.	43	21+

3. In support of its requested amendment and show cause order, petitioner notes that it is presently operating Station WKNY–TV on Channel 66 at a site located between Kingston and Poughkeepsie, New York. Petitioner states that due to certain technical difficulties, the station has been unable to operate with full power and that as a result of this and other equipment problems it has not been able to cover its contemplated service area with the necessary signal strength. Petitioner submits that the proposed amendment would conform to the Commission's Rules; that it would permit use of the present satisfactory transmitter site; that there are no applications on file with the Commission for the use of Channel 21 at Poughkeepsie or Channel 21 at Hanover, New Hampshire; and that its proposal is consistent with previous Commission actions which have recognized that in light of present equipment problems, television service can be rendered more expeditiously on lower UHF channels in communities where interested parties are ready to proceed with such service.

4. The Commission is of the view that rule-making proceedings should be instituted in this matter in order that interested parties may submit their views. The subject petition is made a part of this docket.

5. Authority for the adoption of the proposed amendment is contained in sections 4 (i), 301, 303 (c), (d), (f), and (r), 307 (b), and 316 of the Communications Act of 1934, as amended.

6. Any interested party who is of the opinion that the amendment proposed by petitioner should not be adopted or should not be adopted in the form set forth herein may file with the Commission on or before March 4, 1955, a written statement or brief setting forth his comments. Comments in support of the proposed amendment may also be filed on or before the same date. Comments or briefs in reply to the original comments may be filed within 10 days from the last day for filing said original comments or briefs. No additional comments may be filed unless (1) specifically requested by the Commission, or (2) good cause for the filing of such additional comments is established. The Commission will consider all such comments that are submitted before taking action in this matter, and if any comments appear to warrant the holding of a hearing or oral argument, notice of the time and place of such hearing or oral argument will be given.

7. In accordance with the provisions of § 1.764 of the Commission's rules and regulations, an original and 14 copies of all statements, briefs, or comments shall be furnished the Commission.

8. Since WKNY–TV Corporation is presently operating Station WKNY–TV on Channel 66 at Kingston, New York, and the rule making proposed herein would require this station to operate on Channel 21 at Poughkeepsie, New York, WKNY–TV Corporation is ordered to show cause in this proceeding why its outstanding authorization should not be modified to specify operation on Channel 21 at Poughkeepsie in lieu of Channel 66 at Kingston, New York. A reply in writing to the aforesaid order to show cause should be filed on or before the same date for filing comments in the proceeding.

Adopted: January 26, 1955.

Released: January 27, 1955.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 55–942; Filed, Jan. 31, 1955; 8:53 a. m.]

FEDERAL POWER COMMISSION

[18 CFR Part 4]

[Docket No. R–139]

APPLICATIONS FOR AND ISSUANCE OF LICENSES UNDER THE FEDERAL POWER ACT

ORDER TERMINATING PROCEEDING

In the matter of amendment to Part 4 of Subchapter B of the regulations relating to applications for and issuance of licenses under the provisions of the Federal Power Act; Docket No. R–139.

The Commission has under consideration in this proceeding the amendment of its regulations under the Federal Power Act relating to applications for and issuance of licenses by the addition of § 4.34 to Part 4 of Subchapter B thereof so as to prescribe the effective date and term for licenses for complete projects of more than 100 horsepower of installed capacity constructed and placed in operation before January 1, 1938 without prior Federal authority and which are subject to the Commission's licensing authority under Part I of the act.

General public notice of the proposed rule-making in the above-entitled matter was given by publication of notice in the FEDERAL REGISTER on August 18, 1954 (19 F. R. 5233 and 5234), and by mailing of notice to all licensees, and to many others operating unlicensed projects.

In response to such notice, several written suggestions and comments were submitted by interested parties respecting the changes in the Commission's rules proposed in this docket, including recommendation by the Commission staff.

After full consideration of the suggestions, comments and recommendations submitted, it appears to the Commission that adoption of the proposed amendment to the regulations may not, at least

at the present time, be appropriate or necessary in carrying out the provisions of the Federal Power Act.

The Commission finds: On the basis of the record herein, the proceeding in this docket should be terminated.

The Commission orders: The proceeding in this docket respecting the proposed amendment of the Commission's regulations relative to applications for and issuance of licenses under the provisions of the Federal Power Act is terminated.

Adopted: January 19, 1955.

Issued: January 25, 1955.

By the Commission.

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

[F. R. Doc. 55-907; Filed, Jan. 31, 1955; 8:47 a. m.]

NOTICES

DEPARTMENT OF STATE

[Pub. Notice 139]

[Delegation Authority 78-A]

DEPUTY UNDER SECRETARY OF STATE FOR ADMINISTRATION ET AL.

FUNCTIONS AND AUTHORITIES

Pursuant to the authority vested in the Secretary of State by sections 3 and 4 of Public Law 73, 81st Congress, approved May 26, 1949 (63 Stat. 111), and in accordance with the requirements of section 3 (a) (1) of Public Law 404, 79th Congress, approved June 11, 1946 (60 Stat. 238), functions and authorities are hereby prescribed for the positions enumerated below. All prior delegations of authority and public notices which are inconsistent or in conflict with the functions and authorities herein prescribed are, to the extent of such inconsistencies or conflicts, hereby superseded. Nothing contained herein shall authorize the exercise of authority which by law is required to be exercised solely by the Secretary of State.

The Deputy Under Secretary of State for Administration. a. Exercises the authority vested in the Secretary of State by section 3 of Public Law 73, 81st Congress, to "administer, coordinate, and direct the Foreign Service of the United States and the personnel of the State Department."

b. Exercise the authority now or hereafter vested in the Secretary of State or the Department of State with respect to the administration of the Department of State and the Foreign Service.

c. Provides general direction and control of the organizational structure and assignment of functions in the Department of State and the Foreign Service.

d. Directs the administration of the Department's inspection programs.

e. Provides general direction for the use of appropriated funds, for the establishment of program priorities for budgetary purposes, and the administrative implementation of approved substantive policies and programs.

f. Directs and supervises the activities of the Controller of the Department of State, the Administrator of the Bureau of Security and Consular Affairs, and the Director General of the Foreign Service.

g. Prescribes and promulgates such rules and regulations, and makes such delegations of authority as may be necessary to carry out his assigned responsibilities.

Controller of the Department of State. a. Develops, establishes, revises and promulgates the organizational structure and assignment of functions in the Department and the Foreign Service.

b. Directs the administration of the personnel program of the Department and the Foreign Service.

c. Directs preparation of budget estimates and the allocation of funds made available to the Secretary or the Department.

d. Establishes relative program priorities for budgetary purposes and supervises the use of appropriated funds in accordance with congressional limitations, program objectives, and policies of the President and the Secretary.

e. Directs the development and operation of administrative management controls including fiscal controls, reporting systems, manuals of regulations and procedures, etc., designed to promote efficient, economical, and effective operation in all areas of the Department and the Foreign Service, and to enforce compliance with established policies and instructions.

f. Directs and provides for the acquisition, maintenance and operation of buildings, grounds, and other facilities required for use in connection with the Department's operations abroad.

g. Directs and provides procurement, communication, transportation, fiscal and other administrative services.

h. Prescribes and promulgates rules and regulations necessary to carry out his assigned responsibilties, except when such rules and regulations are required by law to be issued by the Deputy Under Secretary of State for Administration or the Secretary of State.

