

# THE NATIONAL ARCHIVES FEDERAL REGISTER OF THE UNITED STATES

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Washington, Wednesday, August 24, 1955

## TITLE 6—AGRICULTURAL CREDIT

### Chapter IV—Commodity Stabilization Service and Commodity Credit Corporation, Department of Agriculture

#### Subchapter B—Loans, Purchases, and Other Operations

[1955 CCC Cotton Bulletin 1, Amdt. 2]

#### PART 427—COTTON

#### SUBPART—1955 COTTON LOAN PROGRAM SCHEDULE OF BASE LOAN RATES BY COUNTIES FOR FARM-STORED UPLAND COTTON

The 1955 Cotton Loan Bulletin (1955 CCC Cotton Bulletin 1) is hereby amended by adding § 427.634 to read as follows:

§ 427.634 *Basic loan rates for farm-stored upland cotton.* The base loan rates applicable to Middling White  $1\frac{5}{16}$ -inch upland cotton, under Commodity Credit Corporation's 1955 Cotton Loan Program, are as follows:

[All rates expressed in cents per pound, gross weight, basis Middling, White  $1\frac{5}{16}$ -inch cotton]

#### ALABAMA

In all counties east of De Kalb, Marshall, Blount, St. Clair, Shelby, Coosa, Elmore, Macon, Bullock, and Barbour	34.19
In the counties of De Kalb, Marshall, Blount, St. Clair, Shelby, Coosa, Elmore, Macon, Bullock, and Barbour	34.08
In the counties of Madison, Jackson, Morgan, Cullman, Jefferson, Bibb, Chilton, Autauga, Montgomery, Pike, Coffee, Dale, Henry, Geneva, and Houston	33.97
In the counties of Limestone, Lawrence, Winston, Walker, Fayette, Tuscaloosa, Hale, Perry, Dallas, Lowndes, Butler, Crenshaw, and Covington	33.86
In the counties of Lauderdale, Colbert, Franklin, Marion, Lamar, Pickens, Greene, Sumter, Marengo, Choctaw, Wilcox, Monroe, Clarke, Washington, Escambia, and Conecuh	33.75
In the counties of Mobile and Baldwin	33.63

#### ARIZONA

In the county of Greenlee	33.08
In the counties of Cochise and Graham	32.97
In all counties not listed above	32.80

#### ARKANSAS

In the counties of Craighead, Crittenden, Cross, Greene, Lee, Mississippi, Monroe, Phillips, Poinsett, St. Francis, and Woodruff	33.55
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#### ARKANSAS—Continued

In the counties of Arkansas, Clay, Cleveland, Desha, Jackson, Jefferson, Lawrence, Lincoln, Lonoke, Prairie, Pulaski, and White	33.53
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In all counties not listed above	33.50

#### CALIFORNIA

In all counties	32.80
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#### FLORIDA

In all counties east of Jackson, Liberty, and Franklin	34.08
In the counties of Bay, Calhoun, Franklin, Gulf, Holmes, Jackson, Liberty, and Washington	33.97
In the county of Walton	33.86
In the county of Okaloosa	33.75
In the counties of Santa Rosa and Escambia	33.63

#### GEORGIA

In all counties east of Union, Lumpkin, Dawson, Forsyth, Gwinnett, Walton, Morgan, Putnam, Hancock, Jefferson, Glascock, and Burke	34.43
In all counties except Dade and counties having a rate of 34.43 north of Stewart, Webster, Sumter, Dooley, Wilcox, Telfair, Wheeler, Montgomery, Toombs, Tattnall, Evans, and Bryan	34.31
In the county of Dade and all counties south of Chattahoochee, Marion, Schley, Macon, Houston, Pulaski, Dodge, Laurens, Treutlen, Emanuel, Candler, Bulloch, Effingham, and Chatham, and north of Quitman, Randolph, Calhoun, Baker, Mitchell, Colquitt, Cook, Berrien, Atkinson, Ware, Pierce, Brantley, and Glynn	34.19
In all counties south of Stewart, Webster, Terrell, Dougherty, Worth, Tift, Irwin, Coffee, Bacon, Appling, Wayne, and McIntosh	34.08

#### ILLINOIS

In all counties	33.57
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#### KENTUCKY

In all counties	33.61
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#### LOUISIANA

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(Sec. 4, 62 Stat. 1070, as amended; 15 U. S. C. 714b. Interpret or apply sec. 5, 62 Stat. 1072, secs. 101, 401, 63 Stat. 1051, 1054; 15 U. S. C. 714c, 7 U. S. C. 1441, 1421)

Issued this 18th day of August 1955.

[SEAL] WALTER C. BERGER,  
Acting Executive Vice President,  
Commodity Credit Corporation.

[F. R. Doc. 55-6873; Filed, Aug. 23, 1955;  
8:52 a. m.]

TITLE 7—AGRICULTURE

Chapter IX—Agricultural Marketing  
Service (Marketing Agreements and  
Orders), Department of Agriculture

[992.310, Amdt. 2]

PART 992—IRISH POTATOES GROWN IN  
WASHINGTON

LIMITATION OF SHIPMENTS

**Findings.** (a) Pursuant to Marketing Agreement No. 113 and Order No. 92 (7 CFR Part 992), regulating the handling of Irish potatoes grown in the State of Washington, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.), and upon the basis of the recommendation and information submitted by the State of Washington Potato Committee, established pursuant to said marketing agreement and order, and upon other available information, it is hereby found that the amendment to the limitation of shipments, as hereinafter provided, will tend to effectuate the declared policy of the act.

(b) It is hereby found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U. S. C. 1001 et seq.) in that (i) the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, (ii) more orderly marketing in the public interest,

than would otherwise prevail, will be promoted by regulating the shipment of potatoes, in the manner set forth below, on and after the effective date of this amendment, (iii) compliance with this amendment will not require any special preparation on the part of handlers which cannot be completed by the effective date, (iv) reasonable time is permitted, under the circumstances, for such preparation, (v) information regarding the committee's recommendations has been made available to producers and handlers in the production area, and (vi) this amendment relieves restrictions on the handling of potatoes grown in the production area.

**Order, as amended.** The provisions of § 992.310 (b) (1) and (2) (20 F. R. 4366, June 22, 1955; 20 F. R. 5627, August 5, 1955) are hereby amended as follows:

(b) **Order.** (1) During the period from August 25, 1955, to May 31, 1956, both dates inclusive, no handler shall ship potatoes of any variety unless such potatoes are "fairly clean" and such potatoes meet the requirements of U. S. No. 2 grade and are of a size not smaller than 6 ounces minimum weight: *Provided*, That any potatoes meeting the requirements of U. S. No. 1 grade may be shipped if such potatoes are of a size not smaller than 2 inches minimum diameter or 4 ounces minimum weight, as such terms, grades, and sizes are defined in the United States Standards for Potatoes (§§ 51.1540 to 51.1559 of this title), including the tolerances set forth therein.

(2) During the period from August 25, 1955, to September 30, 1955, both dates inclusive, and subject to the requirements set forth in subparagraph (1) of this paragraph no handler shall ship (i) any lot of potatoes of the red skin varieties if more than 20 percent of the potatoes in such lot have more than one-half of the skin missing or "feathered", as such terms are used in the said United States Standards, (ii) any lot of potatoes of the White Rose variety if more than 35 percent of the potatoes in such lot have more than one-half of the skin missing or "feathered", as such terms are used in the said United States Standards, or (iii) any lot of potatoes of the Netted Gem variety, including but not limited to Russet Burbank, Early Russet, and Early Gem potatoes, if such potatoes are more than "moderately skinned" as such term is defined in the said United States Standards, which means that not more than 10 percent of such potatoes have more than one-half of the skin missing or "feathered".

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

Done at Washington, D. C., this 19th day of August 1955 to become effective August 25, 1955.

[SEAL] S. R. SMITH,  
Director,  
Fruit and Vegetable Division.

[F. R. Doc. 55-6876; Filed, Aug. 23, 1955;  
8:52 a. m.]



## TITLE 17—COMMODITY AND SECURITIES EXCHANGES

### Chapter II—Securities and Exchange Commission

#### PART 240—GENERAL RULES AND REGULATIONS UNDER THE SECURITIES EXCHANGE ACT OF 1934

##### MANIPULATIVE AND DECEPTIVE DEVICES AND CONTRIVANCES

The Securities and Exchange Commission today announced the adoption of an amendment to its §240.10b-6 (Rule X-10B-6) under the Securities Exchange Act of 1934 to make this rule inapplicable to a distribution of securities by an issuer to its employees, or employees of its subsidiaries, under certain specified conditions. The proposal to adopt this amendment was announced on July 19, 1955, in Securities Exchange Act Release No. 5199. The Commission has considered all comments and suggestions submitted and has adopted the amendment in the form set forth below.

Section 240.10b-6, which was announced in Securities Exchange Act Release No. 5194 dated July 5, 1955, makes it unlawful for certain persons participating or expecting to participate in a distribution of securities, including the issuer of the securities involved in such distribution, to purchase any such security, or any security of the same class and series, until completion of their participation in the distribution, subject to certain specified exceptions. The amendment provides that the prohibitions of the rule do not apply to any distribution of securities by an issuer to its employees, or employees of its subsidiaries, or to a trustee or other person acquiring the securities for the account of such employees, pursuant to (1) a stock option plan involving only "restricted stock options" as defined in Section 421 of the Internal Revenue Code; or (2) a savings, investment or stock purchase plan providing for periodic payments (or payroll deductions), and periodic purchases of the securities.

**Statutory basis.** The Securities and Exchange Commission, acting pursuant to the provisions of the Securities Exchange Act of 1934, particularly Sections 10 (b) and 23 (a) thereof, and deeming such action necessary and appropriate in the public interest and for the protection of investors, and necessary to carry out its functions under the Act, hereby amends §240.10b-6 by redesignating paragraph (e) to be paragraph (f) and adding the following paragraph (e) thereof:

§ 240.10b-6 *Prohibitions against trading by persons interested in a distribution.* \* \* \*

(e) The provisions of this section shall not apply to any distribution of securities by an issuer to its employees, or to employees of its subsidiaries, or to a trustee or other person acquiring such securities for the account of such employees, pursuant to (1) a stock option plan involving only "restricted stock options" as defined in section 421 of the Internal Revenue Code; or (2) a sav-

ings, investment or stock purchase plan providing for both (i) periodic payments (or payroll deductions) for acquisition of securities by participating employees and (ii) periodic purchases of the securities by participating employees, or the person acquiring them for the account of such employees.

(Sec. 23, 48 Stat. 901 as amended; 15 U. S. C. 78w)

The Commission finds, pursuant to paragraph (c) of the Administrative Procedure Act, that this amendment has the effect of granting exemption or relieving restriction and that it may be, and is hereby, declared to be effective on August 15, 1955.

By the Commission.

[SEAL]

ORVAL L. DUBOIS,  
Secretary.

AUGUST 15, 1955.

[F. R. Doc. 55-6853; Filed, Aug. 23, 1955; 8:48 a. m.]

## TITLE 26—INTERNAL REVENUE, 1954

### Chapter I—Internal Revenue Service, Department of the Treasury

#### Temporary Rules

[T. D. 6138]

#### TEMPORARY RULES RELATING TO THE ELECTION TO TREAT TWO OR MORE SEPARATE OPERATING MINERAL INTERESTS AS ONE PROPERTY UNDER SECTION 614 OF THE INTERNAL REVENUE CODE OF 1954

In order to prescribe temporary rules with respect to the election to treat as one property, two or more separate operating mineral interests which constitute part or all of an operating unit, Treasury Decision 6118 [I. R. B. 1955-3, 901], approved December 30, 1954, is hereby amended as follows:

Paragraph 14 of Treasury Decision 6118 [I. R. B. 1955-3, 901] is amended by striking the next to last sentence which begins "Such election, when made," and by inserting in lieu thereof the following: "Such election, when made, shall be effective for all purposes of subtitle A of the Internal Revenue Code of 1954, and shall be binding for all subsequent taxable years, except that the Secretary or his delegate may consent to a different treatment of the interest with respect to which the election was made, if the last day prescribed by law for filing the return for a taxable year for which an election was made (including extensions thereof) falls before the last day of the third month following the month in which the regulations under section 614 are published in the FEDERAL REGISTER, consent is hereby given for the taxpayer to change to a different treatment for such taxable year with respect to the interest to which the election was made, provided, an amended return, reflecting the change in treatment, and including the information required by the regulations under section 614 in the case of a change in election, is filed on or before the last day of such third month with

the district director for the district in which the original return was filed. In all other cases, any change to a different treatment of the interest may be made only with the consent of the official of the Service to whom authority to grant such consent is delegated in regulations promulgated under section 614."

Because the election provided in section 614 must be exercised within the time prescribed by law for filing the return which, in many cases, will expire in less than 30 days, it is found 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, (68A Stat. 917; 26 U. S. C. 7805. Interprets or applies 68A Stat. 151, 210; 26 U. S. C. 446, 614)

[SEAL] T. COLEMAN ANDREWS,  
Commissioner of Internal Revenue.

Approved: August 19, 1955.

A. N. OVERBY,  
Acting Secretary of the Treasury.

[F. R. Doc. 55-6866; Filed, Aug. 23, 1955; 8:51 a. m.]

## TITLE 33—NAVIGATION AND NAVIGABLE WATERS

### Chapter I—Coast Guard, Department of the Treasury

#### PART 19—WAIVERS OF NAVIGATION AND VESSEL INSPECTION LAWS AND REGULATIONS

##### VESSELS OPERATED BY PACIFIC MICRONESIAN LINES, INC.

CROSS REFERENCE: For promulgation of a waiver order affecting § 19.35 Department of the Interior vessels operated by Pacific Micronesia Lines, Inc., see Title 46, Chapter I, Part 154, *infra*.

## TITLE 43—PUBLIC LANDS: INTERIOR

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

#### Appendix C—Public Land Orders

[Public Land Order 1207]

[Montana 016980 (SD)]

[Misc. 64873]

#### SOUTH DAKOTA

#### MODIFYING PUBLIC LAND ORDER NO. 419 OF OCTOBER 21, 1947, WHICH WITHDREW LANDS IN CONTEMPLATION OF MEMORIAL TO CHIEF CRAZY HORSE

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:

Public Land Order No. 419 of October 21, 1947, withdrawing the following-described lands within the Harney National Forest, South Dakota, pending the enactment of legislation authorizing the establishment of a memorial to Chief Crazy Horse, is hereby modified to the



extent necessary to permit disposal of the lands under the provisions of the act of March 20, 1922 (42 Stat. 465) as amended by the act of February 28, 1925 (43 Stat. 1090; 16 U. S. C. 485, 486): *Provided*, That any minerals in the lands shall remain withdrawn from all forms of appropriation under the mining and mineral-leasing laws, and any disposal of the lands pursuant to this order shall contain a reservation to the United States of all mineral deposits in the lands, together with the right to mine and remove the same pursuant to the provisions and limitations of the said act of March 20, 1922, as amended:

## BLACK HILLS MERIDIAN

T. 2 S., R. 4 E.  
Sec. 34, NE $\frac{1}{4}$ , E $\frac{1}{2}$ NW $\frac{1}{4}$ , NE $\frac{1}{4}$ SW $\frac{1}{4}$ , NE $\frac{1}{4}$ SE $\frac{1}{4}$  and lot 2.

The areas described aggregate 364.75 acres.

ORME LEWIS,

Assistant Secretary of the Interior.

AUGUST 18, 1955.

[F. R. Doc. 55-6842; Filed, Aug. 23, 1955;  
8:46 a. m.]

## TITLE 46—SHIPPING

## Chapter I—Coast Guard, Department of the Treasury

## Subchapter N—Explosives or Other Dangerous Articles or Substances and Combustible Liquids on Board Vessels

[CGFR 55-40]

## PART 146—TRANSPORTATION OR STOWAGE OF EXPLOSIVES OR OTHER DANGEROUS ARTICLES OR SUBSTANCES AND COMBUSTIBLE LIQUIDS ON BOARD VESSELS

## NITRO CARBO NITRATE AND ELEMENTAL PHOSPHORUS IN WATER IN BULK

Miscellaneous amendments to the Dangerous Cargo Regulations in 46 CFR Part 146 were published in the FEDERAL REGISTER dated June 10, 1955 (20 F. R. 4051-4082). These amendments are based on the agenda considered by the Merchant Marine Council at a public hearing held in Washington, D. C., on March 22, 1955, as well as two petitions regarding nitro carbo nitrate and elemental phosphorus in water in bulk submitted at this public hearing.

The amendments regarding nitro carbo nitrate and elemental phosphorus in water in bulk were made effective 90 days after date of publication in the FEDERAL REGISTER (September 9, 1955). In the meantime comments, data, and views regarding these amendments were requested. A public hearing was held by the Merchant Marine Council on July 12, 1955, at Washington, D. C., in accordance with the announcement published in the FEDERAL REGISTER dated June 10, 1955 (20 F. R. 4051-4052).

After considering the comments, views, and data submitted the Merchant Marine Council recommended further amendments to the requirements governing nitro carbo nitrate and elemental phosphorus in water in bulk. Therefore, the amendments published in the FEDERAL

REGISTER dated June 10, 1955, are modified by the changes contained in this document, and these revised regulations shall be in effect on and after September 9, 1955.

The amendments to 46 CFR 146.20-23 (a), 146.20-90 (chart), 146.22-15 (a), and 146.22-100, regarding nitro carbo nitrate, revise the requirements so that dynamite and/or commercial boosters may be stowed in magazines located in the same hold or compartment with nitro carbo nitrate.

The amendment to 46 CFR 146.22-35 (a), (h), and (k) (6), regarding elemental phosphorus in water in bulk, will permit the carriage of this commodity in dry cargo vessels and revise cargo transfer requirements to be in accord with present shipping practices.

By virtue of the authority vested in me as Commandant, United States Coast Guard, by Treasury Department Order No. 120, dated July 31, 1950 (15 F. R. 6521), and Treasury Department Order 167-14, dated November 26, 1954 (19 F. R. 8026), to promulgate regulations in accordance with the statutes cited with the regulations below, the following amendments are prescribed and shall become effective on and after September 9, 1955:

## SUBPART—DETAILED REGULATIONS GOVERNING EXPLOSIVES

1. Section 146.20-23 (20 F. R. 4053) is amended by changing paragraph (a) to read as follows:

§ 146.20-23 *Stowage of explosives in magazines adjacent to other dangerous articles.* (a) Explosives (when required to be stowed in magazines by the tables contained in §§ 146.20-100 to 146.20-300, inclusive) shall not be stowed in magazines located in the same hold or in holds adjacent to those in which inflammable liquids, inflammable solids, or oxidizing materials are stowed, nor in holds below such substances stowed "on deck", except that:

(1) Dynamite and/or commercial boosters may be stowed in a magazine located in the same hold or compartment with nitro carbo nitrate or in holds or compartments adjacent to nitro carbo nitrate.

2. Section 146.20-90 *Stowage and storage chart of explosives and other dangerous articles* (20 F. R. 4053) is amended by revising footnote 4 to the chart to read as follows:

\*Nitro carbo nitrate may be stowed in the same hold or compartment with a magazine containing dynamite and/or commercial boosters.

## SUBPART—DETAILED REGULATIONS GOVERNING INFLAMMABLE SOLIDS AND OXIDIZING MATERIALS

3. Section 146.22-15 (20 F. R. 4060) is amended by changing paragraph (a) to read as follows:

§ 146.22-15 *Mixed stowages of oxidizing materials.* \* \* \*

(a) These substances shall not be stowed in the same compartment or hold in which explosives are stowed except nitro carbo nitrate may be stowed in the same compartment or hold with magazines containing dynamite and/or commercial boosters.

4. Section 146.22-35 (20 F. R. 4060) is amended by changing paragraphs (a) and (h) and subparagraph (k) (6) to read as follows:

§ 146.22-35 *Elemental phosphorus in water in bulk*—(a) *General.* Elemental phosphorus, white or yellow, in water may be carried in bulk in barges or dry cargo vessels in conformity with the following provisions:

(1) Barges or dry cargo vessels shall be constructed or altered to meet the rules of the American Bureau of Shipping and as required by this section.

(h) *Cargo temperature.* Cargo shall be loaded at a temperature not exceeding 140° F., and then cooled until the water above the cargo has a temperature not exceeding 105° F. prior to the movement of the vessel. Upon presentation of satisfactory proof that procedures followed will provide adequate safety in transportation and handling, the Commandant may authorize movement of the vessel following cooling of the water above the cargo to a temperature not exceeding 115° F.

(k) *General requirements.* \* \* \*

(6) Authorization from the Commandant, United States Coast Guard, shall be obtained to transport lading other than phosphorus in the cargo tanks or to have on board any other cargo when phosphorus is laden in the tanks.

5. Section 146.22-100 (20 F. R. 4063) is amended by changing the requirements for "nitro carbo nitrate" to read as follows (since no specific requirements apply under "Required conditions for transportation," columns 4 to 7, inclusive, have been omitted):

§ 146.22-100 *Table E—Classification: Inflammable solids and oxidizing materials.* \* \* \*

Descriptive name of article	Characteristic properties, cautions, markings required	Label required
Nitro carbo nitrate.....	Composed principally of ammonium nitrate. Involved in a fire will greatly intensify the burning of all combustible material and under conditions of exposure to high temperatures (above 100° F.) rapid decomposition and ignition may occur. Will burn with explosive violence. Soluble in water. Stow separate from all combustible material, explosives (except dynamite and/or commercial boosters which may be stowed in magazines located in the same hold or compartment), or acids (white label) and away from chlorates.	No label required.



(R. S. 4405, as amended, 4462, as amended, 4472, as amended; 46 U. S. C. 375, 416, 170. Interpret or apply sec. 3, 68 Stat. 675, E. O. 10402, 17 F. R. 9917, 3 CFR, 1952 Supp.)

Dated: August 17, 1955.

[SEAL] A. C. RICHMOND,  
Vice Admiral, U. S. Coast Guard,  
Commandant.

[F. R. Doc. 55-6860; Filed, Aug. 23, 1955;  
8:49 a. m.]

Subchapter O—Regulations Applicable to  
Certain Vessels During Emergency  
[CGFR 55-39]

PART 154—WAIVERS OF NAVIGATION AND  
VESSEL INSPECTION LAWS AND REGULA-  
TIONS<sup>1</sup>

VESSELS OPERATED BY PACIFIC MICRONESIAN  
LINES, INC.

The Secretary of Defense in a letter to the Secretary of the Treasury, dated June 24, 1955, recommended a general waiver of navigation and vessel inspection laws of the United States as follows:

Each year since 1951, the Secretary of Defense has recommended waiver of the vessel inspection laws of the United States for certain vessels operating in the waters of the Trust Territory. This is to recommend another waiver on a more limited scale than has been recommended heretofore.

In the interest of national defense it is recommended that the provisions of the vessel inspection laws relating to licensed and unlicensed personnel, passengers quarters, crews quarters, life-saving equipment and the number of passengers allowed to be carried on freight vessels be waived for the period July 1, 1955, to June 30, 1956, for vessels which are or will be operated by the Pacific Micronesian Lines, Inc., for the Department of the Interior in Trust Territory waters.

Section 1 of the act of December 27, 1950 (64 Stat. 1120; 46 U. S. C., note preceding 1), states in part as follows:

That the head of each department or agency responsible for the administration of the navigation and vessel-inspection laws is directed to waive compliance with such laws

upon the request of the Secretary of Defense to the extent deemed necessary in the interest of national defense by the Secretary of Defense. \* \* \*

Accordingly the request of the Secretary of Defense for a waiver order was granted.

Pursuant to this request of the Secretary of Defense, the Commandant, United States Coast Guard, in a despatch dated June 28, 1955, to the Commander, 14th Coast Guard District, waived in the interest of national defense compliance with provisions of navigation and vessel inspection laws relating to licensed and unlicensed personnel, passenger quarters, crew quarters, lifesaving equipment, and the number of passengers allowed to be carried on freight vessels, as well as the regulations issued thereunder and published in 33 CFR Chapter I or in 46 CFR Chapter I to the extent necessary to permit operation of vessels of the Department of the Interior and now operated by the Pacific Micronesian Lines, Inc., or other vessels which may be used as substitutes for such vessels, in the Trust Territory of the Pacific Islands, as well as between the Trust Territory of the Pacific Islands and all the ports of the United States, including its territories and possessions, and foreign ports. This waiver order shall be in effect from July 1, 1955, to and including June 30, 1956, unless sooner terminated by proper authority.

The purpose for the following waiver order designated § 154.35, as well as 33 CFR 19.35, is to waive the navigation and vessel inspection laws and regulations issued pursuant thereto which are administered by the United States Coast Guard as requested by the Secretary of Defense and to publish this waiver in the FEDERAL REGISTER. It is hereby found that compliance with the Administrative Procedure Act respecting notice of proposed rule making, public rule making procedure thereon, and effective date requirements thereof is impracticable and contrary to the public interest.

By virtue of the authority vested in me as Commandant, United States Coast

Guard, by an order of the Acting Secretary of the Treasury dated January 23, 1951, identified as CGFR 51-1, and published in the FEDERAL REGISTER dated January 26, 1951 (16 F. R. 731), the following waiver order is promulgated and shall be in effect to and including June 30, 1956, unless sooner terminated by proper authority, and § 154.35 is revised as follows:

§ 154.35 *Department of the Interior vessels operated by Pacific Micronesian Lines, Inc.* Pursuant to the recommendation of the Secretary of Defense in a letter dated June 24, 1955, made under the provisions of section 1 of the act of December 27, 1950 (64 Stat. 1120; 46 U. S. C., note prec. 1), I hereby waive in the interest of national defense compliance with the provisions of the navigation and vessel inspection laws relating to licensed and unlicensed personnel, passenger quarters, crew quarters, lifesaving equipment, and the number of passengers allowed to be carried on freight vessels, administered by the United States Coast Guard, as well as the regulations issued thereunder and published in 33 CFR Chapter I or in this chapter, to the extent necessary to permit the operation of vessels of the Department of the Interior and now operated by Pacific Micronesian Lines, Inc., or other vessels which may be used as substitutes for such vessels, in the Trust Territory of the Pacific Islands, as well as between the Trust Territory of the Pacific Islands and all the ports of the United States, including its territories and possessions, and foreign ports. This waiver order shall be in effect from July 1, 1955, to and including June 30, 1956, unless sooner terminated by proper authority.

(64 Stat. 1120; 46 U. S. C., note prec. 1)

Dated: August 12, 1955.

[SEAL] A. C. RICHMOND,  
Vice Admiral, U. S. Coast Guard,  
Commandant.

[F. R. Doc. 55-6861; Filed, Aug. 23, 1955;  
8:50 a. m.]

## PROPOSED RULE MAKING

### DEPARTMENT OF THE TREASURY

#### Internal Revenue Service

#### [ 26 CFR (1954) Parts 220, 221, 225 ]

#### PRODUCTION OF DISTILLED SPIRITS, BRANDY AND WAREHOUSING OF DISTILLED SPIRITS

##### NOTICE OF PROPOSED RULEMAKING

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form in the attached appendix are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury. Prior to final adoption of such regulations, consideration will be

given to any data, views, or arguments pertaining thereto which are submitted in writing, in duplicate, to the Director, Alcohol and Tobacco Tax Division, Internal Revenue Service, Washington 25, D. C., within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U. S. C. 7805).

[SEAL] T. COLEMAN ANDREWS,  
Commissioner of Internal Revenue.

In order to effect administrative decisions (a) to eliminate nighttime supervision of distilleries by storekeeper-gaugers except as may be made necessary by special processes such as

the production of gin, (b) to transfer to distillers the responsibility for performing and recording certain entry gauges in the cistern room, (c) to place with distillers responsibility for proper identification of spirits, (d) to provide that distillers shall furnish the storekeeper-gaugers in charge with advance schedules of planned operations, (e) to permit distillery equipment outside of a room or building, (f) to conform Part 221 with the provisions of Part 220 relating to conducting other businesses, (g) to correct discrepancies in Part 225 with respect to specifications for fence foundations, the required number of copies of applications for changes in construction or in use of equipment, the procedure for submission of reports on Form 332, and to remove an erroneous reference to an

<sup>1</sup> This is also codified in 33 CFR Part 19.



obsolete part of a form, (h) to insert in warehouse regulations (Part 225) instructions relative to addition of caramel to brandy at the warehouse which were formerly found in brandy regulations (Part 221), (i) to correct an improper requirement in Part 225 with respect to information to be effaced (by scraping or otherwise) from head of a barrel which is to be refilled from a gauge tank with same spirits, (j) to authorize the storekeeper-gauger to approve applications on Form 206 to remove spirits for exportation, or to a customs manufacturing bonded warehouse, where the removal is made under a continuing bond, (k) to authorize the storekeeper-gauger to issue certificates of origin and age for spirits being exported, (l) to provide for the bottling of distilled spirits in bond for domestic use and for exportation from the same tank, (m) to provide a more flexible procedure for the withdrawal, without payment of tax, of distilled spirits for use on aircraft in international flights, (n) to remove certain administrative material for inclusion in internal management documents, (o) to permit under restricted conditions, doors between distillery premises and off-premises rooms or buildings, (p) to eliminate requirements for weighing materials received (except when received in bond) and making a report of such receipts, (q) to provide for a volumetric gauge of spirits removed by pipeline to bonded premises operated by the distiller, or an affiliate or subsidiary of a distiller, (r) to eliminate the requirement for a special application to receive distilled spirits for redistillation, (s) to provide for exportation of vodka and authorizing the use of tank trucks, as well as tank cars, for exportation of distilled spirits, (t) to authorize the approval of applications to transfer spirits in bond by the storekeeper-gauger at the shipping premises, (u) to authorize the removal of fermented materials in connection with the conduct of other approved businesses, (v) to provide that the assistant regional commissioners may authorize the leaving open of certain warehouse windows at other than regular business hours, (w) to authorize the mingling of neutral spirits in warehouse storage tanks, and (x) to authorize storekeeper-gaugers to approve applications to rebottle, relabel, and restamp distilled spirits bottled in bond, 26 CFR (1954) Parts 220, 221 and 225 are amended as follows:

PARAGRAPH 1. 26 CFR (1954) Part 220, Production of Distilled Spirits, is amended as follows:

(A) Subpart D—Construction, is amended to read as follows:

§ 220.60 *Distillery buildings.* Distillery buildings must be securely constructed of substantial materials and shall be so arranged and constructed as to afford adequate protection to the revenue and facilitate inspection by internal revenue officers: *Provided*, That the Assistant Regional Commissioner may, in his discretion, approve registered distilleries having equipment and apparatus, except as required by § 220.61, not located in a room or building, if, in his

opinion, the location and construction are such that the revenue is not endangered and no additional supervision would be required. The Assistant Regional Commissioner may authorize communicating doors from distillery premises to an off-premises room or building when, in his opinion, such doors would not constitute a jeopardy to the revenue, but no such door leading to an internal revenue bonded warehouse shall be permitted nor shall such door be permitted in the cistern room. All outside doors of distillery buildings shall be equipped for locking with Government locks. Outside tanks used as receptacles for spirits, and stills and other equipment used for rectifying, purifying or refining the spirits must be enclosed and protected in the manner required by § 220.116a. Where equipment or apparatus is not located in a room or building, electric flood lights shall be installed for lighting the premises at night. Any other protective measures deemed essential by the Assistant Regional Commissioner may be required for distillery buildings or for equipment located within or without the distillery buildings.

§ 220.61 *Cistern room.* The distiller must provide a cistern room or building, in which shall be located the receiving cisterns. The cistern room or building must be constructed of substantial materials. Where the floor, ceiling or walls are constructed of wood, the boards must be matched tongue and groove, except that wood floors may be of other than tongue and groove lumber if laid double with the second layer crossing the first at an angle of more than 20 degrees. Cistern room windows shall be substantially constructed and so arranged and equipped that they may be securely fastened on the inside. Cistern room windows which, because of their location with respect to the ground, a fire escape, roof, setback or balcony, create an additional jeopardy to the revenue, must be of the detention type or be protected by iron bars or solid shutters. Where solid shutters are provided they must be equipped for fastening on the inside with a Government lock or cap seal. Except as provided in § 220.63, no door, window, or other opening (except necessary openings for approved pipe lines) leading into the distillery or into any other room or building will be permitted. The doors and other openings must lead into the yard connected with the distillery. All doors of the cistern room or building shall be equipped for locking on the inside with Government locks, except the entrance door, which shall be equipped for locking on the outside with a Government seal lock. The cistern room must be well lighted and of sufficient size to permit the weighing, marking, and branding of the spirits to be done conveniently, and to accommodate the necessary equipment, including a desk and chairs for the use of internal revenue officers in preparing their reports. A sign must be placed over the entrance door of the cistern room bearing the words "Cistern Room." Where more than one cistern room is provided, each

such room will be given an alphabetical designation as "A," "B," etc.

(68A Stat. 628, 633; 26 U. S. C. 5173, 5192, 5193)

§ 220.62 *Temporary storage room.* Where spirits, after being drawn from the receiving cisterns into packages, are to be temporarily retained on the distillery premises pending tax-payment or removal for deposit in an internal revenue bonded warehouse off the distillery premises, as authorized by § 220.537, the distiller must provide a separate room in the cistern room for the temporary storage of such packages. The construction of such temporary storage room must conform to the provisions of this part governing the construction of the cistern room. The entrance door of the storage room shall open into the other part of the cistern room and be so constructed that it may be securely locked with a Government lock. Where another door is provided, it must lead into the yard connected with the distillery and be so constructed that it may be securely locked on the inside with a Government lock, and will be used for the removal of spirits temporarily stored in the room. If such other door is not provided, spirits may not be removed from the temporary storage room through the other portion of the cistern room while packages are being filled therein.

§ 220.63 *Empty container storeroom.* If empty packages are to be stored on the distillery premises a separate room or building must be provided for such purpose. Such room or building shall not have any means of interior communication with any other room or building used in connection with the production or storage of distilled spirits: *Provided*, That the Assistant Regional Commissioner may authorize a door connecting with the cistern room when, in his opinion, such opening will not constitute a jeopardy to the revenue. Such door must be equipped for locking on the cistern room side with a Government lock. The empty container room or building may be used for general cooperage purposes.

§ 220.64 *Government office.* The distiller shall provide and maintain on the distillery premises, for the exclusive use of internal revenue officers, a securely constructed, well-lighted, heated, and ventilated office of suitable dimensions. The Government office shall be equipped with toilet and lavatory facilities, and with a suitable number of desks, chairs, file cases, and such other furniture as may be necessary for the keeping of records and the preparation of reports. The Government office shall also be provided with running water, tables, and shelves for use in connection with the testing of beer and stillage, unless suitable laboratory facilities are available to internal revenue officers elsewhere on the premises. The door of the Government office shall be equipped with a cylinder type lock and a sufficient number of keys therefor shall be furnished the Assistant Regional Commissioner for the use of internal revenue officers. Where deemed necessary to afford adequate security to



Government property, the Assistant Regional Commissioner may require the windows of the Government office to be protected by shutters or iron bars, and the door to be so equipped that it may be securely fastened with a Government lock. A sign bearing the words "Government Office" must be placed over the entrance door.

§ 220.65 *Government cabinet.* There shall be provided in the Government office a cabinet of adequate security and size, suitably equipped for locking with a Government seal lock, for use in safeguarding Government locks, keys, seals, and other Government property, and stamps in the custody of internal revenue officers. Each such cabinet shall be subject to approval by the Assistant Regional Commissioner.

(B) Section 220.101 is amended to read as follows:

§ 220.101 *Scales.* The distiller must provide in the cistern room suitable and accurate scales for weighing packages of distilled spirits. The distiller must also provide on the distillery premises suitable and accurate scales for the weighing of grain and other non-liquid distilling materials used. Beams or dials of scales used to weigh packages must indicate weight in half-pound graduations.

(68A Stat. 639; 26 U. S. C. 5212)

(C) Section 220.102 is amended by striking from the first sentence the phrase "a weighing tank" and inserting in lieu thereof the word "tanks".

(D) Section 220.111 is amended by inserting at the end thereof the following new sentence: "The waste discharge line of every still, except those used for primary distillation of beer, must be secured to the sewer in such a manner as to preclude the recovery of distilled spirits from the waste discharge line: *Provided*, That where it is not practicable to secure such discharge lines to sewers, the Assistant Regional Commissioner may approve other construction, if he finds that such other construction will afford adequate protection."

(E) By inserting a new section, reading as follows, immediately after § 220.113:

§ 220.113a *High wines, low wines or unfinished spirits tanks—(a) General requirements.* Where high wines, low wines, or unfinished spirits are produced, suitable tanks for the reception of such high wines, low wines, or unfinished spirits must be provided. The tanks shall be constructed and secured in conformity with the provisions of § 220.112, except that Government locks will not be required on the inlet or outlet valves. Each such tank shall have plainly and legibly painted thereon the words "High wine tank", "Low wine tank", or "Unfinished spirits tank", as the case may be, followed by its serial number and capacity in gallons. These tanks shall be connected with the inlets of the stills in which the spirits are to be redistilled, either directly or through the charge or feed tanks thereof, by means of pipelines constructed in accordance with the provisions of § 220.121. The pipelines connected with high wine, low wine, and

unfinished spirits tanks shall be provided with valves to control the flow of spirits into and out of the tanks and such valves shall be so constructed that they may be closed and locked.

(b) *Special equipment.* Where it is desired to reduce or scrub unfinished spirits before redistillation, there shall be permanently connected to the tank in which the spirits are reduced or scrubbed the necessary air and water lines. Such air and water lines shall be equipped with check valves located near the point of entry to the tank and the water lines shall be equipped with valves so arranged that they may be locked with Government locks: *Provided*, That if spirits are to be reduced during other than regularly assigned hours of supervision, the water lines shall not be equipped for locking but shall be equipped with metering devices which will accurately record the quantity of water added to the tanks. If the distiller so desires, he may provide mechanical agitators in lieu of air lines. The introduction of any materials or substances into the tanks during other than regularly assigned hours of supervision must be accomplished by mechanical devices which effectively prevent the abstracting of spirits: *Provided*, That where it is desired to conduct tests the Assistant Regional Commissioner may authorize, for limited periods, the addition of materials or substances to the tanks without the use of mechanical devices. Where the distiller desires to charge pot or kettle stills during other than regularly assigned hours of supervision, he must provide such measuring devices as may be necessary to determine the quantity of spirits withdrawn from the tanks. If the distiller desires to withdraw samples from the tanks, it will be necessary that he install sampling devices as provided in § 220.484.

(68A Stat. 628, 680; 26 U. S. C. 5173, 5552)

(F) The headnote to § 220.114 is changed to read: "*Tanks for retention of unfinished spirits during alternate operations.*"

(G) By inserting a new section, reading as follows, immediately after § 220.116:

§ 220.116a *Outside tanks, stills and rectifying equipment.* Tanks used as receptacles for spirits, stills and rectifying equipment which, pursuant to § 220.60, are not located within a building, shall conform to the requirements of this section in addition to other applicable provisions of this part. The equipment shall be erected on a solid concrete base or foundation and all tanks shall be of substantial metal construction. The tanks, stills and rectifying equipment shall be completely enclosed by a fence extending to a height of at least ten feet above the ground, constructed of not less than No. 6 gauge, nor more than 2-inch mesh, expanded metal or woven wire, with at least three rows of barbed wire superimposed on the top thereof. The fence posts shall be made of iron or steel, imbedded securely in a continuous concrete foundation which shall be at least twelve inches thick, and extend not less than eighteen inches below the ground. A suitable gate in

such fence shall be provided, which gate shall be of equal security and shall be equipped with a hasp and staple for the reception of a lock. Pipelines to and from the equipment shall conform to the requirements of § 220.121. The Assistant Regional Commissioner may require, in any case in which he deems necessary, in addition to the installation of electric flood lights for lighting the enclosure as required by § 220.60, the maintenance of watchman service, or other protective measures or devices.

(68A Stat. 628; 26 U. S. C. 5173)

(H) Section 220.119 is amended as follows:

(1) By striking the second sentence, which begins "The adequacy of".

(2) By changing the fourth sentence to read, "Each receiving cistern must be individually equipped with a suitable, fixed, measuring device, such as an etched gauge glass, or other equally accurate gauge device whereby the actual contents will be correctly indicated, and shall have plainly and legibly painted thereon the words, 'Receiving Cistern', followed by its serial number and capacity in gallons."

(3) By inserting, immediately after the fourth sentence, a new sentence, "Where gauge glasses are used provision must be made to exhaust or flush the glasses so they will accurately reflect the contents of the cisterns."

(4) By inserting, immediately after the eighth sentence, which begins, "Pipe lines connected", a new sentence, "The inlet to each cistern shall be equipped with a valve located in close proximity to the cistern and so arranged that it may be locked with a Government lock."

(5) By inserting at the end of the section a new sentence, "No receiving cistern shall be used until it has been calibrated or, in the case of existing cisterns, recalibrated, and approved by an internal revenue officer, and a certificate, Form 244, has been attached thereto as provided in § 220.303a."

(I) Section 220.120 is amended by placing a period after the phrase "any of the cisterns" in the first sentence and striking the remainder of the section.

(J) Section 220.249 is amended as follows:

(1) By striking from the headnote the words "Materials and".

(2) By striking from the first sentence the phrase "distilling materials" and inserting in lieu thereof "mash, beer".

(3) By striking from the second sentence the phrase "If the unfinished spirits and distilling materials" and inserting in lieu thereof "If mash, beer, and unfinished spirits".

(K) Section 220.258 is amended to read as follows:

§ 220.258 *Mash, beer, and unfinished spirits.* If mash, beer, and unfinished spirits are received by transfer from the predecessor, the successor must comply with the requirements of Subpart BB of this part.

(L) Section 220.282 is amended by changing paragraph (b) to read as follows:



(b) *Mash, beer, and unfinished spirits.* If mash, beer, and unfinished spirits are to be transferred to the successor, the procedure prescribed by §§ 220.720, 220.721 and 220.723 must be followed, except that Form 1614 will be filed with the storekeeper-gauger in charge.

(M) Section 220.283 is amended by changing paragraph (b) to read as follows:

(b) *Mash, beer, and unfinished spirits.* If mash, beer, and unfinished spirits are to be received from the predecessor, the procedure prescribed by §§ 220.720, 220.721 and 220.723 will be followed, except that Form 1614 will be filed with the storekeeper-gauger in charge.