Administrator, Bureau of Security and Consular Affairs. a. Provides technical direction for the consular program of the Foreign Service and directs related work of the Department, including such activities as passport services, protection and welfare of American citizens and interests, issuance of visas, representation of interests of foreign governments, control of international traffic in arms, and policies concerning disclosure of classified military information.

b. Directs the security program of the Department and the Foreign Service.

c. Directs the administration of the Refugee Relief Program established by the Refugee Relief Act of 1953, Public Law 203, 83d Congress (67 Stat. 400).

d. Prescribes and promulgates such rules an regulations as may be necessary to carry out his assigned responsibilities.

Dated: January 26, 1955.

[SEAL] JOHN FOSTER DULLES, *Secretary of State.*

[F. R. Doc. 55-943; Filed, Jan. 31, 1955; 8:54 a. m.]

DEPARTMENT OF DEFENSE

Department of the Army

STATEMENT OF ORGANIZATION AND FUNCTIONS

DESCRIPTION OF CENTRAL AND FIELD AGENCIES

Paragraph (e) of section 1 of the statement of organization and functions of the Department of the Army, appearing at 15 F. R. 6639, October 3, 1950, and amended at 16 F. R. 8144, August 16, 1951, and 19 F. R. 6349, October 1, 1954, is further amended by adding subparagraph (2-1), revising subparagraph (7-1), (10), (14), (15), and (23), and revoking subparagraph (16), as follows:

SECTION 1. *Description of central and field agencies.* * * *

(e) *Organization of Department of the Army.* * * *

(2-1) *Chief of Public Information.* The Chief of Public Information is directly responsible to the Secretary of the Army and is responsive to requirements of the Chief of Staff in all matters pertaining to public understanding of the Army. He initiates, processes, and coordinates the release of information relating to public understanding of the Army; advises the Secretary of the Army, the Chief of Staff, and agencies of the Department of Defense on public information matters involving the Army; and, in accordance with policies established by the Secretary of Defense, coordinates and supervises, through the Office of the Chief of Staff, the world-wide implementation of public information policies and programs of the Department of the Army.

* * * * *

(7-1) *Deputy Chief of Staff for Logistics.* The Deputy Chief of Staff for Logistics, under the functional supervision of the Assistant Secretary of the Army (Logistics and Research and Development) and under the direct supervision and control of the Chief of Staff:

(i) Has Department of the Army Staff responsibility for:

(*a*) Development and supervision of an integrated Army logistics organization and system, including all controls over policies, procedures, standards, funds, manpower, and personnel which are essential to the discharge of this responsibility.

(*b*) Development of logistics doctrine and manuals and supervision of the conduct of training and school activities which are of broader than individual technical service scope and which are required in preparing individuals for

assignment to logistics activities in organizational elements other than those of field forces such as Army Group, Army, Corps, Division, and smaller troop units.

(c) Logistics planning.

(d) Development and supervision of the logistics programs; and within budget policies developed by the Comptroller of the Army, formulation of those portions of the annual military budget of the Army which pertain to the logistics programs.

(e) Within policy and standards developed by the Comptroller of the Army, development and supervision of Financial Property Accounting, Stock Funds, and Industrial Funds; and Performance Analysis in connection with logistic activities.

(f) Formulation of policies and the evaluation of results in matters of logistics requirements, procurement, supply, services, and materiel activities.

(ii) Within overall Department of the Army policies, directs and controls the technical staffs and services in all matters covered by subdivision (i) of this subparagraph and also:

(a) Prescribes the missions, organization, and procedures of the technical services.

(b) Supervises the training conducted under the jurisdiction of the heads of technical services.

(c) Develops and supervises a single, integrated career system for technical service personnel which will fit them for top logistics positions throughout the Army.

(d) Exercises manpower control over military and civilian personnel in the technical services.

(e) Administers civilian personnel of the technical services.

(f) Develops and supervises budgeting, funding (including allotting of funds and allocation of personnel ceilings), accounting, other financial and fiscal activities, performance analysis, review and analysis, and reports control of the technical services.

(g) Supervises and correlates financial management and financial operations in the technical services.

(h) Develops policies for and supervises industrial and labor relations in the technical services.

(iii) On matters of health, medical care of troops, and utilization of professional military personnel, The Surgeon General has direct access to the Secretary of the Army and the Chief of Staff.

(iv) The responsibilities herein assigned do not extend to the civil functions of the Chief of Engineers.

* * * * *

(10) *Chief of Information and Education.* The Chief of Information and Education is directly responsible to the Chief of Staff. He prepares plans and policies for and coordinates and supervises Army troop information and education activities in accordance with policies established by the Secretary of Defense; develops and coordinates Department of the Army information plans and programs in support of Army basic plans and programs; and advises the Secretary of the Army, the Chief of Staff, and agencies of the Department of Defense on policy matters pertaining to troop information and education within the Army.

* * * * *

(14) *Assistant Chief of Staff, G–2, Intelligence.* The Assistant Chief of Staff, G–2, under the direction and supervision of the Chief of Staff, plans, coordinates, and supervises the collection and evaluation of information and the production, maintenance, and dissemination of intelligence required to provide security, to insure early warning against enemy actions, and to support mobilization and war plans of the Army. He directs the Army Attaché System, the Army Intelligence Center and, within the scope of his responsibility, the Army Security Agency. He commands the Military Intelligence Reserve. He supervises the procurement, training, and assignment of intelligence personnel; approves and/or prepares pertinent training doctrine and manuals; and conducts such training and school activities as may be assigned. He coordinates the Army's Industrial Security Program to include Department of the Army staff supervision of facility and personnel security clearances, visitor control, and protection of classified information in the hands of industry. He supervises the security program for military personnel within the Department of the Army, and participates in the Department of the Army civilian security program, as directed by the Secretary of the Army. In addition, he provides for the safeguarding of classified defense information; supervises counterintelligence activities, including direction of the Counter Intelligence Corps; supervises military mapping, Army cryptologic functions, and monitors the intelligence segment of the Research and Development Program; and provides the official channel of liaison between the Army and foreign military personnel in the United States. He develops, administers, and implements the primary programs for which he is assigned responsibility.

(15) *Assistant Chief of Staff, G–3, Operations.* The Assistant Chief of Staff, G–3, under the direction and supervision of the Chief of Staff, develops and coordinates strategic and operational planning and military and politico-military policy for the Army; develops policies for the organization, operational requirements, training, mobilization, and demobilization of all components of the Army; and provides for coordination between the General Staff and the Joint Staff on these matters. He supervises strategic and operational matters relating to oversea and other major commands, including the deployment of military resources; and discharges General Staff responsibility as to those unified commands for which the Department of the Army has been designated executive agency. He develops, administers, and implements the primary programs for which he is assigned responsibility.

(16) *Assistant Chief of Staff, G–4, Logistics.* [Revoked.]

* * * * *

(23) *Chief, Army Reserve and ROTC Affairs.* The Chief, Army Reserve and ROTC Affairs advises and assists the Chief of Staff in the exercise of his supervision and control of the Army Reserve and Reserve Officers' Training Corps, and keeps the Secretary of the Army informed on Army Reserve and ROTC Affairs.

* * * * *

[SEAL] JOHN A. KLEIN,
Major General, U. S. Army,
The Adjutant General.

[F. R. Doc. 55–929; Filed, Jan. 31, 1955; 8:51 a. m.]

Department of the Navy

ORGANIZATION STATEMENT

CIVILIAN EXECUTIVE ASSISTANTS

1. In Organization Statement of the Department of the Navy, published at 16 F. R. 12573–12590, delete subparagraph 9, *Office of Naval Material*, of Section V. *Civilian Executive Assistants*, Paragraph B. *Executive Office of the Secretary*, appearing on 16 F. R. 12576, and insert the following subsection in lieu thereof:

9. *Office of Naval Material.* The Office of Naval Material, headed by a Chief of Naval Material, was established by the Act of Congress of March 5, 1948 (sec. 7, 62 Stat. 68; 5 U. S. C. 423g).

(a) The Chief of Naval Material is responsible for effectuating policies of procurement, contracting, and production of material throughout the Naval Establishment, and plans therefor; for determining the procurement and production policies and methods to be followed by the Naval Establishment in meeting the material requirements of the operating forces as determined by the Chief of Naval Operations, and coordinating and directing the efforts of the bureaus and offices of the Navy Department in this respect.

(b) Within the authority implicit in this assigned responsibility and the authority of superior directives, the Office of Naval Material performs the following functions:

(1) Formulates, promulgates and effectuates procurement contracting policies and methods.

(2) Formulates, promulgates and effectuates policies and methods governing production of material; assists the bureaus and offices of the Navy Department and industry to achieve production which is efficient, economical, and timely; and coordinates production activities of the Navy with other segments of the Department of Defense and appropriate civilian agencies.

(3) Exercises coordination control over the Material Inspection Service, USN, and management control over the Supervising Inspectors, the Inspectors, and the Assistant Inspectors of Naval Material.

(4) Formulates, promulgates and effectuates policies and methods relative to material control, including standardi-

zation, cataloging, property disposition and inventory control.

(5) Collaborates with the Office of the Chief of Naval Operations in reconciling difficulties encountered in meeting the material requirements of the operating forces.

(6) Provides for the representation of the Navy's material requirements before other government agencies controlling the availability of products, materials, and facilities.

(7) Coordinates and integrates industrial mobilization planning.

(8) Develops, implements and coordinates Navy policy on labor relations and industrial manpower with respect to private industry.

(9) Implements and administers the Industrial Security Program which operates outside of the Naval Establishment.

(c) The Office of Naval Material provides staff assistance to the Assistant Secretary of the Navy (Material) in the performance of his logistic functions.

(d) The orders of the Chief of Naval Material are considered as emanating from the Secretary of the Navy and have full force and effect as such.

2. Delete subparagraph 2. of section V., paragraph C., in its entirety.

Dated: January 19, 1955.

THOMAS S. GATES, Jr.,
Acting Secretary of the Navy.

[F. R. Doc. 55-903; Filed, Jan. 31, 1955; 8:46 a. m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

ALASKA

PARTIAL REVOCATION OF ORDERS OPENING LANDS UNDER FOREST HOMESTEAD ACT

JANUARY 25, 1955.

Upon request of the Department of Agriculture and pursuant to the authority delegated by Department Order No. 2583, section 2.22 (a) of August 16, 1950, it is ordered as follows:

Subject to valid existing rights, the orders described below opening lands in the Tongass and Chugach National Forests for entry under the act of June 11, 1906, as amended (34 Stat. 233; 16 U. S. C. secs. 506–509) are revoked as to the lands hereinafter described:

[Misc. 650970]

TONGASS NATIONAL FOREST

List No. 6–1978; date of order of opening July 7, 1919. Lands:

A tract of land described as follows: Beginning at Cor. No. 1, whence Forest Service Monument, located in a small building 1 ch. west of the Old Customs House, Customs House Cove, Mary Island, Alaska, bears S. 24° W., 14.60 chs.; extending thence by meanders along beach N. 22° E., 11 chs.; N. 30° E., 9 chs.; S. 87° E., 2 chs.; S. 68° E., 6 Chs.; N. 45° E., 12 chs. to Cor. No. 2 thence E. 9.13 chs. to Cor. No. 3; thence S. 28 chs. to Cor. No. 4; thence W. 19.21 chs. to Cor. No. 5; thence S. 38 chs. to Cor. No. 6; thence W. 14.58 chs. to Cor. No. 7; thence N. 41.87 chs. to Cor. No. 1, the place of beginning, containing 128.75 acres.

[Misc. 667559]

List No. 6–1998; date of order of opening July 7, 1917.

A tract of land described as follows: Beginning at Cor. No. 1, identical with Forest Service Monument located on the north shore of Kasaan Bay, Prince of Wales Island, Alaska, one mile west of New Kasaan P. O., and on the east shore of a small bight; extending thence N. 68° W., 4.10 chs., thence N. 32° W., 1.42 chs. to Cor. No. 2; thence N. 32° 45′ E., 1.81 chs. to Cor. No. 3, identical with the N. E. corner of cemetery; thence N. 66° 30′ W., 11.47 chs. to Cor. No. 4; thence N. 53° W., 4.27 chs.; thence N. 15° E., 2.50 chs. to Cor. No. 5; thence N. 29° 30′ E., 5.95 chs. to Cor. No. 6; thence S. 59° 30′ E., 21.90 chs. to Cor. No. 7; thence S. 29° 30′ W., 9.28 chs. to Cor. No. 1, the place of beginning, containing 18.43 acres.

[Misc. 832109]

List No. 6–2121; date of order of opening February 26, 1919; Lands described in Homestead Entry Survey No. 121, containing approximately 30 acres.

CHUGACH NATIONAL FOREST

[Misc. 686709]

List No. 6–2042; date of order of opening July 7, 1917; Lands described in Homestead Entry Survey No. 97, containing approximately 160 acres.

W. G. GUERNSEY,
Acting Director.

[F. R. Doc. 55-902; Filed, Jan. 31, 1955; 8:45 a. m.]

MONTANA

NOTICE OF PROPOSED WITHDRAWAL AND RESERVATION OF LANDS

JANUARY 24, 1955.

An application, serial number Montana 013484, for the withdrawal from all forms of appropriation under the public land laws, except the mineral leasing laws of the lands described below was filed on September 7, 1954, by the Department of Agriculture, Forest Service.

The purposes of the proposed withdrawal: For use as a building site, horse pasture and Boulder Administrative Site in connection with the administration of the Deerlodge National Forest.

For a period of thirty days from the date of publication of this notice, persons having cause to object to the proposed withdrawal may present their objections in writing to the State Supervisor, Bureau of Land Management, Department of the Interior at Billings, Montana. In case any objection is filed and the nature of the opposition is such as to warrant it, a public hearing will be held at a convenient time and place, which will be announced, where opponents to the order may state their views and where proponents of the order can explain its purpose.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER, either in the form of a public land order or in the form of a notice of determination if the application is rejected. In either case, a separate notice will be sent to each interested party of record.

The lands involved in the application are:

T. 6 N., R. 4 W., P. M., Montana
Sec. 29: Lots 10, 15, 16, 17, 19, 20, 21 and 22.

The area described contains 124.55 acres.

R. D. NIELSON,
State Supervisor.

[F. R. Doc. 55-932; Filed, Jan. 31, 1955; 8:52 a. m.]