(N) Section 220.290 is amended by changing paragraph (c) to read as follows:

(c) *Mash, beer, heads and tails, and unfinished spirits.* If mash and beer are transferred to the successor or if heads and tails or unfinished spirits are to be retained on the premises pending the resumption of operations as a registered distillery, comply with the requirements of §§ 220.706-220.710. Whenever alternate operations are to be conducted after the first suspension, the procedure prescribed by §§ 220.292 and 220.293 will be followed.

(O) Section 220.292 is amended by changing paragraph (b) to read as follows:

(b) *Mash, beer, heads and tails, and unfinished spirits.* If mash and beer are transferred to the successor or if heads and tails or unfinished spirits are to be retained on the premises pending the resumption of operations as a registered distillery, comply with the requirements of §§ 220.707, 220.708, and 220.710.

(P) Section 220.293 is amended by changing paragraph (b) to read as follows:

(b) *Materials.* If mash or beer are received by transfer from the predecessor, comply with the requirements of §§ 220.709 and 220.710.

(Q) By inserting a new section, reading as follows, immediately after § 220.303:

§ 220.303a *Approval of receiving cisterns.* When the officer who is required to examine the receiving cisterns is satisfied that the same are properly constructed, and that the gauge glasses or other gauge devices are accurate, he will so report to the Assistant Regional Commissioner, in writing, and will securely attach to the receiving cistern a certificate on Form 244.

(R) By inserting a new section, reading as follows, immediately after § 220.366:

§ 220.366a *Distiller's schedule of operations.* The distiller shall furnish daily to the storekeeper-gauger in charge a schedule of operations for the next succeeding work day. This schedule shall show (a) the fermenters to be dropped and the type of mash in each; (b) the quantity and kind of spirits to be received for redistillation; (c) cistern room

operations, including the approximate number of packages to be gauged either for taxpayment or for deposit (with notations as to any packages intended for subsequent withdrawal on the original gauge), as well as the anticipated removals by pipeline or by tank car or tank truck; (d) scheduled repairs which will involve the breaking or replacing of seals or the manipulation of Government locks; and (e) any other activities which require the immediate supervision or attention of a storekeeper-gauger.

(S) Section 220.367 is amended to read as follows:

§ 220.367 *Receipt of materials.* The distiller shall maintain a record of all distilling materials received on the distillery premises, showing the date of receipt, the name of the person from whom received, and the kind and quantity of each material received. Where commercial invoices or bills of lading contain the required information, a separate record will not be required. Such record, commercial invoices or bills of lading shall be kept available for inspection by internal revenue officers at all times during regular business hours.

(68A Stat. 637; 26 U. S. C. 5197)

(T) Section 220.379 is amended by inserting immediately after the first sentence the following new sentences: "Where two or more types of mash are produced or processed in the same month, a separate page of part 1 of Form 1598 shall be used to report each type of mash. Each page shall bear a notation identifying the type of mash reported thereon."

(U) Section 220.390 is revoked.

(V) Section 220.391 is amended as follows:

(1) By striking from the second sentence, which begins "The doors", the words "in the presence of the storekeeper-gauger".

(2) By inserting immediately after the third sentence, which begins "The entrance door", the following new sentence: "The valves on the inlets of receiving cisterns must be closed and locked prior to gauge of the spirits therein for withdrawal and shall remain locked until the withdrawal is completed."

(3) By changing the fourth sentence, which begins, "The openings in", to read: "All other openings in receiving cisterns will be kept locked at all times, except the outlets of cisterns being emptied, and the manheads when spirits are being agitated and reduced preparatory to withdrawal."

(4) By changing the fifth sentence, which begins, "The cistern room", to read: "The keys to the Government locks will not be intrusted at any time to the distiller or any person in his employ, but will be retained at all times in the possession of the designated storekeeper-gauger."

(W) Section 220.445 is amended as follows:

(1) By changing the first sentence to read, "Distilled spirits may be received at the distillery for redistillation after the distiller has given notice, in dupli-

cate, to the Assistant Regional Commissioner."

(2) By striking from the third sentence, which begins "Spirits received", the words "a Government" and inserting in lieu thereof the words "an internal revenue".

(X) Section 220.446 is revoked.

(Y) Section 220.447 is amended to read as follows:

§ 220.447 *Action by Assistant Regional Commissioner.* Upon receipt of a notice of intent to receive spirits for redistillation, the Assistant Regional Commissioner will note the penal sum of the distiller's bond on all copies of the notice, retain one copy, and furnish one copy to the storekeeper-gauger in charge at the distiller's premises. The Assistant Regional Commissioner will advise the storekeeper-gauger of any significant change in the penal sum of the distiller's bond.

(68A Stat. 634; 26 U. S. C. 5194)

(Z) Section 220.448 is amended as follows:

(1) By striking the first and second sentences and inserting in lieu thereof the following new sentence, "When the distiller desires to receive spirits for redistillation, he shall prepare Form 236, properly modified for that purpose, covering the transfer of such spirits."

(2) By striking the third sentence, which begins "Where the consignor", and inserting in lieu thereof the following new sentences: "Where the consignor distillery or warehouse is located in the same region, an original and five copies of the Form 236 will be prepared and delivered to the storekeeper-gauger. An original and six copies of the form will be prepared if the consignor distillery or warehouse is located in a different region."

(3) By striking the fourth sentence, which begins, "The storekeeper-gauger will", and inserting in lieu thereof the following new sentence: "If the storekeeper-gauger finds that the penal sum of the distiller's bond is sufficient to cover the redistillation of the spirits described therein, he will execute a certificate on all copies of Form 236 and return all of the copies to the distiller."

(4) By striking from the fifth sentence, which begins, "The distiller will", the phrase "and one copy of the approved special application".

(AA) Section 220.451 is amended by inserting, immediately after the first sentence, the following new sentence: "Spirits for redistillation shall be transferred to the fermenters or beer well or introduced into tanks in the distilling system only during the hours of regularly assigned supervision."

(BB) Section 220.454 is amended to read as follows:

§ 220.454 *Gauge of spirits.* Upon receipt of application, Form 236, the distiller, when he desires to make shipment, will give a copy of Form 236 to the storekeeper-gauger and furnish a complete description of the spirits to be shipped. Where the spirits are removed by pipeline to a contiguous distillery, they may be gauged in weighing tanks either before removal or upon receipt: *Provided,*



That where the spirits are removed to a contiguous distillery operated by the same distiller, or an affiliate or subsidiary of the distiller, they may be gauged by volume in accurately calibrated tanks in the cistern room of the transferring distiller. The storekeeper-gauger will verify the distiller's gauge as provided in § 220.536. The distiller will prepare his report of gauge on Form 1520. An original and 4 copies will be prepared for intraregion shipments and an original and 5 copies for interregion shipments. The marketing of containers will be made in accordance with § 220.545 insofar as applicable, and, in addition to required transfer-in-bond markings for containers of spirits removed for redistillation, there will be stenciled thereon the words, "For Redistillation." The distiller will note on all gauge reports covering removal of spirits for redistillation the words, "For Redistillation." Forms 236 and 1520 will be disposed of in accordance with § 220.611 for intraregion transfers and § 220.619 for interregion transfers.

(68A Stat. 634; 26 U. S. C. 5194)

(CC) Section 220.455 is amended by changing the comma following the phrase "For Redistillation" in the second sentence to a period and striking the remainder of the sentence.

(DD) Section 220.480 is amended as follows:

(1) By striking the phrase "three pints" where it appears in paragraphs (a) and (b) and inserting in lieu thereof the phrase "two quarts".

(2) By striking from the first sentence in paragraph (d) the phrase "during specified periods,".

(3) By striking from the second sentence of paragraph (d) the phrase "of such samples shall not exceed one quart,".

(EE) Section 220.484 is amended as follows:

(1) By changing the headnote to read, "Taking of samples,".

(2) By striking from the first sentence the phrase "and unfinished spirits must be taken under the immediate supervision of the storekeeper-gauger except that samples of unfinished spirits may be taken" and inserting in lieu thereof the following, "spirits must be taken under the supervision of the storekeeper-gauger. Samples of unfinished spirits, including those from tanks, shall be taken".

(3) By inserting at the end of the section the following new sentence: "Where new equipment is being tested or where samples are desired at infrequent intervals and are non-routine, the storekeeper-gauger may supervise the taking of samples of unfinished spirits."

(FF) Section 220.488 is amended by changing the first sentence to read, "The storekeeper-gauger shall keep on Form 1615, in quadruplicate, a record of all taxable samples removed."

(GG) Section 220.501a is amended by inserting, immediately after the phrase "in tank cars", the phrase "or tank trucks".

(HH) Section 220.505 is amended by inserting in the first sentence, immedi-

ately after the phrase "in tank cars", the phrase "or tank trucks".

(II) Section 220.510 is amended by inserting, immediately after the phrase "in tank cars", the phrase "or tank trucks".

(JJ) Section 220.514 is amended by inserting, immediately after the phrase "in tank cars", the phrase "or tank trucks".

(KK) Section 220.518 is amended by inserting, immediately after the phrase "in tank cars", the phrase "or tank trucks".

(LL) Section 220.522 is amended by inserting in the first sentence, immediately after the phrase "in tank cars", the phrase "or tank trucks".

(MM) By inserting a new section, reading as follows, immediately after § 220.525:

§ 220.525a *Exports. Vodka of any proof may be removed in tank cars or tank trucks, free of tax, for exportation. Vodka of any proof may be removed to an internal revenue bonded warehouse in wooden packages, each containing two or more metallic cans having a capacity of not less than five wine gallons each, for exportation only.*

(68A Stat. 633, 647; 26 U. S. C. 5193, 5247)

(NN) Section 220.536 is amended as follows:

(1) By inserting, immediately after the headnote, the following new sentence: "All distilled spirits drawn from receiving cisterns (a) for taxpayment and removal by pipeline or in tank cars or tank trucks, or (b) into packages which are to be taxpaid immediately from the cistern room or from a temporary storage room within the cistern room, or (c) into packages, tank cars, or tank trucks, which are to be taxpaid on the original gauge from any internal revenue bonded warehouse, or (d) into tank cars or tank trucks for exportation, shall be carefully gauged by the storekeeper-gauger, who will also record the details of the gauge and other required information on the report of gauge, Form 1520."

(2) By changing the first sentence to read as follows: "Distilled spirits drawn from receiving cisterns for all other purposes will be carefully gauged by the distiller, under the supervision of the storekeeper-gauger, by weighing, except as provided by § 220.538, and proofing the spirits in accordance with this subpart and the Gauging Manual (Part 186 of this title), and the details thereof will be entered by the distiller on the report of gauge, Form 1520."

(3) By inserting, immediately after the first sentence the following new sentences: "The storekeeper-gauger shall in every instance verify the proof (before and after reduction) of the spirits in the cistern and determine, either by weight or by volume, the contents of each cistern before and after any spirits are withdrawn therefrom. Where spirits are gauged by the distiller for removal in tank cars, tank trucks, or by pipeline, the storekeeper-gauger shall personally verify the net weight or wine gallons, proof, and tax gallons and enter his name and title on all copies of Form 1520."

(4) By inserting in the second sentence, immediately after the word "entries", the words "on Form 1520".

(5) By changing the third sentence to read, "The proof of distillation of the spirits gauged shall be noted on the Form 1520 in every instance."

(6) By striking from the fourth sentence, which begins "The proof of", the word "being" and inserting in lieu thereof the phrase "the spirits are".

(7) By striking from the seventh sentence, which begins "Where the proof", the phrase "this title (Gauging Manual)" and inserting in lieu thereof the phrase "the Gauging Manual".

(8) By striking from the ninth sentence, which begins "In any such case", the phrase "shall make notation on Form 1520 that the spirits were reduced to a whole degree of proof or, if they were not so adjusted, the fractional degree of proof at which withdrawn." and inserting in lieu thereof the phrase "shall show on Form 1520 the whole or fractional degree of proof at which the spirits are withdrawn."

(9) By striking from the last sentence the phrase "for shipment".

(OO) By inserting two new sections, reading as follows, immediately after § 220.536:

§ 220.536a *Storekeeper - gauger to check distiller's gauge.* In every instance where the removal gauge of spirits is performed and reported by the distiller, the storekeeper-gauger shall compare his determination of the total quantity withdrawn from the receiving cistern with the total quantity reported as withdrawn by the distiller and where the spirits are drawn into packages the storekeeper-gauger shall also, from time to time, verify the tares, proofs, gross weights, and tax gallonages as determined by the distiller. Where the storekeeper-gauger finds, as the result of his sampling of a gauge made by the distiller, or upon comparing his gauge of a receiving cistern with the total reported withdrawn by the distiller, significant discrepancies in the distiller's entry record, or the marks and brands required to be placed on any container, the distiller shall make such corrections of the gauge, the entry record, and the marks and brands as may be required by the storekeeper-gauger to insure that the gauge, the entry record, and the marks and brands are correct.

(68A Stat. 633, 639; 26 U. S. C. 5192, 5193, 5212)

§ 220.536b *Entry for subsequent taxpayment on original gauge.* Where the distiller desires to draw spirits from receiving cisterns for entry into an internal revenue bonded warehouse and subsequent taxpayment on the original gauge, he shall notify the storekeeper-gauger of such intention in writing in order that the gauge and report of such spirits may be made by the storekeeper-gauger. The notice, which shall be prepared on the distiller's letterhead, and be signed by the distiller or a designated attorney-in-fact, shall contain the following information:

(a) A statement that the distilled spirits identified therein are to be en-



tered for deposit and subsequent tax-payment on the original gauge;

(b) The registry number and location of the warehouse in which the distilled spirits are to be entered;

(c) The kind of distilled spirits;

(d) The proof of distillation;

(e) The kind of cooperage, or, if not to be packaged, the means of removal; and

(f) The approximate quantity to be removed.

The storekeeper-gauger will note on all copies of Form 1520 covering the gauge of such spirits, "Taxpay on original gauge." The notice will be securely attached to the copy of the Form 1520 retained by the storekeeper-gauger at the distillery.

(68A Stat. 633, 634, 639, 647; 26 U. S. C. 5193, 5194, 5212, 5245)

(PP) Section 220.537 is amended by striking from the first sentence reference to "§ 220.76" and inserting in lieu thereof "§ 220.62".

(QQ) Section 220.538 is amended as follows:

(1) By inserting in the first sentence, immediately after the phrase "operated by the distiller," the phrase "or an affiliate or subsidiary of the distiller,"

(2) By changing the period at the end of the first sentence to a comma and adding the following, "or they may be gauged by volume in accurately calibrated tanks in the cistern room of the transferring distiller."

(3) By striking the second sentence.

(4) By striking from the last sentence the phrase "by the storekeeper-gauger".

(RR) Section 220.544 is amended to read as follows:

§ 220.544 *General*. Any cask or package which contains or has on its interior or exterior any substance that will prevent the correct ascertainment of tare shall not be used. The tare or weight of empty packages will be determined immediately prior to filling by the person responsible for the gauge: *Provided*, That the tare of a number of packages may be ascertained and marked thereon before any are filled but not exceeding the number which are to be filled the same day or the following day. The tare of each package will be marked thereon as soon as it is ascertained. If the packages are not to be filled until the following day, they must be locked in the cistern room after being weighed and marked. All packages of spirits, when filled, shall be further marked and branded as provided by this subpart, and where such packages are taxpaid, the prescribed stamps will be affixed thereto and canceled in the manner prescribed in § 220.567.

(68A Stat. 633, 634, 639; 26 U. S. C. 5192, 5193, 5194, 5212)

(SS) By inserting a new section, reading as follows, immediately preceding § 220.556:

§ 220.555a *Product identification*. The distiller shall be responsible for correctly identifying spirits at the time of their gauge for removal from the cistern

room and for the accuracy of prescribed marks and brands.

(68A Stat. 633, 634; 26 U. S. C. 5193, 5194)

(TT) Section 220.557 is amended by striking from the last sentence the phrase "except the instruments for proofing the spirits".

(UU) Section 220.558 is amended to read as follows:

§ 220.558 *Testing of scales*. The storekeeper-gauger shall balance the scales before the weighing of packages, either empty or filled, is commenced, and will frequently test the accuracy of such scales by means of test weights provided in accordance with § 220.104. The storekeeper-gauger will not permit the use of any scales which upon testing are found to be inaccurate.

(68A Stat. 639; 26 U. S. C. 5212)

(VV) Section 220.559 is amended as follows:

(1) By inserting, immediately after the headnote the following new sentence, "The proof of spirits shall be determined in accordance with the instructions set forth in the Gauging Manual (Part 186 of this title)."

(2) By changing the first sentence to read, "The storekeeper-gauger shall determine, or verify, as the case may be, the proof of all spirits gauged."

(3) By striking the second sentence, which begins, "The storekeeper-gauger will".

(WW) Section 220.560 is revoked.

(XX) Section 220.589 is amended as follows:

(1) By changing the first sentence to read, "Where the distiller operates an internal revenue bonded warehouse on the distillery premises and spirits produced at the distillery are to be entered for deposit in such warehouse, the spirits shall, as authorized by §§ 220.500-220.526, be drawn into approved containers, gauged, marked, and branded, and then immediately deposited in such warehouse, or, in the case of pipeline transfers, gauged and deposited in the warehouse tanks in the manner provided in § 220.538."

(2) By striking from the second sentence the word "immediate".

(3) By inserting in the third sentence, immediately after the words "The storekeeper-gauger", the words, "or distiller, as required by § 220.536,".

(4) By changing the last sentence to read, "On completion of the form, the distiller will execute his entry of the spirits for deposit."

(YY) Section 220.593 is amended as follows:

(1) By striking the third sentence, which begins, "The storekeeper-gauger".

(2) By striking from the last sentence the word "direct".

(ZZ) A new section, reading as follows, is inserted immediately after § 220.596:

§ 220.596a *Forms 236 originating at consignor premises*. Where spirits are to be transferred to and entered for deposit in an internal revenue bonded warehouse operated by the distiller, or an affiliate or subsidiary of the distiller, in

the same region and the receiving warehouse has on file a bond in the maximum penal sum of \$200,000, the consignee warehouseman may designate an agent or employee of the consignor distiller as an attorney-in-fact to execute Form 236 for the consignee warehouseman. The consignee warehouseman shall file letter application with the Assistant Regional Commissioner for permission to establish such procedure, together with power of attorney on Form 1534, in triplicate, executed as provided in § 220.166, authorizing an individual at the consignor premises to execute Form 236 for the consignee warehouseman. If the Assistant Regional Commissioner approves the application, he shall so notify the applicant and furnish the storekeeper-gauger in charge at the consignor premises a copy of the approved Form 1534 on which he has noted the fact that the consignee warehouse has on file a bond in the maximum penal sum. The Assistant Regional Commissioner will advise the storekeeper-gauger of any subsequent change in the penal sum of the consignee's bond. The designated attorney-in-fact may thereafter execute Forms 236 covering transfers to the designated warehouse in the manner provided in § 220.595 and the storekeeper-gauger in charge at the distillery may approve such Forms 236.

(AAA) Section 220.598 is amended by inserting in the last sentence, immediately after the phrase "the storekeeper-gauger", the phrase "or distiller, as required by § 220.536,".

(BBB) Section 220.606 is amended by striking the phrase "Upon receiving an order to gauge spirits to be" and inserting in lieu thereof the phrase "When spirits are to be".

(CCC) Section 220.607 is amended as follows:

(1) By striking from the first sentence the phrase "in the immediate presence" and inserting in lieu thereof the phrase "under the supervision".

(2) By striking the second and third sentences.

(3) By striking from the fourth sentence, which begins "The officer", the phrase "officer will enter on Form 1520, covering the gauge of the spirits, the".

(4) By inserting in the fourth sentence, immediately after the phrase "spirits at filling", the phrase "will be entered on Form 1520".

(5) By striking the fifth sentence, which begins "The storekeeper-gauger", and inserting in lieu thereof the following new sentence, "The storekeeper-gauger will seal the tank car or tank truck as soon as it is filled and will note on Form 236 the serial numbers of the seals used."

(6) By striking from the sixth sentence, which begins "In the case of", the phrase "he will also enter" and inserting in lieu thereof the phrase "the storekeeper-gauger will enter".

(DDD) By inserting a new section, reading as follows, immediately after § 220.613:

§ 220.613a *Forms 236 originating at consignor premises*. Where spirits are to be transferred to and entered for



deposit in an internal revenue bonded warehouse operated by the distiller, or an affiliate or subsidiary of the distiller located in a different region and the receiving warehouse has on file a bond in the maximum penal sum of \$200,000, the consignee warehouseman may designate an agent or employee of the consignor distiller as an attorney-in-fact to execute Form 236 for the consignee warehouseman. The consignee warehouseman shall file letter application with the Assistant Regional Commissioner for permission to establish such procedure, together with power of attorney on Form 1534, in quadruplicate, executed as provided in § 220.166, authorizing an individual at the consignor premises to execute Form 236 for the consignee warehouseman. If the Assistant Regional Commissioner approves the application, he shall so notify the applicant and furnish the Assistant Regional Commissioner of the region in which the consignor distillery is located two copies of the approved Form 1534 on which he has noted the fact that the consignee warehouse has on file a bond in the maximum penal sum. The Assistant Regional Commissioner for the consignee premises will advise the Assistant Regional Commissioner for the consignor premises of any subsequent change in the penal sum of the consignee's bond. The Assistant Regional Commissioner of the consignor premises shall furnish one copy of the approved Form 1534 to the storekeeper-gauger at the consignor premises. The designated attorney-in-fact may thereafter execute Forms 236 covering transfers to the designated warehouse in the manner provided in § 220.612 and the storekeeper-gauger in charge at the distillery may approve such Forms 236.

(EEE) Section 220.615 is amended by striking from the last sentence the phrase "by the storekeeper-gauger".

(FFF) Section 220.622 is amended to read as follows:

§ 220.622 *Report of gauge and transfer.* The distiller shall gauge the rum, under the supervision of the storekeeper-gauger, by weight, either in the cistern room or in the denaturing bonded warehouse at the time of deposit therein, or by volume in accurately calibrated tanks in the cistern room. In any case, the distiller shall prepare Form 1520, in triplicate, reporting thereon the details of the gauge, and deliver all copies to the storekeeper-gauger. Upon completion of the gauge and transfer of the rum, the storekeeper-gauger will execute his report of removal on Form 573 and attach one copy of the Form 1520 to each copy of Form 573. The storekeeper-gauger will then forward one copy of each form to the Assistant Regional Commissioner, deliver one copy of each to the distiller, and retain one copy of each.

(68A Stat. 634, 661; 26 U. S. C. 5194, 5331)

(GGG) Section 220.623 is amended as follows:

(1) By inserting in the first sentence, immediately after the phrase "in tank cars", the phrase "or tank trucks".

(2) By striking from the first sentence the phrase "with the Assistant Regional Commissioner".

(3) By inserting in the last sentence, immediately after the phrase "the tank cars", the phrase "or tank trucks".

(HHH) Section 220.661 is revoked.

(III) Section 220.698 is amended by striking from the last sentence the word "storekeeper-gauger's".

(JJJ) Section 220.712 is amended by changing the first sentence to read, "The outgoing distiller will complete his record Form 1598, and the storekeeper-gauger his record, Form 1686, as to the transfer to the successor of mash and beer in process, and the removal of all spirits produced by the outgoing distiller."

(KKK) Section 220.713 is amended as follows:

(1) By striking from the first sentence the phrase "materials, including those in process, received" and inserting in lieu thereof the phrase "materials in process received".

(2) By inserting in the last sentence, immediately after the words "If materials", the words "in process".

(LLL) Section 220.723 is amended by inserting in the first sentence, immediately after the words "all materials", the words "in process".

(MMM) By inserting a new section, reading as follows, immediately after § 220.758:

§ 220.758a *Operating records.* Every proprietor of a registered distillery who has distillates from two or more types of mash in process at the same time shall maintain such operating records in support of Form 1598 as will permit the spirits to be traced through the various processes from the distillation of the beer to the deposit of the finished spirits in the receiving cisterns. Such operating records shall show, by kind, proof, and proof gallons, the deposits in unfinished spirits tanks, charges to the various stills for redistillation, redposits in unfinished spirits tanks, and other movements of spirits. The operating records required by this section shall be kept available for inspection by internal revenue officers for not less than three years.

(68A Stat. 637; 26 U. S. C. 5197)

(NNN) Section 220.776 is amended by inserting at the beginning of the first sentence the phrase "Except as may be authorized in connection with the conduct of another business approved under the provisions of § 220.51,".

(OOO) Section 220.777 is amended by striking the headnote thereto and inserting in lieu thereof the following new headnote, "Removal of spirits in absence of officer prohibited."

PAR. 2. 26 CFR (1954) Part 221, Production of Brandy, is amended as follows:

(A) Section 221.60 is amended by inserting, immediately after the phrase, "or where liquors of any description are retailed, or", the phrase "except as provided in § 221.61,".

(B) By inserting, immediately after § 221.60, the following new section:

§ 221.61 *Use of distillery premises for other business.* Distillery premises may be used by the proprietor of the distillery for the conduct of other businesses not involving the production of alcoholic beverages but which (a) utilize materials, equipment, or processes similar to or interchangeable with those used for the production of brandy, or (b) involve the use of by-products or wastage from the production of brandy, or (c) utilize portions of premises or equipment, not required in the production of brandy, for entirely dissimilar businesses such as general storage or mechanical repair work: *Provided*, That the Director, Alcohol and Tobacco Tax Division, shall find, upon application made to him through the assistant regional commissioner in each case, that such use will not jeopardize the revenue and will not unduly increase administrative supervision.

(68A Stat. 637; 26 U. S. C. 5171)

(C) By amending Subpart E, Construction, to read as follows:

§ 221.70 *Distillery buildings.* Distillery buildings must be constructed of substantial materials and shall be so arranged and constructed as to afford adequate protection to the revenue and facilitate inspection by internal revenue officers: *Provided*, That the assistant regional commissioner may, in his discretion, approve fruit distilleries having equipment and apparatus, except as required by § 221.72, not located in a room or building, if, in his opinion, the location and construction are such that the revenue is not endangered and no additional supervision would be required: *Provided further*, That brandy may not be filled into barrels or drums except within a room or building. Where a brandy receiving room is provided, it must be constructed and equipped in accordance with the provisions of § 221.71. The assistant regional commissioner may authorize communicating doors from distillery premises to an off-premises room or building when, in his opinion, such door would not constitute a jeopardy to the revenue, but no such door shall be permitted in a brandy receiving room. All outside doors of distillery buildings shall be equipped for locking with Government locks. Outside tanks used as receptacles for spirits and stills must be enclosed and protected in the manner required by § 221.129a. Where equipment or apparatus is not located in a room or building, electric flood lights shall be installed for lighting the premises at night. Any other protective measures deemed essential by the assistant regional commissioner may be required for distillery buildings or for equipment located within or without the distillery buildings.

§ 221.71 *Receiving room.* The proprietor may provide a receiving room in which to locate the receiving tanks. If such a room is provided, it shall be constructed of substantial materials. Where the floors, ceiling or walls are constructed of wood, the boards must be matched tongue and groove, except that wood floors may be of other than tongue



and groove lumber if laid double with the second layer crossing the first at an angle of more than 20 degrees. Receiving room windows shall be substantially constructed and so arranged and equipped that they may be securely fastened on the inside. Receiving room windows which, because of their location with respect to the ground, a fire escape, roof, setback or balcony, create an additional jeopardy to the revenue, must be of the detention type or be protected by iron bars or solid shutters. Where solid shutters are provided they must be equipped for fastening on the inside with a Government lock or cap seal. No door, window, or other opening leading from the receiving room into any other building or room, except the distilling building or room, will be permitted: *Provided*, That where the receiving room and brandy deposit room adjoin each other there may be a communicating door between them. All doors of the receiving room shall be locked on the inside with Government locks, except the entrance door and the communicating door, if any, between the receiving room and the brandy deposit room. The entrance door shall be locked on the outside of the receiving room with a Government seal lock and the communicating door between the receiving room and the brandy deposit room shall be locked on the brandy deposit room side. The receiving room must be well lighted, and of sufficient size and so equipped as to permit prompt and convenient conduct of operations required therein. A sign must be placed over the entrance door bearing the words "Receiving Room."

§ 221.72 *Brandy deposit room.* Unless all brandy is removed from the distillery in accordance with §§ 221.515-221.520, during the regular working hours of the same day on which it is drawn from the receiving tanks, there must be provided a room (or building) to be known as the brandy deposit room (or building) for the temporary storage of brandy pending removal thereof from the distillery premises. The brandy deposit room shall be constructed of substantial materials. Where the floors, ceiling or walls are constructed of wood, the boards must be matched tongue and groove, except that wood floors may be of other than tongue and groove lumber if laid double with the second layer crossing the first at an angle of more than 20 degrees. No door, window, or other opening leading from the brandy deposit room into any other building or room, except the distilling building or room, will be permitted: *Provided*, That where the brandy deposit room and the receiving room adjoin each other there may, as provided in § 221.71, be a communicating door between them. All doors of the brandy deposit room shall be locked on the inside with Government locks, except the entrance door, which shall be locked on the outside of the room with a Government seal lock. The brandy deposit room must be well lighted and of sufficient size and so equipped as to permit prompt and convenient conduct of operations required therein. A sign must be placed over the entrance of the room

bearing the words "Brandy Deposit Room."

§ 221.73 *Filled package storeroom.* Where packages are filled from tanks in the brandy deposit room and it is desired to store such filled packages temporarily pending removal from the distillery, a separate compartment or room must be provided within the brandy deposit room for the storage thereof. The construction of such filled package storeroom must conform to the applicable provisions of § 221.72. All doors of this compartment or room shall be equipped for locking on the inside with Government locks, except the entrance door which shall be equipped for locking on the outside. The entrance door of the filled package storeroom shall open into the other part of the brandy deposit room.

§ 221.74 *Empty container storeroom.* If empty packages are to be stored on the distillery premises, a separate room or building must be provided for such purpose. Such room or building shall not have any means of interior communication with any other room or building used in connection with the production or storage of brandy: *Provided*, That the assistant regional commissioner may authorize a door connecting with the brandy receiving or deposit room when, in his opinion, such opening will not constitute a jeopardy to the revenue. Such door must be equipped on the brandy receiving room or deposit room side with a Government lock. The empty container building may be used for general cooperage purposes.

§ 221.75 *Government office.* The proprietor shall provide and maintain on the distillery premises for the exclusive use of internal revenue officers a securely constructed, well-lighted, heated, and ventilated office of suitable dimensions: *Provided*, That where the proprietor operates an internal revenue bonded warehouse on or contiguous to the distillery premises, or a bonded wine cellar contiguous to such premises, and a Government office conforming to the requirements specified in this section is provided on the warehouse or wine cellar premises, and such office is so located as to be suitable for the use of internal revenue officers assigned to the distillery, a separate Government office need not be provided on the distillery premises. The Government office shall be equipped with toilet and lavatory facilities and with a suitable number of desks, chairs, file cases, and such other furniture as may be necessary for the keeping of Government records and the preparation of reports. Where distilling materials, etc., are tested by internal revenue officers, the Government office shall also be provided with running water, and such tables and shelves as may be required, unless suitable laboratory facilities are available to internal revenue officers elsewhere on the premises. The door of the Government office shall be equipped with a cylinder type lock, and a sufficient number of keys therefor shall be furnished the assistant regional commissioner for the use of internal revenue officers. Where deemed neces-

sary to afford adequate security to Government property, the assistant regional commissioner may require the windows of the Government office to be protected by shutters or iron bars, and the door to be so equipped that it may be securely fastened with a Government lock. A sign must be placed over the entrance door bearing the words, "Government Office". Where brandy is drawn into packages from receiving or brandy storage tanks the distiller must provide beside the scales on which the packages are weighed a desk or table and chair for the use of the storekeeper-gauger in preparing his reports of gauge.

§ 221.76 *Government cabinet.* There shall be provided in the Government office a cabinet of adequate security and size, suitably equipped for locking with a Government seal lock, for use in safeguarding Government locks, keys, seals, and other Government property, and stamps in the custody of internal revenue officers. Each such cabinet shall be subject to approval by the assistant regional commissioner.

(D) Section 221.111 is amended by striking from the first sentence the words, "brandy to a weighing tank in a warehouse on the same or contiguous premises or to a weighing tank in a contiguous bonded wine cellar, or to a weighing tank in a contiguous distillery, and gauged therein," and inserting in lieu thereof the words, "brandy to tanks on the same or contiguous premises as provided by § 221.542."

(E) Section 221.115 is amended by striking from the proviso in the first sentence the words "charges, as authorized by § 221.92," and inserting in lieu thereof the words, "chargers by fixed pipelines."

(F) Section 221.116 is amended by striking the second sentence.

(G) Section 221.118 is amended by inserting at the end thereof the following new sentence: "The waste discharge line of every still, except those used for primary distillation, must be secured to the sewer in such manner as to preclude the recovery of brandy from the waste discharge line: *Provided*, That where it is not practicable to secure such discharge lines to sewers, the assistant regional commissioner may approve other construction if he finds that such other construction will afford adequate protection."

(H) Section 221.125 is amended as follows:

(1) By inserting after the section headnote the paragraph designation and headnote, "(a) General requirements."

(2) By inserting a new paragraph reading as follows:

(b) *Special equipment.* Where it is desired to reduce or scrub singlings before redistillation, there shall be permanently connected to the tank in which the singlings are reduced or scrubbed the necessary air and water lines. Such air and water lines shall be equipped with check valves located near the point of entry to the tank and the water lines shall be equipped with valves so arranged that they may be locked with Government locks: *Provided*, That



if brandy is to be reduced during other than regularly assigned hours of supervision, the water lines shall not be equipped for locking but shall be equipped with metering devices which will accurately record the quantity of water added to the tanks. If the distiller so desires, he may provide mechanical agitators in lieu of air lines. The introduction of any materials or substances into the tanks during other than regularly assigned hours of supervision must be accomplished by mechanical devices which effectively prevent the abstracting of brandy: *Provided*, That where it is desired to conduct tests, the assistant regional commissioner may authorize, for limited periods, the addition of materials or substances to the tanks without the use of mechanical devices. Where the distiller desires to charge pot or kettle stills in the absence of the storekeeper-gauger, he must provide such measuring devices as may be necessary to determine the quantity of singlings withdrawn from the tanks. If the distiller desires to withdraw samples from the tanks, it will be necessary that he install sampling devices as provided in § 221.504.

(I) Section 221.127 is amended as follows:

(1) By inserting in two places in the fourth sentence, which begins, "At distilleries where", immediately after the words "twice a month to gauge", the words "or supervise the gauging of".

(2) By changing the sixth sentence, which begins "Each receiving tank", to read, "Each receiving tank shall be individually equipped with a suitable, fixed, measuring device, such as an etched gauge glass, or other equally accurate gauge device, conforming to the requirements of § 221.120, whereby the actual contents will be correctly indicated."

(3) By inserting, immediately after the sixth sentence, the following new sentence, "Where gauge glasses are used provision must be made to exhaust or flush the glasses so they will accurately reflect the contents of the tanks."

(4) By inserting, immediately after the eleventh sentence, which begins, "Pipelines connected", the following new sentence, "The inlet to each receiving tank shall be equipped with a valve located in close proximity to the receiving tank and so arranged that it may be locked with a Government lock."

(5) By inserting at the end of the section the following new sentence, "No receiving tank shall be used until it has been calibrated, or in the case of existing tanks, recalibrated, and approved by an internal revenue officer, and a certificate, Form 244, has been attached thereto as provided in § 221.313a."

(J) Section 221.128 is amended by placing a period after the phrase "any of the tanks" in the first sentence and striking the remainder of the section.

(K) By inserting a new section, reading as follows, immediately after § 221.129:

§ 221.129a *Outside tanks and stills.* Tanks used as receptacles for brandy and stills which, pursuant to § 221.70, are not located within a building, shall con-

form to the requirements of this section in addition to other applicable provisions of this part. The equipment shall be of substantial metal construction and shall be erected on a solid concrete base or foundation. The tanks and stills shall be completely enclosed by a fence extending to a height of at least ten feet above the ground, constructed of not less than No. 6 gauge, nor more than 2-inch mesh, expanded metal or woven wire, with at least three rows of barbed wire superimposed on the top thereof. The fence posts shall be made of iron or steel, embedded securely in a continuous concrete foundation which shall be at least twelve inches thick and extend not less than eighteen inches below the ground. A suitable gate in such fence shall be provided, which gate shall be of equal security and shall be equipped with a hasp and staple for the reception of a lock. Pipelines to and from the equipment shall conform to the requirements of § 221.130. The assistant regional commissioner may require, in any case in which he deems necessary, in addition to the installation of electric flood lights for lighting the enclosure as required by § 221.70, the maintenance of watchman services, or other protective measures or devices.

(68A Stat. 628; 26 U. S. C. 5173)

(L) Section 221.254 is amended by inserting, immediately after the word "materials", in the headnote and in two places in the text the words "in process".

(M) Section 221.263 is amended by inserting, immediately after the word "materials" in the headnote and in the text, the words "in process".

(N) Section 221.292 is amended by inserting in paragraph (b), and the headnote thereto, the words "in process" immediately after the word "materials".

(O) Section 221.293 is amended by inserting in paragraph (b), and the headnote thereto, the words "in process" immediately after the word "materials".

(P) Section 221.300 is amended by inserting in paragraph (c), and the headnote thereto, the words "in process" immediately after the word "materials".

(Q) Section 221.302 is amended by inserting in paragraph (b), and the headnote thereto, the words "in process" immediately after the word "materials".

(R) Section 221.303 is amended by inserting in paragraph (b), and the headnote thereto, the words "in process" immediately after the word "materials".

(S) By inserting a new section, reading as follows, immediately after § 221.313:

§ 221.313a *Approval of receiving tanks.* When the officer who is required to examine the receiving tanks is satisfied that the same are properly constructed, and that the gauge glasses or other gauge devices are accurate, he will so report to the assistant regional commissioner, in writing, and will securely attach to the receiving tank a certificate on Form 244.

(T) Section 221.353 is amended as follows:

(1) By striking from the fourth sentence, which begins "Ordinarily, store-

keeper-gaugers", the words "gauging and".

(2) By striking from the fifth sentence, which begins "At distilleries", the phrase "gauge the brandy and supervise" and inserting in lieu thereof the phrase "gauge or supervise the gauging of the brandy and to supervise".

(U) By inserting a new section, reading as follows, immediately after § 221.354:

§ 221.354a *Distiller's schedule of operations.* The distiller shall furnish the storekeeper-gauger a schedule of planned operation at his plant as early as such schedule can be prepared. At least one day's written notice must be given the storekeeper-gauger of any operation requiring supervision. This schedule shall show, as appropriate, the kind and quantity of brandy to be received for redistillation; receiving room (or tank) operations, including the approximate number of packages to be gauged either for taxpayment or for deposit (with notations as to any packages which it is intended to subsequently withdraw on the original gauge), as well as the anticipated removals by pipeline or by tank car or tank truck; scheduled repairs which will involve the breaking or replacing of seals or the manipulation of Government locks; and any other activities which require the immediate supervision or attention of a storekeeper-gauger.

(V) Section 221.355 is amended as follows:

(1) By changing the headnote to read, "Receipt of materials."

(2) By striking the first sentence and inserting in lieu thereof the following new sentences: "The distiller will maintain a record of all distilling materials received on the distillery premises, showing the date of receipt, the name of the person from whom received, and the kind and quantity of each material received: Where commercial invoices or bills of lading contain the required information, a separate record will not be required. Such record, commercial invoices or bills of lading shall be kept available for inspection by internal revenue officers at all times during regular business hours."

(W) Section 221.357 is amended to read as follows:

§ 221.357 *Record of materials received.* Where wine or distilling material is received in bond from a bonded wine cellar for distillation, the distiller will record the receipt thereof on Form 15 and will complete Form 703, prepared by the consignor, in accordance with the instructions on the form. Where wine, or brandy for redistillation, is received the alcoholic content thereof will also be entered on Form 15.

(67A Stat. 637; 26 U. S. C. 5197)

(X) Section 221.362 is amended by inserting at the end of the section the following new sentences: "Where two or more types of distilling material are produced, or received, or processed in the same month, a separate page of part 1 of Form 15 shall be used to report each type of material. Each page shall bear



a notation identifying the type of distilling material reported thereon."

(Y) Section 221.371 is revoked.

(Z) Section 221.372 is revoked.

(AA) Section 221.373 is revoked.

(BB) Section 221.382 is amended by inserting in the second sentence, immediately after the phrase "until gauged by", the phrase ", or under the supervision of,".

(CC) Section 221.383 is revoked.

(DD) Section 221.454 is revoked.

(EE) Section 221.460 is amended by changing the first sentence to read, "Brandy may be received at the distillery for redistillation after the distiller has given notice, in duplicate, to the assistant regional commissioner."

(FF) Section 221.461 is revoked.

(GG) Section 221.462 is amended to read as follows:

§ 221.462 *Action by assistant regional commissioner.* Upon receipt of a notice of intent to receive brandy for redistillation, the assistant regional commissioner will note the penal sum of the distiller's bond on both copies of the notice, retain one copy and furnish one copy to the storekeeper-gauger at the distiller's premises. The assistant regional commissioner will advise the storekeeper-gauger of any subsequent change in the penal sum of the distiller's bond.

(68A Stat. 634; 26 U. S. C. 5194)

(HH) Section 221.463 is amended as follows:

(1) By striking the first and second sentences and inserting in lieu thereof the following new sentence, "When the distiller desires to receive brandy for redistillation, he shall prepare Form 236, properly modified for that purpose, covering the transfer of such spirits."

(2) By striking the third sentence, which begins "Where the consignor", and inserting in lieu thereof the following new sentences: "Where the consignor distillery or warehouse is located in the same region, an original and five copies of the Form 236 will be prepared and delivered to the storekeeper-gauger. An original and six copies of the form will be prepared if the consignor distillery or warehouse is located in a different region."

(3) By striking the fourth sentence, which begins "The storekeeper-gauger", and inserting in lieu thereof the following new sentence: "If the storekeeper-gauger finds that the penal sum of the distiller's bond is sufficient to cover the redistillation of the brandy described in the Form 236, he will execute his certificate on all copies of the form and return all copies to the distiller."

(4) By striking from the last sentence the phrase "and one copy of the approved special application".

(II) Section 221.466 is amended by inserting, immediately after the first sentence, the following new sentence: "Brandy for redistillation shall be mingled with wine or fermented material, or transferred to the charger or sump, or introduced into tanks in the distilling system only under the supervision of a storekeeper-gauger."

(JJ) Section 221.469 is amended to read as follows:

§ 221.469 *Gauge of brandy.* Upon receipt of application, Form 236, the distiller, when he desires to make shipment, will give a copy of Form 236 to the storekeeper-gauger and furnish a complete description of the brandy to be shipped. Where the brandy is removed by pipeline to a contiguous distillery, it may be gauged in weighing tanks either before removal or upon receipt: *Provided*, That where the brandy is removed to a contiguous distillery operated by the same distiller, or an affiliate or subsidiary of the distiller, it may be gauged by volume in accurately calibrated tanks on the premises of the transferring distiller. The storekeeper-gauger will verify the distiller's gauge, as provided in § 221.541. The distiller will prepare his report of gauge on Form 1520. An original and four copies will be prepared for intraregion shipments and an original and five copies for interregion shipments. The marking of containers will be made in accordance with §§ 221.549 to 221.556 insofar as applicable, and in addition to required transfer-in-bond markings for containers of brandy removed for redistillation there will be stenciled thereon the words, "For Redistillation". The distiller will note on all gauge reports covering removal of brandy for redistillation the words, "For Redistillation". Form 236 and 1520 will be disposed of in accordance with § 221.611 for intraregion transfers and § 221.619 for interregion transfers.

(68A Stat. 634; 26 U. S. C. 5194)

(KK) Section 221.470 is amended by changing the comma following the phrase "For Redistillation" in the second sentence to a period and striking the remainder of the sentence.

(LL) Section 221.495 is amended as follows:

(1) By striking from the end of the first sentence the phrase "shown in paragraphs (a), (b), and (c) of this section:" and inserting in lieu thereof "follows:".

(2) By striking the phrase "three pints" where it appears in paragraphs (a) and (b) and inserting in lieu thereof the phrase "two quarts".

(MM) Section 221.504 is amended as follows:

(1) By inserting immediately after the headnote a new sentence reading, "All samples of finished brandy must be taken under the supervision of the storekeeper-gauger."

(2) By striking from the first sentence the phrase "Samples of brandy may", and inserting in lieu thereof the phrase "Samples of unfinished brandy, including those from tanks, shall".

(3) By striking the second sentence, which begins "All samples,".

(4) By inserting in the third sentence, immediately after the phrase "taking of the samples", the phrase "(other than those taken by means of approved mechanical sampling devices)".

(5) By inserting at the end of the section the following new sentence: "Where new equipment is being tested or where samples are desired at infrequent intervals and are non-routine, the storekeeper-gauger may supervise the taking of samples of unfinished spirits."

(NN) Section 221.507 is amended by changing the first sentence to read, "The storekeeper-gauger shall keep on Form 1615, in quadruplicate, a record of all taxable samples removed."

(OO) Section 221.518 is amended by inserting, immediately following the phrase "in tank cars", the phrase "or tank trucks".

(PP) Section 221.522 is amended by striking from the first sentence the phrase "gauge the same" and inserting in lieu thereof the phrase "gauge or supervise the gauging of same".

(QQ) Section 221.529 is amended as follows:

(1) By inserting in the first sentence, immediately after the phrase "assign an officer to gauge", the phrase "or supervise the gauging of".

(2) By striking from the last sentence the phrase "gauge the brandy", and inserting in lieu thereof "perform such duty".

(RR) Section 221.530 is amended by inserting in the second sentence, immediately after the phrase "storekeeper-gauger to gauge", the phrase "or supervise the gauging of".

(SS) Section 221.541 is amended as follows:

(1) By inserting, immediately after the headnote the following new sentence: "All brandy drawn from receiving tanks (a) for taxpayment and removal by pipeline or in tank cars or tank trucks, or (b) into packages which are to be taxpaid immediately on being filled or after a period of temporary storage in the brandy deposit room, or (c) into packages, tank cars, or tank trucks, which are to be taxpaid on the original gauge from any internal revenue bonded warehouse, or (d) into tank cars or tank trucks for exportation, shall be carefully gauged by the storekeeper-gauger who will also record the details of the gauge and other required information on the report of gauge, Form 1520."

(2) By changing the first sentence to read as follows: "Brandy drawn from receiving tanks for all other purposes will be carefully gauged by the distiller, under the supervision of the storekeeper-gauger by weighing, except as provided by § 221.542, and proofing the brandy in accordance with this subpart and the Gauging Manual (part 186 of this title) and the details thereof will be entered by the distiller on the report of gauge Form 1520."

(3) By inserting immediately after the first sentence the following new sentence: "The storekeeper-gauger shall in every instance verify the proof (before and after reduction) of the brandy in the receiving tank and determine, either by weight or by volume, the contents of each receiving tank before and after any brandy is withdrawn therefrom. Where brandy is gauged by the distiller for removal in tank cars, tank trucks, or by pipeline, the storekeeper-gauger shall personally verify the net weight or wine gallons, proof, and tax gallons and enter his name and title on all copies of the Form 1520."

(4) By inserting in the second sentence immediately after the word "Entries", the words "on Form 1520".



(5) By changing the third sentence to read, "The proof of distillation of the brandy gauged shall be noted on the Form 1520 in every instance."

(6) By striking from the fourth sentence, which begins "The proof of", the word "being" and inserting in lieu thereof the phrase "the brandy is".

(7) By striking from the seventh sentence, which begins "Where the proof", the phrase "this title (Gauging Manual)" and inserting in lieu thereof the phrase "the Gauging Manual".

(8) By striking from the ninth sentence, which begins "In any such case", the phrase "shall make notation on Form 1520 that the spirits were reduced to a whole degree of proof or, if they were not so adjusted, the fractional degree of proof at which withdrawn." and inserting in lieu thereof the phrase "shall show on Form 1520 the whole or fractional degree of proof at which the brandy is withdrawn."

(9) By striking from the last sentence the phrase "for shipment".

(TT) By inserting two new sections reading as follows, immediately after § 221.541:

§ 221.541a *Storekeeper-gauger to check distiller's gauge.* In every instance where the removal gauge of brandy is performed and reported by the distiller, the storekeeper-gauger shall compare his determination of the total quantity withdrawn from the receiving tank with the total quantity reported as withdrawn by the distiller and where the brandy is drawn into packages the storekeeper-gauger shall also, from time to time, verify the tares, proofs, gross weights, and tax gallonages as determined by the distiller. Where the storekeeper-gauger finds, as the result of his sampling of a gauge made by the distiller, or upon comparing his gauge of a receiving tank with the total reported withdrawn by the distiller, significant discrepancies in the distiller's entry record, or the marks and brands required to be placed on any container, the distiller shall make such corrections of the gauge, the entry record, and the marks and brands as may be required by the storekeeper-gauger to insure that the gauge, the entry record, and the marks and brands are correct.

(68A Stat. 633, 639; 26 U. S. C. 5192, 5193, 5212)

§ 221.541b *Entry for subsequent taxpayment on original gauge.* (a) Where the distiller desires to draw brandy from receiving tanks for entry into an internal revenue bonded warehouse and subsequent taxpayment on the original gauge, he shall notify the storekeeper-gauger of such intention in writing in order that the gauge and report of such brandy may be made by the storekeeper-gauger. The notice, which shall be prepared on the distiller's letterhead, and be signed by the distiller or a designated attorney-in-fact, shall contain the following information:

(1) A statement that the brandy identified therein is to be entered for deposit and subsequent taxpayment on the original gauge;

(2) The registry number and location of the warehouse in which the brandy is to be entered;

(3) The kind of brandy;

(4) The proof of distillation;

(5) The kind of cooperage, or, if not to be packaged, the means of removal; and

(6) The approximate quantity to be removed.

(b) The storekeeper-gauger will note on all copies of Form 1520 covering the gauge of such brandy, "Taxpay on original gauge." The notice will be securely attached to the copy of the Form 1520 retained by the storekeeper-gauger at the distillery.

(68A Stat. 633, 634, 639, 647; 26 U. S. C. 5193, 5194, 5212, 5245)

(UU) Section 221.542 is amended as follows:

(1) By striking from the first sentence the phrase "to a bonded warehouse" and inserting in lieu thereof the phrase "to an internal revenue bonded warehouse".

(2) By inserting in the proviso in the first sentence, immediately after the phrase "for use in wine production", the phrase "and brandy transferred by pipeline to an internal revenue bonded warehouse or distillery operated by the distiller, or an affiliate or subsidiary of the distiller, on contiguous premises."

(3) By striking from the second sentence the word "storekeeper-gauger" and inserting in lieu thereof "distiller".

(VV) Section 221.544 is amended to read as follows:

§ 221.544 *For storage in brandy deposit room.* When brandy to be temporarily stored in the brandy deposit room is gauged, the storekeeper-gauger or distiller (as provided in § 221.541) will prepare a report thereof on Form 1520, in triplicate. The storekeeper-gauger will forward one copy of the form to the assistant regional commissioner on the same day the brandy is gauged, deliver or return one copy to the distiller, and retain the remaining copy as a permanent record in his office.

(WW) Section 221.547 is amended by striking the phrase "the storekeeper-gauger will prepare and dispose of" and inserting, immediately after the phrase "the reports of gauge, Form 1520," the phrase "will be prepared and disposed of".

(XX) Section 221.549 is amended to read as follows:

§ 221.549 *General.* Any cask or package which contains or has on its interior or exterior any substance that will prevent the correct ascertainment of tare shall not be used. The tare or weight of empty packages will be determined immediately prior to filling by the person responsible for the gauge: *Provided*, That the tare of a number of packages may be ascertained and marked thereon before any are filled but not exceeding the number which are to be filled the same day or the following day. The tare of each package will be marked thereon as soon as it is ascertained. If the packages are not to be filled until the following day, they must be locked in the receiving or brandy de-

posit room after being weighed and marked. All packages of brandy, when filled, shall be further marked and branded as provided by this subpart, and where such packages are tax paid, the prescribed stamps will be affixed thereto and cancelled in the manner prescribed in § 221.567.

(68A Stat. 633, 634, 639; 26 U. S. C. 5193, 5194, 5212)

(YY) By inserting a new section reading as follows, immediately preceding § 221.556:

§ 221.555a *Product identification.* The distiller shall be responsible for correctly identifying brandy at the time of its gauge for removal from receiving tanks and for the accuracy of prescribed marks and brands.

(64 Stat. 633, 634; 26 U. S. C. 5193, 5194)

(ZZ) Section 221.557 is amended by striking from the last sentence the phrase "except the instruments for proofing the brandy".

(AAA) Section 221.558 is amended as follows:

(1) By changing the first sentence to read, "The storekeeper-gauger shall balance the scales before the weighing of packages, either empty or filled, is commenced, and will frequently test the accuracy of such scales by means of test weights provided in accordance with § 221.113."

(2) By striking the second sentence.

(BBB) Section 221.559 is amended as follows:

(1) By inserting, immediately after the headnote, a new sentence, reading, "The proof of brandy shall be determined in accordance with the instructions set forth in the Gauging Manual (Part 186 of this title)."

(2) By changing the first sentence to read, "The storekeeper-gauger shall determine, or verify, as the case may be, the proof of all brandy gauged."

(3) By striking the second sentence, which begins, "The storekeeper-gauger will".

(CCC) Section 221.560 is revoked.

(DDD) Section 221.589 is amended as follows:

(1) By changing the first sentence to read: Where the distiller operates an internal revenue bonded warehouse on the distillery premises and brandy produced at the distillery is to be entered for deposit in such warehouse, the brandy, shall, as authorized by § 221.515, be drawn into approved containers, gauged, marked, and branded, and then immediately deposited in such warehouse, or, in the case of pipeline transfers, gauged and deposited in the warehouse tanks in the manner provided in § 221.542.

(2) By striking from the second sentence the word "immediate".

(3) By inserting in the fourth sentence, immediately after the phrase "The storekeeper-gauger", the phrase "or distiller, as required by § 221.541."

(4) By changing the last sentence to read, "On completion of the form, the distiller will execute his entry of the brandy for deposit."

(EEE) Section 221.593 is amended as follows:



(1) By striking the third sentence, which begins "The storekeeper-gauger".

(2) By striking from the last sentence the word "direct".

(FFF) By inserting a new section, reading as follows, immediately after § 221.596:

§ 221.596a *Forms 236 originating at consignor premises.* Where brandy is to be transferred to and entered for deposit in an internal revenue bonded warehouse operated by the distiller, or an affiliate or subsidiary of the distiller, in the same region and the receiving warehouse has on file a bond in the maximum penal sum of \$200,000, the consignee warehouseman may designate an agent or employee of the consignor distiller as an attorney-in-fact to execute Form 236 for the consignee warehouseman. The consignee warehouseman shall file letter application with the assistant regional commissioner for permission to establish such procedure, together with power of attorney on Form 1534, in triplicate, executed as provided in § 221.173, authorizing an individual at the consignor premises to execute Form 236 for the consignee warehouseman. If the assistant regional commissioner approves the application, he shall so notify the applicant and furnish the storekeeper-gauger at the consignor premises a copy of the approved Form 1534 on which he has noted the fact that the consignee warehouse has on file a bond in the maximum penal sum. The assistant regional commissioner will advise the storekeeper-gauger of any subsequent change in the penal sum of the consignee's bond. The designated attorney-in-fact may thereafter execute Forms 236 covering transfers to the designated warehouse in the manner provided in § 221.595 and the storekeeper-gauger at the distillery may approve such Forms 236.

(GGG) Section 221.598 is amended as follows:

(1) By striking from the third sentence, which begins, "The details of", the word "storekeeper-gauger" and inserting in lieu thereof the word "distiller".

(2) By inserting in the last sentence, immediately after the phrase, "the storekeeper-gauger", the phrase "or distiller, as required by § 221.173."

(HHH) Section 221.606 is amended by striking the phrase "Upon receiving an order to gauge brandy to be" and inserting in lieu thereof the phrase "When brandy is to be".

(III) Section 221.607 is amended as follows:

(1) By striking from the first sentence the phrase "in the immediate presence" and inserting in lieu thereof the phrase "under the supervision".

(2) By striking the second and third sentences.

(3) By changing the fourth sentence, which begins "The officer", to read, "The level of the brandy above or below the full mark for each compartment, and the temperature of the brandy at filling will be entered on Form 1520; for example: 'Filled 2 inches above full mark at 80 degrees F.'"

(4) By inserting, immediately after the fourth sentence, a new sentence,

reading, "The storekeeper-gauger will seal the tank car or tank truck as soon as it is filled and will note on Form 236 the serial numbers of the seals used."

(5) By striking the last sentence.

(JJJ) By inserting a new section, reading as follows, immediately after § 221.613:

§ 221.613a *Form 236 originating at consignor premises.* Where brandy is to be transferred to and entered for deposit in an internal revenue bonded warehouse operated by the distiller, or an affiliate or subsidiary of the distiller, located in a different region and the receiving warehouse has on file a bond in the maximum penal sum of \$200,000, the consignee warehouseman may designate an agent or employee of the consignor distiller as an attorney-in-fact to execute Form 236 for the consignee warehouseman. The consignee warehouseman shall file letter application with the assistant regional commissioner for permission to establish such procedure, together with power of attorney on Form 1534, in quadruplicate, executed as provided in § 221.173, authorizing an individual at the consignor premises to execute Form 236 for the consignee warehouseman. If the assistant regional commissioner approves the application, he shall so notify the applicant and furnish the assistant regional commissioner of the region in which the consignor distillery is located two copies of the approved Form 1534 on which he has noted the fact that the consignee warehouse has on file a bond in the maximum penal sum. The assistant regional commissioner for the consignee premises will advise the assistant regional commissioner for the consignor premises of any subsequent change in the penal sum of the consignee's bond. The assistant regional commissioner of the consignor premises shall furnish one copy of the approved Form 1534 to the storekeeper-gauger at the consignor premises. The designated attorney-in-fact may thereafter execute Forms 236 covering transfers to the designated warehouse in the manner provided in § 221.612 and the storekeeper-gauger in charge at the distillery may approve such Forms 236.

(KKK) Section 221.615 is amended as follows:

(1) By striking from the third sentence, which begins "The details", the phrase "by the storekeeper-gauger".

(2) By striking from the last sentence the word "storekeeper-gauger" and inserting in lieu thereof the word "distiller".

(LLL) Section 221.622 is amended as follows:

(1) By striking from the second sentence, which begins "Where no", the phrase "to gauge and release" and inserting in lieu thereof the phrase "to supervise the gauging of and to release".

(2) By striking from the fifth sentence, which begins "The storekeeper-gauger", the word "storekeeper-gauger" and inserting in lieu thereof the word "distiller".

(3) By inserting, immediately after the fifth sentence, a new sentence, reading, "The distiller will deliver the forms to the storekeeper-gauger."

(MMM) Section 221.626 is amended by striking from the last sentence the word "storekeeper-gauger" and inserting in lieu thereof the word "distiller".

(NNN) Section 221.632 is amended as follows:

(1) By inserting in the first sentence, immediately after the phrase "in tank cars" the phrase "or tank trucks".

(2) By striking from the first sentence the phrase "with the assistant regional commissioner".

(3) By inserting in the last sentence, immediately after the phrase "The tank cars" the phrase "or tank trucks".

(OOO) Section 221.666 is amended by inserting, immediately after the phrase "and storekeeper-gaugers" the phrase "and distillers".

(PPP) Section 221.713 is amended by striking from the last sentence the word "storekeeper-gauger's".

(QQQ) Section 221.727 is amended by changing the first sentence to read, "The outgoing distiller will complete his record, Form 15, as to the transfer to the successor of materials in process, and as to production and removal from the distillery of all brandy produced by him."

(RRR) Section 221.728 is amended as follows:

(1) By striking from the first sentence the phrase "materials, including those in process, received" and inserting in lieu thereof the phrase "materials in process received".

(2) By inserting in the last sentence, immediately after the words "If materials", the words "in process".

(SSS) Section 221.743 is amended by inserting in the first sentence, immediately after the phrase "all materials", the phrase "in process".

(TTT) Section 221.771 is amended by inserting, immediately after the phrase "the storekeeper-gaugers", the phrase "and distillers".

(UUU) By inserting a new section, reading as follows, immediately after § 221.773:

§ 221.773a *Operating records.* Every proprietor of a fruit distillery who has distillates from two or more types of materials in process at the same time shall maintain such operating records in support of Form 15 as will permit the brandy to be traced through the various processes from the initial process of distillation to the deposit of the finished brandy in the receiving tanks. Such operating records shall show, by kind, proof, and proof gallons, the deposits in singlings and unfinished brandy tanks, charges to the various stills for redistillation, redeposits in unfinished brandy tanks, and other movements of the brandy. The operating records required by this section shall be kept available for inspection by internal revenue officers for not less than three years.

(68A Stat. 637; 26 U. S. C. 5197)

(VVV) Section 221.791 is amended by striking the phrase "No mash," and inserting in lieu thereof the phrase "Except as may be authorized in connection with the conduct of another business approved under the provisions of § 221.61, no mash,".



PAR. 3. 26 CFR (1954) Part 225, Warehousing of Distilled Spirits, is amended as follows:

(A) Section 225.117 is amended by inserting in the fifth sentence, immediately after the phrase "in a concrete foundation", the phrase "at least twelve inches thick and".

(B) Section 225.261 is amended by striking from the first sentence the word "duplicate" and inserting in lieu thereof the word "triplicate".

(C) Section 225.262 is amended by striking the word "duplicate" where it appears in the first and second sentences and inserting in lieu thereof the word "triplicate".

(D) Section 225.316 is amended by striking from the first sentence the word "and" and inserting in lieu thereof a comma and by inserting at the end of the sentence the phrase "and one copy to the storekeeper-gauger in charge at the warehouse."

(E) By inserting, immediately after § 225.355, the following new section:

§ 225.355a *Exception for windows.* Notwithstanding the provisions of § 225.355, assistant regional commissioners may, pursuant to letter application, authorize warehouse windows to be left open at night or on non-work days for necessary ventilation if, in the opinion of the assistant regional commissioner, the watchman service and lighting of the premises are adequate and other conditions are such that the open windows will not jeopardize the revenue.

(F) Section 225.373 is amended by striking from the first sentence the word "immediate".

(G) Section 225.376 is amended by striking from the last sentence the phrases "or spirits intended for exportation in tank cars," and "or For Exportation,".

(H) Section 225.377 is amended by striking the period at the end of the section and inserting in lieu thereof a colon and the following proviso: "Provided, That spirits of 190 degrees or more of proof, produced during different distilling seasons and years which are otherwise homogeneous will be presumed to be homogeneous and may be mingled in storage tanks but such spirits may not be bottled in bond."

(I) Section 225.412 is amended to read as follows:

§ 225.412 *Determining date of original entry.* Where distilled spirits are deposited in a warehouse storage tank on different dates, each lot so deposited and mingled shall retain its date of original entry for the purpose of determining the period of storage in bond and withdrawals shall be considered to be made on a first-in first-out basis.

(J) Section 225.424 is amended by adding at the end thereof the following new sentence: "Where distilled spirits are deposited and mingled in a warehouse storage tank as provided in § 220.377, each lot so deposited shall retain its date of original entry for the purpose of determining the period of storage in bond and withdrawals shall be considered to be made on a first-in first-out basis."

(K) Section 225.565 is amended to read as follows:

§ 225.565 *Withdrawal on original gauge.* Distilled spirits in packages, tank cars, and tank trucks filled from internal revenue bonded warehouse storage tanks may be withdrawn from an internal revenue bonded warehouse on the original gauge. Except as providing in § 225.491, distilled spirits in packages, tank cars, or tank trucks, filled at a distillery after September 30, 1955, may be withdrawn from an internal revenue bonded warehouse on the original gauge only if the entry gauge was made by a storekeeper-gauger pursuant to notification from the distiller that the spirits would be taxpaid on the original gauge, and the deposit forms for such spirits bear the notification "Taxpay on the original gauge." In such circumstances the spirits must be taxpaid on the original gauge unless permission for a regauge is first obtained from the assistant regional commissioner.

(L) Section 225.584 is amended to read as follows:

§ 225.584 *Addition of burnt sugar or caramel.* Where brandy is found to be unmerchantable owing to a deficiency in color, a small quantity of burnt sugar or caramel may be added to the brandy, either in packages or in the bulk gauging tank, after the brandy has been regauged for taxpayment and prior to the affixing of the wholesale liquor dealer's stamps to the packages or removal of the brandy from the bulk gauging tank. Burnt sugar or caramel may not be so added to any spirits other than brandy. The burnt sugar or caramel added to brandy shall not contain any substantial quantity of sugar which has not been caramelized, or possess any material sweetening properties. When the warehouseman desires to add burnt sugar or caramel to brandy he must file application in duplicate with the storekeeper-gauger in charge, showing the serial numbers of the packages or identifying the gauge tank, the name of the producing distillery, and the necessity for the addition of the burnt sugar or caramel to the brandy. If the application is in order the storekeeper-gauger in charge will approve the application and permit the addition, under his supervision, of the burnt sugar or caramel. The original copy of the approved application will be retained by the storekeeper-gauger and the duplicate returned to the applicant. Packages containing brandy to which burnt sugar or caramel has been added, in addition to all other marks and brands required by this part, shall be branded with the letters "B. S. A." A similar notation shall be made on the regauge form covering brandy to which caramel has been added in the bulk regauging tank.

(68A Stat. 607, 639; 26 U. S. C. 5025, 5212)

(M) Section 225.632 is amended by striking from the ninth sentence, which begins "After the packages", the phrase "kind of cooperage,".

(N) By inserting, immediately following § 225.734, the following new section:

§ 225.734a *Forms 236 originating at consignor premises.* Where spirits are to be transferred in bond to an internal revenue bonded warehouse operated by the warehouseman, or an affiliate or subsidiary of the warehouseman, in the same region and the receiving warehouse has on file a bond in the maximum penal sum of \$200,000, the consignee warehouseman may designate an agent or employee of the consignor warehouseman as an attorney-in-fact to execute Form 236 for the consignee warehouseman. The consignee warehouseman shall file letter application with the assistant regional commissioner for permission to establish such procedure, together with power of attorney on Form 1534, in triplicate, executed as provided in § 225.163, authorizing an individual at the consignor premises to execute Form 236 for the consignee warehouseman. If the assistant regional commissioner approves the application, he shall so notify the applicant and furnish the storekeeper-gauger in charge at the consignor premises a copy of the approved Form 1534 on which he has noted the fact that the consignee warehouse has on file a bond in the maximum penal sum. The assistant regional commissioner will advise the storekeeper-gauger of any subsequent change in the penal sum of the consignee's bond. The designated attorney-in-fact may thereafter execute Forms 236 covering transfers to the designated warehouse in the manner provided in § 225.733 and the storekeeper-gauger in charge at the consignor warehouse may approve such Forms 236.

(O) Section 225.735 is amended by inserting, immediately after the fifth sentence, which begins "The storekeeper-gauger", the following new sentence, "If the deposit forms for any of the packages included on the Forms 236 and 1619 bear the notation 'Taxpay on original gauge' the storekeeper-gauger shall identify such packages on the Form 1619 by a similar notation."

(P) Section 225.742 is amended by inserting in the first sentence, immediately after the phrase "for use in the preparation of wine", the phrase "or to transport spirits for exportation,".

(Q) By inserting, immediately after § 225.753, the following new section:

§ 225.753a *Forms 236 originating at consignor premises.* Where spirits are to be transferred in bond to an internal revenue bonded warehouse operated by the warehouseman, or an affiliate or subsidiary of the warehouseman, located in a different region and the receiving warehouse has on file a bond in the maximum penal sum of \$200,000, the consignee warehouseman may designate an agent or employee of the consignor warehouseman as an attorney-in-fact to execute Form 236 for the consignee warehouseman. The consignee warehouseman shall file letter application with the assistant regional commissioner for permission to establish such procedure, together with power of attorney on Form 1534, in quadruplicate, executed as provided in § 225.163, authorizing an individual at the consignor premises to execute Form 236 for the consignee



warehouseman. If the assistant regional commissioner approves the application, he shall so notify the applicant and furnish the assistant regional commissioner of the region in which the consignor warehouse is located two copies of the approved Form 1534 on which he has noted the fact that the consignee warehouse has on file a bond in the maximum penal sum. The assistant regional commissioner for the consignee premises will advise the assistant regional commissioner for the consignor premises of any subsequent change in the penal sum of the consignee's bond. The assistant regional commissioner of the consignor premises shall furnish one copy of the approved Form 1534 to the storekeeper-gauger at the consignor premises. The designated attorney-in-fact may thereafter execute Forms 236 covering transfers to the designated warehouse in the manner provided in § 225.752 and the storekeeper-gauger in charge at the consignor warehouse may approve such Forms 236.

(R) Section 225.770 is amended by striking from the third sentence, which begins "Spirits for redistillation", the phrase "an approved application" and inserting in lieu thereof the phrase "Form 236".

(S) Section 225.771 is amended as follows:

(1) By striking from the first sentence the phrase "and the copy of the special application authorizing the removal,".

(2) By striking the second sentence.

(3) By striking from the third sentence the word "He" and inserting in lieu thereof the words "The storekeeper-gauger".

(4) By striking from the eleventh sentence which begins "The storekeeper-gauger will note", the comma in the phrase "For Redistillation," and inserting in lieu thereof a period and striking the remainder of the sentence.

(5) By striking the last sentence.

(T) Section 225.781 is amended by changing item (e) to read, "in tank cars or tank trucks filled at the distillery or from warehouse storage tanks,".

(U) Section 225.791 is amended by striking the phrase "need not be accompanied by an export bond" and inserting in lieu thereof the phrase "will be submitted to the storekeeper-gauger in charge".

(V) Section 225.797 is amended as follows:

(1) By changing the headnote to read "Approval of bond and application by assistant regional commissioner."

(2) By inserting in the last sentence, immediately after the phrase "the assistant regional commissioner shall" the phrase "except where the application is submitted to the storekeeper-gauger in charge,".

(W) By inserting, immediately following § 225.797, a new section reading as follows:

§ 225.797a *Approval of application by storekeeper-gauger.* Where the owner of the spirits has on file with the assistant regional commissioner a continuing bond on Form 657 or Form 658 and, pursuant to § 225.791, the application is sub-

mitted to the storekeeper-gauger in charge, that officer shall, if the owner and proprietor of the warehouse have complied with the law and this part and the application is complete in all respects, execute the permit for removal and transportation of the spirits on all copies of Form 206.

(68A Stat. 647; 26 U. S. C. 5247)

(X) Section 225.798 is amended by striking from the first sentence the phrase "Upon receipt by the storekeeper-gauger of Form 206 with the permit executed by the assistant regional commissioner," and inserting in lieu thereof the phrase "Upon notification by the storekeeper-gauger that the permit to export has been executed,".

(Y) Section 225.817 is amended by striking from the last sentence the phrase "the application need not be accompanied by a bond if the applicant has on file with the assistant regional commissioner an approved continuing bond (Form 657 or 658) in a sufficient penal sum." and inserting in lieu thereof the phrase "when an approved continuing bond (Form 657 or 658), in a sufficient penal sum, is on file in the assistant regional commissioner's office, applications covering exportations thereunder will be submitted to the storekeeper-gauger in charge."

(Z) Section 225.818 is amended as follows:

(1) By changing the headnote to read "Approval of bond and application by assistant regional commissioner."

(2) By striking the second sentence, which begins "In cases where,".

(3) By inserting in the last sentence, immediately after the phrase "the assistant regional commissioner shall," the phrase "except where the application is submitted to the storekeeper-gauger,".

(AA) By inserting, immediately after § 225.818, the following new section:

§ 225.818a *Approval of application by storekeeper-gauger.* Where the owner of the spirits has on file with the assistant regional commissioner a continuing bond on Form 657 or Form 658 and, pursuant to § 225.817, the application is submitted to the storekeeper-gauger in charge, that officer shall, if the owner and the proprietor of the warehouse have complied with the law and this part and the application is complete in all respects, execute the permit for removal and transportation of the spirits on all copies of Form 206.

(68A Stat. 647; 26 U. S. C. 5247)

(BB) Section 225.819 is amended by striking from the first sentence the phrase "Upon receipt of Form 206, approved by the assistant regional commissioner," and inserting in lieu thereof the phrase "Upon approval of Form 206,".

(CC) By inserting, immediately after § 225.838, the following new section:

§ 225.838a *Storekeeper-gauger's account with export bonds, Forms 657 and 658.* The storekeeper-gauger in charge of a warehouse having on file an approved continuing export bond on Form 657 or 658 will keep an account on Form

1688 of such bond in the manner prescribed by § 225.838. The assistant regional commissioner will, upon approving a bond on Form 657 or 658, furnish the storekeeper-gauger a Form 1688 on which all information in the heading has been inserted and will, from time to time as circumstances indicate, advise the storekeeper-gauger of credits which may be made in the account.

(68A Stat. 647; 26 U. S. C. 5247)

(DD) Section 225.843 is amended as follows:

(1) By inserting, immediately after the phrase "in any internal revenue", the word "bonded".

(2) By inserting, immediately after the phrase "to tank cars", the phrase "or tank trucks".

(EE) Section 225.844 is amended as follows:

(1) By striking from the first sentence the phrase "pursuant to the above provisions of law," and inserting in lieu thereof the phrase "or tank trucks,".

(2) By inserting in the second sentence, immediately after the phrase "The tank cars", the phrase "or tank trucks".

(3) By inserting in two places in the third sentence, immediately after the words "tank car", the words "or tank truck".

(4) By inserting at the end of the section a new sentence reading, "The use of tank trucks for exportation of distilled spirits shall be subject to the applicable provisions of §§ 225.740 to 225.743."

(FF) Section 225.845 is amended as follows:

(1) By striking from the first sentence the phrase "assistant regional commissioners with whom export withdrawal entries are filed" and inserting in lieu thereof the phrase "storekeeper-gaugers in charge of premises from which such spirits are withdrawn".

(2) By striking from the last sentence the phrase "in typewritten form on official letterheads," and inserting in lieu thereof the phrase "on Form 2177."

(3) By adding at the end of the section the following new sentence: "Form 2177 may also be issued for distilled spirits removed to a foreign-trade zone, in which case the number and location of the foreign-trade zone will be shown on the form in lieu of the name of the foreign country."

(GG) Section 225.862 is amended by changing the last sentence to read as follows: "Insofar as applicable the procedure prescribed in §§ 225.817 to 225.819 relating to the transfer and withdrawal of spirits bottled in bond for exportation, is hereby extended to cover the transfer and withdrawal of bottled spirits free of tax for use as supplies on vessels or aircraft, except that where the spirits are for use on aircraft, application on Form 206 shall be executed in quintuplicate and shall show the name of the airline operating the aircraft and the name and location of the airport from which the aircraft will depart in international travel, and one copy of the Form 206 shall be marked "Consignee's copy."

(HH) Section 225.864 is amended to read as follows:



§ 225.864 *Export entry.* Before the spirits may be laden on the vessel or aircraft, the owner must file Form 206 with the collector of customs and, in the case of spirits withdrawn for use on aircraft, must forward or deliver the copy of Form 206, prepared and marked for the consignee in accordance with the provisions of § 225.862, to the airline company at the airport. The provisions of §§ 225.823, 225.824, 225.826 to 225.828, and 225.865a will be observed insofar as applicable.

(46 Stat. 690 as amended; 19 U. S. C. 1309)

(II) Section 225.865 is amended as follows:

(1) By inserting at the end of the headnote the words "on vessels".

(2) By striking from the first sentence, wherever they appear, the phrases "or aircraft" and "or supplies for aircraft".

(JJ) By inserting, immediately after § 225.865, the following two new sections:

§ 225.865a *Distilled spirits for use as supplies on aircraft.* All distilled spirits withdrawn for use as supplies on aircraft will be consigned to the airline at the airport from which the aircraft will depart in international travel, in care of the collector of customs. Upon receipt of the distilled spirits they will be stored at the airport under customs custody until laden as supplies on aircraft. When an airline desires to withdraw distilled spirits from its stock being held at the airport under customs custody, as supplies for a particular aircraft, a requisition in triplicate will be prepared for presentation to the customs officer. The requisition shall show the flight number, the registry number of the aircraft on which the distilled spirits are to be laden, the date of departure of the aircraft, and the brand, kind, and quantity of distilled spirits. Where the distilled spirits are contained in kits which have been previously prepared while the distilled spirits are under customs custody, the kit number will also be shown on the requisition. Where the kits are not prepared and the distilled spirits are withdrawn for direct lading on aircraft, the requisitions shall be serially numbered in lieu of the insertion of the kit number. When the distilled spirits are withdrawn and laden aboard the aircraft, the lading will be verified by the customs officer by an appropriate stamp or notation on the requisition. One copy of the requisition will be retained by the customs officer who certifies to the lading for attachment to the outgoing manifest. The other two copies will be delivered to the airline which will retain both copies until the return of the flight. In case any distilled spirits are removed from the aircraft upon its return, appropriate notation will be made on both copies of the requisition retained by the airline and one copy will be delivered to the customs officer for attachment to the incoming manifest. The remaining copy will be retained by the airline.

§ 225.865b *Certificate of use for distilled spirits used as supplies on aircraft.* When all of the distilled spirits represented by any Form 206 have been withdrawn from customs custody, and laden and used as supplies on aircraft, the air-

line will prepare a certificate of use on which are itemized all requisitions for such distilled spirits. The certificate shall show the name of the exporter, the entry number, the brand and kind of spirits, and the number of bottles to be accounted for; and, as to each requisition, the requisition (or kit) number, the date laden, the registry number of the aircraft, the country for which the aircraft was cleared, and the number of bottles used. The certificate shall be in substantially the following form:

Name of exporter -----  
Entry No. -----  
Brand and kind of spirits -----  
No. of bottles to be accounted for -----

Number of requisition (or kit No.)	Date of laden	Registry No. of aircraft	Cleared for (country)	Number of bottles used <sup>1</sup>

<sup>1</sup> The number of bottles shown in this column will represent the difference between the number withdrawn for supplies and the number returned unused as shown by the requisition.

#### CERTIFICATE OF USE

I hereby certify that the above described distilled spirits were withdrawn from stock in customs custody and were laden for use as supplies on aircraft as set forth and that the records of the aircraft show such distilled spirits were used outside the continental limits of the United States as supplies on aircraft operated by this company in international travel.

-----  
(Airline company)  
By -----  
-----  
(Capacity)

When the form has been completed as to all distilled spirits laden and used as supplies, the certificate of use will be executed by the authorized representatives of the airline. The form will be presented to the customs officer at the airport who, upon verification with the requisitions previously verified, will certify the form by appropriate notation and execute his certificate of inspection and lading on Form 206, noting thereon exceptions, if any, such as shortages, breakage, etc. The customs officer will forward both copies of Form 206, with the certificate of use attached to the original, to the collector of customs, who will execute his certificate on Form 206 and forward the original, with the certificate of use attached, to the assistant regional commissioner who approved it.

(KK) Section 225.866 is amended by inserting at the end thereof a new sentence reading, "In the case of spirits laden on aircraft, credit will be given at the time the spirits are accounted for in conformity with the requirements of § 225.865b."

(LL) Section 225.877 is amended as follows:

(1) By striking the word "The" at the beginning of the fourth sentence and inserting in lieu thereof the following: "Except where an approved continuing bond on Form 1618, in a sufficient penal sum, is on file in the assistant regional commissioner's office, the".

(2) By inserting at the end of the section the following new sentence: "Where an approved continuing bond on Form 1618 is on file in the assistant regional commissioner's office, the application shall be submitted to the storekeeper-gauger in charge for approval."

(MM) By inserting, immediately after § 225.878, the following new section:

§ 225.878a *Storekeeper-gauger's account with continuing bond, Form 1618.* The storekeeper-gauger in charge of a warehouse having on file an approved continuing bond on Form 1618 covering transfers of liquors to customs manufacturing bonded warehouses will keep an account on Form 1687 of such bond in the manner prescribed by § 225.878. The assistant regional commissioner will, upon approving a bond on Form 1618, furnish the storekeeper-gauger a Form 1687 on which all information in the heading has been inserted and will, from time to time as circumstances indicate, advise the storekeeper-gauger of credits which may be made in the account.

(68A Stat. 604, 679; 26 U. S. C. 5011, 5522)

(NN) By inserting, immediately after § 225.955 the following new section:

§ 225.956 *Bottling a part of a lot for exportation.* A warehouseman may bottle for exportation a part of a lot of spirits dumped for domestic bottling in bond. The application on Form 1515, as required by §§ 225.951 and 225.953, shall be modified to show that the spirits are to be withdrawn for bottling in bond for domestic purposes and for exportation and the quantity of spirits intended for exportation shall be indicated. Upon completion of bottling the storekeeper-gauger will enter the details of the cases on Form 1515 showing, as a separate entry, the serial numbers of those cases of spirits intended for exportation and the proof of the spirits contained therein. The procedure prescribed in §§ 225.950 to 225.955 shall be observed insofar as applicable.

(OO) Section 225.966 is amended by inserting, immediately after the fifth sentence, which begins "Adjusting the proof", a new sentence reading, "When a part of a lot of spirits dumped for domestic bottling-in-bond is to be bottled for exportation, as provided in § 225.956, such quantity may be further reduced in proof and filtered if necessary."

(PP) Section 225.971 is amended by changing the period at the end of the second sentence, which begins, "If the spirits", to a colon and adding the following: "Provided, That where a lot of spirits is deposited in more than one bottling tank, or a part of a lot is transferred to another tank, Form 1515 will be attached to one of the tanks and will be marked to show the serial numbers of the other tanks in which the spirits were deposited. Such other tanks will be marked to show the serial number of the Form 1515 pursuant to which the contents thereof were withdrawn for bottling. The quantity deposited in each bottling tank shall be entered on Form 1515."



(QQ) Section 225.972 is amended as follows:

(1) By inserting, immediately after the second sentence, which begins, "Prior to", the following two new sentences: "Where, as provided in § 225.956, a part of a lot of spirits is to be bottled for exportation, the quantity to be so bottled may be deposited in a separate bottling tank. In such case, the proof and quantity in each tank will be entered on Form 1515."

(2) By changing the period at the end of the third sentence to a colon and adding the following: "Provided, That when the remaining part of a lot of spirits is to be bottled for exportation, as provided in § 225.956, the inlet of the bottling tank may be opened prior to completion of bottling to permit the addition of pure water for reduction in proof of those spirits intended for exportation."

(RR) Section 225.975 is amended by inserting, immediately after the first sentence, the following new sentence: "Where a lot of spirits is bottled in part for domestic purposes and in part for exportation, as provided in § 225.956, the total loss or gain for the combined operation shall be entered on Form 1515."

(SS) Section 225.1060 is amended as follows:

(1) By striking from the first sentence the phrase "the assistant regional commissioner of the region in which the work is to be performed." and inserting in lieu thereof the phrase "the storekeeper-gauger in charge of the warehouse."

(2) By striking from the fourth sentence, which begins "Warehousemen and", the words "Warehousemen and assistant regional commissioners will bear in mind that the" and inserting in lieu thereof the word "The".

(TT) Section 225.1061 is amended to read as follows:

§ 225.1061 *Examination of spirits.* Upon receipt of such application, the storekeeper-gauger in charge at the warehouse will examine the condition of the spirits and verify the data contained in the application.

(UU) Section 225.1062 is amended as follows:

(1) By striking from the first, second, and third sentences the words "assistant regional commissioner" and inserting in lieu thereof the word "storekeeper-gauger".

(2) By striking from the first sentence the word "reconditioning".

(3) By striking from the third sentence the words "Director, Alcohol and Tobacco Tax Division," and inserting in lieu thereof the words "assistant regional commissioner".

(4) By inserting at the end of the section the following new sentence: "The storekeeper-gauger will make a full report of his inspection, and of the action taken on the application, to the assistant regional commissioner."

(VV) Section 225.1065 is amended by striking the last sentence.

(WW) Section 225.1103 is amended as follows:

(1) By striking the last sentence and inserting in lieu thereof the following

new sentences: "Where two or more lots of spirits are deposited in the same storage tank, withdrawals shall be charged in red against the deposit entry (Form 1520) on a first-in first-out basis and when a quantity equivalent to that covered by such deposit entry has been withdrawn or otherwise accounted for the form shall be noted accordingly and shall then be removed to an inactive file. When a storage tank is emptied the storekeeper-gauger shall note on the last deposit entry the date the tank was emptied."

(2) By changing the citation of authority following the section to read "(68A Stat. 644; 26 U. S. C. 5241)."

(XX) Section 225.1126 is amended by striking from the sixth sentence, which begins "The proprietor shall", the phrase "part 2 of Form 52C, in duplicate," and inserting in lieu thereof the phrase "Form 52C (original)".

(YY) Section 225.1140 is amended as follows:

(1) By striking from the first sentence the word "triplicate" and inserting in lieu thereof the word "duplicate".

(2) By striking from the last sentence the words "and one copy".