WASHINGTON

NOTICE OF PROPOSED WITHDRAWAL AND RESERVATION OF LANDS

Correction

In Federal Register Document 54–8411, appearing at 19 F. R. 6884, October 27, 1954, the description of lands in Snoqualmie National Forest is corrected as follows: In Township 18 N., Range 10 E., section 20, now reading, "Sec. 20, N½ NE¼SW¼, SE¼", should read "Sec. 20, N½, NE¼SW¼, SE¼".

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 11002; FCC 55M–80]

TUPELO BROADCASTING CO., INC. (WELO)

ORDER SCHEDULING HEARING

In re application of Tupelo Broadcasting Co., Inc. (WELO), Tupelo, Mississippi, Docket No. 11002, File No. BP–8939; for construction permit.

The Commission having under consideration a motion filed on January 24, 1955, by Tupelo Broadcasting Company, Inc., requesting that the Examiner fix the date for resumption of the hearing in the above-entitled proceeding on February 3, 1955; and

It appearing that on December 2, 1954, said hearing then in progress was concontinued to a date to be thereafter determined pending action by the Commission upon a petition of Pickens County Broadcasting Company (WRAG), Carrollton, Alabama, intervenor in such proceeding; and that such petition was acted upon by the Commission on December 8, 1954; and

It further appearing that counsel for the parties, including the Broadcast Bureau, have agreed that February 3, 1955, is a suitable date for further hearing herein, and all counsel have waived the so-called "four-day rule" and consented to the early consideration and grant of the instant motion:

It is ordered, This 25th day of January 1955, that the hearing in said proceeding be resumed on February 3, 1955, at 10:00 a. m., in Washington, D. C.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 55-938; Filed, Jan. 31, 1955; 8:53 a. m.]

[Docket Nos. 11122, 11123; FCC 55M-81]

BLACKWATER VALLEY BROADCASTERS AND MULESHOE BROADCASTING CO.

ORDER CONTINUING HEARING

In re applications of Theodore Rozzell, d/b as Blackwater Valley Broadcasters, Muleshoe, Texas, Docket No. 11122, File No. BP-9055; B. C. Dyess, Ed Holmes, and R. I. McLeroy, d/b as Muleshoe Broadcasting Company, Muleshoe, Texas, Docket No. 11123, File No. BP-9203; for construction permits.

The Commission having under consideration a petition, filed on January 10, 1955, on behalf of Muleshoe Broadcasting Company, requesting leave to amend its application in the above-entitled proceeding, in order to show the substitution of Mrs. Ed Holmes as a member of the partnership, during business as Muleshoe Broadcasting Company, in place of her deceased husband, Ed Holmes, a former partner therein; an opposition thereto, filed on January 18, 1955, on behalf of Theodore Rozzell, d/b as Blackwater Valley Broadcasters; and an oral argument on the said petition and opposition, which was held on January 20, 1955; and

It appearing from the said petition and oral argument that on September 28, 1954, Ed Holmes, a 40 percent general partner in Muleshoe Broadcasting Company, died, his death being an occurrence which was entirely beyond the control of petitioner; that a grant of the petition under consideration would not result in any competitive advantage to the said petitioner, or otherwise prejudice the rights of Theodore Rozzell, d/b as Blackwater Valley Broadcasters, the competing applicant in this proceeding; and that, in view of the above circumstances, an extraordinary showing of "good cause" has been established on behalf of the said petitioner, within the meaning of § 1.365 (a) of the Commission's rules to justify a grant of the relief requested herein; and

It further appearing that at the oral argument held on January 20, 1955, it was announced by the Hearing Examiner that in any event it would be necessary to postpone the date now scheduled, namely, February 3, 1955, for the hearing in the above-entitled proceeding, and that no objections were raised to this proposed postponement; and

It further appearing that during the same oral argument the date of February 4, 1955, was set by the Hearing Examiner for a further prehearing conference, in the event that the petition under consideration should be granted, and that such date was agreed to by all of the parties to the proceeding;

It is ordered, This 25th day of January 1955, that the above petition be, and it is hereby, granted, and the proposed amendment is hereby accepted.

It is further ordered, That the date of the hearing in the above-entitled proceeding is postponed until 10:00 a. m. on Monday, March 7, 1955, in the offices of this Commission, Washington, D. C., and that the second pre-hearing conference will be held as tentatively scheduled, at 10:00 a. m. in the offices of this Commission on Friday, February 4, 1955.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 55-939; Filed, Jan. 31, 1955; 8:53 a. m.]

[Docket No. 11180; FCC 55M-64]

BILL MATHIS

NOTICE OF PRE-HEARING CONFERENCE

In re application of Bill Mathis, Abilene, Texas, Docket No. 11180, File No. BP-8917; for construction permit.

Notice is hereby given that a prehearing conference will be held in the above-entitled proceeding in the offices of this Commission, Washington, D. C., beginning at 10:00 a. m., on Wednesday, February 2, 1955, at which counsel for the parties thereto should be prepared to discuss (1) narrowing the issues or the areas of inquiry and proof at the hearing; (2) admissions of fact and of documents which will avoid unnecessary proof; (3) stipulations; (4) the limitation on cumulative evidence; (5) the number of witnesses and estimated length of testimony; (6) need for the use of depositions; and (7) any other matters which may aid the disposition of the hearing.

Dated this 20th day of January 1955.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 55-940; Filed, Jan. 31, 1955; 8:53 a. m.]

FEDERAL POWER COMMISSION

[Docket Nos. G-1786, G-1965]

OHIO FUEL GAS CO.

NOTICE OF ORDER APPROVING PROPOSED SETTLEMENT AND REQUIRING RATE SCHEDULES TO BE FILED

JANUARY 26, 1955.

Notice is hereby given that on December 22, 1954, the Federal Power Commission issued its order adopted December 15, 1954, approving proposed settlement and requiring rate schedules to be filed in the above-entitled matter.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-912; Filed, Jan. 31, 1955; 8:48 a. m.]

[Docket Nos. G-2554, G-4512, G-4513]

WITCO CHEMICAL CO. AND WITCO OIL AND GAS CO.

NOTICE OF ORDER ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AND DISMISSING APPLICATIONS

JANUARY 26, 1955.

In the matters of Witco Chemical Company, Docket Nos. G-2554 and G-4512; Witco Oil and Gas Company, Docket No. G-4513.

Notice is hereby given that on December 21, 1954, the Federal Power Commission issued its order adopted December 15, 1954, issuing certificate of public convenience and necessity and dismissing applications in the above-entitled matters.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-913; Filed, Jan. 31, 1955; 8:48 a. m.]

[Docket Nos. G-2648, G-4227, G-4226]

TENNESSEE PRODUCTION CO. AND TENNESSEE GAS TRANSMISSION CO.

NOTICE OF FINDINGS AND ORDER

JANUARY 26, 1955.

In the matters of Tennessee Production Company, Docket Nos. G-2648 and G-4227; Tennessee Gas Transmission Company, Docket No. G-4226.

Notice is hereby given that on December 23, 1954, the Federal Power Commission issued its order adopted December 15, 1954, omitting intermediate decision procedure, permitting and approving abandonment of facilities and services and issuing certificates of public convenience and necessity in the above-entitled matters.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-914; Filed, Jan. 31, 1955; 8:48 a. m.]

[Docket Nos. G-2714, G-4665]

PUEBLO GAS AND FUEL CO. AND FRANKFORT KENTUCKY NATURAL GAS CO.

NOTICE OF DECLARATIONS OF EXEMPTIONS

JANUARY 26, 1955.