(3) By striking from the last sentence the word "remaining" and inserting in lieu thereof the word "duplicate".

(ZZ) Section 225.1141 is revoked.

[F. R. Doc. 55-6862; Filed, Aug. 23, 1955; 8:50 a. m.]

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### [ 7 CFR Part 937 ]

[AO-264]

#### CELERY GROWN IN FLORIDA

NOTICE OF RECOMMENDED DECISION AND OPPORTUNITY TO FILE WRITTEN EXCEPTIONS WITH RESPECT TO PROPOSED MARKETING AGREEMENT NO. 124 AND ORDER NO. 37

Pursuant to the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900; 19 F. R. 57), notice is hereby given of the filing with the Hearing Clerk of the recommended decision of the Deputy Administrator, Agricultural Marketing Service, United States Department of Agriculture, with respect to proposed Marketing Agreement No. 124 and Order No. 37, (hereinafter referred to as the "order") regulating the handling of celery grown in the State of Florida, to be effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, 7 U. S. C. 601 et seq.; 68 Stat. 906, 1047), hereinafter called the "act." Interested parties may file exceptions to this recommended decision with the Hearing Clerk, Room 112 Administration Building, United States Department of Agriculture, Washington 25, D. C., not later than the close of business on the twentieth day after publication of this recommended decision in the FEDERAL REGISTER. Exceptions should be filed in quadruplicate.

*Preliminary statement.* The public hearing on the record of which the proposed marketing agreement and marketing order were formulated was held at Winter Haven, Florida, on March 28-31, 1955, pursuant to notice thereof which was published February 26, 1955, in the FEDERAL REGISTER (20 F. R. 1217). Such notice set forth the proposed marketing agreement and order which were sponsored by producers and handlers of celery in the State of Florida, as represented by officials of the Florida Fruit and Vegetable Association.

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

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

(2) The need for the proposed regulatory program to effectuate the declared purposes of the act;

(3) The definition of the commodity and determination of the production area to be affected by the order;

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

(5) The specific terms and provisions of the order including:

(a) Definitions of terms used therein which are necessary and incidental to attain the declared objectives of the act, and including all those set forth in the notice of hearing, among which are those applicable to the following additional terms and provisions;

(b) The establishment, maintenance, composition, powers, duties, and operation of a committee, which shall be the administrative agency for assisting the Secretary in administration of the program;

(c) The authority for the committee to incur expenses and to levy assessments on celery handled;

(d) The authority for establishment of celery marketing research and development projects;

(e) The methods for limiting the grade, size, and quality of celery which may be handled under the order;

(f) The method for fixing the size, capacity, weight, dimensions, or pack of containers which may be used in the packaging, transportation, sale, shipment, or handling of celery;

(g) The prohibition of unfair trade practices or unfair methods of competition in the handling of celery;

(h) The issuance of volume regulations, the methods for establishing prorate bases and the fixing of allotments or modifications thereof;

(i) The methods for establishing reporting requirements with respect to handlers of celery;

(j) Requirements with respect to notice in connection with applications for prorate bases, allotments, and regulations;

(k) The methods for establishing minimum standards of quality and maturity;

(l) The methods for authorizing special regulations applicable to the handling of celery for specified purposes or to specified outlets which may be handled under special regulations that are modifications or amendments to grade, size, and quality regulations;



(m) The necessity for inspection and certification of celery being handled pursuant to the proposed order;

(n) The relaxation of regulation in hardship cases and the methods and procedures applicable thereto;

(6) The requirements of compliance with all provisions of the order and with regulations issued pursuant thereto; and

(7) Additional terms and conditions as set forth in §§ 937.80 through 937.95 and published in the FEDERAL REGISTER (20 F. R. 1217) on February 26, 1955, which are common to marketing agreements and orders.

**Findings and conclusions.** The following findings and conclusions relate to the above stated material issues developed at the aforementioned hearing and they are based on the record of such hearing.

(1) Florida celery is sold in and transported to markets both within and outside the State. Reports on carlot unloads of certain fruits and vegetables for 1952, also for 1953, show marketings of Florida celery in most major United States markets east of the Mississippi. Market news reports and summaries thereof for various seasons, such as 1949 through 1954, issued by the Market News Service of the United States Department of Agriculture, show daily sales prices of Florida celery at shipping point, also weekly price ranges at major terminal markets, such as New York, Chicago, Philadelphia, Pittsburgh, Detroit, and Boston. Daily market news reports for the 1954 season through March 11, 1955, show sales of celery in Cincinnati, Pittsburgh, Baltimore, Detroit, New York, Atlanta, Dallas, Birmingham, St. Louis, Chicago, Cleveland, Boston, Philadelphia, and Kansas City, as well as in Miami, Jacksonville, Tampa, Sanford, Belle Glade, and Sarasota.

Florida celery is transported both by rail and by truck. Total shipments for the 1952-53 Florida crop are estimated as 14,282 carlot equivalents, of which 10,126 cars were shipped by rail and the balance of 4,156 carlots were handled by truck. Similar distribution by rail and truck is shown for other seasons. The above combined rail and truck movement for the 1952-53 season accounts for over ninety percent of the 6,474,000 crates estimated as total Florida celery production for that season. Distribution of Florida celery shipments during the same 1952-53 season was to 40 States and to Canada. The great bulk of Florida celery which is handled commercially is transported to and sold in markets outside the production area. The remainder is sold in or transported to markets within the State.

Florida celery is sold in different ways, but sales usually follow customary patterns. The customary methods of sale are on a cash basis, or on f. o. b. shipping point, delivered sales, or on a consigned basis. Whenever Florida celery is so sold or transported, such transactions in the commodity have a direct influence on the celery market. Handlers of Florida celery, if they successfully maintain a balanced competitive position, must make full and constant use of modern means of communication so that they can keep up with market price changes and supply movements

of Florida celery both within the production area and at market points outside thereof. This constant attention by celery handlers to prices and movement of celery within the State as well as outside thereof is an essential activity of such handlers in seeking the highest return they can get for celery which they have to handle, or in seeking to purchase celery to their own best advantage if they should attempt to obtain additional supplies to fill orders at hand. Every opportunity for advantageous sale is eagerly sought by celery handlers, and advantageous sales are made regardless of whether celery is sold at shipping point, or at destination, or in consuming markets within the State of Florida, or in Atlanta, Birmingham, Boston, Chicago, Detroit, New York, Pittsburgh, or any other market beyond the production area. It is a primary essential in assessing the market outlook and in making sales for successful celery handlers to survey all accessible markets with a view to accepting the most advantageous opportunities and offers to market their product. Such constant attention to the varying shifts in prices and in movement of supplies places Florida celery handlers in positions whereby they can react quickly to such changes whether they occur within the State or outside the State. In turn, the complete and close attention which Florida celery handlers give to changes in prices and in movement of supply help to create the institution referred to as "the celery market." The Florida celery "market" is closely tied together through modern communication so that buyers and sellers both within the State and outside the State know almost simultaneously of price changes or movement of supply which may immediately or subsequently affect Florida celery prices. The market for Florida celery is a combination of all the phenomena that relate to the supply of celery in the producing area, the supply that is available for immediate marketing, the supply for marketing later, the quality of such supply, the supply of celery in competing areas with various ramifications of quality and availability, prices quoted by sellers at shipping point and in receiving markets as well as some other points between, and a large number of additional factors that influence both buyers and sellers in helping them to conclude sales of celery.

The factors which make up the celery market are intermingled and interdependent as between shipping point and terminal markets. Shifts in the immediate supply of Florida celery available at shipping point causes changes in the prices at shipping point which in turn are soon reflected in prices changes at receiving markets. Also, as price changes occur in sales of Florida celery in receiving markets these price changes are soon reflected at shipping points. For example, if weather at shipping points turns cool, both buyers and sellers may, and frequently do, change their judgments with respect to supplies that are available or are about to become available and price changes occur in local markets. Such price changes in local markets are soon reflected in termi-

nal markets. If weather in the producing area should become hot and remain so, supplies available for harvest may increase faster than buyers and sellers have previously estimated so that the increased available quantities, with possible changes in quality too, may tend to depress prices at shipping point which information soon becomes known in receiving markets where buyers and sellers adjust their offers and acceptances accordingly. Changes in the supply of celery grown in the State of Florida, or any part thereof, have a direct effect on both terminal market and shipping point prices for all celery. Celery grown in any portion of the production area and marketed at any given time competes with other celery being marketed whether such other celery is grown in other portions of or outside of the production area.

Information with respect to daily sales of Florida celery in terminal markets such as Atlanta, New Orleans, Chicago, Cleveland, Pittsburgh, New York, Boston, and Philadelphia is supplied by public agencies, such as the Market News Service of the United States Department of Agriculture, to any and all handlers, as well as other persons, who request it. This information is followed closely by handlers of Florida celery as a means of keeping abreast of general price levels for celery and of price changes as well as supply movements in various markets. Handlers also obtain additional information of similar nature through their trade connections in the various markets and shipping points. Public agencies supply information with respect to prices and shipments of celery from shipping points. This public and private service enables handlers to maintain constant integration of market information between shipping points and receiving markets.

Many shipping point handlers of Florida celery sell to truckers, as well as to their usual receiving market outlets. Sales to truckers frequently are on a cash basis. Some truckers maintain a constant and established business in the sale and transportation of Florida celery between customary shipping points and usual outlets either within the State or outside the State. On the other hand, some truckers may buy and load Florida celery for the stated purpose of transporting to and selling it in a market within the State. However, if they received information that they can sell to better advantage at an out-of-state market such truckers frequently continued to transport such celery to out-of-state markets contrary to their original intent at time of shipping point purchase.

Any sale or transportation of Florida celery whether to markets within the State or to markets outside the State has a direct influence upon other handling of Florida celery being marketed. To leave the sale or transportation of Florida celery within the State free from the authority of the order while having the sale or transportation of the major portion of the Florida celery transported to or sold outside the State subject to regulation thereunder would create chaotic market conditions within the State



which would result in an excessive burden upon the sale and movement of celery to points outside the State and thereby tend to prevent the effectuation of the declared policy of the act.

The phenomena making up the market for Florida celery constitute commerce which is so inextricably intermingled that all sale and transportation of such celery is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce. Therefore, all such transportation and sale of celery grown in the production area should be subject to the authority of the act and of the order which may be issued pursuant thereto.

(2) The declared policy of the Agricultural Marketing Agreement Act of 1937, as amended, is, through the exercise of the powers authorized by such act and incorporated in the order, to establish and maintain such orderly marketing conditions for Florida celery, among other agricultural commodities, in interstate commerce as will establish as the prices to farmers, parity prices.

Florida celery producers have not received parity prices during the past several seasons as shown by Exhibit 29. Since the end of World War II and beginning with the 1946 season, Florida celery producers have received parity prices or better for the winter crop in 3, namely 1946, 1947, and 1949, of the succeeding nine crops and for the spring crop in one, the 1947, season.

The 1954 season average price for the winter crop of Florida celery was 72 percent of the Florida parity equivalent; 1953, 50 percent; 1952, 60 percent; 1951, 74 percent; and 1950, 67 percent. The 1954 season average price for the spring crop of Florida celery was 60 percent of the Florida parity equivalent; 1953, 97 percent; 1952, 78 percent; 1951, 59 percent; and 1950, 61 percent. The relationship of season average prices for Florida celery to Florida parity equivalent prices of such celery is such that the powers granted by the act may be exercised through the order to help producers of such celery obtain parity prices for their commodity. Although some growers receive higher season average prices for their celery than the season average prices shown in Exhibit 29, an equal number or weight received the lower prices, so that the returns of the majority of producers are reflected in the prices of the past several seasons which are below parity.

Marketing conditions for Florida celery should be improved, according to evidence, not only because prices to growers have been below parity, but also because there have been numerous occasions during recent past season when f. o. b. shipping point celery prices were less than marketing costs, which include such direct costs as harvesting, packing, cooling, and sales. The record also shows that marketing conditions can be improved by prohibiting the marketing of discounted grades, sizes, and quality of celery and by limiting the volume of shipments from the production area so that grower prices which are below the cost of marketing may be avoided. Although the record shows that, because

of competitive celery shipments from other areas, there are limits to which volume control may be effective in promoting Florida celery growers' prices that tend toward parity, the Florida celery industry, through the exercise of the powers granted in the order, should be able to limit shipments of excessive volume so that sales at less than cost of marketing may be avoided. The Florida celery industry also needs the marketing assistance which may be obtained through exercise of the powers granted in the order so that by reason of volume control, or grade, size, and quality control, or both, grower prices may be improved toward parity to the extent that it is possible within limitations of the act and the limitations imposed by competition from supplies originating in other producing areas.

F. o. b. shipping point prices of Florida celery vary considerably from week to week throughout the season. Such variations are directly effected by the amount of Florida celery handled and by the grade, size, and quality of such celery. Shipments of excess quantities of Florida celery, also shipments of off grades and discounted sizes, have tended to maintain prices below parity and to prevent the establishment of orderly marketing conditions.

Florida Pascal celery prices, f. o. b. shipping point, in the Sanford-Oviedo-Zellwood section, ranged from \$1.00 to \$3.00 per crate for 2-3 dozen size during the 1954 season (ending in the spring of 1954). Similar fluctuations occurred the same season in that section for four dozen sizes, ranging from \$1.00 to \$2.50 per crate. A comparable range in prices for 6-10 dozen size Pascal in the same section for that season was \$1.25 to \$3.00 per crate.

Shipping point prices in the Belle Glade section were comparable during the same season ranging from \$1.15 to \$3.25 per crate for 2-3 dozen size Pascal, and from \$1.25 to \$2.75 per crate for 6-10 dozen size. In the Sarasota section, comparable f. o. b. shipping point prices during the 1954 season ranged from \$1.15 to \$3.00 per crate for 2-3 dozen size Pascal, and from \$1.50 to \$2.50 per crate for 6-10 dozen size Pascal.

During the same season prices of Golden celery in the Sanford-Oviedo-Zellwood section ranged from \$1.25 to \$3.75 per crate for 3-4 dozen size. Prices for Golden celery in the Belle Glade area followed a similar course and ranged from \$1.15 to \$3.50 per crate for 3-4 dozen size. The low points on the Golden celery prices which were in late April in the Sanford-Oviedo and in the Belle Glade areas occurred at the time when prices for Pascal celery also were at their lowest points of the season.

Total weekly rail and truck shipments of Florida celery during the same season ranged from 423 carlots equivalent during the second week of January 1954 to 792 carlots during the second week of April. Total carlot movement of Florida celery fluctuated more than one hundred cars from one week to another during parts of the season. Shipping point prices were lowest for the season during the periods of heaviest carlot movement.

Similarly, f. o. b. shipping point prices for Florida Pascal and Golden celery fluctuated in much the same manner for the 1949, 1950, 1951, 1952, and 1953 seasons. For example, during the 1952-53 season, f. o. b. shipping point prices of Florida celery in the Sanford-Oviedo-Zellwood section ranged from \$1.25 to \$4.25 per crate for 2-3 dozen size Pascal, and for 3-4 dozen size Golden they ranged from a low of \$1.40 per crate in the third week of March to a high of \$4.50 per crate the first week in May. F. o. b. prices in Belle Glade, the same season ranged from \$1.50 to \$3.00 per 2-3 dozen size for Pascal type and for 2-4 dozen Golden celery they varied from a low of \$1.40 in the third week of February and again in the third week in March to a high of \$3.50 per crate in the second and third weeks in May. The daily and weekly variations in the price of Golden celery closely followed the variation in the price of Pascal celery.

Total weekly carlot shipments by rail and truck during the 1952-53 season ranged from 424 to 737 cars per week, with total weekly shipments varying as much as 180 cars from one week to the next during the height of the shipping season.

During the 1951-52 season f. o. b. shipping point prices for Florida celery in the Sanford-Oviedo section ranged from \$1.35 to \$3.25 per crate for 2-3 dozen size Pascal and for 3-4 dozen size Golden ranged from a low of \$1.75 to a high of \$4.50 per crate. F. o. b. prices for the same sizes of Golden celery in the Belle Glade section followed a similar pattern ranging from \$1.50 to \$4.50 per crate. Prices of Golden celery during that season again closely followed the daily and weekly variations of prices of Pascal celery. Weekly truck and rail shipments of Florida celery during the same season ranged from 434 carlots equivalent to 886 carlots, fluctuating as much as 344 cars from one week to the next.

In the 1950-51 season, f. o. b. prices for Florida celery in the Sanford-Oviedo section ranged from \$1.35 to \$5.00 per crate for 3-4 dozen size Pascal and they averaged from \$1.35 to \$5.50 per crate on 3-4 dozen size Golden. Prices for Pascal celery in the Belle Glade area ranged similarly for the 3-4 dozen size from \$1.50 to \$6.00 per crate. Prices of Golden celery again followed Pascal celery and varied from day to day and week to week approximately the same as Pascal celery prices. Weekly truck and rail shipments of Florida celery ranged from 314 to 836 carlots equivalent, fluctuating as much as 180 carlots from one week to the next.

In the 1949-50 season, f. o. b. prices for Florida celery in the Sanford-Oviedo section ranged from \$1.15 to \$3.50 per crate for 3-4 dozen size Pascal, and for 3-4 dozen size Golden, they ranged from \$1.25 per crate in the third week of March to \$3.75 per crate in the first week of May. Prices of Golden celery fluctuated from day to day and week to week at much the same level as prices of Pascal celery. Total weekly truck and rail shipments of Florida celery ranged that season from 428 to 853 carlot equivalents, fluctuating as much as 270 cars from one week to the next.



In the 1948-49 season, f. o. b. prices of Florida celery in the Sanford-Oviedo section ranged from \$1.50 to \$6.00 per crate for 3-4 dozen size Pascal and for Golden type from a high of \$6.50 per crate for 3-4 dozen size during the second week of January 1949, to a low of \$1.35 during the first week of April. Similarly, prices for the same size of Golden celery in the Belle Glade area ranged from \$4.50 per crate for 3-4 dozen size to a low of \$1.40 per crate the first part of April. Most shippers observed cutting holidays during the period of low grower prices in April 1949. F. o. b. prices of Golden celery closely followed prices of Pascal celery during the 1949 season. Weekly rail and truck shipments of Florida celery ranged from 333 to 657 carlot equivalent, fluctuating as much as 165 cars from one week to the next.

F. o. b. price reports, as shown by Exhibits 13 through 18 and by Exhibit 28, show price distinctions for both Pascal and the Golden celery for each season from 1949 through March 11, 1955. These price distinctions by sizes for both types of celery are shown for both the Sanford-Oviedo and for the Belle Glade sections. Price reports by size for Pascal type celery in the Sarasota area show that prices by size vary from week to week during the season depending upon the relationship of the volume of celery of such sizes to the total volume of celery being shipped. Prices of the smaller sizes were lower at times than prices for the large sizes and, during other periods of the season, prices for smaller sizes were higher than the larger sizes.

Changes in the total supply of celery being marketed, also variations in the grades and sizes of such celery, are reflected in fluctuations in shipping point prices of Florida celery. Excessive shipments of such celery, also shipments of off-grades and off-sizes, tend to depress shipping point prices. Terminal market prices for Florida celery and, in turn, f. o. b. shipping point prices for such celery were directly affected each season from 1949 through the 1954 crops by the volume of celery shipped during specific periods. Similarly, f. o. b. shipping point prices during the first portion of the 1955 season, through the first part of March 1955, were also directly affected by the volume of Florida celery shipments. In addition, prices during the 1938 season, covering shipments from the fall of 1937 to the end of the Florida celery shipping season in the spring of 1938, also were directly influenced by the volume of Florida celery shipments. During portions of each of the above cited seasons celery prices tended to decline when Florida celery shipments were exceptionally heavy and f. o. b. shipping point prices were also exceptionally low, to the point that voluntary shipping holidays were observed because growers and shippers also were unable to recover harvesting and other marketing costs. The exceptionally heavy Florida celery shipments during the 1938 season, coupled with large supplies of celery from competing areas and large supplies of competing vegetables, resulted in low prices. The limitation imposed on Florida celery

shipments through Order No. 21—the prior marketing order regulating the handling of Florida celery—had some favorable effect on grower prices, and, although such effect was not as great as some members of the industry desired, it was nevertheless direct and it tended to increase grower prices above what they would otherwise have been. The effect of changes in the volume of Florida celery shipments during specific parts of the 1938 season was directly related to the level of prices which producers received for their commodity.

The need for a marketing order program which will help to establish and maintain such orderly marketing conditions for Florida celery in interstate commerce as will tend to establish, as the prices to farmers, parity prices for their celery, is established by substantial evidence.

(3) The term "celery," used in the order, identifies the agricultural commodity referred to therein and establishes "celery" as the commodity to which the handling activities related thereto are subject to the authority of the order. The term "celery" should be defined to mean all varieties and types of the vegetable commonly known as celery in the production area and throughout the remainder of the United States. References to celery have a common and specific meaning to growers and handlers in the production area, as well as to handlers and other persons in various parts of the country. The definition of celery should include both Pascal and Golden types of the commodity grown in the production area. This definition not only identifies the agricultural commodity grown in the production area, and commonly known as celery, which is subject to the authority of the order but also, distinguishes it for regulatory purposes from any other agricultural commodity and from celery grown in any other section or area.

The act authorizes marketing agreements and orders applicable to celery, or to any regional or market classification thereof. All varieties of celery, including both Pascal and Golden types, which are grown in the production area constitute a regional classification of celery and regulation of the handling of such celery as authorized by the order will tend to effectuate the declared policy of the act. Celery, therefore, should be defined in the order to mean all types or varieties of celery grown in the production area.

The term "production area" should be incorporated in the order as a means of specifying the area within which celery must be produced before the handling thereof is subject to regulation thereunder. Production area is defined to include all territory within the State of Florida. All celery producing sections of commercial importance within southeastern United States are included within the production area.

There may be minor variations in practices in methods of production, harvesting, and marketing of celery from one growing section to another within the production area; one type of celery may be preferred by some farmers for

growing in the Everglades section, another may be preferred by some producers in the Sanford section or in the Sarasota section. No producing section has a marketing season which is entirely separate and apart from the other sections' marketing seasons as shown by the tabulation of monthly rail and truck shipments for the various Florida celery producing areas. Each section within the production area has to share and compete in common markets at the same time as one or more other sections. Undesirable grades, sizes, and qualities, of celery have the same effect in a market on the prices paid for Florida celery irrespective of the producing section or sections. Grading and quality standards for commercial sales of celery are the same throughout the production area. A high percentage, well over three-fourths of the Florida celery crop is inspected and certified to on the basis of such uniform standards. Sales of celery from each growing section within the production area compete directly on the basis of grade, size, quality, and volume with sales of celery from other growing sections being made at approximately the same time.

Although celery is not now grown commercially in some counties within the production area, especially among some northern and western counties, such counties contain land areas capable of supporting commercial production of celery and, as such, are potential growing areas. To decrease the size of the proposed production area or to divide the production area into separated regions would tend to defeat the purpose of the order in that excess shipments, or poor quality, or discounted sizes from a section in Florida outside the area could depress the price of the celery regulated and would have a similar effect on price as an illegal shipment from the regulated area. There is no reasonable method or basis of dividing the production area into two or more areas for purposes of separate marketing orders.

All territory included within the boundaries of the production area constitutes the smallest regional production area that is practicable, consistent with carrying out the declared policy of the act, and the production area, therefore, should be defined as hereinafter set forth.

(4) The terms "handler" and "shipper" are synonymous and they should be defined to identify those persons who handle celery in the manner described and set forth in the definition of "handler" because such persons are subject to the regulations authorized by the order. Any person who is engaged in the act or acts of handling or shipping celery, or who causes celery to be handled or shipped, is a handler. Such persons are responsible for the quantity of celery, as well as for the grade, size, and quality of celery delivered to transportation agencies, or which is transported or sold in the current of interstate or foreign commerce, or so as directly to burden, obstruct, or affect such commerce.

Common or contract carriers transporting celery which is owned by another person are performing a handling func-



tion but such handling should not be regulated under the order because such carriers are not responsible for the grade, size, or quality of the celery being transported. Neither are they responsible for the introduction of such celery into the stream of interstate commerce. Also the sole interest of common or contract carriers in such celery is to transport it for a service charge to destinations selected by others. The responsibility for the quantity of celery, as well as for the grade, size, and quality of such celery delivered to a common or contract carrier should be borne solely by the persons responsible for delivering such celery to the carriers.

Therefore, the term handler or shipper should be defined to mean any person (except a common or contract carrier of celery owned by another person) who handles celery or causes celery to be handled.

"Handle" is defined in the order so as to determine and specify the activities and transactions by handlers which are within the regulatory authority of such program. Such activities include all those commonly recognized as handling and begin with the harvesting of celery and follow it through succeeding transactions until it reaches final destination.

The definition of handle does not include the growing of celery for such activities should be construed as a producer function in the capacity of a producer. Any sale of unharvested celery is not within the definition of "handle" because "handle" applies under the order to celery upon harvesting thereof and after. Sale of celery at retail is not included within the definition of handle for such transaction is considered as the act of a retailer in his capacity as such.

Harvesting celery is customarily and normally considered part of the handling process in the production area. It is customary for the person or persons responsible for handling celery to assume responsibility for determining when celery shall be harvested and to assume full responsibility for the manner or method of harvesting, including the direction of labor and the number of rows in particular fields or blocks to be harvested at any given time or during any given period.

Harvesting of celery begins with the cutting of celery stalks from the roots. Several methods may be used but each has for its primary purpose the beginning of the harvesting operations and starting such celery through the marketing processes. Harvesting is an organized, integrated process that is a basic, indivisible part of the marketing process. Harvesting may be performed as a simple, hand operation or it may be a large scale, mechanical operation. In either instance, or in any variation thereon, the primary purpose of harvesting celery is to prepare it for market so that it can be sold and transported in its usual packaged or crated form to ultimate destination either within or outside the production area.

Activities included within the definition of handling include all those performed in connection with the mechanical harvesting of celery. These are not

only the cutting of celery, but also necessary stripping, washing, grading, sizing, and the crating or packaging of celery, as well as the placing of such packaged or crated celery on trucks for hauling to the coolers. Handling also includes the hauling of such celery from the field to the cooler and any and all transactions involving sale or transportation of such celery from the cooler until it reaches the local retailer or it leaves the production area. The same activities are included within the definition of handle if such activities should be performed by separate crews, such as in so-called hand harvesting.

The definition of handle should include the sale of celery among handlers within the production area. It is common practice for handlers to buy and sell celery among themselves to help finish out loads, or for other business reasons. Such sale transactions in celery should be included under the definition of handle because they have a direct effect upon the marketing of celery and directly influence interstate commerce in such commodity. The act of selling celery makes the person who effects such sale a handler because such sale directly affects the market for celery. The transportation of celery also has a direct bearing on the market and the movement and sale of celery, regardless of whether such sale or movement is within the production area or from the production area to any point outside thereof because all transportation of celery is so intermingled that such activities cause such celery to become a part of the stream of interstate commerce, or directly burden, obstruct, or affect such commerce.

Any handling of celery under the order is in the current of interstate or foreign commerce, or directly burdens, obstructs, or affects such commerce.

(5) (a) Certain terms applying to specific individuals, agencies, legislation, concepts, or things are used throughout the order. Those terms should be defined for the purpose of designating specifically their applicability, and establishing limitations of their respective meanings wherever they are used.

The definition of "Secretary" should include not only the Secretary of Agriculture of the United States, the official charged by law with the responsibility for programs of this nature, but also, in order to recognize the fact that it is physically impossible for him to perform personally all functions and duties imposed upon him by law, any other officer or employee of the United States Department of Agriculture who is, or who may hereafter be, authorized to act in his stead.

The definition of "act" provides the correct legal citation for the statute pursuant to which the proposed regulatory program is to be operative, and makes it unnecessary to refer to such citations thereafter.

The definition of "person" follows the definition of that term as set forth in the act, and will ensure that it will have the same meaning as used in the act.

The definition of "type" or "variety" is intended primarily to establish a basis for distinguishing between Pascal type

or variety and Golden type or variety of celery. Both the Pascal and Golden types of celery are commonly recognized in the production area and throughout the marketing area. Market destinations are based on these two types. This definition recognizes the customary distinction between Pascal and Golden types of celery and it is intended that such recognition of distinctions through this definition should provide a basis for the committee and the Secretary, as well as handlers, to distinguish between the two for regulatory purposes under the order.

The definition of "harvest" or "preparation for market" relates to and specifies those activities which are an essential, elementary part of the handling process. Harvest or preparation for market begins with the cutting of the celery stalk or bunch from the roots. This activity is accompanied by or immediately followed by some stripping of outer stalks and trimming of the crown to make the bunch suitable for market. In the case of mechanical harvesting the bunch is then placed on the conveyor arms, which move it to the circular saw, then to the washer, then to the sorting belt where laborers additionally strip the celery, when necessary, then sort the celery for grade or quality differences, and for size. Packers then place bunches of celery in crates, according to grade and size. The packages or crates are then closed, moved on to trucks and taken to the cooler for chilling, then to loading platforms for transfer to cars or trucks, or they are moved to temporary or other storage.

Activities involved in harvest or preparation for market by hand, or in a combination of hand and mechanical harvesting, are essentially the same except for minor time and location differences. In the case of so-called hand harvest, celery may be cut by knives in the hands of laborers, or by laborers with push knives, or by multiple row cutters pulled by tractors. This is followed by stripping, placing in field boxes, topping, placing on trucks and hauling to the central wash house. At this point, the celery is dumped from the field boxes. It is conveyed through a washer, then continued on the sorting table where it is given additional stripping, if necessary. At the same time and as part of the same continuous process the celery is graded and sorted for quality and size, then placed in crates, which are closed, then conveyed to coolers for chilling, or to loading platforms for transfer to cars or trucks, or to temporary or other storage.

All such activities, regardless of how they are performed, are part of the preparation of such celery for market. They constitute an essential, customary part of the harvesting or preparation for market of celery in the production area.

"Producer" should be defined to mean any person who is engaged in a proprietary capacity in the production of celery within the production area and who is producing such celery for market. A definition of the term producer is necessary for appropriate determinations as to eligibility to vote for, and to serve, as a member or alternate member of the



committee, and for other reasons. The term should be limited to those who have an ownership interest in celery produced in the production area. It should not include laborers or others who perform work for a fee or for hire in producing celery. A producer is any "person" who produces celery for market; and "person" is defined as an individual, partnership, corporation, association, or any other business unit—each of which should be considered a legal entity. Each legal entity, whether an individual, a partnership or "joint venture", or a corporation, so engaged in the production of celery for market should have, for example, one voice in selecting committee members and alternates in one district.

A person who owns and farms land resulting in his ownership of the celery produced on such land should be considered as the producer of such celery. The same is true with respect to a person who rents and farms land resulting in his ownership of all or a portion of the celery produced thereon. Likewise, a person who owns land which he does not farm but, as rental for such land, obtains the ownership of a portion of the celery produced thereon should be regarded as the producer of that portion, and the tenant on such land should be regarded as the producer of the remaining portion produced on such land. In each of the above situations where the person acquires ownership of all of the particular celery, such person, regardless of whether an individual, partnership, association, corporation, or other business unit, should be considered as one producer. However, in cases where the ownership is divided, i. e., where one person obtains ownership of only a portion of the particular production and another person obtains ownership of the other portion of such production, each such person should be considered as a producer.

Numerous persons are engaged in celery growing operations who are paid for their services on a wage or per unit of production basis. As heretofore indicated, if such persons do not have title to any of the celery, they are merely laborers working for a stated fee and as such should not have a producer status under the order.

Definitions of "grade" and "size" are incorporated in the order to enable persons affected thereby to determine the basis for application of grade and size limitations to the commodity they handle. Grade, one of the essential terms in which regulations are issued, should be defined as comprehending the equivalents of the meanings assigned to this term by (i) the United States Standards for Celery (7 CFR 51.560 et seq.) issued by the United States Department of Agriculture, (ii) the United States Consumer Standards for Celery stalks (7 CFR 51.595 et seq.) issued by the United States Department of Agriculture, and (iii) modifications or amendments of such standards, and by variations of such standards by regulation under the order. Regulations under the order can then use the term grade with the constant meaning assigned thereto in such

standards, or in such modified or amended standards, or such regulation can vary such terms by prescribing, for example, a percentage of grade, as may be required at the time of issuing such regulation. Official inspectors are qualified to certify the grade of celery in terms of any one of the aforesaid standards, or modification, amendment, or variation thereof.

Celery is customarily sold on the basis of size which is ascertained and represented by the number of stalks or bunches packed per standard wire bound crate, commonly referred to as No. 3601, and measuring, inside  $9\frac{3}{4} \times 16 \times 20\frac{3}{4}$  inches. This method of designating size has been followed for years. It is commonly accepted as the standard method of size determinations in the producing area and in markets both within and outside the production area. Market quotations are customarily made on the basis of size as determined by the number of dozens of stalks per crate. Daily sale and purchase of celery between handlers, brokers, and receivers are on the same size basis. So also are sales among handlers. The record is replete with facts that the number of dozen of stalks or bunches of celery per standard crate is the common and usual, and a satisfactory method for determining size of celery. The definition of size adopts this customary method of ascertaining and determining size of celery.

The United States Standards for Celery are generally used for shipments of celery from the various producing sections. However, in some instances, Florida celery is graded in terms of consumer standards and latitude for the application of the latter standards should be afforded.

"Container" is defined in the order as a basis for differentiating among the shipping units in which celery is marketed and for the permissive application of different regulation to such different shipping units. This definition also enables the Secretary, pursuant to committee recommendation, to establish the present standard crate as the basic, proper crate for determining size of celery. Authority for regulation by type of container was enacted by the 83rd Congress as an amendment to the Agricultural Marketing Agreement Act of 1937, as amended. Use of this authority in the order is appropriate and proper as a means of promoting orderly marketing for celery.

The definition of "pack" or "packs" is intended to include the manner of placing celery in crates or other containers. The term standard pack has a customary, specific meaning among celery handlers in the State of Florida. This includes a variety of factors, such as the manner in which celery stalks are laid in reverse layers in the crate, also the extent to which the celery is tightly placed in the container. Experience indicates that handling of celery evolves new practices, such as the use of the wirebound crate. If a new type of pack, such as a consumer pack, should develop, which the committee might find desirable to regulate differently than the standard pack, the order should contain authority for doing so. Such different

packs may be recognized pursuant to rules and regulations recommended by the committee and approved by the Secretary.

A definition of "fiscal period" is incorporated in the order to establish the beginning and end for an operating period. The establishment of such period is necessary for business-like administration of the order. The date marking the end of one fiscal period and the beginning of the new should fall at a time of little or no activity in the marketing of the celery crop and should allow sufficient time for the committee to organize and be prepared to function prior to the start of the new marketing season. July 31 is after the end of the spring celery deal in Florida and August 1 is prior to the beginning of the fall planting season. No commercial shipments of celery from Florida are made during this between-season time of year. It is therefore, appropriate that fiscal period should be defined as set forth in the order.

The definition of "committee" is incorporated in the order to identify the administrative agency which is responsible for assisting the Secretary in the administration of the program. Such committee is authorized by the act and the definition thereof minimizes the use of words in the order.

"District" should be defined in the order as referring to each of the geographical sections or divisions of the production area, either as initially established or as later reestablished, in order to provide a basis for the nomination and selection of committee members and for regulatory purposes. The proposed division into districts is adequate and equitable and it provides a practical basis for the purposes for which intended.

"Field" is defined to mean a well delineated plot of cultivated land upon which celery is grown. Producers are well acquainted with their fields of celery and they know to what they refer when speaking of any field. Field is used to specify and identify particular plots of celery. Such is the purpose of the definition in the order.

"Block" is defined as a portion of a field or fields of celery. Block also is used to identify certain plots of celery. Its purpose in the order is to assist in identification of celery that was planted at particular times, or which is to be harvested and marketed at particular times, or both.

"Available supply of celery" is defined in the order to mean the linear feet of rows of unharvested celery of a particular type or variety which is ready for harvest for shipment during a particular prorate period or periods. The available supply of celery for any handler should be the amount, expressed in linear feet of rows of celery which are ready or will become ready for harvest during a specific period. From the available supply of celery submitted by each handler, the total available supply of celery may be computed by the committee as a basis for estimating the relationship of supply to market requirements. Also, the available supply of celery of a handler is to



be used as a basis for establishment of allotments for the handler.

"Allotment" is defined to mean the amount of celery which may be handled by any and all handlers during specific prorate periods. Allotment includes the linear feet of rows which each handler may harvest for shipment during a specific period of volume regulation under the order.

"Prorate period" is defined to mean the period or periods recommended by the committee and approved by the Secretary during which allotments of celery may be established for handlers and pursuant to which the volume of shipments may be limited.

"Export" is defined to mean shipments of celery beyond the boundaries of continental United States and of Canada. For purposes of regulations under the order, Canada should be considered as requiring the same types, grades, and sizes of celery as the United States market. Shipments to off shore points, such as some of the sales to steamship lines, or to off shore military installations, should be classed as export. Shipments, if any to Cuba, or to Puerto Rico or the Virgin Islands should be classed in the same way.

(b) The order should provide for the selection by the Secretary of an administrative committee, called the Florida Celery Committee composed of nine producer members. Establishment of this committee is desirable and necessary to aid the Secretary in carrying out the declared policy of the act and such committee is authorized by the act. Inasmuch as most producers within the production area also perform handler functions and are familiar with marketing conditions for celery, no useful purpose would be served by providing for handler representation, as distinct from producer representation, on the committee.

The committee membership of nine producers would be equitable and practicable. Evidence supports the finding that this plan of representation has received intensive study by the industry and that, after thorough consideration, such division of responsibility among nine producers is appropriate.

Each member of the committee should be a producer, or an officer or employee of a producer, of celery in the district for which selected and each such person should be a resident of the production area. A person with such qualifications should be intimately acquainted with the problems of producing and marketing celery grown in such district and each may be expected to present accurately the problems incident to production or marketing of celery grown in that district. The qualifications for each alternate should be the same as for the respective member for whom he may act. Such qualifications should help to assure that the interests of the group from which each is selected will be adequately represented in committee deliberations.

Each committee member and his respective alternate should serve a one year term of office ending July 31, and for any additional period needed for the selection and qualification of his successor. Such term of office is reasonable

and will allow the celery industry to express its approval or disapproval of the committee's membership at the end of any season and prior to the opening of a new season. Committee members and alternates should be selected for the fiscal period during which they are to serve and until their successors are selected and have qualified.

Districts are established to provide a basis for selection of committee members. The districts as initially established were worked out by a committee of industry spokesmen and they represent the best basis which could be devised at this time for providing a fair, adequate, and equitable representation on the committee.

The districts as set forth in the order constitute what are generally known and recognized by the celery trade as the major growing sections within the production area. For example, District No. 1 or the South Florida District is generally known as the Glades section; District No. 2 or the Florida West Coast District is commonly referred to as the Sarasota section; and District No. 3 or the Central and North Florida District includes the Sanford, Oviedo, Zellwood, Weirsdale, and Ocklawaha producing sections.

The provision for redistricting is desirable because it allows the committee to consider from time to time whether the basis for representation could be improved and how such improvements should be made. The guides as set forth in the order which the committee should keep in mind in considering redistricting are appropriate and desirable points of reference that relate directly to the welfare of celery producers and handlers.

It is practical and equitable that selection of committee members and alternates should be on the basis of districts as provided for in the order. This would provide a geographical basis for selection of such members. Such geographical basis should be, and for purpose of initial membership has been, related to the number of producers and the production of celery within the production area so that a practical basis for establishing equity may be attained.

The order should provide for the selection of 3 members and 3 alternates from District No. 1, 2 members and 2 alternates from District No. 2, and 4 members and 4 alternates from District No. 3. Although the representation on the committee from District No. 2 appears to be in excess of that warranted by the acreage and production of celery grown in this district as compared to the other districts, such representation is equitable in that a comparison of the districts in terms of the numbers of producers serves to counterbalance the weight given to acreage and production. The committee composition should result in equitable representation and treatment for both large and small producers. The provision that there should be a producer selected as an alternate for each member provides a practical working basis for having full representation on the committee when any member from a district is absent.

A procedure for the election by producers of nominees for membership on

the committee should be prescribed in the order. Such provision is intended to provide for assistance by the celery industry to the Secretary in his selection of members and alternates on the committee. It is customary in the Florida celery industry for producers to conduct meetings to establish their preference for positions of trust and responsibility. The nomination of prospective members and alternates at meetings of producers in the respective districts is a customary and practical method of providing the Secretary with the names of the persons which the industry desires to serve on the committee. In order to obtain an indication of the industry's preference for membership on the initial committee, meetings of producers may be sponsored by the United States Department of Agriculture, or by any agency or group requested to do so by the Department. This provides a practical and an expedient means of initiating movement whereby the industry may express its wishes and preferences with respect to committee membership.

Nomination meetings for the purpose of electing nominees for members or alternates on the committee after the initial committee should be held prior to July 10 of each year because this allows ample time before the new term of office for the industry to make its preferences known concerning nominees. Such meetings should be held by the committee or by persons or groups requested by such committee to hold such meetings.

At least two nominees should be designated for each position as member and each position as alternate so that the Secretary will have a choice in making his selection. In addition, if a selectee declines to serve, the Secretary would also have the name of another prospective member or alternate from which to make a selection. It is the desire of the industry, and it is appropriate that producers voting at such industry meetings may ballot for nominees to indicate the ranking of their choice for each position to be filled. The producer in each district who, during the preceding season, had the largest volume of sales of his own celery production in such district should be permitted to designate two nominees for member and two nominees for alternate member. This permission is in the order so that a person with an important stake in the celery industry will be assured a voice in the selection of the committee members from the district involved. Although small producers serving on the committee will undoubtedly have the interests of the industry foremost, testimony at the hearing indicated that such small producers have a relatively short shipping season, their interest in the celery "deal" tends to wane at the conclusion of their individual deals, and the industry would best be served by providing for the inclusion among committee membership of at least one large producer from each district. Nominee lists should be supplied to the Secretary in the form and manner prescribed by him so as to establish administrative uniformity in the handling of such matters. Such nominations for committee members and alternates should



be supplied to the Secretary not later than July 15 of each year to enable him to select the committee prior to the new term of office.

Only producers should participate in nominating members and alternates on the committee because the committee will be composed entirely of producer members.

If a person produces celery in more than one district, such person should select the district in which he wishes to cast his vote for nominees on the committee. Any other procedure would tend to give such person a greater voice than other producers in the nomination of committee members.

Each producer participating in the industry meetings for election of nominees to the committee should be limited to one vote on behalf of himself, his agents, subsidiaries, affiliates, or representatives in designating nominees. Voting on any other basis would not provide for equitable representation because it would give the producers with interest in more than one district a greater voice in election of nominees than producers operating in only one district. The plan of one vote for each producer should be so construed that the person eligible to vote in a nomination meeting shall be allowed to cast one vote for each position which is to be filled in the district with which he affiliates. For example, at meetings for election of nominees to the initial committee each person voting as a producer in District No. 1 would be allowed to cast three votes, one for each of the three member nominees, and likewise for the alternates.

In order that there will be an administrative agency in existence at all times to administer the order, the Secretary should be authorized to select committee members and alternates without regard to nominations if, for any reason, nominations are not submitted to him in conformance with the procedure prescribed therein. Such selection should, of course, be on the basis of the representation provided in the order so that the composition of the committee will at all times continue as prescribed therein.

Each person selected by the Secretary as a committee member or alternate should qualify by filing with the Secretary a written acceptance of his willingness and intention to serve in such capacity. This requirement is necessary so that the Secretary will know whether or not the position has been filled. Such acceptance should be filed within 10 days after notification of appointment so that the composition of the committee will not be delayed unduly.

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

Each alternate should be authorized to act in the place and stead of a member for whom he is an alternate during such member's temporary absence. Continuity of operation of the order is best assured by such authorization. An alternate should be authorized to act in a member's absence when such absence is due to death, removal, resignation, or disqualification of the member. Alternates acting in the place and stead of members may continue to act in such capacity until a successor for the member has been selected and has qualified.

A quorum of the committee should consist of at least six members. This would not only insure that one more than a majority of the members must be in attendance at committee meetings but also would require that representation be present from at least two of three districts. Committee decisions should, therefore, reflect an accurate and representative cross section of industry thought and attitudes.

Not less than six members of the committee should be required to concur in any committee action in order for it to pass. Such a voting requirement, constituting a minimum of two-thirds of the membership, is deemed reasonable and adequate.

The committee should be authorized to conduct meetings and to vote by telephone, telegraph, or other means of communication. Thus, two types of assembled meetings may be held. In one instance the assembled meeting may be held at the central location and be attended in person by all committee members and alternates. In the other type of assembled meeting, some members and alternates may be assembled simultaneously at different locations, but connected by means of telephone whereby each person in each group may actively enter the discussions and be heard by each other member in any other group, and each member may vote in person. Improved telephone equipment, including loud speakers and microphones, make such arrangements practical in that it permits the free exchange of ideas and thoughts by parties at one location, such as Sanford, with other members at different locations such as Sarasota or Belle Glade. The distance between major producing sections in Florida is such that an arrangement whereby assembled meetings may be held by telephone, as above described, may make it possible for members and alternates to avoid considerable loss of time in traveling from their normal places of business to a central location. Assembled telephone meetings of this type may be used after the program is operating smoothly and efficiently. Also, when a matter to be considered is routine so that it would be unreasonable to call an assembled meeting at a central location, or in other instances, if rapid action is necessary because of an emergency, assembled meetings at different locations should be authorized. In addition, the committee should be authorized to vote by telephone, telegraph, or other means of communication. Any votes cast at other than an assembled meeting should be confirmed promptly in writing to provide a written record of the vote so cast.

In case of an assembled meeting, however, all votes should be cast in person so that an absent member may not participate.

Committee members and alternates should be reimbursed for necessary expenses incurred in the performance of service to the committee. Expenses for services by committee members should be allowed only for those specifically requested or directed by the committee. Such expenses might include travel, hotel accommodations, and meals. Reimbursement for reasonably necessary expenses is required to offset actual out-of-pocket expense incurred in performing duties in connection with the order.

The committee should be given those specific powers which are set forth in section 8c (7) and (C) of the act, because such powers are authorized to be granted by the enabling statutory authority and they are necessary so that an agency of the character set forth in the order can function.

The committee's duties, as set forth in the order, are necessary for the discharge of its responsibilities. The duties established for the committee are generally similar to those specified for administrative agencies under other programs of this character. It is intended that any activities undertaken by members or alternates of the committee will be necessary for the committee to carry out its responsibilities as prescribed in the order. It should be recognized that these specified duties are not necessarily all inclusive in that it may develop that there are other duties which are incidental to, and not inconsistent with, the terms and conditions of the order which the committee may need to perform.

(c) The committee should be authorized to incur such expenses as the Secretary finds are reasonable and likely to be incurred by the committee during each fiscal period for the maintenance and functioning of such committee and for such other purposes as the Secretary may, pursuant to the provisions of the order, determine to be appropriate. The expenses so incurred should be shared by handlers on the basis of the ratio of each handler's total celery handled by him as the first handler thereof to the total celery handled by all first handlers during specified fiscal periods. The determination of individual handlers shares of expenses should be based upon total celery handled by first handlers thereof to avoid duplication of assessments on the same celery.

The committee should be required to prepare a budget at the beginning of each fiscal period, and as often as may be necessary thereafter, showing estimates of income and expenditures necessary for the administration of the order for such period. Each such budget should be presented to the Secretary with an analysis of its components and explanation thereof in the form of a report on such budget. It is desirable that the committee should recommend a rate of assessment to the Secretary which should be designed to bring in during each fiscal period sufficient income to cover expenses incurred by the committee.



The funds to cover the expenses of the committee should be obtained through the levying of assessments on handlers. The act specifically authorizes the Secretary to approve the incurring of such expenses by administrative agencies, such as the Florida Celery Committee, and the statute also requires that each order issued pursuant to the act should contain provisions requiring handlers to pay their pro rata shares of the necessary expenses. Moreover, in order to assure continuance of the committee, the payment of assessments by handlers should be permitted to be required irrespective of whether particular provisions of the order are suspended or become inoperative.

Each handler should pay the committee upon demand his pro rata share of such reasonable expenses which the Secretary finds will be incurred necessarily by the committee during each fiscal period. Such pro rata share of expenses should be equal to the ratio between the total quantity of celery handled by him as the first handler thereof during a specified fiscal period and the total quantity of celery so handled by all handlers during the same fiscal period. It is necessary that responsibility for the payment of the assessment on each lot of celery be fixed and it is logical to impose such liability on the first handler of such celery. In most instances the first handler and the applicant for inspection are the same person. However, in the event the first handler fails to apply for and obtain inspection, this does not in any way cancel his obligation with respect to the payment of assessments.

Assessment rates should be recommended by the committee and applied by the Secretary to a specific unit. For example, assessment rates may apply to carlots, or they may be applied on a crate basis, or by any other unit commonly used in marketing celery grown in the production area. However, such assessments for a fiscal period should be applied on a uniform rate basis.

At any time during or subsequent to a given fiscal period the committee should be authorized to recommend the approval of an amended budget and the fixing of an increased rate of assessment to balance necessary committee expenses and revenues. Upon the basis of such recommendations, or other available information the Secretary should be authorized to approve amended budgets and, if he finds that the then current rate of assessment is insufficient to cover committee administration of the order he should be authorized to increase the rate of assessment. The order should authorize the application of such increased rate of assessment to all celery previously handled by first handlers during the specified fiscal period so as to avoid inequities among handlers.

Funds received by the committee pursuant to the levying of assessments should be used solely for the purpose of administration of the order, including appropriate research and development projects. The committee should be required to maintain books and records clearly reflecting the true up-to-date operations of its affairs so that its admin-

istration may be subject to inspection at any time by appropriate parties. Each member and each alternate, as well as employees, agents, or other persons working for or on behalf of the committee should be required to account for all receipts and disbursements, funds, property, or records for which they are responsible and the Secretary should have the authority, at any time, to ask for such accounting. Whenever any person ceases to be a member or alternate of the committee, he should be required to account for all receipts, disbursements, funds, property, books, records, and other committee assets for which he is responsible. Such persons should also be required to execute assignments or such other instruments which may be appropriate to vest in their successor or agency or person designated by the Secretary, the right to all such property and all claims vested in such person.

If the committee should recommend that the operations of the order should be suspended, or if no regulation should be in effect for a part or all of a marketing season, the committee should be authorized to recommend as a practical measure that one or more of its members, or any other person, should be designated by the Secretary to act as a trustee or trustees during such period. This would provide a practical method whereby the committee's business affairs could be taken care of during periods of relative inactivity with a minimum of difficulty and expense to the industry and to the Secretary. Such a procedure should not be mandatory; it should be permissive. If circumstances would seem to call for the committee and its personnel to continue as usual, to operate, possibly in a curtailed fashion, they should be free to do so.

The committee should provide periodic reports on its fiscal operation. It is expected that audit reports will be requested by the Secretary at appropriate times, such as the end of each marketing season, or at such other times as might be necessary to maintain appropriate supervision and control of the committee's affairs. Handlers should be entitled to a proportionate refund of the excess assessments which remain at the end of a fiscal period, or at the end of such other period as may be deemed appropriate by reason of suspension or termination. Such refund should be credited to each such handler against the operations of the following fiscal period, unless he should demand payment thereof, in which event such proportionate refund shall be paid to him.

If and when the committee is required to wind up its affairs upon termination of the order authorizing such agency, considerable expense may be involved in the liquidation process. The affairs of the committee which are to be liquidated usually result from a number of years' operations. It is appropriate, therefore, for the maintenance and functioning of the committee that some of the funds remaining at the end of a fiscal period, which are in excess of those necessary for payment of expenditures during such period, should be carried over into subsequent fiscal periods as a reserve for possible liquidation. Such reserve

should be maintained for the purpose of helping to cover the expenses of final liquidation in the event that the order is terminated. It is not anticipated that any such reserve will be accumulated in an amount in excess of what might be the reasonable costs of such a liquidation action. Any funds remaining after liquidation has been effected should to the extent practical be refunded to handlers on a pro rata basis.

(d) The establishment or provision for the establishment of marketing research and development projects designed to assist, improve, or promote the marketing, distribution, and consumption of celery was authorized by amendments to the act in Public Law 690 known as the Agricultural Act of 1954, enacted by the 83rd Congress. Such authorization should be included in the order.

Projects designed to evaluate preferences among markets and localities in terms of grade, size, quality, pack, containers, and other factors could be of considerable value in determining the grade, size, quality, or volume regulations that should be recommended and established. The aid of marketing research and development projects may assist in a determination as to the effect and value of private and industry promotion of Florida celery.

Research into market development, transportation, handling methods, and containers in which celery is marketed are examples of aspects which the committee may at some time consider worthy of investigation. Research projects designed to assist the committee in their consideration of volume regulations should be authorized as one of the means of promoting distribution of celery.

As the celery industry and the committee become more aware of the value of and need for marketing research and development, other projects will undoubtedly be initiated, the need for which will not have been foreseen early in committee operations. Therefore, the committee should have the authority to recommend the establishment of such projects which are in the best interest of celery marketing and which will assist, improve, and promote the marketing, distribution, and consumption of Florida celery. The committee should be empowered to engage in or contract for such projects, to spend funds for such purpose, and to consult and cooperate with other agencies with regard to their establishment. All such projects should receive the prior approval of the Secretary.

(e) The declared policy of the act is to establish and maintain such orderly conditions for celery, among other commodities, in interstate commerce as will tend to establish parity prices for such celery. The regulation of the handling of celery by grade, size, or quality as authorized in the order provides a means of carrying out such policy and is one of the ways authorized by the act (in section 8c (6)) for achieving that objective.

The procedures and methods which are outlined in the order for the development and institution of marketing policies relating to grade, size, and quality



and to volume regulations provide a practical basis for the committee to obtain appropriate and adequate information relating to celery marketing problems. Also, members of the industry including both growers and handlers, should be provided with the information regarding the policies and regulations recommended by the committee. The factors set forth in the order which the committee should take into consideration in developing its marketing policies are the ones commonly and usually taken into account by growers and handlers in their day to day evaluation of the market outlook with respect to celery.

In order that the Secretary may effectively carry out his responsibilities in connection with the order, the committee should prepare and submit to the Secretary a report on its proposed marketing policy, or amendments thereto, relating to the marketing of celery during each season. The initial marketing policy offered each season by the committee should be prepared and submitted to the Secretary prior to or simultaneous with its initial recommendations for regulations. This will give all interested parties the maximum notice of probable regulations. Reports on marketing policy and regulations recommended should be submitted to the Secretary and presented to the industry by the committee.

The committee, which has responsibility for recommending grade, size, quality, and volume regulations, as well as modifications, suspensions, amendments thereto, or terminations thereof, should be authorized to consider and recommend any or all methods of regulations which are authorized by the order for the Secretary to issue thereunder. Evidence shows that authority should be established in the order to issue regulations with respect to grade, size, quality, or packs in any or all portions of the production area during any period and the limitation of the volume of celery which may be shipped during specified periods.

The two United States Standards for celery provide a common and acceptable means for determining grade or quality of celery grown in the production area. These standards for celery are widely used throughout the production area, and both producers and shipping point handlers, as well as buyers, are generally acquainted with such standards and commonly use them in their market transactions.

Authority should be provided for limiting the grade and size of celery which may be placed in any given pack or container. The limitation of the handling of poorer grades or off qualities, and less desirable sizes of celery grown in the production area will tend to increase prices of more desirable grades, qualities, and sizes and to promote more orderly marketing and increase the returns to producers of such celery. The poorer grades and off qualities include not only unclassified celery, commonly referred to as cull, but also other celery which shows excessive defects as set forth and described in the Federal standards for celery. The limitation of the handling by prohibiting movement of poorer grades or off qualities, and less

desirable sizes of celery will help to improve orderly marketing conditions for such celery by enhancing the long run demand for and competitive position of celery grown in the production area.

The order should include authority for the committee to recommend and the Secretary to issue regulations which would limit a certain size or sizes of celery to not more than specified percentage of the total celery shipments during a given day or given week, or any other practical period. For example, if the committee finds that 10-dozen, or smaller sizes are selling for a low price in relation to other sizes, but if all 10-dozen or smaller sizes are cut off from the market the price of such sizes would rise appreciably, then the committee should be authorized to recommend and the Secretary to issue a regulation so that the percentage of total shipments which may be in 10-dozen or smaller sizes, or any other sizes, shall be within the prescribed proportions. Thus, shipments by each handler during a period of such regulation should be the base against which the percentage of the shipments of particular discounted sizes should apply. The authority to make such recommendations should not be restricted to any part of the season. The committee and the Secretary should have the greatest flexibility possible in order to meet marketing situations in a practical manner from time to time in a sound commercial manner.

The orderly marketing of celery grown in the production area, with the objective of increasing returns to producers of such celery, will be promoted by authorizing the regulation of handling of particular grades, sizes, qualities, or packs of celery, differently for different types or varieties, differently for different portions of the production area, differently for different containers, differently for different purposes to which modification, suspension, or termination of regulation may be applied, or differently for any combination of these groups, during any period.

Demand for different types or varieties of celery establishes price preferences for different grades or sizes, or both, of such types of varieties. For example, evidence establishes a basis for varietal or type preference at the market place. Pascal type celery may be returning a preferred price for certain sizes at particular times. Or again, Golden type of certain sizes may be in short supply and returning preferred prices. The committee, and in turn the Secretary, should be authorized to recognize and consider such differences and to recommend and establish different regulations based thereon.

Unusual weather conditions may arise during a crop year in one portion of the production area as compared with other portions of such area. This possibility is particularly true with respect to such things as hail, wind, and violent rain storms. Hazards of these natures are obviously beyond the control or reasonable expectation of the celery growers in such localities. Because of these circumstances, and to provide equity among producers and handlers insofar as any regulation under the order may

be concerned, authority should be provided for the committee to consider such differences, to make appropriate recommendations in that regard to the Secretary, and for the Secretary to issue different regulations to accommodate any such differences in the crop arising out of actions beyond human control. It is contemplated, however, that any such relaxation for a portion of the production area in those circumstances will still require that the celery handled will be the best quality available.

The order should authorize the committee to recommend and the Secretary to issue different regulations for different packs. Such authority is in the best interests of good merchandising and the promotion of orderly marketing conditions for celery. Although the standard pack of celery constitutes the great bulk of celery handled within the production area or between the production area and any point outside thereof, the industry should be authorized to recognize any new packs which may develop and to allow such packs to move freely without grade and size regulation, or to regulate them differently, if such is the proper industry judgment as reflected by the committee.

(f) The order should permit regulations differently for different types of containers. The establishment of such regulation is authorized by virtue of an amendment to the act in Public Law 690, known as the Agricultural Act of 1954, enacted by the 83d Congress. Such authority permits the provision in a marketing agreement and order of a method for fixing the size, capacity, weight, dimensions, or pack of the container, or containers which may be used in packaging, transportation, sale, shipment, or handling of celery. It is contemplated that the industry through the Secretary may wish to fix the standard container, No. 3601, as an appropriate and proper container for handling celery under the order. If developments should bring forth new containers the industry should be empowered to pass upon them and to adopt such containers for use in the celery industry. Should the use of certain of these containers, when moved into commercial market channels, be deemed by the committee, with approval of the Secretary, as contributing to disorderly marketing of Florida celery, then the Secretary should be empowered to fix the size, weight, capacity, dimensions, or pack of the container or containers which may be used in the packaging, transportation, sale, shipment, or other handling of such celery. For the same reason, the committee should be permitted to recommend different regulations for different containers.

(g) The proposal for prohibiting unfair methods of competition and unfair trade practices, as proposed in the notice of hearing was not supported by evidence at the hearing. Therefore, no further consideration is given to the matter.

(h) The volume of celery shipped from Florida has a direct influence upon the price received by Florida celery growers, as shown by records of shipments and prices for the 1949 celery season and subsequent seasons, including the 1954-55 season through March 14, 1955. In gen-



eral, Florida celery prices to growers are higher when Florida shipments are light than when such shipments are heavy. Heavy shipments of Florida celery frequently occur during the middle or late winter and prices to growers during such periods have often brought low prices that returned less than marketing costs which created disorderly marketing conditions. The prevention of excessive celery shipments from Florida should help to relieve supplies and improve prices to growers. The extent to which the Florida celery industry may limit shipments to improve prices is limited by competing supplies from other areas. Florida handlers can limit shipments to the extent that they eliminate losses on their shipments. Also supplies from Florida could be limited to improve prices toward parity but only to the extent that additional competing supplies would not be attracted to markets into which Florida celery is usually shipped and undermine the improved returns to Florida celery producers.

Growers' prices for Florida celery fluctuate due to changes in the supply of such commodity being marketed. Undue fluctuations in the f. o. b. price of such celery disrupts orderly marketing conditions therefor and results in the impairment of the purchasing power of Florida celery growers. Volume regulation of celery shipments, in the manner authorized in the order, will tend to promote the orderly flow of Florida celery to market and to prevent and avoid unreasonable fluctuations in supplies and prices of such celery. The order should provide that the Secretary, upon recommendation of the committee or other available information, may exercise the powers conferred by the act so as to establish and maintain such orderly marketing conditions for Florida celery as will provide, in the interests of producers and consumers, an orderly flow of the supply thereof to market throughout its normal marketing season to avoid unreasonable fluctuations in supplies and prices.

The order should provide methods for fixing, as provided in the Act, the total allotments of any or all types of celery that may be handled by each handler so that orderly marketing conditions for Florida celery may be established and maintained. The regulation of the volume of celery which may be handled during specific prorate periods provides a method under a uniform rule of carrying out such policy.

The order should provide for issuance by the Secretary, pursuant to committee recommendations, or on the basis of other available information, of regulations limiting during specific prorate periods, whenever such regulations will effectuate the policy of the act, the handling of celery to that which is harvested from designated linear feet of rows. The order should contain provisions relating to (1) the method of recommending and fixing the total quantities of celery that may be handled by any and all handlers; (2) the method for fixing the allotment of each handler under a uniform rule based on the available supply of celery of each handler and providing a means for computing

the base for fixing such allotments; and (3) modifications or adjustments of such allotments so as to provide flexibility of operation for handlers under such regulations.

The amount of celery shipped to market affects growers prices and limitations on the amount to be shipped should be for the purpose of improving such prices. The amount of celery shipped to market is a direct result of the linear feet of rows harvested and a limitation of handling based on linear feet of rows which may be harvested provides a readily determinable and uniform rule for computing the amount to be shipped and for establishing allotments.

The committee should be authorized to consider and to recommend the amount of celery expressed in linear feet of rows which should be permitted to be harvested under allotments during specific periods. This amount can be readily and accurately determined from information submitted to the committee by handlers. Upon receipt of such information, and after due consideration of the amount the market may take at particular price levels and of the total available supply of celery, the committee should be authorized to recommend to the Secretary that the amount of celery to be handled during a specific period or periods should be limited to certain proportions of such available supply of celery. The total allotments should be expressed in linear feet of rows permitted to be harvested for shipment. This provides an appropriate and proper method, pursuant to the act, for allotting the amount of celery that may be handled by each handler during a specified prorate period or periods.

The act provides that a marketing order shall contain certain terms and conditions and authorizes the allotting, or providing methods for allotting, the amount of celery which any handler may market in or transport to any or all markets under a uniform rule, based upon the amounts each handler has available for current shipment, to the end that the total quantity of such celery to be marketed shall be equitably apportioned among all of the handlers thereof. The order should so provide, and does so by establishing an appropriate method for determining a prorate base for each handler pursuant to which allotments are computed and fixed. Under the terms and provisions of the order each handler is given the same opportunity to handle celery as each other handler under a uniform rule whereby he will have equality of opportunity among handlers for securing his equitable proportion of the celery to be handled. Each handler customarily keeps close record of the celery he expects to handle. Such records date from the time of planting. Planting schedules are built up, maintained, and followed so that harvesting schedules may follow a similar pattern at a later date. Each handler follows growth and progress of celery as closely as possible so that he may keep thoroughly and constantly apprised of when certain fields and blocks are ready for harvest. Handlers customarily plan their harvesting schedule and they know with considerable degree

of certainty as time for harvest approaches the exact fields and blocks of celery which should be ready for harvest during specific periods. This information is customarily maintained as a matter of record by handlers.

Handlers can make this information available to the committee. Such information, when presented as a handler's available supply of celery and with an application to handle such celery, will enable the committee to determine the total available supply of celery for all handlers. This provides a basis for determining the total amount of celery which each handler has available for current shipment. Handlers reports showing the linear feet of rows of celery available for harvest provide a uniform rule for determining the amount available for market by each handler and for equitably apportioning the total quantity for market among all handlers. Celery that is ready to be harvested must be harvested within a reasonable length of time. The estimate of the linear feet of rows available for harvest for each handler places each on an equitable basis of allotment because the measure of quantity is uniform. Some fields may yield differently than others, but in the absence of regulation such differences would also apply. By estimating available supplies of celery and allotments on linear feet of rows, the order preserves equity among handlers under a uniform rule that is readily and easily understood by celery growers and handlers. This provides a practical, uniform rule for establishing equity among handlers and a precise, well known basis for allotments.

The equity of each handler in the total quantity of celery that may be handled during any prorate period should be expressed as his prorate base. A prorate base is a handler's proportion of the total quantity that may be handled under volume regulation and it is expressed as the ratio between the handler's available supply of celery and the total available supply of celery of all handlers during a specific prorate period. Thus, each handler's share of the limited quantity of celery which may be handled during a specific prorate period is the same percentage as his share of the total available supply of celery of all handlers during such period.

The order should provide that each handler, who has an available supply of celery, should make application to the committee for a prorate base and for allotment to assure an orderly basis for establishing equities. This application should contain the information required by the order pursuant to rules and regulations concerning reports. Such information is incidental to, and not inconsistent with, and necessary to the operating terms and conditions of the order. Such information is necessary to determine the correct total of each handler's available supply of celery and the total available supply of celery of all handlers.

The committee should compute for each prorate period when volume regulation is in effect the available supply of celery for each handler who has applied for a prorate base and an allotment and fix as a prorate base for each such han-



dler. A report thereon should be transmitted to the Secretary and the committee should notify each handler of the prorate base established for him so that he may arrange to handle the celery allotted to him.

The Secretary, pursuant to committee recommendation or other available information, should fix the total volume of any or all types of celery which may be handled by all handlers during a specified prorate period or periods and such volume of any or all types of celery should be computed for allotment purposes in linear feet of rows of the applicable type of celery. The allotment for each handler for a prorate period should be determined by multiplying the total linear feet of rows, which may be harvested for shipment by all handlers during such prorate period, by the prorate base for such handler. The committee should make such computations and so notify each handler of his allotment. This method of fixing allotments provides an appropriate means, under a uniform rule, for calculating the equities of handlers in the total quantity of celery to be marketed. Requirements as to notice set forth in the order are appropriate and proper. Appropriate notice to handlers should include, among other requirements, reasonable notice by the committee to each handler of the allotment computed for him pursuant to the order.

Each handler during any given prorate period should be permitted to handle celery which is harvested only from rows which are contained in the fields or blocks specified in the applicable approved report filed by such handler which shows his available supply of celery for such prorate period. This is necessary to maintain the uniform rule for handling celery under allotments and to maintain equity among handlers. It is also necessary, as part of the uniform rule, that each handler should harvest celery during a prorate period from the same relative location in each row of each block within each field, or from consecutive complete rows.

In order to accommodate handlers who use mechanical harvesters where a series of rows—16, 20, or more—are cut at the same time as the harvester moves through the field of celery, the linear feet of harvested rows may be applied to fractions of rows. In the case of harvesting celery by hand, it should follow customary methods of harvesting one complete row after another and the celery should be harvested from consecutive, complete rows, so that each handler will have equitable treatment in the application of his allotment by taking the celery as it comes rather than by selecting special portions of a field.

Celery should be harvested only from the allotted portion of a field or block of celery. Celery reported as part of an individual handler's available supply of celery during a particular prorate period, but not allotted therein, should remain unharvested until fieldmen or other designated agents for the committee have checked the block or field from which celery was harvested during the particular prorate period. This would be the most effective time and the most

economical point in the successive steps of the handling of celery to ascertain compliance with the allotment. The committee's designated agent, upon proof of satisfactory performance by each handler, should issue a certificate of compliance to such handler.

None of any such unharvested celery should thereafter be harvested, unless all handlers' unharvested celery originally contained in reports of available supply of celery for specified prorate periods should be authorized for harvest by the Secretary. Such authorization may be issued by the Secretary upon recommendation of the committee or upon other available information whenever market conditions warrant.

Any handler's allotment for a specific prorate period may be modified by appropriate, timely action by such handler. Any handler who has unharvested celery previously included in an application for allotment and who wishes to withdraw such celery from his application for allotment should notify the committee of his intent to do so. Also, any handler, who wishes to harvest celery of particular types in excess of his allotment for a particular prorate period, may exceed his allotment for such period if he gives written or telegraphic notice of his intent to the committee. Such notice of intent or application should show the linear feet of rows of such type of celery which each handler desires to withdraw from his current allotment or to harvest in excess of his current allotment. Such celery for which allotment is to be modified should be identified by field, block, and row.

The prorate base for celery withdrawn from current allotment and later harvested or for celery harvested in excess of current allotments, should be adjusted downward by a number of percentage points which should be determined by the committee, with the approval of the Secretary. Such adjustment in a modified prorate base is necessary to keep total marketings, as recommended by the committee and approved by the Secretary, within reasonable limits and to discourage handlers from abuse of the modification provisions of the order.

(i) The committee should have information and data necessary for calculating prorate bases, allotments, modifications thereof, and for checking on compliance with regulations by handlers. Such information may include, but not be limited to, reports by handlers on the available supply of celery, which should be identified by fields or blocks, or both, and estimates of the quality and yield of any such celery. Such reports by handlers should be timely in order to provide up-to-date, accurate information and they should be required in such a manner and only at such times that will give due consideration to the convenience of the handler. Such reports should be required at such times as the committee may prescribe and should require essential details relating to available supplies of celery, acreage, yields, quantities harvested, grade, quality, and size as may be prescribed by rules and regulations issued pursuant to committee recommendation and approval by the Secretary. Such reports should not be re-

quested more often than weekly. Such rules and regulations may require that reports include, where necessary for successful operation of the order, maps or diagrams of fields or blocks of celery which they own or control, by type or variety, by time of planting, by time of prospective harvest, and by the amount, including grade, size, and quality, harvested during specific periods. Authority to harvest celery by a handler should be deemed evidence of the handler's control thereof.

All reports submitted by handlers should be subject to inspection, correction of errors, and approval by the committee. Such authority is essential to the committee so that it may have an accurate, factual basis for computing prorate bases and allotments. Should any reports by handlers contain information that is normally considered confidential by handlers, the committee should arrange to hold such information under appropriate protective classification so that no information contained therein shall be disclosed if it will adversely affect the competitive position of such reporting handler. Reports on such data may be compiled subject to the prohibition of disclosure of individual handlers' entities or operations.

(j) The committee should give notice to all handlers of meetings to consider recommendations for regulation, either grade and size or volume regulations, or both. Whenever volume regulation is contemplated, the committee should give notice to all handlers that they should apply for an allotment. Such notice should be given in adequate time prior to meetings so that handlers may have time to receive such notice and to prepare for them. The determination as to adequate time and mode of notice should be made pursuant to rules and regulations recommended by the committee and approved by the Secretary.

The committee should give notice promptly of any recommendation for volume regulation. Such notice should be given to handlers at least 48 hours before the recommended effective time of the proposed regulations. Such notice should be given by forwarding a copy of the committee's recommendations to each handler who has filed his name with the committee for such purpose.

The Secretary should notify the committee of each regulation issued under the order. The committee, in turn, should notify each handler of the regulation. Such notice should be given promptly upon receipt of advice of issuance from the Secretary and a copy of such notice should be forwarded to each handler who has filed his address for that purpose with the committee.

The order should authorize different regulations during any period so that the committee and the Secretary may take account of different supply and demand conditions as they may arise and become apparent. It should also authorize limitations of shipments by volume, or by grade, size, and quality, or both, at any or all times that the industry, through the committee, may recommend and the Secretary approve. Such authority is essential in the order so that the various



problems affected by the supply of celery may be met in the most appropriate manner in the order to help establish orderly marketing conditions and parity prices.

(k) The committee should be authorized to recommend, and the Secretary to establish, such minimum standards of quality and maturity, and such grading and inspection requirements, during any and all periods when the seasonal average price for celery may be above parity, as will be in the public interest. Some celery is of such low quality that it does not give consumer satisfaction at any time because of the large amount of waste and the time consumed in preparing it. Consumers do not receive proper value for their expenditures for such low quality celery, and even when prices are above parity it is not in the public interest, either of the producers, handlers, or of consumers to permit shipments of such poor quality. The shipment of celery which is not of proper maturity also tends to disrupt general market conditions for the commodity and the discounted prices received for such celery adversely affects grower prices. It is also necessary that such authority should include grading and inspection requirements so that compliance with such minimum standards of quality and maturity may be determined whenever such regulations are in effect.

Although some small shipments of celery are made, they constitute only a minor percentage of total production. Some growers pick small quantities and peddle these to local stores, to tourists, or to other similar outlets. In some areas tourists call at the fields and pick up small quantities of celery. In addition, the sale of a few crates of celery to accommodate friends or to take care of special purposes oftentimes is desirable. Problems of inspecting such small lots, or other problems in complying with regulations on such small lots, may make it uneconomical, undesirable, and impractical to require that such small shipments comply with any or all regulations required of the larger commercial shipments. The administrative difficulties in checking upon such shipments to see that they are inspected, or that they meet grade, size, quality, or maturity restrictions, or that they pay assessments may be such that it would be impractical for the committee to attempt to do so. It might be necessary to permit the maintenance of one or more regulatory requirements on such minimum quantities while relaxing other regulations applicable to them. It is contemplated, of course, that any such relaxations of regulations will be applied uniformly. The order therefore should provide authority for the establishment of minimum quantities below which certain regulations may not be applicable in any or all portions of the production area.

(l) The Secretary, upon the basis of recommendations and information submitted by the committee, or other available information, should be authorized to modify, suspend, or terminate grade, size, or quality regulations with respect to the handling of celery for purposes other than disposition in normal do-

mestic fresh markets. The committee should be well qualified, because of the experience and knowledge of individual members, to recommend such modifications, suspensions, or terminations as will be in the best interests of the Florida celery industry and which will tend to effectuate the declared policy of the act. Celery moving to or sold in certain outlets, such as those specified in § 937.59 of the order, are usually handled in a different manner, or such outlets usually accept different grades, sizes, qualities, packs, containers, or different prices are returned, or combinations of such considerations may apply. The order should provide authority for the committee and the Secretary to give appropriate consideration to handling of celery for such purposes so that full opportunity may be taken by this program to improve orderly marketing conditions for celery, thereby promoting the tendency to increase total returns to celery growers in the production area.

The movement of celery from the field to the wash house, or to any other customary location within the production area for grading should be free of grade, size, or quality regulations, if the committee so recommends and the Secretary approves. The imposition of grade, size, or quality regulations on movement of celery between the field and wash house, or to any other point in the production area for grading, as designated by the committee, may not serve any useful purpose in helping to improve producers prices. Such modifications may include elimination of grade, size, or quality requirements, or inspection requirements, or assessments, on celery being handled for grading within the production area.

The order should provide that special considerations may be given to the handling of celery for relief or for charitable purposes. Such shipments are intended for special outlets and usually the shipments are by way of donation or due to some special consideration between the shippers and the receivers.

Shipments of celery, among other vegetables, for the purpose of having such celery processed at canning plants, are specifically exempted from regulation by the act. Any mention of celery for canning or processing herein has particular reference merely to a safeguard, which requirement may cause such shipments to canners to be reported to the committee for the sole purpose of assuring the committee and the celery industry that such shipments are, in fact, moved to the outlet for which intended. No other regulation or restriction is implied on celery for canning or processing.

For purposes which may develop in the future, the committee should be empowered to provide special treatment through modification, suspension, or termination of regulation applicable thereto, or for other purposes which later may be specified by the committee, with the approval of the Secretary.

The authority for modifying, suspending, or terminating grade, size, quality, assessment, or inspection regulations should be accompanied by the additional administrative authority for the committee to recommend and the Secretary

to prescribe adequate safeguards to prevent shipments for such purposes from entering market channels contrary to the provisions of such special regulations. Such safeguards may be recommended by the committee and they should be administered by the committee. The authority for establishment of safeguards should include such limitations or appropriate qualifications on shipments which are necessary and incidental to the proper and efficient administration of the order. Such safeguards, among others, may include inspection so that the committee may have an accurate record of the grade, size, and quality of celery shipped to special outlets, applications to make such special shipments, requirements for the payment of assessments in connection with such shipments, reports by handlers on the number of such shipments and the amounts of celery shipped, and assurances by purchasers that the celery is to be used for the purpose designated.

In order to maintain appropriate identification of shipments of celery to special outlets, the safeguards authorized herein may provide for the issuance of certificates of privilege to handlers of such celery and, in addition, require that such handlers shall obtain such certificates on all shipments by them to such special outlets. Certificates of privilege may be issued by the committee as an indication of the authority for a handler to make such shipments and as a means of identifying specific shipments. Such certificates of privilege should be issued in accordance with rules and regulations established by the Secretary on the basis of committee recommendations, or other available information, so that the issuance of such certificates may be handled in an orderly and efficient manner which can be made known to all handlers. The committee should be authorized by the order to deny or rescind certificates of privilege when such action is necessary to prevent abuse of the privileges conferred thereby or upon evidence satisfactory to it, that a handler to whom a certificate of privilege has been issued has handled celery contrary to the provisions of the certificate previously issued to him. If the committee rescinds or denies a certificate of privilege to any handler, such action should be in terms of a specified period of time. Handlers affected by the denial of a certificate or the rescinding of such a certificate should have the right of appeal to the committee for a reconsideration.

The Secretary should have the right to modify, change, alter, or rescind any safeguards prescribed or any certificates of privilege issued by the committee in order that the Secretary may retain all rights necessary to carry out the declared policy of the act. The Secretary should give prompt notice to the committee of any action taken by him in connection therewith and the committee should currently notify all persons affected by the indicated action.

The committee should maintain records relevant to the safeguards and to certificates of privilege and should submit reports thereon to the Secretary when requested in order to supply per-



tinant information requisite for him to discharge his duties under the act and the order.

(m) Inspection of celery grown in the production area by the Federal-State inspection service is a common and usual practice for the purpose of determining officially the grade, size, quality, and maturity of such celery. The Federal-State Inspection Service has operated in the State of Florida for a number of years. Celery growers and handlers throughout the production area are acquainted with the service and with the inspection which it offers on shipments of celery. Federal-State inspection is available throughout the entire production area and reasonably prompt inspection can be given at all points within the production area at a reasonable time prior to the anticipation of shipment of the celery to be inspected.

Provision is made in the order for inspection by the Federal-State Inspection Service, or such other inspection service as the Secretary may approve, of celery grown in the production area during any period in which handling of celery is regulated under the program. Such inspection requirements should apply to all celery handled under regulations issued under the order, except when any such handling is relieved from these requirements by the Secretary upon recommendation of the committee. Provision for inspection of handling subject to regulation establishes a means for providing the handler, the buyer, the committee, the Secretary, and other interested parties with a means of determining whether such handling of celery complies with the requirements of any particular grade, size, and quality regulation which may be in effect under the order. Effective regulation of the handling of celery grown in the production area requires that the grade, size, and quality of each sale or shipment of such celery should be authoritatively established so that the administration of the order shall be efficient and effective. The provision for inspection and the certificates which are issued pursuant to inspection offer an appropriate and practical means of establishing and identifying the grade, size, and quality of celery handled pursuant to the terms and conditions of the order.

Copies of inspection certificates issued pursuant to the requirements of the order should be supplied to the committee promptly so that such committee may properly discharge its administrative responsibilities under the program.

Provision should be made in the order for authority to inspect celery not only by personnel of the Federal-State Inspection Service, but also by personnel of such inspection service as the Secretary may designate so that sufficient flexibility for successful operation can be provided through appropriate inspection if, by some chance, the Federal-State Inspection Service cannot properly perform its duties.

The requirement that no handler shall handle celery unless each lot of celery is inspected by an authorized inspection service approved under the order is reasonable and it is necessary for the proper administration of the program.

Such requirements should apply except to celery which may be relieved of inspection requirements by the Secretary.

Responsibility for obtaining inspection should fall primarily on the handler who first handles such celery after it has been prepared for market so that each lot of such celery may be identified and certified with respect to grade, size, and quality. Such identification and certification is essential to proper administration of the order so that a determination may be made as to whether such shipment accords with the grade, size, quality, and maturity regulations issued under such order. The handler who so first handles celery is required to obtain inspection and subsequent handlers may not handle the celery unless a properly issued inspection certificate valid under the terms of the order applies to such shipments. Each handler must bear responsibility for determining that each of his shipments is inspected. If a handler should receive celery which has not been inspected, he should be responsible for having it inspected. Such requirement is necessary so that the committee can obtain evidence in the form of inspection certificates which it needs to carry out its appropriate functions in determining if specific shipments have been inspected and if they otherwise meet requirements of the order and regulations issued pursuant thereto.

Whenever any shipment of celery subject to the terms and provisions of the order has been inspected, but such celery is later dumped from the containers in which it was inspected, such celery loses its identity insofar as the original inspection certificate for it is concerned. If any such lot of celery is thereafter repacked, such repacked celery has a new identity and the subsequent handling of such celery should comply with regulations issued under the order. Such requirement is necessary to effectuate the declared policy of the act. Therefore, the order should provide that any person who handles Florida celery after it has been repacked, resorted, or regraded shall not handle such celery unless it has been inspected, except when relieved from such requirements by the Secretary. Such inspection of regraded, resorted, or repacked celery should be necessary so that the handler thereof, as well as subsequent handlers, and the committee may determine if such shipments comply with the regulations then in effect and applicable thereto.

The committee, with the approval of the Secretary, should be authorized to determine the length of time the inspection certificate is valid insofar as the requirements of the order are concerned. Such requirement is appropriate and necessary especially with respect to lot inspections which may be administratively desirable to accommodate handlers and truckers because celery is a perishable commodity.

(n) Certain hazards are encountered in the production of celery grown in the production area which are beyond the control or reasonable expectation of the producer of such celery. Because of these circumstances, and to provide equity among producers and handlers insofar as any regulations under the or-

der are concerned, the committee should be given authority to issue exemption certificates to producer applicants to permit such applicants to handle their equitable proportion of all celery handled. It is contemplated, however, that such an exemption will require the approved applicant to handle his best quality celery.

The committee, by reason of its knowledge of the conditions and problems applicable to the production of celery in the production area and the information which it will have available in each case, will be well qualified to judge each applicant's case in a fair and equitable manner and to fix the quantity of exempted celery which each such applicant may handle.

The provisions contained in the notice of hearing relevant to the procedure to be followed in issuing exemption certificates, in investigating exemption claims, in appealing exemption claim determinations, and in recording and reporting exemption claim determinations to the Secretary are necessary to the orderly and equitable operation of the order and they should, therefore, be incorporated in the order. The committee should maintain adequate, comprehensive records of all applications for exemptions. Similarly, an adequate record should be maintained by the committee of all exemptions granted as well as shipments made under exemptions.

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

(6) Except as provided in the order, no handler should be permitted to handle celery, the handling of which is prohibited pursuant to the order, and no handler should be permitted to handle celery except in conformity with the order. If the program is to be effective, no handler should be permitted to evade its provisions since such action on the part of one handler, although possibly of small impact on the industry measured by the proportion of celery handled by him, would be demoralizing to other handlers and would tend to impair operation of the program.

(7) The provisions of §§ 937.80 through 937.95, as published in the FEDERAL REGISTER of February 26, 1955 (20 F. R. 1217), are common to marketing agreements and orders now operating. Such sections set forth certain rights, obligations, privileges, or procedures which are necessary and appropriate for the effective operation of the order. These provisions are incidental to, and not inconsistent with, section 8c (6) and (7) of the act, and are necessary to effectuate the other provisions of the order and to effectuate the declared policy of the act. The substance of such provisions, therefore, should be included in the order.