In the matters of Pueblo Gas and Fuel Company, Docket No. G-2714; Frankfort Kentucky Natural Gas Company, Docket No. G-4665.

Notice is hereby given that on December 20, 1954, the Federal Power Commission issued its declarations of exemptions from the provisions of the Natural Gas Act adopted December 15, 1954, in the above-entitled matters.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-915; Filed, Jan. 31, 1955; 8:48 a. m.]

[Docket Nos. G-2717, G-2739, G-2740, G-2745, G-2860, G-2862, G-2944, G-3164]

GLENVILLE GAS PRODUCTION CO. ET AL.

NOTICE OF FINDINGS AND ORDERS

JANUARY 25, 1955.

In the matters of Glenville Gas Production Company, Docket No. G-2717; Wolfson Oil Company, Docket No. G-2739; W. A. Delaney, Jr., Docket No. G-2740; Claude M. Carroll, et al., Docket

No. G–2745; Llano Grande Corporation, Docket No. G–2860; Pearl Oil & Gas Company, Docket No. G–2862; O. N. Singleton, Docket No. G–2944; I. N. Hardman, Docket No. G–3164.

Notice is hereby given that on December 29, 1954, the Federal Power Commission issued its findings and orders adopted December 15, 1954, issuing certificates of public convenience and necessity in the above-entitled matters.

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

[F. R. Doc. 55–905; Filed, Jan. 31, 1955; 8:46 a. m.]

[Docket No. G–2764]

COLORADO-WYOMING GAS CO.

NOTICE OF APPLICATION AND DATE OF HEARING

JANUARY 26, 1955.

Take notice that Colorado-Wyoming Gas Company (Applicant), a Delaware corporation whose address is Denver, Colorado, filed on September 14, 1954, an application for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, authorizing Applicant to render service as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in the application which is on file with the Commission and open for public inspection.

Applicant has requested authorization for the continued operation of 79 farm taps and the construction and operation of necessary metering facilities and four new farm taps for the delivery and sale of gas to its parent, Public Service Company of Colorado (Public Service) for resale in the rural areas along the route of Applicant's pipeline system.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, 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, and the Commission's rules of practice and procedure, a hearing will be held on February 21, 1955, at 9:30 a. m., e. s. t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before February 16, 1955. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

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

[F. R. Doc. 55–908; Filed, Jan. 31, 1955; 8:47 a. m.]

[Docket Nos. G–2775, G–2776, G–2778]

TEXAS EASTERN PRODUCTION CORP.

NOTICE OF FINDINGS AND ORDER

JANUARY 26, 1955.

Notice is hereby given that on December 23, 1954, the Federal Power Commission issued its order adopted December 15, 1954, issuing a certificate of public convenience and necessity in the above-entitled matter.

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

[F. R. Doc. 55–916; Filed, Jan. 31, 1955; 8:48 a. m.]

[Docket Nos. G–2826—G–2829, G–2832, G–2943, G–2957, G–3002]

TEXAS GULF PRODUCING CO. ET AL.

NOTICE OF FINDINGS AND ORDERS

JANUARY 25, 1955.

In the matters of Texas Gulf Producing Company, Docket Nos. G–2826, G–2827, G–2828, G–2829 and G–2832; Frank B. Treat, Docket No. G–2943; Jefferson County Gas Company, Docket No. G–2957; Kenneth Wimer, Jr., Docket No. G–3002.

Notice is hereby given that on December 21, 1954, the Federal Power Commission issued its findings and orders adopted December 15, 1954, issuing certificates of public convenience and necessity in the above-entitled matters.

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

[F. R. Doc. 55–906; Filed, Jan. 31, 1955; 8:47 a. m.]

[Docket Nos. G–2887, G–2888, G–2889, G–2890, G–2891, G–2892, G–2893, G–2894, G–2895, G–2896, G–2897, G–2898, G–2899, G–2900, G–2901, G–2902, G–2903, G–2904, G–2905, G–2906, G–2907, G–2908, G–2909, G–2910, G–2911, G–2912, G–2913, G–2914, G–2915, G–2916, G–2917, G–2918, G–2919, G–2920, G–2921, G–2922, G–2923, G–2924, G–2925, G–2926, G–2927, G–2928, G–2929, G–2930, G–2931]

SINCLAIR OIL & GAS CO.

NOTICE OF FINDINGS AND ORDER

JANUARY 25, 1955.

Notice is hereby given that on December 22, 1954, the Federal Power Commission issued its findings and order adopted December 15, 1954, issuing a certificate of public convenience and necessity in the above-entitled matters.

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

[F. R. Doc. 55–904; Filed, Jan. 31, 1955; 8:46 a. m.]

[Docket Nos. G–3820, G–3941, G–4016—G–4018]

BRIDWELL OIL CO. ET AL.

NOTICE OF ORDERS ALLOWING TARIFF CHANGES TO TAKE EFFECT AND TERMINATING PROCEEDINGS

JANUARY 26, 1955.

In the matters of Bridwell Oil Company, Docket No. G–3820; Arkansas Fuel Oil Corporation, Docket No. G–3941; M. H. Marr, Docket No. G–4016; Delta Gulf Drilling Company, et al., Docket No. G–4017; Taylor Oil and Gas Company and Mayfair Minerals, Inc., Docket No. G–4018.

Notice is hereby given that on December 20, 1954, the Federal Power Commission issued its orders adopted December 15, 1954, allowing tariff changes to take effect and terminating proceedings in the above-entitled matters.

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

[F. R. Doc. 55–917; Filed, Jan. 31, 1955; 8:48 a. m.]

[Docket No. G–4280]

NATURAL GAS PIPELINE COMPANY OF AMERICA

NOTICE OF APPLICATION

JANUARY 26, 1955.

Take notice that Natural Gas Pipeline Company of America (Applicant), a Delaware corporation whose address is 20 North Wacker Drive, Chicago 6, Illinois, filed on October 26, 1954, an application, which was supplemented on January 11, 1955, for a certificate of public convenience and necessity, pursuant to section 7 of the Natural Gas Act, authorizing Applicant to construct and operate certain natural-gas transmission pipeline facilities as hereinafter described, all as more fully represented in the application and supplement which are on file with the Commission and open for public inspection.

Applicant proposes to construct a 26-inch pipeline extending from its existing Compressor Station No. 111 near Fritch, Hutchinson County, Texas, southeastwardly approximately 260 miles to a point in Grady County, Oklahoma, and continuing with a 20-inch pipeline approximately 90 miles south to a point in Wise County, Texas, together with a purchase meter station and other appurtenant facilities.

Applicant proposes to operate such facilities for the transportation of an average daily quantity of 78,000 Mcf of natural gas which Applicant estimates will be made available to it in Jack and Wise Counties, Texas, and such additional quantities of gas as may be made available to it along the route of the proposed pipe line in Texas and Oklahoma. Applicant states that additional supply is necessary in order to continue to render adequately natural-gas service as now authorized. Applicant does not propose to increase the existing and authorized design sales capacity of its pipeline system.

The total estimated cost of such facilities is $28,487,000. Applicant is contemplating financing the cost of such facilities, together with providing funds for other purposes, by the issuance and sale of debt securities in the aggregate amount of $35,000,000.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before the 17th day of February 1955.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-909; Filed, Jan. 31, 1955; 8:47 a. m.]

[Docket No. G-5558]

BRIGHT & SCHIFF

NOTICE OF APPLICATION

JANUARY 25, 1955.

Take notice that Bright & Schiff, a partnership with its principal place of business in Dallas, Texas, filed an application on December 2, 1954, for a certificate of public convenience and necessity, pursuant to section 7 of the Natural Gas Act, authorizing Applicant to make sales of natural gas as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in its application filed herein.

Applicant produces natural gas from the Ragsdale Gas Field, Bee County, Texas, which it sells to Wilcox Trend Gathering System, Inc., for resale in interstate commerce.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before February 14, 1955. The application is on file with the Commission for public inspection.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-910; Filed, Jan. 31, 1955; 8:47 a. m.]

[Project No. 2175]

SOUTHERN CALIFORNIA EDISON CO.

NOTICE OF APPLICATION FOR LICENSE

JANUARY 25, 1955.

Public notice is hereby given that application has been filed under the Federal Power Act (16 U. S. C. 791a-825r) by Southern California Edison Company, of Los Angeles, California, for license for proposed Project No. 2175, to be known as the Big Creek No. 1 and No. 2 project, situated on Big Creek, tributary to the San Joaquin River, in Fresno, Kern, and Tulare Counties, California, and affecting public lands and lands of the United States within Sierra National Forest. The proposed project would consist of four arched or straight gravity type concrete structures across Big Creek or saddles tributary thereto, varying in height from 10 feet to 159 feet above ground surface; Huntington Lake Reservoir, created by the above described four dams, with gross storage capacity of 89,766 acre-feet; a concrete arch overflow structure across Big Creek, about 79 feet high above streambed, creating a pond of 99 acre-feet gross capacity below the tailrace of Big Creek No. 1 powerhouse, from which water is diverted to Big Creek No. 2 powerhouse; and three small diversion dams to divert waters of Balsam Creek, Eley Creek, and Adit 8 Creek into Adits 3, 6, and 8, respectively, of Tunnel No. 2; two pressure lines, about 10,350 feet and about 21,760 feet long, respectively, one extending from Huntington Lake Reservoir to the head of penstocks at Big Creek No. 1 powerhouse, and the other extending from the afterbay dam at Big Creek No. 1 powerhouse to head of penstocks at Big Creek No. 2 powerhouse; a surge chamber for each line; penstocks; three short conduits, one each from Balsam Creek, Eley Creek, and Adit Creek diversion dams to adits of Tunnel No. 2; Big Creek No. 1 powerhouse with a total installation in four units of 97,500 horsepower (at respective effective heads) and 67,000 kilowatts name-plate rating; Big Creek No. 2 powerhouse with a total installation in four units of 86,456 horsepower (at respective effective heads) and 57,750 kilowatts name-plate rating; necessary oil circuit breakers, and switching and transformer equipment; two 220 kv single circuit transmission lines each about 144 miles long, one line extending from Big Creek No. 1 powerhouse switchrack, by way of Vestal Substation switchrack, to the switchrack at the Magunden substation, the other line extending from Big Creek No. 1 powerhouse switchrack, by way of switchracks at Big Creek No. 2 powerhouse, Big Creek No. 3 powerhouse, Rector substation, and Vestal substation, to the Magunden substation switchrack; and miscellaneous hydraulic, mechanical, and electrical appurtenances, structures and facilities, including telephone, control, and power circuits, and other project works, all necessary in operation and maintenance of the project. Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure of the Commission (18 CFR 1.8 or 1.10), the time within which such petitions must be filed being specified in the rules. The last day upon which protests may be filed is March 14, 1955. The application is on file with the Commission for public inspection.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-911; Filed, Jan. 31, 1955; 8:48 a. m.]

HOUSING AND HOME FINANCE AGENCY

Office of the Administrator

REGIONAL DIRECTOR OF URBAN RENEWAL, REGION VI (SAN FRANCISCO)

REDELEGATION OF AUTHORITY WITH RESPECT TO SLUM CLEARANCE AND URBAN RENEWAL PROGRAM

The Regional Director of Urban Renewal, Region VI (San Francisco), Housing and Home Finance Agency, is hereby authorized within such Region to exercise all the authority delegated to me by the Housing and Home Finance Administrator's delegation of authority effective December 23, 1954 (20 F. R. 428-9) with respect to the program authorized under Title I of the Housing Act of 1949, as amended (63 Stat. 414-421, as amended, 42 U. S. C. 1450-1460), and under section 312 of the Housing Act of 1954 (68 Stat. 629), except those authorities which under paragraph 4 of such delegation may not be redelegated.

(Reorg. Plan No. 3 of 1947, 61 Stat. 954 (1947); 62 Stat. 1283 (1948), as amended by 64 Stat. 80 (1950), 12 U. S. C., 1952 ed. 1701c)

Effective as of the 17th day of January 1955.

M. JUSTIN HERMAN,
Acting Regional Administrator, Region VI.

[F. R. Doc. 55-933; Filed, Jan. 31, 1955; 8:52 a. m.]

REGIONAL DIRECTOR OF URBAN RENEWAL, REGION III (ATLANTA)

REDELEGATION OF AUTHORITY WITH RESPECT TO SLUM CLEARANCE AND URBAN RENEWAL PROGRAM

The Regional Director of Urban Renewal, Region III (Atlanta), Housing and Home Finance Agency, is hereby authorized within such Region to exercise all the authority delegated to me by the Housing and Home Finance Administrator's delegation of authority effective December 23, 1954 (20 F. R. 428) with respect to the program authorized under Title I of the Housing Act of 1949, as amended (63 Stat. 414-421, as amended, 42 U. S. C. 1450-1460), and under section 312 of the Housing Act of 1954 (68 Stat. 629), except those authorities which under paragraph 4 of such delegation may not be redelegated.

(Reorg. Plan No. 3 of 1947, 61 Stat. 954 (1947); 62 Stat. 1283 (1948), as amended by 64 Stat. 80 (1950), 12 U. S. C., 1952 ed, 1701c)

Effective as of the 20th day of January 1955.

MCCLELLAN RATCHFORD,
Acting Regional Administrator, Region III.

[F. R. Doc. 55-934; Filed, Jan. 31, 1955; 8:52 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 70-3332]

CONSOLIDATED NATURAL GAS CO. AND PEOPLES NATURAL GAS CO.

ORDER PERMITTING DECLARATION TO BECOME EFFECTIVE REGARDING PROPOSED SALE OF UTILITY ASSETS

JANUARY 26, 1955.

Consolidated Natural Gas Company ("Consolidated"), a registered holding company, and one of its gas utility subsidiaries, the Peoples Natural Gas Company ("Peoples"), have filed a joint declaration pursuant to sections 12 (d) and 12 (f) of the Public Utility Holding Company Act of 1935 ("act") and Rules

U-43 and U-44 promulgated thereunder in respect of the following proposed transactions:

Peoples owns and proposes to transfer a so-called Jeannette Compressor Station and appurtenant facilities which are a part of the Oakford Storage Pool in Westmoreland County, Pennsylvania, to New York State Natural Gas Corporation ("New York Natural"), an affiliated non-utility company, and Texas Eastern Transmission Corporation ("Texas Eastern"), an unaffiliated non-utility company, which latter two companies will own the compressor station as tenants in common on an equal undivided basis.