*General findings.* Upon the basis of evidence introduced in the hearing and record thereof it is found that:



(1) The order as hereinafter set forth, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act with respect to celery produced in the production area, by establishing and maintaining such orderly marketing conditions therefor as will tend to establish, as prices to the producers thereof, parity prices and by protecting the interest of the consumer (i) by approaching the level of prices which it is declared in the act to be the policy of Congress to establish by a gradual correction of the current level of prices at as rapid a rate as the Secretary deems to be in the public interest and feasible in view of the current consumptive demand in domestic and foreign markets, and (ii) by authorizing no action which has for its purpose the maintenance of prices to producers of such celery above the parity level, and (iii) by authorizing the establishment and maintenance of such minimum standards of quality and maturity, and such grading and inspection requirements as may be incidental thereto, as will tend to effectuate such orderly marketing of such celery as will be in the public interest, and (iv) by establishing and maintaining such orderly marketing conditions as will provide, in the interest of producers and consumers, an orderly flow of the supply of such celery to market throughout its normal marketing season to avoid unreasonable fluctuations in supplies and prices;

(2) The marketing agreement and order authorize regulation of the handling of celery grown in the production area in the same manner as, and is applicable only to, persons in the respective classes of industrial and commercial activity specified in a proposed marketing agreement upon which a hearing has been held;

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

(4) The said marketing agreement and order prescribe, so far as practicable, such different terms, applicable to different parts of the production area, as are necessary to give due recognition to the differences in the production and marketing of celery grown in the production area; and

(5) All handling of celery grown in the production area as defined in the said marketing agreement and order, is in the current of interstate or foreign commerce, or directly burdens, obstructs or affects such commerce.

*Ruling on proposed findings and conclusions.* Interested parties were allowed until May 10, 1955, to file briefs with respect to findings of fact and conclusions based on evidence introduced at the hearing. A brief was filed within the allotted time by M. W. Wells, Attorney, Maguire, Voorhis & Wells, 135 Wall Street, Orlando, Florida, on behalf of Herbert G. Behrens of Lake Monroe; William Bush, Jr., W. P. Chapman, Chase and Company, M. L. Cullum, Donald

Dunn, C. M. Flowers, L. T. Frazier, J. L. Jackson, W. A. Leffler, L. C. Leonard, A. B. Mahoney, F. T. Meriwether, W. B. Miller, F. W. Pope, W. W. Tyre, and Joder Cameron, all of Sanford, Florida; E. A. Londenberg of Port Orange, Florida; and Karl Daul, M. L. Gary, A. M. Jones, and W. T. Walker, all of Oviedo, Florida. The brief contained suggested findings of facts, conclusions, and arguments with respect to the proposals considered at the hearing. This brief contended and concluded that there is no need for a marketing agreement and order for Florida celery and, in substance, that the terms and provisions of the proposed marketing agreement and order will not effectuate the declared policy of the act. Every point covered in the brief was carefully examined along with the evidence in the record in making the findings and reaching the conclusions hereinbefore set forth. To the extent that the suggested findings and conclusions in the above brief are at variance with the findings and conclusions in this notice of recommended decision, the request to make such findings or to reach such conclusions is denied.

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

#### DEFINITIONS

§ 937.1 *Secretary.* "Secretary" means the Secretary of Agriculture of the United States or any officer or employee of the United States Department of Agriculture to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

§ 937.2 *Act.* "Act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq. 68 Stat. 906, 1947).

§ 937.3 *Person.* "Person" means an individual, partnership, corporation, association, or any other business unit.

§ 937.4 *Production area.* "Production area" means the entire State of Florida.

§ 937.5 *Celery.* "Celery" means all varieties of celery grown within the production area.

§ 937.6 *Type.* "Type" or "variety" means and includes those classifications or subdivisions of celery according to definitive characteristics now or hereafter recognized by the United States Department of Agriculture as Pascal type or variety and Golden type or variety.

§ 937.7 *Handle.* "Handle" means to harvest celery, or to sell, transport, or ship celery within the production area or between the production area and any point outside thereof: *Provided*, That such term shall not include the sale of unharvested celery.

§ 937.8 *Handler.* "Handler" is synonymous with "shipper" and means any person (except a common or contract

carrier of celery owned by another person) who handles celery or causes celery to be handled.

§ 937.9 *Harvest.* "Harvest" is synonymous with "preparation for market" and means the cutting and stripping, and the sorting or separation of celery into grades and sizes for market.

§ 937.10 *Producer.* "Producer" or "grower" means any person who is engaged in the production of celery for market.

§ 937.11 *Grade and size.* "Grade" means any one of the established grades of celery as defined and set forth in the United States Standards for Celery (§§ 51.560 to 51.581 of this title), or the United States Consumer Standards for Celery Stalks (§§ 51.595 to 51.609 of this title), or amendments thereto, or modifications thereof, or variations based thereon; and "size" means the number of celery stalks which may be packed in a container of fixed size and capacity, as approved by the Secretary pursuant to the methods set forth in this part.

§ 937.12 *Container.* "Container" means a crate, bag, box, basket, package, or any other unit, used in the packaging, transportation, sale, shipment, or other handling of celery, the size, capacity, weight, dimensions, or pack of which is fixed pursuant to methods approved by the Secretary upon recommendation of the committee.

§ 937.13 *Pack.* "Pack" or "packs" means the manner in which stalks of celery may be placed in a container or containers.

§ 937.14 *Fiscal period.* "Fiscal period" means the period beginning August 1 and ending July 31 following.

§ 937.15 *Committee.* "Committee" means the administrative committee, called the Florida Celery Committee, established pursuant to § 937.25.

§ 937.16 *District.* "District" means each of the geographic divisions of the production area initially established pursuant to § 937.27, or as reestablished pursuant to § 937.28.

§ 937.17 *Field.* "Field" means a well delineated plot of cultivated land upon which celery is grown.

§ 937.18 *Block.* "Block" means a portion of a field or fields of celery which may be ready for harvest during designated periods.

§ 937.19 *Available supply of celery.* "Available supply of celery" means the linear feet of rows of unharvested celery of a particular variety ready for harvest for shipment during a particular prorate period or periods.

§ 937.20 *Allotment.* "Allotment" means the amount of celery which may be handled by any and all handlers during specific prorate periods.

§ 937.21 *Prorate period.* "Prorate period" means the period or periods of time recommended by the committee and approved by the Secretary during which allotments of celery may be established.



**§ 937.22 Export.** "Export" means shipment of celery beyond the boundaries of continental United States and of Canada.

#### COMMITTEE

**§ 937.25 Administrative committee.** (a) The Florida Celery Committee, consisting of 9 producer members, is hereby established as the administrative committee. For each member of such committee there shall be an alternate who shall have the same qualifications as the member.

(b) Each person selected as a member or alternate of the committee shall be an individual who is a producer, or an officer or employee of a producer, in the district for which selected and a resident of the production area.

**§ 937.26 Term of office.** (a) The term of office of members and alternates of the committee shall be for one year and shall begin as of August 1 and end as of July 31.

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

**§ 937.27 Districts.** For the purpose of determining the basis of selecting committee members and alternates, the following districts of the production area are hereby initially established:

*District No. 1 or South Florida District.* The Counties of Martin, Dade, Broward, Collier, Monroe, Lee, Charlotte, St. Lucie, Okeechobee, Highlands, Indian River, Glades, Hendry, and Palm Beach.

*District No. 2 or Florida West Coast District.* The Counties of Sarasota, DeSoto, Hardee, Pinellas, Pasco, Polk, Manatee, and Hillsborough.

*District No. 3 or Central and North Florida District.* All the remaining counties in Florida not included in Districts 1 and 2.

**§ 937.28 Redistricting.** The committee may recommend, and pursuant thereto, the Secretary may approve, the reapportionment of committee members among districts, and the reestablishment of districts within the production area. In recommending any such changes, the committee shall give consideration to: (a) Shifts in celery acreage within districts and within the production area during years immediately preceding such consideration; (b) the importance of new production in its relation to existing districts; (c) the equitable relationship of committee membership and districts; (d) economies to result for producers in promoting efficient administration due to redistricting or reapportionment of members within districts; and (e) other relevant factors. No change in districting or in apportionment of members within districts may become effective within less than 30 days prior to the date on which terms of office begin each year and no recommendations for such redistricting or reapportionment may be made less than six months prior to such date.

**§ 937.29 Selection.** The Secretary shall select 3 members, with alternates, from District No. 1, 2 members, with alternates, from District No. 2, and 4 members, with alternates from District No. 3, to serve on the committee.

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

(a) A meeting or meetings of producers shall be held in each district to nominate members and alternates for the committee. For nominations to the initial committee, the meetings may be sponsored by the United States Department of Agriculture or by any agency or group requested to do so by such Department. Appropriate notice of such meetings shall be given to growers by means of press release to newspapers and other media of communications. For nominations for succeeding members and alternates, the committee shall give appropriate notice thereof and shall hold such meetings or cause them to be held prior to July 10 of each year, after the effective date of this subpart.

(b) At each such meeting at least two nominees shall be designated for each position as committee member and for each position as alternate. The producer in each district who during the season immediately prior to the current fiscal period sold of his own production the largest amount of celery among all producers in such district and who elects to vote therein may designate two such nominees for a member and two such nominees for an alternate. At such meetings other eligible voters may ballot to indicate the ranking of their choice among the nominees.

(c) Nominations for committee members and for alternates, other than initial members and alternates, shall be supplied to the Secretary in such manner and form as he may prescribe, not later than July 15, of each year.

(d) In the event a person is engaged in producing celery in more than one district, such person shall elect the district within which he may participate as aforesaid in designating nominees.

(e) Regardless of the number of districts in which a person produces celery, each such person is entitled to cast only one vote on behalf of himself, his agents, subsidiaries, affiliates, and representatives in designating nominees for committee members and alternates. An eligible voter's privilege of casting only one vote as aforesaid shall be construed to permit a voter to cast one vote for each position to be filled in the district in which he elects to vote.

**§ 937.31 Failure to nominate.** If nominations are not made within the time and in the manner specified in § 937.30, the Secretary may, without regard to nominations, select the members and alternates of the committee, which selection shall be on the basis of the representation provided for in § 937.29.

**§ 937.32 Acceptance.** Any person selected as a committee member or alternate shall qualify by filing a written acceptance with the Secretary within

ten days after being notified of such selection.

**§ 937.33 Vacancies.** To fill vacancies in the committee, the Secretary may select such members or alternates from unselected nominees on the respective current nominee lists from the district involved, or from nominations made in the manner specified in § 937.30. If the names of nominees to fill any such vacancy are not made available to the Secretary within 30 days after such vacancy occurs, such vacancy may be filled without regard to nominations, which selection shall be made on the basis of the representation provided for in § 937.29.

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

**§ 937.35 Procedure.** (a) Six members of the committee shall be necessary to constitute a quorum and the same number of concurring votes shall be required to pass any motion or approve any committee action.

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

**§ 937.36 Expenses and compensation.** Committee members and alternates may be reimbursed for expenses necessarily incurred by them in the performance of duties and in the exercise of powers under this part.

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

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

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

(c) To receive, investigate, and report to the Secretary complaints of violation of the provisions of this part; and

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

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

(a) At the beginning of each term of office, to meet and organize, to select a chairman and such other officers as may be necessary, to select subcommittees of committee members, and to adopt such rules and regulations for the conduct of its business as it may deem advisable;

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

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

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

(e) To prepare a marketing policy;



(f) To recommend marketing regulations to the Secretary;

(g) To recommend rules and procedures for, and to make determinations in connection with, issuance of certificates of privilege or exemptions, or both;

(h) To investigate an applicant's claim for exemption;

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

(j) At the beginning of each fiscal period to prepare a budget of committee expenses for such fiscal period, together with a report thereon;

(k) To cause committee books to be audited by a competent accountant at least once each fiscal period, and at such other time as the committee may deem necessary or as the Secretary may request;

(l) To prepare and maintain, in cooperation with handlers, an accurate map or diagram for each field of celery by grower designation and by blocks;

(m) To provide an adequate system for determining the total available supply of celery by varieties or types, and to make such determinations, including determinations by grade and size, as it may deem necessary, or as may be prescribed by the Secretary, in connection with the administration of this part;

(n) To investigate compliance with respect to any regulation pursuant to this part applicable to handling of celery or harvesting celery for shipment;

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

#### EXPENSES AND ASSESSMENTS

**§ 937.40 Expenses.** The committee is authorized to incur such expenses as the Secretary may find are reasonable and likely to be incurred during each fiscal period for the maintenance and functioning of the committee, and for such purposes as the Secretary, pursuant to this subpart, determines to be appropriate. Handlers shall share expenses upon the basis of a fiscal period or such portion or portions thereof as the committee may recommend and the Secretary approve as a representative period. Each handler's share of such expense shall be proportionate to the ratio between the total quantity of celery handled by him as the first handler thereof during the fiscal period or representative period and the total quantity of celery handled by all handlers as first handlers thereof during such fiscal period or representative period.

**§ 937.41 Budget.** At the beginning of each fiscal period and as may be necessary thereafter, the committee shall prepare an estimated budget of income and expenditures necessary for the administration of this part. The committee may recommend a rate of assessment

calculated to provide adequate funds to defray its proposed expenditures. The committee shall present such budget to the Secretary with an accompanying report showing the basis for its calculations.

**§ 937.42 Assessments.** (a) The funds to cover the committee's expenses shall be acquired by the levying of assessments upon handlers as provided in this subpart. During any period in which handling of celery is regulated pursuant to this part each handler who first handles celery shall pay assessments to the committee upon demand, which assessments shall be in payment of such handler's pro rata share of the committee's expenses.

(b) Assessments shall be levied upon handlers at rates established by the Secretary. Such rates may be established upon the basis of the committee's recommendations and other available information. Such rates may be applied to specified containers used in the production area.

(c) At any time during, or subsequent to, a given fiscal period the committee may recommend the approval of an amended budget and an increase in the rate of assessment. Upon the basis of such recommendations, or other available information, the Secretary may approve an amended budget and increase the rate of assessment. Such increase shall be applicable to all handling of celery which is regulated under this part and which is handled by the first handler thereof during such fiscal period.

**§ 937.43 Accounting.** (a) All funds received by the committee pursuant to the provisions of this part shall be used solely for the purposes specified in this part.

(b) The report of the audit which the committee is required to have made at least once each fiscal period shall show the receipts and expenditures of funds collected pursuant to this part. A copy of each such report shall be furnished to the Secretary and a copy of each such report shall be made available at the principal office of the committee for inspection by producers and handlers.

(c) The Secretary may at any time require the committee, its members and alternates, employees, agents, and all other persons to account for all receipts and disbursements, funds, property, or records for which they are responsible. Whenever any person ceases to be a member of the committee, or alternate, he shall account to his successor, the committee, or the person designated by the Secretary, for all receipts, disbursements, funds, and property (including but not being limited to books and other records) pertaining to the committee's activities for which he is responsible, and shall execute such assignments and other instruments as may be necessary or appropriate to vest in such successor, committee, or designated person, the right to all of such property and funds and all claims vested in such person.

(d) The committee may make recommendations to the Secretary for one or more of the members thereof, or any other person, to act as a trustee for holding records, funds, or any other com-

mittee property during periods of suspension of this subpart, or during any period or periods when regulations are not in effect and, if the Secretary determines such action appropriate, he may direct that such person or persons shall act as trustee or trustees for the committee.

**§ 937.44 Refunds.** At the end of each fiscal period or other representative period used by the committee as a basis for seasonal accounting, monies arising from the excess of assessments over expenses shall be accounted for as follows:

(a) Each handler entitled to a proportionate refund of the excess assessments at the end of a fiscal period shall be credited with such refund against the operations of the following fiscal period unless he demands payment thereof, in which event such proportionate refund shall be paid to him; or

(b) The Secretary, upon recommendation of the committee may determine that it is appropriate for the maintenance and functioning of the committee that some of the funds collected during a fiscal period which are in excess of the expenses necessary for the committee's operations during such period may be carried over into following periods as a reserve for possible liquidation. Upon approval by the Secretary, such reserve may be used upon termination of this part to liquidate the affairs of the committee: *Provided*, That upon termination of this part any monies in the reserve for liquidation which are not required to defray the necessary expenses of such liquidation shall to the extent practical be returned upon a pro rata basis to all persons from whom such funds were collected.

#### REGULATION

**§ 937.50 Marketing policy.** (a) Prior to or at the same time as recommendations are made pursuant to § 937.51, a marketing policy deemed desirable for the industry to follow in handling celery during the ensuing marketing period shall be developed by the committee. In developing such marketing policy, the committee shall give due consideration to the following:

(1) Estimates by districts and by prorate periods of the available supply, in terms of linear feet of rows, or crates, or both, of celery by types or groupings thereof, by grade, size, and quality in the production area, and supply estimates for celery in competing areas;

(2) Estimated shipments by prorate periods for the current season of celery from each district and from competing areas;

(3) Estimated supplies of competing commodities;

(4) Current and prospective marketing prices and marketing conditions for Florida celery, including prices by grades, sizes, and quality, and similar estimates for competing areas;

(5) Estimates of harvesting and marketing costs and charges for celery grown in Florida;

(6) The level and trend of consumer income;

(7) Marketing conditions affecting celery prices; and



(8) Other factors pertinent to celery marketing.

(b) The marketing policy shall be reported to the Secretary by the committee. Additional reports shall be submitted from time to time if requested by the Secretary, or if it is deemed advisable by the committee to adopt a new marketing policy because of changes in the demand and supply situation with respect to celery. Such reports shall set forth: (1) Estimates of the available supply of celery for shipment during the season or respective portions thereof and estimates of the proportion of such crop which should be shipped during such season or respective portions thereof; (2) the proposed regulations which may be recommended by the committee during such season, or respective portions thereof, and the justification therefor; and (3) the estimates and other data set forth in and considered pursuant to paragraph (a) of this section.

(c) The committee shall notify producers and handlers of the contents of each such report by publishing a summary thereof in such newspapers of general circulation in each district as the committee may select.

§ 937.51 *Recommendations for regulations.* The committee, upon complying with the requirements of § 937.50, may recommend to the Secretary regulations authorized in this part whenever it finds that such regulations will tend to effectuate the declared policy of the act. The committee may also recommend amendment, modification, termination, or suspension of any regulation issued under this part.

§ 937.52 *Issuance of regulation.* The Secretary shall regulate the handling of celery in any one or more of the ways set forth in this subpart whenever he finds from the recommendations and information submitted by the committee, or from other available information, that such regulations will tend to effectuate the declared policy of the act. Such regulations may:

(a) Limit, in any or all portions of the production area, the handling of particular grades, sizes, qualities, or packs of any or all types of celery during any period; or

(b) Limit the handling of particular grades, sizes, qualities, or packs of celery differently, for different types, for different portions of the production area, for different containers, for different purposes specified in § 937.60; or any combination of the foregoing during any period; or

(c) Limit the handling of celery by establishing, in terms of grades, sizes, or both, minimum standards of quality and maturity; or

(d) Fix the size, weight, capacity, dimensions, or pack of the container or containers which may be used in the packaging, transportation, sale, shipment, or other handling of celery; or

(e) Fix, or provide methods pursuant to §§ 937.53 through 937.55 for fixing, the total allotments of any or all types of celery that may be handled by each handler during a specified prorate period or periods.

§ 937.53 *Prorate bases.* (a) Each handler who has celery available for handling during a particular prorate period or periods and who desires to handle such celery during such prorate periods, shall submit to the committee a written application for a prorate base and for allotments as provided in this part. Such applications and supporting information shall be submitted in such manner and in such form as the committee shall designate pursuant to rules and regulations approved by the Secretary pursuant to § 937.56.

(b) For each prorate period during the marketing season when volume regulation has been or is likely to be recommended for a particular type of celery, the committee, upon receipt of applications for prorate bases and allotments with accompanying reports and information from handlers, shall compute the available supply of celery of such type of each handler who has applied for prorate bases and for allotments. On the basis of such computations, the committee shall fix prorate bases for each handler who is entitled thereto. Each such prorate base shall represent the ratio between the available supply of celery of the particular type of each applicant during a particular prorate period and the total available supply of celery of the same type of all such applicants during the same prorate period. The committee shall notify each handler of each prorate base fixed for him.

§ 937.54 *Allotments.* (a) The Secretary, upon the basis of recommendations by the committee or other available information, shall fix the total linear feet of rows from which each type of celery may be handled during any specified prorate period or periods, and whenever the Secretary so fixes such total, the committee shall compute the quantity of each such type of celery that may be handled by each handler during such prorate period or periods. Each such quantity shall be the allotment of such handler and shall be in an amount equivalent to the product of the prorate base for such handler for a particular type of celery and the total linear feet of rows of the same type fixed by the Secretary as the total of such type from which celery may be handled during such prorate period or periods. Each allotment for each handler shall be designated by type in terms of linear feet of rows of celery that may be harvested. The committee shall give reasonable notice to each handler of the allotment computed for him pursuant to this part.

(b) During a particular prorate period celery may be handled by any handler pursuant to an allotment only from such harvested rows which are contained in the fields and blocks specified in the applicable approved report filed by such handler which shows his available supply of celery for such specified prorate period. Such celery shall be harvested from the same relative location in each row of each block within each field, or from consecutive complete rows except that the last rows cut in each block or field may be fractions of rows to complete

the total linear feet of rows of celery specified in the allotment.

(c) Celery contained in any handler's report available supply of celery for a particular prorate period and not included in the allotment, as aforesaid, for such period shall remain unharvested until a certificate of compliance has been issued by a designated agent of the committee with respect to such unharvested celery. None of such unharvested celery may thereafter be harvested for shipment unless all handlers' unharvested celery, originally contained in reports of available supply of celery for a particular prorate period is authorized by the Secretary to be harvested for shipment. The Secretary may issue such authorization upon recommendation of the committee or upon other available information.

§ 937.55 *Modification of allotments.*

(a) Each handler who gives written or telegraphic notice to the committee that such handler will not, during a current prorate period, harvest for shipment all or a portion of the celery included in his allotment for such prorate period, may withdraw his application for such allotment or portion thereof. All such celery which was included in the previous application and which is not harvested, as aforesaid, may thereafter be included in such handler's report of his available supply of celery for any subsequent prorate period; and an application based thereon for a prorate base and an allotment may be made for such prorate period. In the event of allotments during such subsequent period for the type which was withdrawn, as aforesaid, the prorate base for such withdrawn celery for such subsequent prorate period shall be a number of percentage points, as recommended by the committee, and approved by the Secretary, lower than the prorate base which applies to such variety for such prorate period.

(b) Each handler who gives written or telegraphic notice to the committee that such handler desires, during a particular prorate period, to harvest a quantity of a particular type of celery in excess of his allotment for such prorate period may exceed his allotment on the following conditions in addition to those set forth in § 937.54 (b): (1) The total number of linear feet of rows of such type of celery which such handler desires to harvest for shipment shall be included in the aforesaid notice and shall be identified by field, block, and row; and (2) the prorate base for such total number of linear feet of rows shall be a number of percentage points lower, as recommended by the committee and approved by the Secretary, than the prorate base which applies to such type for such prorate period.

§ 937.56 *Reports.* (a) The committee, with approval of the Secretary, may request handlers for reports and information which are necessary and incidental to the operation of this part. Each handler so requested pursuant hereto shall submit such reports and information to the committee. Such reports may include, but not be limited to,



estimates by handlers, in such form and at such times as the committee finds necessary, of the quantities of celery available for handling or handled during specific periods by each reporting handler.

(b) The committee may prescribe, with approval of the Secretary, through rules and regulations, the type of reports, the times when such reports shall be submitted, and the information which shall be submitted by handlers with respect to the celery which they own or control. Such reports may be requested weekly, if found necessary but not more often, in the case of regulation by prorate periods. Maps or diagrams of fields and blocks of celery, by variety or type, by time of planting, by time of prospective harvest, and by the amount handled during specific periods, by grade, size, and quality, as well as other reports and information necessary and incidental to the operation of this part, may be requested as parts of handlers' reports.

(c) All reports, including reports of available supply of celery submitted by handlers, and all requests for allotment shall be subject to inspection, correction of errors, and approval by the committee. All such reports shall be held under appropriate protective classification and custody by the committee, or duly appointed employees thereof, so that information contained therein which may adversely affect the competitive position of any handler in relation to other handlers will not be disclosed. Compilations of general reports from data submitted by handlers is authorized, subject to prohibition of disclosure of individual handlers' identities or operations.

§ 937.57 *Notice.* (a) The committee shall give notice to all handlers of meetings to consider recommendation of regulation pursuant to § 937.52. Such notice shall contain a direction to handlers to make the application required by § 937.53 (a), whenever the committee contemplates recommending regulation pursuant to § 937.52 (e). Such notice shall be given in adequate time prior to the meeting for handlers to receive such notice, and the adequate time shall be determined pursuant to the rules and regulations authorized by § 937.56 (b) as approved by the Secretary.

(b) The committee shall promptly give notice of any recommendation for regulations pursuant to § 937.52 (e) at least forty-eight (48) hours before the recommended effective time of the proposed regulation by forwarding a copy of such recommendation to each handler who has filed his address with the committee for this purpose.

(c) Prior to the beginning of each regulation issued pursuant to § 937.52, the Secretary shall notify the committee of the regulation issued and such committee shall promptly give notice thereof to all handlers and also shall forward a copy of such notice to each handler who has filed his address for that purpose with the committee.

§ 937.58 *Minimum quantities.* The committee, with the approval of the Secretary, may establish, for any or all portions of the production area, minimum quantities below which shipments will be

free from regulations issued or effective pursuant to §§ 937.42, 937.52, 937.59, 937.60, 937.65, or any combination thereof.

§ 937.59 *Shipments for special purposes.* Upon the basis of recommendations and information submitted by the committee, or other available information, the Secretary, whenever he finds that it will tend to effectuate the declared policy of the act, shall modify, suspend, or terminate regulations issued pursuant to §§ 937.42, 937.52, 937.58, 937.65, or any combination thereof, in order to facilitate handling of celery for the following purposes:

- (a) For grading within the production area;
- (b) For export;
- (c) For relief or for charity; or
- (d) For other purposes which may be specified.

§ 937.60 *Safeguards.* (a) The committee, with the approval of the Secretary, may prescribe adequate safeguards to prevent shipments pursuant to § 937.58 or § 937.59 from entering channels of trade for other than the specific purpose authorized therefor, and rules governing the issuance and contents of Certificates of Privilege if such certificates are prescribed as safeguards by the committee. Such safeguards may include requirements that:

- (1) Handlers shall file applications with the committee to handle celery pursuant to §§ 937.58 and 937.59; or
- (2) Handlers shall obtain inspection provided by § 937.65, or pay the assessment pursuant to § 937.42, or both, in connection with handling pursuant to § 937.59; or
- (3) Handlers shall obtain Certificates of Privilege from the committee for handling of celery under the provisions of §§ 937.58 and 937.59.

(b) The committee may rescind Certificates of Privilege, or deny such certificates to any handler, if proof is obtained that celery handled by him was handled contrary to the provisions of this part.

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

(d) The committee shall make reports to the Secretary, as requested, showing the number of applications for such certificates, the quantity of celery covered by such applications, the number of such applications denied and certificates granted, the quantity of celery handled under duly issued certificates, and such other information as may be requested.

#### INSPECTION

§ 937.65 *Inspection and certification.* (a) During any period in which the handling of celery is regulated pursuant to §§ 937.42, 937.52, 937.59, or any combination thereof, no handler shall handle celery unless such celery is inspected by an authorized representative of the Federal-State Inspection Service, or such other inspection service as the Secretary shall designate, and is covered by a valid inspection certificate, except when relieved from such requirements by the

Secretary pursuant to recommendation by the committee.

(b) Regrading, resorting, or repacking any lot of celery shall invalidate any prior inspection certificates insofar as the requirements of this section are concerned. No handler shall handle celery after it has been regraded, resorted, repacked, or in any other way further prepared for market within the production area, unless such celery is inspected by an authorized representative of the Federal-State Inspection Service, or such other inspection service as the Secretary shall designate, except when relieved from such requirement by the Secretary, pursuant to recommendation of the committee.

(c) Insofar as the requirements of this section are concerned the length of time for which an inspection certificate is valid may be established by the committee with the approval of the Secretary.

(d) When celery is inspected in accordance with the requirements of this section, a copy of each inspection certificate issued shall be made available to the committee by the inspection service.

#### EXEMPTIONS

§ 937.70 *Procedure.* The committee may adopt, with approval of the Secretary, the procedures pursuant to which certificates of exemption will be issued to producers for the purpose of obtaining equitable treatment under regulation issued pursuant to § 937.52.

§ 937.71 *Granting exemptions.* The committee shall issue certificates of exemption to any producer who applies for such exemptions and furnishes adequate evidence to the committee, that by reason of a regulation issued pursuant to § 937.52 he will be prevented from handling as large a proportion of his celery as the average proportion handled during the entire season, or such portion thereof as may be determined by the committee, of all producers' celery in said applicant's immediate production area and the grade, size, or quality of the applicant's celery crop has been adversely affected by acts beyond the applicant's control and by acts beyond reasonable expectation. Each certificate shall permit the handling of such quantity of celery as may be specified thereon. Such certificate shall be transferred with such celery at the time of transportation or sale.

§ 937.72 *Investigation.* The committee shall be permitted at any time to make a thorough investigation of any producer's or handler's claim pertaining to exemptions.

§ 937.73 *Appeal.* If any applicant for exemption certificates is dissatisfied with the determination by the committee with respect to his application, said applicant may file an appeal with the committee. Such an appeal must be taken promptly after the determination by the committee from which the appeal is taken. Any applicant filing an appeal shall furnish evidence satisfactory to the committee for a determination on the appeal. The committee shall thereupon reconsider the application, examine all available



evidence, and make a final determination concerning the application. The committee shall notify the appellant of the final determination, and shall furnish the Secretary with a copy of the appeal and a statement of considerations involved in making the final determination.

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

(b) The Secretary shall have the right to modify, change, alter, or rescind any procedure and an exemptions granted pursuant to §§ 937.70, through 937.73.

#### MISCELLANEOUS PROVISIONS

**§ 937.80 Compliance.** Except as provided in this subpart:

(a) No handler shall handle celery, the handling of which has been prohibited in accordance with the provisions of this part; and

(b) No handler shall handle celery during any prorated period in which a regulation issued by the Secretary pursuant to § 937.52 (c) is in effect, unless such celery is covered by an allotment or modification thereof.

**§ 937.81 Right of the Secretary.** The members of the committee (including successors and alternates), and any agent or employee appointed or employed by the committee, shall be subject to removal or suspension by the Secretary at any time. Each and every order, regulation, decision, determination or other act of the committee shall be subject to the continuing right of the Secretary to disapprove of the same at any time. Upon such disapproval the disapproved action of said committee shall be deemed null and void, except as to acts done in reliance thereon or in compliance therewith prior to such disapproval by the Secretary.

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

**§ 937.83 Termination.** (a) The Secretary may, at any time, terminate the provisions of this subpart by giving at least one (1) day's notice by means of a press release or in any other manner which he may determine.

(b) The Secretary may terminate or suspend the operation of any or all of the provisions of this subpart whenever he finds that such provisions do not tend to effectuate the declared policy of the act.

(c) The Secretary shall terminate the provisions of this subpart at the end of any fiscal period whenever he finds, by referendum or otherwise, that such ter-

mination is favored by the majority of the producers who, during such representative period as may be determined by the Secretary, have been engaged in the production of celery for market: *Provided*, That such majority has, during such representative period, produced for market more than fifty (50) percent of the volume of celery produced for market, but such termination shall be effective only if announced on or before June 30 of the then current fiscal period.

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

**§ 937.84 Proceedings after termination.** (a) Upon the termination of the provisions of this subpart, the then functioning members of the committee shall continue as joint trustees, for the purpose of liquidating the affairs of said committee, of all funds and property then in the possession of or under control of such committee, including claims for any funds unpaid or property not delivered at the time of such termination.

The rules of procedure governing the activities of said joint trustees, including but not being limited to the determination as to whether action shall be taken by a majority vote of the joint trustees, shall be prescribed by the Secretary.

(b) The said trustees (1) shall continue in such capacity until discharged by the Secretary; (2) shall, from time to time, account for all receipts and disbursements and deliver all property on hand, together with all books and records of the committee and of the joint trustees, to such person as the Secretary may direct; and (3) shall, upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title and right to all of the funds, property, and claims vested in the committee or the joint trustees pursuant to this subpart.

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

**§ 937.85 Effect of termination or amendment.** Unless otherwise expressly provided by the Secretary, the termination of this subpart or any regulation issued pursuant to this subpart or the issuance of any amendments to either thereof, shall not (a) affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provision of this subpart or any regulation issued under this subpart, or (b) release or extinguish any violation of this subpart or of any regulations issued under this subpart or (c) affect or impair any rights or remedies of the Secretary or of any other person with respect to any such violations.

**§ 937.86 Duration of immunities.** The benefits, privileges, and immunities conferred upon any person by virtue of this subpart shall cease upon the termination of this subpart, except with re-

spect to acts done under and during the existence of this subpart.

**§ 937.87 Agents.** The Secretary may, by designation in writing, name any person including any officer or employee of the Government, or name any agency in the United States Department of Agriculture, to act as his agent or representative in connection with any of the provisions of this subpart.

**§ 937.88 Derogation.** Nothing contained in this subpart is, or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States to exercise any powers granted by the act or otherwise, or, in accordance with such powers, to act in the premises whenever such action is deemed advisable.

**§ 937.89 Personal liability.** No member or alternate of the committee, nor any employee thereof, shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any handler or to any other person or errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate, employee, or agent, except for acts of dishonesty.

**§ 937.90 Separability.** If any provision of this subpart is declared invalid, or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder of this subpart or the applicability thereof to any other person, circumstance, or thing shall not be affected thereby.

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

**§ 937.92 Title.** This subpart shall be entitled Order No. 37. Reference to this subpart in rules and regulations pursuant thereto may be made to this title and such reference shall be considered comprehensive, and to include all amendments thereto that are in effect at the time of such reference.

**§ 937.93 Counterparts.** This agreement may be executed in multiple counterparts and when one counterpart is signed by the Secretary all such counterparts shall constitute, when taken together, one and the same instrument as if all signatures were contained in one original.<sup>1</sup>

**§ 937.94 Additional parties.** After the effective date of this subpart, any handler who has not previously executed this agreement may become a party hereto if a counterpart hereof is executed by him and delivered to the Secretary. This agreement shall take effect as to such new contracting party at the time such counterpart is delivered to the Secretary, and the benefits, privileges, and immunities conferred by this agreement shall then be effective as to such new contracting party.<sup>1</sup>

**§ 937.95 Order with marketing agreement.** Each signatory handler favors and approves the issuance of an order,

<sup>1</sup> Applicable only to the proposed marketing agreement.



by the Secretary, regulating the handling of celery in the same manner as is provided for in this agreement; and each signatory handler hereby requests the Secretary to issue, pursuant to the act, such an order.<sup>1</sup>

Done at Washington, D. C., this 19th day of August 1955.

[SEAL] ROY W. LENNARTSON,  
Deputy Administrator.

[F. R. Doc. 55-6870; Filed, Aug. 23, 1955;  
8:51 a. m.]

# [ 7 CFR Part 953 ]

[Docket No. AO 144-A6]

## HANDLING OF LEMONS GROWN IN CALIFORNIA AND ARIZONA

### NOTICE OF RECOMMENDED DECISION AND OPPORTUNITY TO FILE WRITTEN EXCEP- TIONS WITH RESPECT TO PROPOSED FUR- THER AMENDMENTS TO MARKETING AGREE- MENT AND ORDER

Pursuant to the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900; 19 F. R. 57), notice is hereby given of the filing with the Hearing Clerk of the recommended decision of the Deputy Administrator, Agricultural Marketing Service, United States Department of Agriculture, with respect to proposed amendments to the marketing agreement, as amended, and Order No. 53, as amended (7 CFR Part 953; 19 F. R. 7175)<sup>2</sup> hereinafter referred to as "marketing agreement" and "order," respectively, regulating the handling of lemons grown in California and Arizona, to be made effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.; 68 Stat. 906, 1047), hereinafter referred to as the "act." Interested parties may file written exceptions to this recommended decision with the Hearing Clerk, United States Department of Agriculture, Room 112, Administration Building, Washington 25, D. C., not later than the close of business of the fifteenth day after publication hereof in the FEDERAL REGISTER. Exceptions should be filed in quadruplicate.

**Preliminary statement.** The public hearing, on the record of which the proposed amendments to the marketing agreement and order are formulated, was initiated by the Agricultural Marketing Service as a result of proposals submitted jointly by the Sunkist Growers Inc., the Mutual Orange Distributors, and the American National Foods, Inc., and held at Los Angeles, California, on April 13, 1955. In accordance with the applicable provisions of the aforesaid rules of practice and procedure, a notice that such public hearing would be held in Los Angeles, California, beginning on April 13, 1955, to consider the proposed amendments was published in the Fed-

ERAL REGISTER (20 F. R. 1828) on March 25, 1955.

**Material issues.** The material issues presented on the record of the hearing were concerned with amending the marketing agreement and order to:

(a) Change the definition of "act" so as to bring it up to date and to include therein statutory reference to amendments to the act contained in the Agricultural Act of 1954;

(b) Provide for continued volume regulation of lemons grown in California and Arizona during any period when the season average price for such lemons is above the parity level, in order to avoid unreasonable fluctuations in supplies and prices; and

(c) Provide that in the nomination of the non-industry member and the alternate for such member to serve on the Lemon Administrative Committee only one nominee shall be required to be submitted for each such position to be filled.

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

(a) The term "act" as presently defined in the marketing agreement and order for lemons does not include the statutory reference to, or the authority in, the amendments (68 Stat. 906) to the act contained in the Agricultural Act of 1954 (68 Stat. 897) since such amendments were made effective subsequent to the time this regulatory program was placed in operation.

One of the 1954 amendments to the act under which this regulatory program for lemons is operative, provides for the inclusion in marketing agreements and orders for certain commodities of authority to establish and maintain such orderly marketing conditions therefor as will provide, in the interests of producers and consumers, such orderly flow to market of the supplies of such commodities as will avoid unreasonable fluctuations in supplies and prices. The principal purpose of the proposed amending of this lemon marketing agreement and order at the present time is to include therein the authority of such 1954 amendment. It is, therefore, concluded that the present definition of the term "act" should be amended as hereinafter set forth to bring it up to date and to include a reference to the Agricultural Act of 1954 applicable to such authority. This will make it clear that whenever "act" is hereafter referred to in connection with the amended lemon program such reference includes all of the statutory amendments to the act since the inception of this program, up to and including the 1954 amendments.

(b) The provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), in conformity with which the current marketing agreement and order program for lemons has been operative, did not, prior to the 1954 amendment, contain authority for volume regulations during any period with respect to which the Secretary determines that the season average price will be in excess of parity price.

The Agricultural Act of 1954 provides that authority may be included in marketing agreements and orders to establish and maintain such orderly marketing conditions for certain specified agricultural commodities, including lemons, as will provide, in the interests of producers and consumers, an orderly flow of the supply thereof to market throughout the normal marketing season so as to avoid unreasonable fluctuations in supplies and prices. Such a provision is applicable to the marketing agreement and order program regulating, on a volume basis, the handling of California-Arizona lemons.

Authority to regulate at all times the flow to market of the supply of lemons is needed in this lemon regulatory program because lemons are not generally harvested and shipped to market immediately. Lemons are harvested and shipped in every month of the year, but the heaviest harvest occurs during the months of February, March, April and May, while the period of greatest shipment occurs from May to October. Thus, the bulk of the lemon crop is harvested and held in storage for a considerable period of time prior to packing and shipment. Generally, at the beginning of, and during, the period of greatest shipments, the quantity of lemons in storage will range from 6,000 to 10,000 carloads. Industry records show that not more than 700 to 900 carloads of lemons a week could be marketed in the fresh market to advantage, even during the most favorable weeks of this period. Hence, in normal seasons, there is in storage at all times a quantity of lemons several times in excess of the quantity that could thus be absorbed by the market at any given time. Because of the storage factor, this potential over supply of lemons for market would prevail during some portions of each season, even in seasons when lemon production is substantially reduced by a freeze or other crop disaster, barring a season of near or complete crop failure.

Recent mechanization of packing facilities and conversion to hand-wrapping and place-packing in boxes to jumble-packing in cartons have made available in most packing houses a reserve of packing capacity. If fully utilized, such reserve capacity could result in 1,500 carloads of lemons being packed a week. Thus, it is obvious that the potential now exists to pack and make available for weekly shipment almost double the quantity of lemons that the industry has found through experience, the market can absorb even under the most favorable circumstances, at a price which will give the grower a reasonable return.

One of the factors complicating the marketing of lemons is that the demand for this commodity is inelastic, i. e., under a given set of conditions the market will absorb a predictable quantity of lemons at a fair price and varying the quantity available in the market above or below this level, all other factors being equal, will result in a large inverse change in price and such increase or decrease in price will be proportionately greater than the change in quantity which produced such change in price. For example, industry experience

<sup>1</sup> Applicable only to the proposed marketing agreement.

<sup>2</sup> The compilation of Order No. 53, as amended, appears in 20 F. R. 2913.



indicates that if there is a market for 700 cars of lemons at \$7.00 per box and 1,000 cars were shipped, the price in all probability would drop to \$3.00 or even \$2.00 per box. Even such a large reduction in price at the wholesale level would not necessarily clear the market, because most consumers are able to buy all of the lemons they need at the retail prices usually prevailing and, since the average consumer purchase is small, a reduction in the retail price of this average consumer purchase (brought about by an over supply on the market) would be too small to encourage consumers to increase their lemon purchases. Since it is difficult thus to stimulate consumer purchases, the excess quantity of lemons would most likely deteriorate in the hands of wholesalers and retailers and result not only in increased wastage but in consumers being sold lemons of deteriorated quality to their dissatisfaction and to the detriment of the lemon industry.

There is a very strong incentive on the part of shippers to ship to the fresh market as large a quantity of lemons as possible every week due to the better returns generally received in such outlet and because of variations in the storage life of lemons, and the desire of shippers to make efficient use of packing facilities and equipment. In the absence of volume regulation when seasonal average prices exceed the parity level, the tendency would be for shippers to ship lemons to the fresh market as long as prices are favorable; and due to the distance of the production area from the large consuming markets of the east, it is likely that substantial quantities of lemons would be en route to these markets before it became apparent to shippers that supplies already in the market were adequate to take care of the demand. In these circumstances, even though shippers were to curtail or stop shipment, it would not be possible for shippers to prevent the arrival on an already burdened market of such additional quantities of lemons as may be en route. With the arrival on a burdened market of these additional quantities, the market would be glutted and prices would drop to a disastrous level causing all shippers to cease shipping. Following such demoralization, shippers would not ship lemons to market until prices were again favorable. Due to the length of time required for lemons to travel the distance from the production area to consuming centers, periods of scarcity or famine of the commodity could occur and prices go unreasonably high. Such prices would encourage shippers again to flood the market. Thus, the cycle of events known as "gluts" and "famines" is set in motion, to the despair of the industry and consumers alike.