Declarants represent that the original cost of the compressor station, constructed by Peoples in 1953, amounts to $444,624.07 and the price to be paid therefor will be the net book cost of the station as shown on the books of Peoples which at December 31, 1954 was $433,744.

It is represented that the Pennsylvania Public Utility Commission has jurisdiction over the sale of the compressor station by Peoples and has approved the sale thereof. It is also stated that the Federal Power Commission has jurisdiction over the acquisition and operation of the compressor station by New York Natural and Texas Eastern and has granted to the two companies a Certificate of Public Convenience and Necessity authorizing the acquisition and operation of the compressor station.

Declarants further state that there will be no fees, commissions or expenses in connection with the proposed transactions except applicable stamp taxes estimated at $4,815 which are to be paid by the purchasers.

Declarants request that the Commission's order become effective forthwith upon issuance.

Notice regarding the filing of said declaration having been given pursuant to Rule U-23 and no hearing having been requested of, or ordered by, the Commission; and the Commission finding that the applicable standards of the act and the rules promulgated thereunder are satisfied, and that said declaration should be permitted to become effective forthwith:

It is ordered, Pursuant to Rule U-23, that said declaration be, and the same hereby is, permitted to become effective forthwith, subject to the terms and conditions prescribed in Rule U-24.

By the Commission.

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

[F. R. Doc. 55-918; Filed, Jan. 31, 1955; 8:49 a. m.]

[File No. 70-3335]

COLUMBIA GAS SYSTEM, INC., AND COLUMBIA GAS SYSTEM SERVICE CORP.

NOTICE REGARDING REFINANCING OF EXISTING OPEN-ACCOUNT ADVANCES OF HOLDING COMPANY TO SUBSIDIARY SERVICE COMPANY, AND MAKING OF FURTHER OPEN-ACCOUNT ADVANCES

JANUARY 26, 1955.

Notice is hereby given that the Columbia Gas System, Inc. ("Columbia"), a registered holding company, and Columbia Gas System Service Corporation ("Service"), its wholly owned subsidiary service company, have filed a joint application-declaration pursuant to the Public Utility Holding Company Act of 1935 ("act"), designating sections 6, 7, 9, 10 and 12 (b) thereof and Rules U-43 and U-45 thereunder as applicable to the proposed transactions, which are summarized as follows:

It is proposed that temporary advances heretofore made by Columbia to Service in the aggregate principal amount of $200,000 be refinanced and the working capital of Service be increased by $50,000, by the issuance and sale by Service to Columbia of $250,000 principal amount of 3½ percent Installment Promissory Notes. Such notes will be payable in 25 equal annual installments on February 15 of each of the years 1957 to 1981, inclusive. Interest on the unpaid principal amount will be paid semiannually on February 15 and August 15.

It is further proposed that Columbia advance to Service during 1955, on open account without interest, such funds as Service may require, up to a total of $150,000, for the purchase of land in or near Columbus, Ohio; such land is to be acquired in anticipation of the erection thereon of a building to consolidate at one site the departments of Service located in Columbus. It is represented that the open account advances will be repaid at such time as a more permanent form of financing has been agreed upon and approved by the Commission, or the property sold.

The estimated expenses to be incurred in connection with the proposed transactions aggregate $75 for Columbia and $315 for Service.

It is stated that no state or federal commission other than this Commission has jurisdiction over the proposed transactions.

Applicants-declarants request that the Commission's order become effective upon issuance.

Notice is further given that any interested person may, not later than February 10, 1955, at 5:30 p. m., 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 of fact or law, if any, raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D. C. At any time after said date, said application-declaration, as filed or as amended, may be granted and permitted to become effective as provided in Rule U-23 of the rules and regulations promulgated under the act, or the Commission may exempt such transactions as provided in Rule U-20 (a) and Rule U-100 thereof.

By the Commission.

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

[F. R. Doc. 55-919; Filed, Jan. 31, 1955; 8:49 a. m.]

[File No. 70-3336]

CONSOLIDATED NATURAL GAS CO. ET AL.

NOTICE REGARDING PROPOSED BORROWING BY PARENT FROM BANKS, AND ISSUE AND SALE TO PARENT OF NOTES BY SUBSIDIARY COMPANIES

JANUARY 26, 1955.

In the matter of Consolidated Natural Gas Company, Hope Natural Gas Company, the Peoples Natural Gas Company, New York State Natural Gas Corporation; File No. 70-3336.

Notice is hereby given that Consolidated Natural Gas Company ("Consolidated"), a registered holding company, and its subsidiaries; Hope Natural Gas Company ("Hope"), the Peoples Natural Gas Company ("Peoples") and New York State Natural Gas Corporation ("New York State") have filed a joint application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("act") and have designated sections 6 (a), 7, 9 (a), 10 and 12 (f) of the act and Rules U-43 and U-45 promulgated thereunder as applicable to the following proposed transactions:

Consolidated proposes to borrow, on or about March 15, 1955, an aggregate of $20,000,000 from banks upon its unsecured promissory notes bearing the then prevailing prime rate of interest. Such notes are to have a maturity within twelve months of the borrowing date with the right to prepayment, in whole or in part, at any time without penalty.

Consolidated also proposes, on or about March 31, 1955, to make short-term loans in the aggregate principal amount of $22,500,000 to Hope, Peoples and New York State in the amounts of $4,500,000, $8,000,000, and $10,000,000, respectively. These loans are to be in the form of non-negotiable notes of such subsidiaries, bearing the same rate of interest as borne by the notes to be issued by Consolidated and maturing on or before the date of maturity of the borrowings of Consolidated.

It is stated that the borrowings proposed by Consolidated are for the purpose of paying Consolidated's outstanding notes to banks and the borrowings by the subsidiaries are to pay an equivalent amount of notes previously issued to Consolidated. Such securities bear interest at the rate of 2 percent and mature March 15, 1955.

The filing indicates that Consolidated plans to offer additional shares of capital stock to its stockholders for subscription later in the year and that the proceeds thereof will be used to pay the proposed bank loan notes. The proposed short-term notes of the subsidiaries will be replaced by long-term securities after the subscription offer by Consolidated.

It is represented that no State commission or Federal commission other than this Commission has jurisdiction over the proposed issuance and sale of notes by Consolidated, Peoples and New York State and that the Public Service Commission of West Virginia has jurisdiction over the proposed issuance and sale of notes by Hope.

Applicants-declarants request that this Commission's order become effective upon issuance.

Notice is further given that any interested person may, not later than February 14, 1955, at 5:30 p. m., 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 of fact or law, if any, raised by the 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, Washington 25, D. C. At any time after said date, said application-declaration, as filed or as amended, may be granted and permitted to become effective as provided in Rule U-23 of the rules and regulations promulgated under the act, or the Commission may exempt such transactions as provided in Rule U-20 (a) and Rule U-100 thereof.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary,

[F. R. Doc. 55-920; Filed, Jan. 31, 1955; 8:49 a. m.]

INTERSTATE COMMERCE COMMISSION

[4th Sec. Application 30174]

ASBESTOS FIBRE FROM DANVILLE AND WARWICK, QUEBEC, TO CERTAIN POINTS IN NEW YORK

APPLICATION FOR RELIEF

JANUARY 26, 1955.

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: C. W. Boin, Agent, for carriers parties to Canadian National Railways tariff I. C. C. No. E-504.

Commodities involved: Asbestos fibre, asbestos refuse and shorts, carloads.

From: Danville and Warwick, Quebec.

To: Green Island, Albany, Schenectady and Troy, N. Y.

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

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.

[SEAL] GEORGE W. LAIRD,
Secretary.

[F. R. Doc. 55-878; Filed, Jan. 28, 1955; 8:50 a. m.]

[4th Sec. Application 30176]

ACETONE FROM HOLSTON AND KINGSPORT, TENN., TO HOUSTON, TEX.

APPLICATION FOR RELIEF

JANUARY 26, 1955.

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: F. C. Kratzmeir, Agent, for carriers parties to schedule listed below.

Commodities involved: Acetone, in tank-car loads.

From: Holston and Kingsport, Tenn.

To: Houston, Texas.

Grounds for relief: Rail competition, circuity, competition with motor, or motor-water carriers, and market competition.

Schedules filed containing proposed rates: F. C. Kratzmeir, Agent, I. C. C. No. 4115, supp. 33.

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.

[SEAL] GEORGE W. LAIRD,
Secretary.

[F. R. Doc. 55-880; Filed, Jan. 28, 1955; 8:50 a. m.]

[4th Sec. Application 30178]

ALCOHOLS FROM NEW ORLEANS, LA., DISTRICT TO SPRING GROVE, MINN.

APPLICATION FOR RELIEF

JANUARY 26, 1955.

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: W. P. Emerson, Jr., Agent, for carriers parties to schedule listed below.

Commodities involved: Alcohol and related articles, carloads.

From: Baton Rouge, Gretna, New Orleans, North Baton Rouge and Westwego, La.

To: Spring Grove, Minn.

Grounds for relief: Rail competition, circuity, and operation through higher-rated territory.

Schedules filed containing proposed rates: W. P. Emerson, Jr., Agent, I. C. C. No. 400, supp. 111.

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.

[SEAL] GEORGE W. LAIRD,
Secretary.

[F. R. Doc. 55-882; Filed, Jan. 28, 1955; 8:50 a. m.]

[4th Sec. Application 30179]

PLUMBING AND ELECTRICAL MATERIALS FROM SHEBOYGAN, WIS., TO PENNSYLVANIA, NEW JERSEY AND NEW YORK

APPLICATION FOR RELIEF

JANUARY 26, 1955.

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: H. R. Hinsch, Agent, for carriers parties to his tariff I. C. C. No. 4542.

Commodities involved: Plumbing and electrical materials, carloads.

From: Sheboygan, Wis.

To: Fairless, Pa., Edgewater and North Bergen, N. J., Fordham and Harlem River, N. Y., and adjacent points in New York.

Grounds for relief: Rail competition, circuity, and additional destinations.

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.

[SEAL] GEORGE W. LAIRD, *Secretary.*

[F. R. Doc. 55-883; Filed, Jan. 28, 1955; 8:50 a. m.]

[4th Sec. Application 30182]

GRAIN FROM POINTS IN TEXAS TO LAKE CHARLES, LA., AND BEAUMONT, TEX.

APPLICATION FOR RELIEF

JANUARY 27, 1955.

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: J. F. Brown, Agent, for carriers parties to his tariff I. C. C. 774.

Commodities involved: Grain, grain products, and related articles, carloads.

From: Points in Texas.

To: Lake Charles, La., and Beaumont, Texas, for export and intercoastal movement.

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

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.

[SEAL] GEORGE W. LAIRD, *Secretary.*

[F. R. Doc. 55-922; Filed, Jan. 31, 1955; 8:50 a. m.]

[4th Sec. Application 30183]

WOOL TOPS FROM JAMESTOWN, S. C., TO SOUTHERN TERRITORY

APPLICATION FOR RELIEF

JANUARY 27, 1955.

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 carriers parties to schedule listed below.

Commodities involved: Wool tops, carloads.

From: Jamestown, S. C.

To: Points in southern territory.

Grounds for relief: Rail competition, circuity, to maintain grouping, and to apply rates constructed on the basis of the short line distance formula.

Schedules filed containing proposed rates: C. A. Spaninger, Agent, I. C. C. No. 516, supp. 308.

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.

[SEAL] GEORGE W. LAIRD, *Secretary.*

[F. R. Doc. 55-923; Filed, Jan. 31, 1955; 8:50 a. m.]

[4th Sec. Application 30184]

CEMENT FROM GIANT, S. C. TO PORT JERVIS, N. Y. GROUP

APPLICATION FOR RELIEF

JANUARY 27, 1955.

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 carriers parties to schedule listed below.

Commodities involved: Cement and related articles, carloads.

From: Giant, S. C.

To: Points grouped with and taking Port Jervis, N. Y., rates.

Grounds for relief: Rail competition, circuity, to maintain grouping and additional destinations.

Schedules filed containing proposed rates: C. A. Spaninger, Agent, I. C. C. No. 1173, supp. 27.

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.

[SEAL] GEORGE W. LAIRD, *Secretary.*

[F. R. Doc. 55-924; Filed, Jan. 31, 1955; 8:50 a. m.]

[4th Sec. Application 30185]

COAL FROM ALABAMA MINES TO MARIETTA, GA.

APPLICATION FOR RELIEF

JANUARY 27, 1955.

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 carriers parties to schedule listed below.

Commodities involved: Coal, in carloads.

From: Mines in Alabama.

To: Marietta, Ga.

Grounds for relief: Rail competition, circuity, to maintain grouping, and market competition.

Schedules filed containing proposed rates: Gulf, Mobile and Ohio Railroad Company, I. C. C. 231, supp. 17.

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.

[SEAL] GEORGE W. LAIRD, *Secretary.*

[F. R. Doc. 55-925; Filed, Jan. 31, 1955; 8:50 a. m.]

[No. MC-C-1764]

ALUMINUM FROM GUM SPRINGS AND JONES MILLS, ARK., TO CHICAGO, ILL.

INVESTIGATION OF RATES, CHARGES AND REGULATIONS

At a session of the Interstate Commerce Commission, Board of Suspension, held at its office in Washington, D. C., on the 25th day of January A. D., 1955.

There being under consideration the matter of rates and charges, and regulations affecting such rates and charges,

for the transportation in interstate or foreign commerce of aluminum billets, blooms, ingots, pigs and slabs, minimum 100,000 pounds from Gum Springs and Jones Mills, Ark., to Chicago, Ill., as provided in the following schedules, or as the same may be amended or reissued:

Middlewest Motor Freight Bureau, Agent: MF-I. C. C. No. 237, Supplement No. 64 thereto, on page 39 thereof, in Item 3210-B, the 64.4 cent rates.

and good cause appearing therefor:

It is ordered, That an investigation be, and it is hereby, instituted into and concerning the lawfulness of the rates, charges and regulations contained in said schedules, with a view to the making by the Commission of such findings and orders in the premises as the facts and circumstances shall appear to warrant.

It is further ordered, That a copy of this order be served on the respondents' attorneys in fact who filed the schedules containing the rates under investigation herein; and that further notice of this proceeding be given to the respondents and that notice be given to the general public by posting a copy of this order in the office of the Secretary of the Commission at Washington, D. C., and by filing a copy with the Director, Division of the Federal Register.

And it is further ordered, That this matter be assigned for hearing at time and place to be hereafter fixed.

By the Commission, Board of Suspension.

[SEAL] GEORGE W. LAIRD,
Secretary.

[F. R. Doc. 55-926; Filed, Jan. 31, 1955; 8:50 a. m.]