In addition to the inconvenience caused by unreasonable fluctuations in supplies and prices which could obtain from unrestricted movement of lemons to the fresh market, such unrestricted movement could result in consumers paying a greater average price for the season than if the supply were fed into the market in an orderly manner. Consumers often do not receive the full ben-

efit of price declines suffered by producers since uncertain market conditions frequently cause wholesalers and retailers to increase margins because of increased risks and to protest profits. Hence, a part of the reduction in producer's returns may be lost to the consumer. Furthermore, it is possible that in the absence of orderly marketing conditions with respect to the lemon supply, there might well occur periods during which no lemons are available to many consumers, even though ample quantities are available at shipping point.

Operation of volume regulation, as authorized under present provisions of the marketing agreement and order, has been directed toward the objective of achieving parity prices for lemons; and such operation has necessitated the development of a system which has proved effective in establishing and maintaining an orderly flow of lemons to market. However, it should not be the purpose of volume regulation during any period when the season average price exceeds the parity level to restrict the total quantity of lemons shipped to market so as to increase prices. Rather, such regulation should be used in a manner which would tend to insure an orderly flow of the total available supply to market over the entire season. This would, so far as practicable, avoid unreasonable fluctuations in supplies and prices of lemons and be mutually beneficial to producers and consumers.

All of the provisions of the marketing agreement and order, especially those applicable to the development of a marketing policy, the determination of pro-rata bases, the computation of allotments, and the fixing of the quantity of lemons to be shipped each week, are suitable for use in above-parity situations. Because of the marked influence of temperature and other short-run factors on the demand for lemons, it would be necessary to continue as now provided in the marketing agreement and order, weekly regulation of lemon shipments so as to assure such flow of lemons to market as will be consistent with the demand therefor. This would be effective in accomplishing the declared policy of the act by avoiding unreasonable fluctuations in the supplies and prices of lemons and be in the interest of both producers and consumers. It is therefore concluded that the marketing agreement and order should be amended as hereinafter set forth to permit the continued regulation of the flow of lemons to market even though the season average price may be above the parity level.

(c) The current provisions of the marketing agreement and order require that, in the nomination of the non-industry member and the alternate to such member to serve on the Lemon Administrative Committee, two nominees shall be elected for each position to be filled. The provision requiring the election of two such nominees for each position was initially included in the marketing agreement and order to insure that the Secretary could exercise a choice in making his selection. However, a recent amendment (19 F. R. 7175) to the lemon marketing agreement and order author-

izes the Secretary to make his selection from the nominees elected or from "other qualified persons." It seems apparent, in these circumstances, that the Secretary would have ample choice if only one nominee were elected to fill each position. Provisions of the marketing agreement and order governing the selection of the other six members and alternates of the committee require that only one nominee be elected for each member or alternate member position; and the Secretary is empowered to select members and alternates from such nominees or from other qualified persons. The committee often has found it difficult and embarrassing to obtain from persons outside the industry a statement indicating a willingness to serve on the committee because of the fact that two persons had to be nominated for each position to be filled. In view of this and the fact that current provisions of the marketing agreement and order authorize the Secretary to select the non-industry member and his alternate from other qualified persons in the same manner as he is permitted to select the industry members and alternates, and since only one nominee is required to be elected for each industry member and alternate, it is concluded that the marketing agreement and order should be made uniform with regard to the number of nominees required to be elected to fill each member position and alternate member position on the committee. It is therefore concluded that the marketing agreement and order should be amended to provide that only one nominee be elected for the position of non-industry member and one nominee for the alternate to such member.

*General findings.* (a) The marketing agreement, as amended, and as hereby proposed to be amended, and the order, as amended, and as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act, including the establishment and maintenance of such orderly marketing conditions for lemons grown in the States of California and Arizona as will provide, in the interests of producers and consumers, an orderly flow thereof to market throughout its normal marketing season to avoid unreasonable fluctuations in supplies and prices;

(b) The marketing agreement, as amended, and as hereby proposed to be amended, and the order, as amended, and as hereby proposed to be amended, regulate the handling of lemons grown in the States of California and Arizona in the same manner as, and are applicable only to persons in the respective classes of industrial and commercial activity specified in, the marketing agreement upon which hearings have been held;

(c) The marketing agreement, as amended, and as hereby proposed to be amended, and the order, as amended, and as hereby proposed to be amended, are limited in their application to the smallest regional production area that is practicable, consistently with carrying out the declared policy of the act; and the issuance of several orders ap-



plicable to subdivisions of such production area would not effectively carry out the declared policy of the act; and

(d) The marketing agreement, as amended, and as hereby proposed to be amended, and the order, as amended, and as hereby proposed to be amended, prescribe, so far as practicable, such different terms, applicable to different parts of the production area, as are necessary to give due recognition to differences in the production and marketing of the lemons covered thereby.

**Rulings on proposed findings and conclusions.** April 25, 1955, was fixed as the latest date for the filing of briefs with respect to the facts presented in evidence at the hearing and the findings and conclusions which should be drawn therefrom. No such brief, was filed within the prescribed time; hence, no ruling is necessary.

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

1. Delete the provisions of § 953.2 Act and insert, in lieu thereof, the following:

§ 953.2 Act. "Act" means Public Act No. 10, 73d Congress (May 12, 1933), as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.; 68 Stat. 906, 1047).

2. Insert the following new sentence immediately preceding the last sentence of § 953.52 *Issuance of regulations*: "Such regulation may be made effective, as authorized by the act, irrespective of whether the season average price for lemons is in excess of the parity price specified therefor in the act."

3. Delete the word "two" wherever it appears in paragraph (h) of § 953.22 *Nominations* and insert, in lieu thereof, the word "one".

Dated: August 19, 1955.

[SEAL] ROY W. LENNARTSON,  
Deputy Administrator.

[F. R. Doc. 55-6871; Filed, Aug. 23, 1955; 8:52 a. m.]

## [ 7 CFR Part 963 ]

[Docket No. AO-233 A3]

### HANDLING OF MILK IN STARK COUNTY, OHIO, MARKETING AREA

#### NOTICE OF HEARING ON PROPOSED AMENDMENT TO TENTATIVE MARKETING AGREEMENT, AND TO ORDER, AS AMENDED

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C., 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of a public hearing to be held at the St. Francis Hotel, 209 Tuscarawas, Canton, Ohio, beginning at 10:00 a. m. local time, August 29, 1955. The public

hearing is for the purpose of receiving evidence with respect to emergency and other economic conditions which relate to the proposed amendments hereinafter set forth, or appropriate modification thereof, to the tentative marketing agreement as heretofore approved by the Secretary of Agriculture and to the order, as amended, regulating the handling of milk in the Stark County, Ohio, marketing area (7 CFR 963.0 et seq.). The amendments proposed have not received the approval of the Secretary of Agriculture.

Amendments to the order, as amended for the Stark County, Ohio, marketing area have been proposed by The Stark County Milk Producers Association as follows:

1. Amend § 963.52 by adding after paragraph (c) the following: "Provided, That in the months of September, October and November 1955, in lieu of the basic formula price referred to in paragraphs (a) and (c) of this section, use the basic formula plus thirty cents."

2. Amend § 963.52 by adding after the above proviso: "Provided, That in the months of April, May and June, in lieu of the basic formula price referred to in paragraphs (a) and (c) of this section, use the basic formula minus eight cents; and in the months of July, August, September, October and November use the basic formula plus thirty cents."

Copies of this notice of hearing and of the order, as amended, now in effect may be obtained from the Market Administrator, 614 Renkert Building, Canton 2, Ohio, or from the Hearing Clerk, Room 112, Administration Building, United States Department of Agriculture, Washington 25, D. C., or may be there inspected.

Filed at Washington, D. C., this 19th day of August 1955.

[SEAL] ROY W. LENNARTSON,  
Deputy Administrator.

[F. R. Doc. 55-6877; Filed, Aug. 23, 1955; 8:53 a. m.]

## Commodity Exchange Authority

### [ 17 CFR Part 1 ]

#### GENERAL REGULATIONS UNDER COMMODITY EXCHANGE ACT

##### INCREASE OF REGISTRATION FEES

Notice is hereby given that the Secretary of Agriculture, under the authority contained in section 8a (4) of the Commodity Exchange Act (7 U. S. C. 12a), as amended by Public Law 248, 84th Congress, 1st Session, approved August 5, 1955, is considering the amendment of §§ 1.11 and 1.12 of the regulations under the Commodity Exchange Act (17 CFR 1.11, 1.12) to provide for a schedule of registration fees as follows:

For each registration of a futures commission merchant, \$25.00.

For each registration of a floor broker, \$15.00.

For each duplicate registration certificate, \$2.00.

The fees presently prescribed in the above regulations (\$10.00 for each registration and \$2.00 for each duplicate registration certificate) are not sufficient to offset the aggregate cost of registration activities. The schedule proposed is designed to meet such cost, and thus to conform to the view of Congress as expressed in the Independent Offices Appropriation Act, 1952, that Federal agencies should recover the cost of special services (including registration and licensing) "to the full extent possible \* \* \* taking into consideration direct and indirect cost to the government, value to the recipient, public policy or interest served, and other pertinent facts \* \* \*". Registration fees are deposited in the Treasury as general receipts and are not available for expenditure by the Department of Agriculture.

All persons who desire to submit written data, facts, or arguments for consideration in connection with the proposed amendments should file the same with the Administrator, Commodity Exchange Authority, United States Department of Agriculture, Washington 25, D. C., not later than the fifteen day after the publication of this notice in the FEDERAL REGISTER.

Issued this 19th day of August 1955.

[SEAL] EARL L. BUTZ,  
Assistant Secretary.

[F. R. Doc. 55-6874; Filed, Aug. 23, 1955; 8:52 a. m.]

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Food and Drug Administration

#### [ 21 CFR Part 120 ]

##### TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

##### NOTICE OF FILING OF PETITION FOR EXTENSION OF TOLERANCE FOR RESIDUES OF GLYDIN

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408 (d) (1), 68 Stat. 512; 21 U. S. C. 346a (d) (1)), the following notice is issued:

A petition has been filed by the Union Carbide and Carbon Corporation, 30 East Forty-second Street, New York 17, New York, for extension of the tolerance for residues of glyodin (2-heptadecylglyoxalidine acetate) at 5 parts per million to peaches.

The analytical method proposed in the petition for determining residues of glyodin is as follows:

##### 2-HEPTADECYLGLYOXALIDINE ACETATE-DETERMINATION OF GLYDIN FUNGICIDE RESIDUES ON FRESH FRUIT

1. **Purpose and limitations.** This method has been developed for the determination of glyodin fungicide residues on fresh peaches, apples, pears, and plums by reaction with an anionic complexing agent.

The presence of other spray residues or substances containing cationic or anionic surface-active compounds will cause erroneous results. However, most of the common spray materials used in conjunction with the fungicide, such as lime, lead ar-



senate, ferric sulfate, sulfur, DDT, captan, parathion, malathion, methoxychlor, Aramite, Phygon, phenyl mercuric acetate, and Cupro-K do not interfere. Ferment interferes in the method of analysis, and a correction should be applied for its residues.

The amount of interfering substances in fresh fruit is negligible. However, a control of untreated fruit should be used as a check in the determination of badly decomposed samples. Badly decomposed peaches impart a slight yellow color to the solvent, which must be corrected for in the glyodin analysis.

The method is applicable to the analysis of solutions containing 0.005 to 0.830 milligrams of the fungicide, which is equivalent to 0.05 to 8.3 parts per million for a 100-gram sample of the fruit. A suitable dilution of the extract must be made for the analysis of the higher concentrations.

2. **Principle.** 2-Heptadecylglyoxalidine acetate is extracted from the fruit with chloroform by percolation. The extract is added to a two-phase system of chloroform and water containing 5',5''-dibromo-O-cresolsulfonephthalein (bromocresol purple) indicator. The colored complex formed by the 2-heptadecylglyoxalidine acetate, a cationic surface-active agent, and the indicator is quantitatively extracted into the chloroform layer. The intensity of the color is measured at a wavelength of 410 millimicrons, the amount of glyodin present being determined by reference to a previously prepared calibration curve.

The hydrolysis product of 2-heptadecylglyoxalidine acetate is 2-aminoethylstearamide. The hydrolysis product also reacts to form a complex with the indicator solution and has a color intensity identical to its parent compound.

Carbon tetrachloride or a mixture of 50 percent acetic acid and water may also be used as solvents to remove the residues from the fruit. Carbon tetrachloride may be used as a solvent for the colored complex of the residues and the indicator, although the color intensity is less in this medium. When analyzing decomposed fruits, it is more advantageous to use the water-acetic acid solvent to extract the residues and carbon tetrachloride as the solvent for the colored complex. This combination of solvents eliminates interfering colors from the decomposed fruits.

3. **Reagents required.** a. Bromocresol purple indicator solution. Dissolve 0.100  $\pm$  0.020 gram of Eastman Kodak 5',5''-dibromo-O-cresolsulfonephthalein and 50 grams of anhydrous sodium sulfate in 1 liter of distilled water. Shake until all of the indicator is in solution.

b. Chloroform, c. p., or equivalent.

c. Glyodin formulation, specification grade, 34.0 percent minimum in isopropanol. Purity can be determined by titration in isopropanol with standard hydrochloric acid in isopropanol to thymol blue indicator (TIB-J1C2-1).

4. **Apparatus required.** a. Extraction tubes. Seal a No. 2 standard taper stopcock fitting to the end of a 625 x 32 millimeter glass tube. Make four lateral indentations in the bottom of the glass tube to support a small plug of glass wool.

5. **Sample preparation.** a. Weigh the sample to the nearest 0.1 gram on a suitable platform balance.

b. Cut the sample into slices not larger than 1 inch with a sharp knife.

6. **Procedure.** a. Assemble a series of six of the extraction tubes and add a small piece of glass wool to each.

b. Select six of the treated or untreated samples at random, prepared as described in 5. If a large number of samples are available, triplicate determinations may be adequate.

c. Add the samples to each of the respective extraction tubes and close the stopcocks on each tube.

d. Extract each sample by passing the same 150 milliliters of chloroform over the sample three times.

e. Introduce the chloroform at the top of the extraction tubes from a suitable graduate and adjust the stopcocks so they are approximately half open. Catch the solvent extract in respective suitable graduates.

f. Filter each chloroform extract through No. 1 Whatman filter paper into a 500-milliliter graduated separatory funnel and adjust the volume to 150 milliliters with additional chloroform from a pipette.

g. Add 100 milliliters of the indicator solution from a graduate and shake the separatory funnels vigorously.

h. Allow the separatory funnels to stand at room temperature for 15 minutes.

i. Prepare a blank of the reagents by adding 150 milliliters of chloroform and 100 milliliters of the indicator solution to a 500-milliliter separatory funnel. Shake the blank along with the samples.

j. Add a portion of the lower (chloroform) layer of both the blank and the sample to respective 2.0-centimeter cells of a Beckman Model B spectrophotometer and obtain an optical density for the sample at a wavelength of 410 millimicrons based on a reading of zero for the blank of the reagents. For a complete description of the instrument and its operation refer to the current Beckman Bulletin; Instruction Manual for Beckman Model B Spectrophotometer.

k. From a previously prepared calibration curve read the milligrams of 2-heptadecylglyoxalidine acetate corresponding to the optical density.

1. (Calibration curve) Dissolve approximately 0.35 gram of glyodin formulation weighed to the nearest 0.1 milligram in 500 milliliters of chloroform contained in a 1,000-milliliter volumetric flask. Dilute to the mark with additional chloroform.

m. Transfer 10 milliliters of this dilution to a 100-milliliter volumetric flask and dilute to the mark with additional chloroform.

n. Introduce 2, 5, 10, and 20 milliliters of the dilution in paragraph m into respective 250-milliliter glass-stoppered graduates and dilute to 150 milliliters with additional chloroform.

o. These standards will contain approximately 0.07, 0.17, 0.35, and 0.70 milligram of glyodin formulation. Determine the purity to the glyodin by titration with standard hydrochloric acid in isopropanol, and calculate the milligrams of 2-heptadecylglyoxalidine acetate in each standard.

p. Determine the optical density of each standard by following the procedure described in paragraphs 6f to j, inclusive.

q. Using the values obtained above, plot a calibration curve of optical density versus milligrams of 2-heptadecylglyoxalidine acetate. The optical density for 0.1 milligram is approximately 0.09.

7. **Calculation:**

$$\frac{A \times 1,000}{\text{Grams of sample}} = 2\text{-heptadecylglyoxalidine acetate, parts per million.}$$

$$A = 2\text{-heptadecylglyoxalidine acetate, milligrams from calibration curve.}$$

If an optical density is obtained for the control or untreated fruit, subtract an average of the optical densities for three to six blank determinations from each sample optical density.

Dated: August 18, 1955.

[SEAL]

JOHN L. HARVEY,  
Acting Commissioner of Food and Drugs.

[F. R. Doc. 55-6857; Filed, Aug. 23, 1955; 8:49 a. m.]

## CIVIL AERONAUTICS BOARD

### [ 14 CFR Part 41 ]

[Draft Release 55-20]

#### DUTY TIME LIMITATIONS FOR AIRCRAFT DISPATCHERS

##### NOTICE OF PROPOSED RULE MAKING

Pursuant to authority delegated by the Civil Aeronautics Board to the Bureau of Safety Regulation, notice is hereby given that the Bureau will propose to the Board that Part 41 of the Civil Air Regulations be amended as hereinafter set forth.

Interested persons may participate in the making of the proposed rules by submitting such written data, views, or arguments as they may desire. Communications should be submitted in duplicate to the Civil Aeronautics Board, attention Bureau of Safety Regulation, Washington 25, D. C. In order to insure their consideration before taking further action on the proposed rules, communications must be received by October 18, 1955. Copies of such communications will be available after October 21, 1955, for examination by interested persons at the Docket Section of the Board, Room 5412, Department of Commerce Building, Washington, D. C.

Currently effective Part 41 of the Civil Air Regulations does not contain duty

time limitations for aircraft dispatchers. However, Part 61 prior to April 1, 1954, and Part 40 subsequent to that date have contained specific duty time limitations for aircraft dispatchers. In view of this situation and in order to insure the same level of safety in domestic and international operations, the Administrator of Civil Aeronautics has incorporated similar duty time limitations in the Operations Specifications for each Part 41 operator. However, all parties concerned agree that basic duty time limitations are more properly the subject of regulatory action by the Board.

Accordingly, the Bureau published a notice of proposed rule making, circulated as Civil Air Regulations Draft Release No. 54-20 dated August 26, 1954, which included among other items a proposal to incorporate into Part 41 the dispatcher duty time limitations presently prescribed in revised Part 40. The proposal has been generally endorsed by all of the interested persons who commented upon it. However, some comment was specifically critical of the proposal because it did not recognize a fundamental difference between air carrier operations conducted under Parts 40 and 41, particularly with respect to the frequency of schedules. It has been stated that there are routes in Africa, the Middle East, and South America where the frequency of operations is limited to two round trips a week, en-



abling one dispatcher to handle the dispatch functions satisfactorily if he is permitted to be on duty more than 10 hours at a time without exceeding 40 hours in any week. Furthermore, it was pointed out that dispatchers on such routes are concerned only with the movement of one airplane at a time and are, therefore, not confronted with the complex problems which face dispatchers on domestic routes or high density international routes. In addition, it was stated that on these low frequency routes the dispatchers usually have very satisfactory off-duty periods, notwithstanding the fact that their duty time in some instances exceeds 10 hours during a 24-hour period.

The Bureau has taken the foregoing comments into consideration in preparing the proposal which follows and desires to obtain the views of interested persons with respect thereto.

In view of the foregoing, notice is hereby given that it is proposed to amend Part 41 of the Civil Air Regulations by adding a new § 41.89 to read as follows:

§ 41.89 *Duty time limitations.* (a) Except as provided in paragraph (b) of this section, the following rules will govern the hours of duty for an aircraft dispatcher, unless circumstances or emergency conditions beyond the control of the air carrier require otherwise:

(1) *Maximum consecutive hours of duty.* No dispatcher shall be scheduled for duty for a period of more than 10 consecutive hours.

(2) *Maximum scheduled hours of duty in 24 consecutive hours.* If a dispatcher is scheduled for duty for more than 10 hours in a period of 24 hours, he shall be given a rest period of not less than 8 hours at or before the termination of 10 hours of dispatcher duty.

(3) *Dispatcher's time off.* Each aircraft dispatcher shall be relieved from all duty with the air carrier for a period of at least 24 consecutive hours during any 7 consecutive days or the equivalent thereof within any one month.

(b) A dispatcher may be scheduled for duty for a period of more than 10 consecutive hours in a 24-hour period where the air carrier shows that the frequency of schedules on a particular route is such that it will require the services of not more than one dispatcher to maintain adequate dispatch services: *Provided*, That a dispatcher so scheduled shall be given at least 8 hours of actual rest during each 24-hour period: *And provided further*, That a dispatcher so scheduled shall not be scheduled for duty for more than 40 hours in any 7 consecutive days.

This amendment is proposed under the authority of Title VI of the Civil Aeronautics Act of 1938, as amended. The proposal may be changed in the light of comments received in response to this notice of proposed rule making.

(Sec. 205, 52 Stat. 984; 49 U. S. C. 425. Interprets or applies secs. 601-610, 52 Stat. 1007-1012, as amended; 49 U. S. C. 551-560)

Dated at Washington, D. C., August 11, 1955.

By the Bureau of Safety Regulation.

[SEAL] JOHN M. CHAMBERLAIN,  
Director.

[F. R. Doc. 55-6867; Filed, Aug. 23, 1955;  
8:51 a. m.]

## SECURITIES AND EXCHANGE COMMISSION

### [ 17 CFR Part 240 ]

#### GENERAL RULES AND REGULATIONS UNDER SECURITIES EXCHANGE ACT OF 1934

##### EXEMPTION OF CERTAIN ACQUISITIONS OF SECURITIES UNDER CERTAIN PLANS

Notice is hereby given that the Commission has under consideration a proposed amendment to § 240.16b-3 (Rule X-16B-3) under the Securities Exchange Act of 1934. The proposed amendment is not intended to change the meaning and scope of the rule but rather to clarify the application of its provisions in accordance with the interpretations which the Commission has heretofore given them.

Section 240.16b-3 exempts from the operation of Section 16 (b) of the Act the acquisition of stock or non-transferable options by a director or officer of the issuer, if such stock or option was acquired pursuant to certain bonus or other plans of the issuer. The Commission understands, as a result of requests made to it for interpretations, and otherwise, that some uncertainty exists as to the scope and meaning of the rule, particularly with respect to restricted stock option plans of the type which have been used by corporations with greater frequency during the past several years.

In addition to other clarifying changes, the proposed revision would define the terms "plan", "similar plan" and "non-transferable option" in accordance with the Commission's understanding of the meaning of these words in the rule. The definitions would make it clear that an ordinary pension or cash bonus plan is not "similar" to a stock option plan, and that an option is deemed "non-transferable" even if it may pass by will or inheritance.

The revision would also make it clear that the requirement of an effective limit upon the amount of funds or securities which may be allocated under the plan is satisfied by an over-all limit in the plan as well as by an annual limitation, and that the limitations may be based upon an appropriate formula. This also conforms to existing interpretations.

The requirement of shareholder approval is clarified in its application to situations where the approval was originally given when the issuer was not subject to the proxy rules, or where it was given by security holders of a predecessor corporation, the plan being assumed by a successor in connection with a merger, reorganization, purchase of assets or similar transaction.

The proposed revision would be adopted pursuant to the Securities Exchange

Act of 1934, particularly Sections 3 (a) (12), 3 (b), 16 (b) and 23 (a) thereof.

The text of the proposed amended rule is as follows:

§ 240.16b-3 *Exemption from section 16 (b) of certain acquisitions of securities under certain plans.* Any acquisition of non-transferable options or of shares of stock including stock acquired pursuant to such options (other than convertible stock or stock acquired pursuant to a transferable option, warrant or right) by a director or officer of the issuer of such stock shall be exempt from the operation of section 16 (b) of the act if the stock or option was acquired pursuant to a bonus, profit-sharing, retirement, stock option or comparable plan meeting all the following conditions:

(a) The plan has been approved specifically, or through the approval of a charter amendment authorizing stock for issuance pursuant to the plan:

(1) By the holders of at least a majority of the securities of the issuer present or represented and entitled to vote at a meeting for which proxies were solicited substantially in accordance with such rules and regulations, if any, as were then in effect under section 14 (a) of the act, whether or not such rules and regulations were applicable to such solicitations; or

(2) By the security holders of a predecessor corporation in the manner provided in subparagraph (1) of this paragraph if the plan, or obligations to participants thereunder, were assumed by the issuer in connection with the transaction of succession.

(b) If the selection of the persons who may receive funds or securities pursuant to the plan, or the determination of the amount of funds or securities which may be so received by any such person, is subject to the discretion of any person, such discretion shall be exercised by (1) a committee of three or more persons which under the terms of the plan must make such selection or determination, or (2) the board of directors of the issuer; provided the members of such committee, or a majority of the directors acting in the matter are not entitled to participate in such plan or in any other similar plan provided by the issuer or any of its affiliates.

(c) The plan effectively limits the aggregate amount of funds or securities which may be allocated pursuant to the plan, either by limiting the maximum amount which may be allocated to each participant in the plan or by limiting the maximum amount which may be so allocated to all such participants. Such limitations may be established for each fiscal year, or for the duration of the plan, whether or not the plan has a fixed termination date, and may be determined either by fixed amounts of securities or funds, or by formulas based upon earnings of the issuer, dividends paid, compensation received by participants, or similar factors which will result in an effective limitation.

(d) The acquisition of the securities pursuant to the plan does not involve the payment of any cash (other than the application of funds currently received pursuant to the plan or, in the case of



options, the payment of funds to the issuer upon the exercise of options in accordance with the terms of the option contracts) directly or indirectly, to the issuer or any of its affiliates.

(e) Unless the context otherwise requires, all terms used in this rule shall have the same meanings as in the act or elsewhere in the general rules and regulations thereunder. In addition the following definitions apply:

(1) The term "plan" in this rule includes all plans whether or not set forth in any formal document;

(2) The term "similar plan" as used herein with reference to any plan, means

another plan having an essentially similar purpose, effect and nature. Plans affording the right to purchase stock will not be deemed similar to plans providing for the payment of cash such as ordinary pension, retirement or cash bonus plans;

(3) The term "non-transferable option" includes an option which is not transferable otherwise than by will or pursuant to the laws of descent and distribution and which is not exercisable during the lifetime of the optionee otherwise than by him.

All interested persons are invited to submit views and comments on the re-

vised proposal in writing to the Securities and Exchange Commission, Washington 25, D. C., on or before September 15, 1955. Views or comments received will be available for public inspection unless in any case a person requests that his comments shall not be made public.

By the Commission.

[SEAL]

ORVAL L. DuBOIS,  
Secretary.

AUGUST 16, 1955.

[F. R. Doc. 55-6854; Filed, Aug. 23, 1955;  
8:48 a. m.]

## NOTICES

[Document 62]

### ARIZONA

#### ORDER PROVIDING FOR OPENING OF PUBLIC LANDS

AUGUST 16, 1955.

1. An order of the Bureau of Reclamation dated July 6, 1949 concurred in by the Associate Director, Bureau of Land Management September 14, 1949, revoked Departmental Order of March 14, 1929, so far as they withdrew under the Provisions of the Reclamation Act of June 17, 1902 (32 Stat. 388), the following described land in connection with the Colorado River Storage Project, Arizona, and provided that such revocation should not affect the withdrawal of any other lands by said orders or affect any orders withdrawing or reserving the lands described:

#### GILA AND SALT RIVER MERIDIAN, ARIZONA

T. 5 S., R. 9 W.,

Sections: 22 all, 25 to 36 inclusive all.

T. 9 S., R. 17 W.,

Sections: 13 to 16 inclusive, 21 to 28 inclusive 33 to 36 inclusive, all.

Within the above described area are 15358.06 acres of public land.

2. Pursuant to authority delegated by Document No. 43, Arizona, effective May 19, 1955 (20 F. R. 3514-15), the above described lands are hereby opened to disposition under the applicable public land laws subject to valid existing rights and the provisions of existing withdrawals.

3. All of the lands described are within the proposed addition to the Williams Bombing and Gunnery Range included in application Arizona serial number 08807 filed May 6, 1955 by the Corps of Engineers, United States Army, in behalf of the Department of the Air Force under Executive Order 10355 of May 26, 1952 (43 CFR 295.9 et seq.). These lands are therefore segregated from settlement, location, sale, selection, entry, lease, and other forms of disposal under the public land laws including the Mining and Mineral leasing laws, to the extent that the withdrawal applied for, if affected, would prevent such forms of disposal.

4. No applications for the restored lands may be allowed under the home-

stead, desert land, small tract, or any other non-mineral public land law, unless the lands have already been classified as valuable or suitable for such type of application, or shall be so classified upon the consideration of an application. Any application that is filed will be considered on its merits. The lands will not be subject to occupancy or disposition until they have been classified.

5. This order shall not otherwise become effective until 10:00 a. m., September 21, 1955. At that time the said lands shall become subject to application, petition, and selection, subject to valid existing rights, the provisions of existing withdrawals, the temporary segregation (paragraph 3 above), the requirements of applicable laws, and the 91 day preference right filing period for veterans and others entitled to preference under the act of September 27, 1944 (58 Stat. 747; 43 U. S. C. 279-284), as amended.

6. Inquiries concerning the lands shall be addressed to the State Supervisor, Bureau of Land Management, Room 233A Main Post Office Building, Phoenix, Arizona.

E. R. TRAGITT,  
State Lands and Minerals,  
Staff Officer.

[F. R. Doc. 55-6839; Filed, Aug. 23, 1955;  
8:45 a. m.]

[Misc. 1373468, 1359565, 1151018]

### CALIFORNIA

#### REVOKING CERTAIN DEPARTMENTAL ORDERS WHICH CREATED RECREATION WITHDRAWALS NO. 20, 29, AND 30

AUGUST 18, 1955.

By virtue of the authority vested in the Secretary of the Interior by the act of June 14, 1926 (44 Stat. 741; 43 U. S. C. 869) as amended, and pursuant to Departmental Order No. 2583, sec. 2.22 (a) of August 16, 1950, it is ordered as follows:

The Departmental orders of April 25, 1929, October 15, 1929, and December 2, 1929, withdrawing the following-described lands in California as Recreational Withdrawals No. 20, 29, and 30, respectively, are hereby revoked:

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

#### ALASKA

#### REVOCATION OF ORDERS OPENING LANDS UNDER THE FOREST HOMESTEAD ACT

AUGUST 18, 1955.

Upon request of the Department of Agriculture and pursuant to the authority delegated by Departmental 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. 506-509), are hereby revoked as to the lands hereinafter described:

[1122359]

#### TONGASS NATIONAL FOREST

[List No. 6-1868; Restoration Recommended by Department of Agriculture: April 4, 1916]

Land described in Homestead Entry Survey No. 84, containing 22.64 acres.

[86209]

#### CHUGACH NATIONAL FOREST

[List No. 6-461; Date of Order of Opening: April 7, 1911]

Beginning at a point on the north shore of Malina Straits, approximately 5 miles distant from the village of Afognak, Afognak Island, thence N. 79° 20' E., 13.80 chains; S. 48° 15' E., 14.10 chains; S. 86° 30' E., 14.90 chains; N. 8° 10' E., 19.20 chains; N. 63° 40' W., 50.80 chains; S. 28° 00' W., 22.00 chains; S. 42° 40' E., 12.00 chains; S. 66° 10' E., 5.00 chains; S. 16° 20' E., 3.85 chains, to point of beginning.

The tract described contains 126.75 acres.

[List No. 6-462; Date of Order of Opening: April 7, 1911]

Beginning at a point at the mouth of Waskima Creek, Afognak Island, approximately 8 miles from the village of Afognak, thence S. 75° 30' E., 6.90 chains; N. 22° 15' E., 4.40 chains; N. 69° 40' W., 29.85 chains; S. 37° 00' W., 4.70 chains; S. 20° 30' E., 5.20 chains; S. 63° 35' E., 5.78 chains; S. 84° 10' E., 15.58 chains to point of beginning.

The tract described contains 20.3 acres.

W. G. GUERNSEY,  
Acting Director.

[F. R. Doc. 55-6838; Filed, Aug. 23, 1955;  
8:45 a. m.]



HUMBOLDT MERIDIAN

RECREATIONAL WITHDRAWAL NO. 20

- T. 12 N., R. 1 E.,  
Sec. 4, lots 2, 3, and 9.  
T. 9 N., R. 1 W.,  
Sec. 26, lot 2.  
T. 17 N., R. 1 W.,  
Sec. 18;  
Sec. 19, N $\frac{1}{2}$  and N $\frac{1}{2}$ S $\frac{1}{2}$ .  
T. 3 S., R. 1 E.,  
Sec. 8, SE $\frac{1}{4}$ SW $\frac{1}{4}$ ;  
Sec. 12, NE $\frac{1}{4}$ SW $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$ , SE $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
Sec. 13, SE $\frac{1}{4}$ NE $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$ , SE $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
Sec. 17, NW $\frac{1}{4}$ NE $\frac{1}{4}$ ;  
Sec. 20, NE $\frac{1}{4}$ NE $\frac{1}{4}$ ;  
Sec. 24, SE $\frac{1}{4}$ NE $\frac{1}{4}$  and NE $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
Sec. 27, NW $\frac{1}{4}$ NE $\frac{1}{4}$  and E $\frac{1}{2}$ NW $\frac{1}{4}$ ;  
Sec. 29, W $\frac{1}{2}$ SW $\frac{1}{4}$ ;  
Sec. 30, SE $\frac{1}{4}$ NE $\frac{1}{4}$ , S $\frac{1}{2}$ SW $\frac{1}{4}$ , SW $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
Sec. 32, NW $\frac{1}{4}$ , S $\frac{1}{2}$  (unsurveyed);  
Sec. 34, NE $\frac{1}{4}$ NE $\frac{1}{4}$ , SW $\frac{1}{4}$ NW $\frac{1}{4}$ , W $\frac{1}{2}$ SW $\frac{1}{4}$ ;  
Sec. 35, W $\frac{1}{2}$ NW $\frac{1}{4}$ .  
T. 4 S., R. 1 E.,  
Sec. 18;  
Sec. 19, NE $\frac{1}{4}$ NE $\frac{1}{4}$ ;  
Sec. 20, NW $\frac{1}{4}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$ , NE $\frac{1}{4}$ NW $\frac{1}{4}$ ,  
SE $\frac{1}{4}$ ;  
Sec. 21, N $\frac{1}{2}$ , SW $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$ , SW $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
Sec. 28, W $\frac{1}{2}$ NE $\frac{1}{4}$ , E $\frac{1}{2}$ NW $\frac{1}{4}$ , NE $\frac{1}{4}$ SW $\frac{1}{4}$ ,  
W $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
Sec. 33, W $\frac{1}{2}$ NE $\frac{1}{4}$ , W $\frac{1}{2}$ SE $\frac{1}{4}$ , NE $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
Sec. 34, lots 7 and 8.  
T. 5 S., R. 1 E.,  
Sec. 3, lot 1;  
Sec. 11, SW $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
Sec. 14, NE $\frac{1}{4}$ , NW $\frac{1}{4}$ SE $\frac{1}{4}$ , S $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
Sec. 23, lots 1, 4, 5, 6 and SE $\frac{1}{4}$ NE $\frac{1}{4}$ ;  
Sec. 24, NE $\frac{1}{4}$ , E $\frac{1}{2}$ NW $\frac{1}{4}$ , S $\frac{1}{2}$ ;  
Sec. 25.  
T. 5 S., R. 2 E.,  
Sec. 30, lots 1 to 14, inclusive, W $\frac{1}{2}$ NE $\frac{1}{4}$   
and NW $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
Sec. 31, lots 2 and 5;  
Sec. 32, SW $\frac{1}{4}$ NE $\frac{1}{4}$  and SW $\frac{1}{4}$ SE $\frac{1}{4}$ .  
T. 3 S., R. 1 W.,  
Sec. 30, lot 1, E $\frac{1}{2}$ NE $\frac{1}{4}$ , SW $\frac{1}{4}$ NE $\frac{1}{4}$ , and  
SE $\frac{1}{4}$ ;  
Sec. 32, lot 3, E $\frac{1}{2}$ , W $\frac{1}{2}$ NW $\frac{1}{4}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$ .  
T. 4 S., R. 1 W.,  
Sec. 3, N $\frac{1}{2}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$ , N $\frac{1}{2}$ NW $\frac{1}{4}$ , E $\frac{1}{2}$   
SE $\frac{1}{4}$ ;  
Sec. 4, NW $\frac{1}{4}$ NE $\frac{1}{4}$ , S $\frac{1}{2}$ NE $\frac{1}{4}$ , NW $\frac{1}{4}$ , N $\frac{1}{2}$   
SW $\frac{1}{4}$ , SE $\frac{1}{4}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ ;  
Sec. 5, NE $\frac{1}{4}$ NE $\frac{1}{4}$ ;  
Sec. 9, lots 1 and 2;  
Sec. 10, E $\frac{1}{2}$ NE $\frac{1}{4}$ ;  
Sec. 11, N $\frac{1}{2}$ , NE $\frac{1}{4}$ SW $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
Sec. 13, lot 1, NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$ , NE $\frac{1}{4}$ SE $\frac{1}{4}$ .  
T. 2 S., R. 2 W.,  
Sec. 30, SE $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
Sec. 31, SE $\frac{1}{4}$ SE $\frac{1}{4}$ .  
T. 3 S., R. 2 W.,  
Sec. 4, SE $\frac{1}{4}$ NW $\frac{1}{4}$ ;  
Sec. 5, W $\frac{1}{2}$ NE $\frac{1}{4}$  and SW $\frac{1}{4}$ NW $\frac{1}{4}$ ;  
Sec. 6, lot 6;  
Sec. 8, lots 1 and 5;  
Sec. 9, lot 2;  
Sec. 10, SE $\frac{1}{4}$ NW $\frac{1}{4}$ ;  
Sec. 14, S $\frac{1}{2}$ NE $\frac{1}{4}$ , W $\frac{1}{2}$ NW $\frac{1}{4}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$ ,  
N $\frac{1}{2}$ SW $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$ , SW $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
Sec. 15, lots 2 and 3;  
Sec. 24, NW $\frac{1}{4}$ NW $\frac{1}{4}$ , N $\frac{1}{2}$ NE $\frac{1}{4}$ , SW $\frac{1}{4}$ NE $\frac{1}{4}$ ,  
NE $\frac{1}{4}$ SW $\frac{1}{4}$ , NW $\frac{1}{4}$ SE $\frac{1}{4}$ , and S $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
Sec. 25, N $\frac{1}{2}$ NE $\frac{1}{4}$ .

HUMBOLDT MERIDIAN

RECREATIONAL WITHDRAWAL NO. 29

- T. 3 S., R. 1 E.,  
Sec. 31 (unsurveyed).  
T. 4 S., R. 1 E.,  
Sec. 34, lots 1 to 6, inclusive.  
T. 3 S., R. 3 E.,  
Sec. 21, N $\frac{1}{2}$ NE $\frac{1}{4}$ ,  
Sec. 22, SW $\frac{1}{4}$ NW $\frac{1}{4}$ .

MOUNT DIABLO MERIDIAN

- T. 25 S., R. 6 E.,  
Sec. 5, lot 2.

HUMBOLDT MERIDIAN

RECREATIONAL WITHDRAWAL NO. 30

- T. 9 N., R. 1 W.,  
Secs. 1, 12, 13, all unsurveyed lands.  
T. 9 N., R. 1 E.,  
Sec. 6, W $\frac{1}{2}$ NW $\frac{1}{4}$ , all unsurveyed lands.  
T. 3 S., R. 3 E.,  
Sec. 21, SW $\frac{1}{4}$ NE $\frac{1}{4}$ .

All unsurveyed, unnamed islands and rocks lying within two miles of the coast line beginning opposite the southern boundary of T. 7 N., R. 1 E., and extending northward along the coast a distance of approximately 45 miles to the mouth of the Klamath River.

Portions of the released lands have been patented. Others are included within the withdrawals made by Executive Order No. 5326 of April 14, 1930 (Misc. 1373468) and Executive Order No. 5327 of December 10, 1929 (Misc. 1359565). The lands restored by this order, are described as follows:

HUMBOLDT MERIDIAN

RECREATIONAL WITHDRAWAL NO. 20

- T. 3 S., R. 1 E.,  
Sec. 8, SE $\frac{1}{4}$ SW $\frac{1}{4}$ ;  
Sec. 12, NE $\frac{1}{4}$ SW $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$ , SE $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
Sec. 13, SE $\frac{1}{4}$ NE $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$ , SE $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
Sec. 17, NW $\frac{1}{4}$ NE $\frac{1}{4}$ ;  
Sec. 20, NE $\frac{1}{4}$ NE $\frac{1}{4}$ ;  
Sec. 24, SE $\frac{1}{4}$ NE $\frac{1}{4}$ , NE $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
Sec. 27, NW $\frac{1}{4}$ NE $\frac{1}{4}$ , E $\frac{1}{2}$ NW $\frac{1}{4}$ ;  
Sec. 29, W $\frac{1}{2}$ SW $\frac{1}{4}$ ;  
Sec. 30, SE $\frac{1}{4}$ NE $\frac{1}{4}$ , S $\frac{1}{2}$ SW $\frac{1}{4}$ , SW $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
Sec. 32, lots 1 and 2;  
Sec. 34, NE $\frac{1}{4}$ NE $\frac{1}{4}$ , SW $\frac{1}{4}$ NW $\frac{1}{4}$ , W $\frac{1}{2}$ SW $\frac{1}{4}$ ;  
Sec. 35, W $\frac{1}{2}$ NW $\frac{1}{4}$ .

RECREATION WITHDRAWAL NO. 29

- T. 3 S., R. 3 E.,  
Sec. 21, N $\frac{1}{2}$ NE $\frac{1}{4}$ ;  
Sec. 22, SW $\frac{1}{4}$ NW $\frac{1}{4}$ .

RECREATION WITHDRAWAL NO. 30

- T. 3 S., R. 3 E.,  
Sec. 21, SW $\frac{1}{4}$ NE $\frac{1}{4}$ .

The areas described aggregate approximately 1,360 acres.

The lands are located near Briceland, California. They are generally timberlands and are, for the most part, inaccessible. The greater part of the land is mountainous and too rough for cultivation. All the land contains some Douglas fir timber. The vegetation consists of a mixture of timber and non-timber trees. There is some brush of manzanita, toyon, and scrub oak. The soil is clay loam. The greater value of these lands is probably the timber found thereon. The annual rainfall is about 77 inches.

No application for the restored lands may be allowed under the homestead, desert-land, small tract, or any other nonmineral public-land law unless the lands have already been classified as valuable or suitable for such type of application, or shall be so classified upon the consideration of an application. Any application that is filed will be considered on its merits. The lands will not be subject to occupancy or disposition until they have been classified.

This order shall not otherwise become effective to change the status of the restored lands until 10:00 a. m., on the 35th day after the date of this order. At that time the said lands shall become subject to application, petition and selection, subject to valid existing rights, the

provisions of existing withdrawals, the requirements of applicable laws, and the 91-day preference-right filing period for veterans and others entitled to preference under the act of September 27, 1944 (58 Stat. 747; 43 U. S. C. 279-284), as amended.

Veterans preference-right applications under the said act of September 27, 1944, may be received on or before 10:00 a. m. on the 35th day after the date of this order, and those covering the same lands shall be treated as though simultaneously filed at that time. Applications filed under the act after that time and during the succeeding 91 days shall be considered in the order of filing. Applications by the general public under the public-land laws, including the mineral-leasing laws, received on or before 10:00 a. m. on the 126th day after the date of this order shall be treated as though simultaneously filed at that time, where the applications are for the same lands, otherwise, priority of filing shall govern.

Inquiries concerning the lands shall be addressed to the Manager, Land Office, Bureau of Land Management, Sacramento, California.

W. G. GUERNSEY,  
Acting Director.

[F. R. Doc. 55-6840; Filed, Aug. 23, 1955;  
8:45 a. m.]

Office of the Secretary

[Misc. 66880]

MONTANA

PARTIALLY REVOKING DEPARTMENTAL ORDER OF FEBRUARY 6, 1911, ESTABLISHING BABB TOWNSITE AND RESTORING RELEASED LANDS TO OWNERSHIP OF BLACKFEET TRIBE OF INDIANS

By virtue of the authority vested in the Secretary of the Interior by the act of March 1, 1907 (34 Stat. 1039) and section 3 of the act of June 18, 1934 (48 Stat. 984; 25 U. S. C. 463), it is ordered as follows:

The Departmental order of February 6, 1911, so far as it reserved the following-described lands on the Blackfeet Reservation at Babb, Montana, for townsite purposes is hereby revoked, and the unreserved, undisposed of lands are hereby restored to tribal ownership for the benefit of the Blackfeet Tribe of Indians of the Blackfeet Reservation, and are added to and made a part of the existing reservation:

MONTANA PRINCIPAL MERIDIAN

- T. 36 N., R. 14 W.,  
Sec. 15, SW $\frac{1}{4}$ SW $\frac{1}{4}$ , W $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$   
SE $\frac{1}{4}$ SW $\frac{1}{4}$ , W $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$   
NE $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ ;  
Sec. 16, SE $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
Sec. 21, NE $\frac{1}{4}$ NE $\frac{1}{4}$ ;  
Sec. 22, NW $\frac{1}{4}$ NW $\frac{1}{4}$ .

The areas described aggregate 197.5 acres.

Lots 6, 7, and 8 of Block 10, lots 6, 7, 8, 14, 15, and 16 of Block 11, all of Block 12 and lots 1 to 7, inclusive, of Block 13, according to plat of Babb Townsite approved March 16, 1912, have been sold, and lots 1, 2, 3, 9, 10, and 11 of Block 11



and lots 1, 2, and 3 of Block 10 were reserved as an administrative site for use of the Bureau of Indian Affairs by Departmental order of April 9, 1954.

ORME LEWIS,  
Assistant Secretary of the Interior.

AUGUST 18, 1955.

[F. R. Doc. 55-6841; Filed, Aug. 23, 1955;  
8:46 a. m.]

## FEDERAL DEPOSIT INSURANCE CORPORATION

### DESCRIPTION OF ORGANIZATION

#### DELEGATIONS OF AUTHORITY

Section 3 of the Description of Organization (19 F. R. 1681) has been amended to read as follows:

#### SEC. 3. Delegation of final authority—

(a) *General.* Except as otherwise provided by rule, or to the extent that there is involved any function of the Corporation requiring confidentiality in the public interest or any matter relating solely to the internal management of the Corporation, or with respect to matters which generally involve conditions or circumstances requiring prompt action in the field for the better protection of the interests of the Corporation and to achieve flexibility and expedition in its operations and in the exercise of its functions, such as arise in connection with the Corporation's litigation and liquidation matters and with the payment of claims for insured deposits, delegations of final authority by the Board of Directors within the statutory meaning of that phrase are set forth in this section. Any person having a proper and direct concern therein may ascertain the scope of authority of any officer, agent, or employee of the Corporation by communicating with the Secretary of the Corporation.

(b) *Reports of condition.* Authority is delegated to the Chairman of the Board of Directors to designate the date as of which each insured State bank, which is not a member of the Federal Reserve System or a District bank, shall make a report of its condition as required by the Board of Directors pursuant to section 10 (e) of the Federal Deposit Insurance Act (12 U. S. C. 1820 (e)).

(c) *To assure continuous performance of functions.* For the purpose of assuring the performance of and continuity in the management functions and activities of the Corporation, the Board of Directors has delegated, to the extent deemed necessary, authority with respect to the management of the Corporation's affairs to certain designated persons, such authority to be exercised only in the event of an emergency, involving an enemy attack on the continental United States or other warlike occurrence, which renders the Board of Directors unable to perform the management functions and activities normally performed by it.

(d) *Assessment decisions.* Authority is delegated to the Controller and the General Counsel jointly to promulgate and to amend assessment decisions as interpretative rulings of the Corporation

with reference to provisions of the Federal Deposit Insurance Act and the Corporation's rules and regulations relating to assessment and from time to time to publish such assessment decisions and amendments thereof in the FEDERAL REGISTER.

(e) *Extension of time in which to establish a branch or change location of main office or branch.* Authority is delegated to the Chief of the Division of Examination to extend the time given a bank by the Board of Directors in which to establish a branch or change the location of its main or branch office, but such extension shall not exceed two periods of the same duration each as that prescribed originally by the Board of Directors.

(f) *Exclusion from insured bank advertisements of the official advertising statement.* Authority is delegated to the General Counsel to consent, pursuant to § 328.2 (d) (10) of Title 12, Code of Federal Regulations, to the exclusion of the Official advertising statement from advertisements which are of the type or character making it impractical to include such statement therein.

### FEDERAL DEPOSIT INSURANCE CORPORATION,

[SEAL] E. F. DOWNEY,  
Secretary.

[F. R. Doc. 55-6859; Filed, Aug. 23, 1955;  
8:49 a. m.]

## CIVIL AERONAUTICS BOARD

[Docket No. 1841, et al]

DENVER SERVICE CASE

### NOTICE REASSIGNING ORAL ARGUMENT

Notice is hereby given, pursuant to the provisions of the Civil Aeronautics Act of 1938, as amended, that oral argument in the above-entitled proceeding, now assigned to be held on September 14, 1955, 10:00 a. m., e. d. s. t., in Room 5042, Commerce Building, Fourteenth Street and Constitution Avenue NW., Washington, D. C., before the Board.

Dated at Washington, D. C., August 19, 1955.

[SEAL] FRANCIS W. BROWN,  
Chief Examiner.

[F. R. Doc. 55-6869; Filed, Aug. 23, 1955;  
8:51 a. m.]

[Docket No. 7319]

WESTERN AIR LINES, INC.; CASPER CUT-OFF RENEWAL CASE

### NOTICE REASSIGNING PREHEARING CONFERENCE

In the matter of the application of Western Air Lines, Inc., under Section 401 of the Civil Aeronautics Act of 1938, as amended, for an order making permanent the amendment of its certificate of public convenience and necessity for route No. 35, so as to extend said route beyond Rapid City, South Dakota, to the terminal point Salt Lake City, Utah, via the intermediate point Casper, Wyoming.

Notice is hereby given that prehearing conference in the above-entitled proceeding, now assigned to be held on September 23, 1955, is reassigned to September 14, 1955, 10:00 a. m., e. d. s. t., in Room E-210, Temporary Building No. 5, Sixteenth Street and Constitution Avenue NW., Washington, D. C., before Examiner Edward T. Stodola.

Dated at Washington, D. C., August 19, 1955.

[SEAL] FRANCIS W. BROWN,  
Chief Examiner.

[F. R. Doc. 55-6868; Filed, Aug. 23, 1955;  
8:51 a. m.]

## GENERAL SERVICES ADMINISTRATION

### SECRETARY OF DEFENSE

#### DELEGATION OF AUTHORITY WITH RESPECT TO DISPOSAL OF EXCESS LAND

1. Pursuant to authority vested in me by the provisions of the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), as amended (hereinafter referred to as "the Act"), authority is hereby delegated to the Secretary of Defense to determine 0.947 acre of excess land, GSA Case No. G-Tex-509, formerly a part of Plancor 763, Lone Star Steel Company, Daingerfield, Texas, to be surplus, and to dispose of the same upon such terms as may be advantageous to the United States.

2. The authority conferred herein shall be exercised in accordance with the Act and Regulations of this Administration issued pursuant thereto, except, however, that no screening of the property among civilian Federal agencies as required by GSA Reg. 2-IV-202.05 need be conducted, it having been determined that, because of the size, location, and nature of the property involved, screening would accomplish no useful purpose.

3. The authority delegated herein may be redelegated to any officer or employee of the Department of Defense.

4. This delegation of authority shall be effective as of the date hereof.

Dated: August 18, 1955.

EDMUND F. MANSURE,  
Administrator.

[F. R. Doc. 55-6896; Filed, Aug. 22, 1955;  
1:03 p. m.]

## FEDERAL POWER COMMISSION

[Docket No. E-6641]

PACIFIC POWER & LIGHT CO.

### NOTICE OF APPLICATION SEEKING ORDER AUTHORIZING BOND ISSUANCE

AUGUST 17, 1955.

Take notice that on August 15, 1955, an application was filed with the Federal Power Commission, pursuant to Section 204 of the Federal Power Act by Pacific Power & Light Company ("Applicant"), a corporation organized under the laws of the State of Maine, and doing business in the States of Oregon, Washington, Wyoming, Montana and Idaho, with its principal business office at Portland,



Oregon, seeking an order authorizing the issuance of \$10,000,000 in aggregate principal amount of First Mortgage Bonds, -- percent Series due 1985, and not to exceed 30,000 shares of Serial Preferred Stock of the par value of \$100.00 per share. Applicant proposes to issue said bonds by competitive bidding and to sell the Preferred Stock to underwriters. The Applicant states that it has engaged in negotiations for the sale of the Preferred Stock pursuant to written authorization granted by letter of the Commission dated July 27, 1955, and requests an exemption from the competitive bidding requirements of the Commission's rules covering the sale of Serial Preferred Stock. The proceeds to be obtained would be used to discharge short term bank loan obligations of the Applicant and to carry on its current construction program; all as more fully appears in the application on file with the Commission.

Any person desiring to be heard, or to make any protest with reference to said application should, on or before the 6th day of September 1955, file with the Federal Power Commission, Washington 25, D. C., a petition or protest in accordance with the Commission's Rules of Practice and Procedure. The application is on file with the Commission for public inspection.

[SEAL] J. H. GUTRIDE,  
Acting Secretary.

[F. R. Doc. 55-6843; Filed, Aug. 23, 1955;  
8:46 a. m.]

[Docket No. G-8573]

DAYTON POWER AND LIGHT CO.

NOTICE OF ORDER FOR PURCHASE OF NATURAL GAS

AUGUST 18, 1955.

Notice is hereby given that on August 4, 1955, the Federal Power Commission issued its order adopted August 3, 1955, in the above-entitled matter, amending order directing sale and delivery of natural gas, by providing for Applicant (Dayton) to commence the purchase of natural gas from The Ohio Fuel Gas Company prior to January 1, 1956.

[SEAL] J. H. GUTRIDE,  
Acting Secretary.

[F. R. Doc. 55-6844; Filed, Aug. 23, 1955;  
8:47 a. m.]

LANDS WITHDRAWN IN PROJECT NO. 382

NOTICE OF ORDER VACATING POWER WITHDRAWALS

AUGUST 18, 1955.

Notice is hereby given that on August 11, 1955, the Federal Power Commission issued its order adopted August 3, 1955, vacating the power withdrawals under Section 24 of the Federal Water Power Act in the above-entitled matter.

[SEAL] J. H. GUTRIDE,  
Acting Secretary.

[F. R. Doc. 55-6845; Filed, Aug. 23, 1955;  
8:47 a. m.]

No. 165—7

[Project No. 2179]

MERCED IRRIGATION DISTRICT

NOTICE OF ORDER ISSUING PRELIMINARY PERMIT

AUGUST 18, 1955.

Notice is hereby given that on August 10, 1955, the Federal Power Commission issued its order adopted August 3, 1955, issuing preliminary permit in the above-entitled matter.

[SEAL] J. H. GUTRIDE,  
Acting Secretary.

[F. R. Doc. 55-6846; Filed, Aug. 23, 1955;  
8:47 a. m.]

[Docket No. E-6600]

SOUTHWESTERN POWER ADMINISTRATION,  
BLAKELEY MOUNTAIN PROJECT

NOTICE OF ORDER CONFIRMING AND APPROVING RATES AND CHARGES

AUGUST 18, 1955.

Notice is hereby given that on August 8, 1955, the Federal Power Commission issued its order adopted August 3, 1955, confirming and approving rates and charges in the above-entitled matter.

[SEAL] J. H. GUTRIDE,  
Acting Secretary.

[F. R. Doc. 55-6847; Filed, Aug. 23, 1955;  
8:47 a. m.]

[Docket No. E-6633]

ST. JOSEPH LIGHT & POWER CO.

NOTICE OF ORDER AUTHORIZING AND APPROVING ACQUISITION OF SECURITIES

AUGUST 19, 1955.

Notice is hereby given that on August 8, 1955, the Federal Power Commission issued its order adopted August 3, 1955, authorizing and approving acquisition of securities in the above-entitled matter.

[SEAL] J. H. GUTRIDE,  
Acting Secretary.

[F. R. Doc. 55-6848; Filed, Aug. 23, 1955;  
8:47 a. m.]

[Docket No. G-7181]

TOWN OF BYHALIA, MISS.

NOTICE OF ORDER AMENDING EXAMINER'S DECISION

AUGUST 18, 1955.

Notice is hereby given that on August 8, 1955, the Federal Power Commission issued its order adopted August 3, 1955, in the above-entitled matter, amending the Examiner's Decision issued August 16, 1954, in the matter of the Town of Byhalia, Docket No. G-2373, which directed Trunkline Gas Company to establish a physical connection of its transmission main with facilities of the applicant.

[SEAL] J. H. GUTRIDE,  
Acting Secretary.

[F. R. Doc. 55-6849; Filed, Aug. 23, 1955;  
8:47 a. m.]

[Docket No. G-8692, etc.]

DES ARC, ARK., ET AL.

NOTICE OF APPLICATIONS AND DATE OF HEARING

AUGUST 18, 1955.

In the matters of City of Des Arc, Arkansas, Docket No. G-8692; City of Hazen, Arkansas, Docket No. G-8693; City of Augusta, Arkansas, Docket No. G-8776.

Take notice that the City of Des Arc, Arkansas (Des Arc), a municipality organized and existing under the laws of the State of Arkansas, filed, on March 30, 1955, an application pursuant to section 7 (a) of the Natural Gas Act for an order directing Mississippi River Fuel Corporation to establish physical connection of its transmission facilities near the City of Des Arc with the proposed facilities of, and to deliver and sell natural gas to, Des Arc for resale as hereinafter described.

Des Arc proposes to construct and operate a natural-gas transmission line from the aforesaid point of physical connection to its proposed distribution system, a distance of approximately 10.9 miles, and to construct and operate a distribution system within its corporate limits and along the route of its proposed transmission line. The area proposed to be served by Des Arc is without natural gas service and the number of residents within the City of Des Arc is estimated at 1,750. Des Arc estimates the cost of its proposed facilities at \$240,000, proposes to accomplish the financing through issuance of bonds, and estimates its peak day requirements in the fifth year of operation at 570 Mcfs and its annual requirements in said fifth year at 66,984 Mcf.

Take notice that the City of Hazen, Arkansas (Hazen), a municipality organized and existing under the laws of the State of Arkansas, filed on March 30, 1955, an application pursuant to section 7 (a) of the Natural Gas Act for an order directing Mississippi River Fuel Corporation to establish physical connection of its transmission facilities near the City of Hazen with the proposed facilities of, and to deliver and sell natural gas to, Hazen for resale as hereinafter described.

Hazen proposes to construct and operate a natural-gas transmission line from the aforesaid point of physical connection to its proposed distribution system, a distance of approximately 10.4 miles, and to construct and operate a distribution system within its corporate limits and along the route of its proposed transmission line. The area proposed to be served by Hazen is without natural gas service and the number of residents within the City of Hazen is estimated at 1,600. Hazen estimates the cost of its proposed facilities at \$246,000, proposes to accomplish the financing through issuance of bonds, and estimates its peak day requirements in the fifth year of operation at 509 Mcf and its annual requirements in said fifth year at 63,084 Mcf.

Take notice that the City of Augusta, Arkansas (Augusta), a municipality organized and existing under the laws of the State of Arkansas, filed, on April 20,



1955, an application pursuant to section 7 (a) of the Natural Gas Act for an order directing Mississippi River Fuel Corporation to establish physical connection of its transmission facilities near the City of Augusta with the proposed facilities of, and to deliver and sell natural gas to, Augusta for resale as hereinafter described.

Augusta proposes to construct and operate a natural-gas transmission line from the aforesaid point of physical connection to its proposed distribution system, a distance of approximately 10 miles, and to construct and operate a distribution system within its corporate limits. The area proposed to be served by Augusta is without natural gas service and the number of residents within the City of Augusta is estimated at 2,500. Augusta estimates the cost of its proposed facilities at \$306,160, propose to accomplish the financing through issuance of bonds, and estimates its peak day requirements in the third year of operation at 858 Mcf and its annual requirements in said third year at 105,509 Mcf.

Mississippi River Fuel Corporation (Mississippi) has filed an answer and a first amended answer to each of the aforesaid applications. In such documents Mississippi denies certain allegations of the applicant cities, raises certain affirmative matters, and requests that each application be wholly denied.

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 commencing on September 22, 1955, at 10:00 a. m., e. d. 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 each of said applications.

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 September 12, 1955. The applications are on file with the Commission for public inspection.

[SEAL]

J. H. GUTRIDE,  
Acting Secretary.

[F. R. Doc. 55-6850; Filed, Aug. 23, 1955;  
8:47 a. m.]

## INTERSTATE COMMERCE COMMISSION

[Notice No. 74]

### MOTOR CARRIER APPLICATIONS

AUGUST 19, 1955.

Protests, consisting of an original and two copies, to the granting of an application must be filed with the Commission within 30 days from the date of publication of this notice in the FEDERAL REGISTER and a copy of such protest served on the applicant. Each protest must clearly state the name and street number, city and state address of each protestant on behalf of whom the pro-

test is filed (49 CFR 1.240 and 1.241). Failure to seasonably file a protest will be construed as a waiver of opposition and participation in the proceeding unless an oral hearing is held. In addition to other requirements of Rule 40 of the General Rules of Practice of the Commission (49 CFR 1.40), protests shall include a request for a public hearing, if one is desired, and shall specify with particularity the facts, matters, and things, relied upon, but shall not include issues or allegations phrased generally. Protests containing general allegations may be rejected. Requests for an oral hearing must be supported by an explanation as to why the evidence cannot be submitted in forms of affidavits. Any interested person, not a protestant, desiring to receive notice of the time and place of any hearing, pre-hearing conference, taking of depositions, or other proceedings shall notify the Commission by letter or telegram within 30 days from the date of publication of this notice in the FEDERAL REGISTER.

Except when circumstances require immediate action, an application for approval, under Section 210a (b) of the Act, of the temporary operations of motor carrier properties sought to be acquired in an application under Section 5 (a) will not be disposed of sooner than 10 days from the date of publication of this notice in the FEDERAL REGISTER. If a protest is received prior to action being taken, it will be considered.

### APPLICATIONS OF MOTOR CARRIERS OF PROPERTY

No. MC 200 Sub 184, filed August 11, 1955, RISS & COMPANY, INC., 15 W. Tenth St., Kansas City, Mo. For authority to operate as a common carrier, over irregular routes, transporting: Meats, fresh, frozen, cured or salted, in refrigerated equipment, from Wichita, Kans. to Prattville, N. Y.

No. MC 2202 Sub 129, filed August 11, 1955, ROADWAY EXPRESS, INC., 147 Park St., P. O. Box 471, Akron, Ohio. Applicant's attorney: William O. Turney, 2001 Massachusetts Ave., N. W., Washington 6, D. C. For authority to operate as a common carrier, transporting: General commodities, except those of unusual value, Class A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, serving the site of the Ford Motor Company Plant, located north of Detroit, Mich., at Mound Road and 17-Mile Road, Sterling Township, Macomb County, Mich., as an off-route point in connection with applicant's regular route operations to and from Detroit, Mich., over Michigan Highway 112 and U. S. Highways 10 and 25. Applicant is authorized to conduct operations in Alabama, Delaware, Georgia, Illinois, Indiana, Kansas, Kentucky, Maryland, Michigan, Missouri, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, West Virginia, Wisconsin, and the District of Columbia.

No. MC 3566 Sub 32, filed August 10, 1955, GENERAL EXPRESSWAYS, INC., an Illinois Corporation, 221 West Roosevelt Road, Chicago 5, Ill. Applicant's

attorney: Floyd F. Shields, same address as applicant. For authority to operate as a common carrier, transporting: General commodities, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, serving the site of the Ford Motor Company plant, located at or near the intersection of Mound Road and 17-Mile Road in Sterling Township, Macomb County, Mich., as an off-route point in connection with applicant's regular route operations (1) over U. S. Highways 24 and 25 between Detroit, Mich., and Toledo, Ohio, and (2) over U. S. Highways 12 and 112 and Michigan Highway 17 between Chicago, Ill., and Detroit, Mich.

No. MC 3566 Sub 33, filed August 12, 1955, GENERAL EXPRESSWAYS, INC., an Illinois corporation, 221 West Roosevelt Road, Chicago 5, Ill. Applicant's attorney: Floyd F. Shields, same address as applicant. For authority to operate as a common carrier, transporting: General commodities, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, serving the site of the Studebaker-Packard Motor Car Company Plant, located on Mount Road, approximately three miles north of Utica, Mich., and the site of the Chrysler Jet Engine Plant, located on Michigan Highway 53, between Sixteen and Seventeen-Mile Roads, Sterling Township, Macomb County, Mich., as off-route points in connection with applicant's regular route operations over U. S. Highways 12, 24, 25, and 112 and Michigan Highway 17, to and from Detroit, Mich.

No. MC 4964 Sub 22, filed August 8, 1955, ROY L. JONES, 915 McCarty, Houston, Tex. Applicant's attorney: Jo E. Shaw, First National Bank Bldg., Houston, Tex. For authority to operate as a common carrier, over irregular routes, transporting: Machinery, equipment, materials, and supplies used in the construction operation, and maintenance of chemical and carbon black plants; heavy machinery and heavy or cumbersome commodities which because of size or weight require the use of special equipment, and parts thereof; contractors' equipment, materials, and supplies which because of size and weight require the use of special equipment, and parts thereof, not including commodities in bulk, (1) between points in Texas, Oklahoma, Kansas, Louisiana, Arkansas, Mississippi, Alabama, Georgia, Florida, New Mexico, Arizona, and Colorado; (2) between points in Oklahoma, on the one hand, and, on the other, points in North Dakota and South Dakota.

No. MC 8902 Sub 8, filed August 8, 1955, THE WESTERN EXPRESS COMPANY, an Ohio Corporation, 1277 East 40th Street, Cleveland 14, Ohio. Applicant's representative: J. J. Kuhner, 931 Society for Savings Bldg., Cleveland 14, Ohio. For authority to operate as a common carrier, over regular routes, transporting: General commodities, except those of unusual value, Class A and Class B explosives, household goods as defined by the Commission, commodi-



ties in bulk, and those requiring special equipment, (1) between junction New York Highways 384 and 324, and junction New York Highways 324 and 5, near Clarence, N. Y., over New York Highway 324, serving no intermediate points, as an alternate route for operating convenience only, in connection with applicant's regular route operations (a) from Buffalo, N. Y., to Niagara Falls, N. Y., and (b) between Cleveland, Ohio, and Syracuse, N. Y., and (2) serving the site of the Ford Motor Company plant at or near junction Ohio Highways 12 and 101, near Sandusky, Ohio, as an off-route point in connection with applicant's regular route operations between Cleveland, Ohio, and Toledo, Ohio. Applicant is authorized to conduct operations in Connecticut, Massachusetts, New York, Ohio, Pennsylvania, and Rhode Island.

No. MC 17481 Sub 15, filed August 11, 1955, MOORE MOTOR FREIGHT LINES, INC., 2091 Kasota Ave., St. Paul 14, Minn. Applicant's representative: A. R. Fowler, Agent, Associated Motor Carriers Tariff Bureau, 2288 University Ave., St. Paul 14, Minn. For authority to operate as a *common carrier*, over regular routes, transporting: *General commodities*, except those of unusual value, Class A and B explosives, livestock, and household goods, as defined by the Commission, commodities in bulk, and those requiring special equipment, (1) between Minneapolis, Minn., and Chicago, Ill., (a) from Minneapolis over U. S. Highway 12 to Chicago, (b) from Minneapolis over city streets to St. Paul, Minn., thence over U. S. Highway 61 to La Crosse, Wis., thence over U. S. Highway 14 to Chicago, (c) from Minneapolis over routes specified herein to Madison, Wis., thence over U. S. Highway 18 to Milwaukee, Wis., thence over U. S. Highway 41 to Chicago, (d) from Minneapolis over U. S. Highway 12 to Wisconsin Dells, Wis., thence over U. S. Highway 16 to Milwaukee, Wis., thence over U. S. Highway 41 to Chicago, (e) from Minneapolis over U. S. Highway 55 to Hastings, Minn., thence over U. S. Highway 61 to La Crosse, Wis., thence over U. S. Highway 16 to Tomah, Wis., thence over routes specified herein to Chicago, and (f) from Minneapolis over U. S. Highway 52 to Dubuque, Iowa, thence over U. S. Highway 20 to Marengo, Ill., thence over Illinois Highway 176 to junction U. S. Highway 12, thence over U. S. Highway 12 to Chicago, and return over the above-specified routes, (2) between St. Paul, Minn., and junction Minnesota Highways 56 and 55, for operating convenience only, from St. Paul over Minnesota Highway 56 to junction Minnesota Highways 56 and 55, and return over the same route, serving the following intermediate and off-route points: points in the Chicago, Ill., commercial zone, and the Minneapolis-St. Paul, Minn., commercial zone, without restriction; Milwaukee, Wis., restricted to the transportation of general commodities, with the exceptions named, from points in the Minneapolis-St. Paul, Minn., commercial zone to Milwaukee, and to the transportation of canned or preserved foodstuffs, cocoa and chocolate coating and used empty con-

tainers and skids from Milwaukee, to points in the Minneapolis-St. Paul, Minn., Commercial zone.

NOTE: Applicant is authorized to perform the service sought herein over irregular routes, transporting general commodities, with the exceptions noted, between points in the Twin Cities area, namely Minneapolis, St. Paul, Columbia Heights, Robbinsdale, South St. Paul, North St. Paul, Invergrove, West St. Paul, Newport, St. Louis Park, Hopkins, Edina, Richfield, Fridley, Red Rock, McCarren Lake, Fort Snelling, and State Fair Grounds, Minn., and Chicago, Ill., and from points in the Twin Cities area as described above, to Milwaukee, Wis., and canned or preserved foodstuffs, cocoa and chocolate coating, and used empty containers and skids from Milwaukee, Wis., to points in the Twin Cities area as described above, or points in the Minneapolis-St. Paul, Minn., Commercial zone. Instant application proposes to convert these operations from irregular-route to regular-route operations. Applicant is authorized to conduct operations in Minnesota, Wisconsin, Iowa, Illinois, and Nebraska.

No. MC 30837 Sub 188, filed August 12, 1955, KENOSHA AUTO TRANSPORT CORPORATION, 4519 76th Street, Kenosha, Wis. Applicant's attorney: Louis E. Smith, 316-318 Chamber of Commerce Bldg., Indianapolis 4, Ind. For authority to operate as a *common carrier*, over irregular routes, transporting: *Vacuum ovens and refrigeration equipment*, from Inglewood, Calif. to all points in the United States.

No. MC 30837 Sub 189, filed August 12, 1955, KENOSHA AUTO TRANSPORT CORPORATION, 4519 76th Street, Kenosha, Wis. Applicant's attorney: Louis E. Smith, 316-318 Chamber of Commerce Bldg., Indianapolis 4, Ind. For authority to operate as a *common carrier*, over irregular routes, transporting: *Electric trucks and truck chassis*, in initial movements, by truckaway service, from Depew, N. Y., to all points in the United States.

No. MC 41635 Sub 29, filed August 8, 1955, DEALERS TRANSPORT COMPANY, a corporation, 1368 Riverside Blvd., P. O. Box 2482 De Soto Station, Memphis, Tenn. Applicant's attorney: Charles H. Hudson, Jr., 407 Broadway National Bank Building, Nashville, Tenn. For authority to operate as a *common carrier*, over irregular routes, transporting: *Automobiles, trucks, tractors, and chassis*, in initial movements, in both truckaway and driveaway service, between Memphis, Tenn., on the one hand, and, on the other, South Edgerton, Tenn. located on or near U. S. Alternate Highway 41 a few miles north of Clarksville, Tenn. Applicant is authorized to conduct regular route operations in Arkansas, Missouri, and Tennessee, and irregular route operations in Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia.

No. MC 42487 Sub 298, filed August 5, 1955, CONSOLIDATED FREIGHTWAYS, INC., 2029 N. W. Quimby St., Portland, Oreg. For authority to operate as a *common carrier*, over irregular routes, transporting: *Liquid paraffin wax*, in bulk, in tank vehicles, from points in Contra Costa County, Calif. to

points in Washington and Oregon. Applicant is authorized to conduct operations in Oregon, Washington, Idaho, Nevada, Montana, North Dakota, Minnesota, Wisconsin, and Illinois.

No. MC 43038 Sub 398, filed August 8, 1955, COMMERCIAL CARRIERS, INC., 3399 E. McNichols Road, Detroit 12, Mich. For authority to operate as a *common carrier*, over irregular routes, transporting: *Automobiles, trucks, and buses*, in secondary movements, in both truckaway and driveaway service, from Guntersville, Ala., to points in South Carolina, restricted to traffic having a prior movement by water. Applicant is authorized to conduct operations in the District of Columbia and all states in the United States excepting Arizona, California, Connecticut, Delaware, Idaho, Maine, Montana, Nevada, New Hampshire, New Mexico, North Dakota, Rhode Island, South Dakota, Utah, Vermont, and Virginia.

No. MC 44345 Sub 5, filed July 18, 1955, E. R. HOLEMAN, doing business as MOUNT VERNON TRANSFER COMPANY, 100 Washington St., Route One, Mount Vernon, Wash. Applicant's attorney: Carl P. Jensen, 1405 Hoge Building, Seattle 4, Wash. For authority to operate as a *common carrier*, over irregular routes, transporting: *General commodities*, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between points in Snohomish County, Wash., on and west of Washington Secondary Highway 1-A, beginning at the north boundary of the Snohomish County line and extending along in a southerly direction to and including Arlington, Wash., and points in said County on and West of Snohomish County unnumbered highway between Arlington and Marysville, Wash., but not including Marysville, to Puget Sound, Wash., all points on the Tulalip Indian Reservation, and those on Camano and Whidbey Islands, in Island County, Wash. Applicant is authorized to conduct operations in Washington.

No. MC 59680 Sub 120, filed August 5, 1955, STRICKLAND TRANSPORTATION CO., INC., 2917 Gulden Lane, P. O. Box 5680, Dallas, Tex. Applicant's attorney: Ewell H. Muse, Jr., Suite 415 Perry-Brooks Building, Austin, Tex. For authority to operate as a *common carrier*, over regular and irregular routes, transporting: *Compressed gases*, in bulk, when moving in Government owned or shipper owned trailers for the U. S. Government or its cost type contractor, the University of California, and empty Government owned or shipper owned trailers used in transporting these compressed gases. The specified highways between the regular routes below are fully described in the application. REGULAR ROUTES: (1) between Fort Worth, Tex., and Little Rock, Ark.; service is proposed to and from the off-route points of the sites of the Lone Star Shell Loading Plant and the Red River Ordnance Depot, Tex., Jones Mills and Aluminum City, Ark., and the Jones



Mills Works of the Aluminum Company of America, and power plants in connection therewith, near Malvern, Ark., (2) between Memphis, Tenn., and Little Rock, Ark.; service is proposed to and from all intermediate points for routes (1) and (2), (3) between Greenville, Tex., and Texarkana, Ark., and Texarkana, Ark., for operating convenience only; (4) between Memphis, Tenn., and Jonesboro, Ark.; service is proposed to and from all intermediate points between Turrell and Jonesboro, Ark., unrestricted; and the intermediate point of Turrell, restricted against traffic moving to or from Memphis, (5) between Arkadelphia, Ark., and Benton, Ark.; service is proposed to and from all intermediate points, (6) between Jonesboro, Ark., and St. Louis, Mo.; service is proposed to and from the intermediate points of Paragould, Ark., and East St. Louis, Ill., unrestricted; intermediate and off-route points within eight miles of Jonesboro, restricted to the transportation of livestock on traffic moving from such points to East St. Louis, Ill., and St. Louis, Mo.; and intermediate and off-route points in the St. Louis, Mo.-East St. Louis, Ill., Commercial Zone, as defined by the Commission, except East St. Louis, Ill., restricted against the transportation of Class A and B explosives, (7) between Sikeston, Mo., and Poplar Bluff, Mo., for operating convenience only; (8) between Corning, Ark., and Little Rock, Ark., for operating convenience only. **RESTRICTION:** The service proposed next above is subject to the condition that no shipments shall be transported between St. Louis, Mo., and Little Rock, Ark., over U. S. Highway 67, (9) between Hayti, Mo., and Turrell, Ark., for operating convenience only; service is not proposed to or from intermediate points on routes (7) to (9) inclusive, (10) between Houston, Tex., and Dallas, Tex., service is proposed to and from off-route points within five miles of Conroe, Tex., (11) between points in Texas, (a) from Houston to Fort Worth, (b) from Fort Worth to Dallas, (c) from Fort Worth to Amarillo, (d) from San Antonio to Waco, (e) from Hillsboro to Dallas, (f) from Austin to Giddings, and return over these routes; service is proposed to and from all intermediate points on the above-specified routes; and the off-route points of Tarrant Field (air base) and the site of the Consolidated Aircraft Corporation plant located approximately three miles northwest of Fort Worth, Tex., and all intermediate and off-route points within eight miles of Houston, Tex., (12) from Dallas, Tex., to Beaumont, Tex.; service is not proposed at intermediate points except as authorized above, (13) between Fort Sill, Okla., and Wichita Falls, Tex.; service is not proposed to or from intermediate points, (14) between Texarkana, Ark.-Tex., and Shreveport, La.; service is proposed to and from all intermediate points, and the off-route points of Barksdale Field, Bossier City, Cedar Grove, and Jewalla, La.; (15) between Gilliam, La., and Mail Box, La.; service is proposed to and from all intermediate points, (16) between Hope, Ark., and the Southwestern Proving Grounds, north of Hope, (17) between Dallas, Tex., and

Rhome, Tex., (18) between Wichita Falls, Tex., and San Antonio, Tex., (19) between Houston, Tex., and San Antonio, Tex., (20) between Vernon, Tex., and Victory Field, Tex., (21) between San Antonio, Tex., and Randolph Air Field, Tex., (22) between San Antonio, Tex., and Camp Bullis, Tex., (23) between San Antonio, Tex., and Camp Stanley, Tex., (24) between Wichita Falls, Tex., and Sheppard Field, Tex., (25) between Wichita Falls, Tex., and Wichita Falls Airport, Tex., (Kelly Field); service is not proposed to and from intermediate points on routes (16) to (25) inclusive, (26) between Hot Springs, Ark., and Malvern, Ark.; service is proposed to and from all intermediate points, (27) between Vernon, Tex., and Vernon Airport, Tex.; service is proposed to and from all intermediate points, (28) between Texarkana, Ark.-Tex., and Houston, Tex., for operating convenience only; service is not proposed to or from intermediate points. **RESTRICTION:** The service proposed next above is restricted to the transportation of shipments to or from points east of Texarkana, but with no service to or from Shreveport, La., (29) between Paris, Tex., and Lawton, Okla.; service is not proposed to or from intermediate points; service is proposed at Lawton solely for the purpose of combining or tacking the said route to routes otherwise authorized, (30) between Amarillo, Tex., and Pan Tex Ordnance Plant, Tex., (31) between Amarillo, Tex., and U. S. Army Air Corps Technical School, Tex., (32) between Amarillo, Tex., and English Field Airport, Tex., (33) between Paris, Tex., and Henrietta, Tex., (34) between Fort Worth, Tex., and Denton, Tex., (35) between Oklahoma City, Okla., and Fort Sill, Okla.; service is not proposed to and from intermediate points on routes (30) to (35) inclusive, (36) between Amarillo, Tex., and Wheeler, Tex.; service is proposed to and from the intermediate points of Laketon and Mobeetie, Tex., (37) between Dallas, Tex., and Oklahoma City, Okla.; service is proposed to and from all intermediate points, and the off-route points of Tinker Field and Will Rogers Memorial Field near Oklahoma City, (38) between Dallas, Tex., and Tulsa, Okla.; service is proposed to and from all intermediate points and the off-route points of the Spartan School of Aeronautics and the Douglas Bomber Plant near Tulsa, (39) between Little Rock, Ark., and Camp Joseph T. Robinson, Ark.; service is proposed to and from the intermediate point of North Little Rock, Ark., (40) between Little Rock, Ark., and Russellville, Ark.; service is proposed to and from all intermediate points, (41) between Russellville, Ark., and Fort Smith, Ark.; service is proposed to and from all intermediate points, (42) between Ringgold, Tex., and Lawton, Okla.; service is not proposed to or from intermediate points, service is proposed at Ringgold and Lawton solely for the purpose of combining or joining the said route to routes otherwise authorized, (43) between Dallas, Tex., and Shreveport, La.; service is not proposed to or from intermediate points, (44) between Texarkana, Ark., and the site of Camp Chaf-

fee, Ark.; service is not proposed to or from intermediate points, (45) service is proposed to and from the site of Majors Field, Tex., as an off-route point in connection with carrier's otherwise authorized regular route operations between Dallas, Tex., and Texarkana, Ark.-Tex., (46) between Chicago Heights, Ill., and Elgin, Ill., and all intermediate points, (47) between Chicago, Ill., and Aurora, Ill., and all intermediate points, (48) between Chicago, Ill., and Waukegan, Ill., and all intermediate points, (49) between Chicago, Ill., and Geneva, Ill., and all intermediate points, the off-route points of West Chicago, Winfield, Lombard, Elmhurst, Villa Park, Utopia, and Eola, Ill., and those in the Chicago, Ill., Commercial Zone, as defined by the Commission, (50) between Hammond, Ind., and Hobart, Ind., and all intermediate points, and the off-route point of Griffith, Ind., **REGULAR AND IRREGULAR ROUTES:** Between Eola and Aurora, Ill., on the one hand, and, on the other, St. Louis, Mo., from Eola over irregular routes to Aurora, thence over Illinois Highway 25 to Oswego, Ill., thence over U. S. Highway 34 to junction Illinois Highway 47, thence over Illinois Highway 47 to junction U. S. Highway 66, thence over U. S. Highway 66 to St. Louis; also over Illinois Highway 25 to Oswego, thence over U. S. Highway 34 to junction Illinois Highway 47, thence over Illinois Highway 47 to Gibson City, Ill., thence over U. S. Highway 54 to Fullerton, Ill., thence over Illinois Highway 48 to junction U. S. Highway 66, thence over U. S. Highway 66 to St. Louis, and return over these regular routes to Aurora, and thence over irregular routes to Eola. **IRREGULAR ROUTES:** (1) between Hot Springs, Ark., on the one hand, and, on the other, Jones Mills, Aluminum City, The Jones Mills Works of The Aluminum Company of America, and the power plants connected therewith at or near Rammel Dam, on Lake Catherine, Ark., (2) between St. Louis, Mo., and Robertson, Mo.

No. MC 66562 Sub 1243, filed August 4, 1955, RAILWAY EXPRESS AGENCY, INCORPORATED, 219 East 42nd St., New York 17, N. Y. Applicant's attorney: J. H. Mooers, same address as applicants. For authority to operate as a common carrier, over regular routes, transporting: *General commodities, including Class A and B explosives*, moving in express service, (1) between Saginaw and Bad Axe, Mich., from Saginaw over Michigan Highway 81 to junction unnumbered highway, approximately 5 miles east of Reese, Mich., thence over unnumbered highway to junction Michigan Highway 138, thence over Michigan Highway 138 to Unionville, Mich.; thence over Michigan Highway 25 to junction Michigan Highway 142, thence over Michigan Highway 142 to junction Michigan Highway 53, and thence over Michigan Highway 43 to Bad Axe, and also from Saginaw over Michigan Highway 81 to junction Michigan Highway 53, thence over Michigan Highway 53 to Bad Axe, and return over the same routes, serving the intermediate point of Cass City, Mich., and (2) from Pontiac, Mich., over Michigan Highway 24 to Oxford



Mich., thence return over Michigan Highway 24 to Lake Orlon, Mich., thence over unnumbered county road, known as the Orlon Road, to Michigan Highway 150, thence north over Michigan Highway 150 to junction 32-Mile Road, thence east to Romeo, Mich., thence over 32-Mile Road to junction North Road, thence north on North Road to Armada, Mich., and return over North Road to 32-Mile Road, thence east on 32-Mile Road to Richmond, Mich., and return via 32-Mile Road west to junction Michigan Highway 150, thence south to Rochester, Mich., thence east on unnumbered county road, known as Pontiac Road, to Michigan Highway 24, thence south to Pontiac, Mich., and also from Richmond, Mich., over Michigan Highway 19 south to U. S. Highway 25, thence south to junction Michigan Highway 59, thence over Michigan Highway 59 to its junction with Michigan Highway 150, thence over Michigan Highway 150 to county road known as Pontiac Road to Michigan Highway 24, thence over Michigan Highway 24 to Pontiac, Mich., and return over the same routes, serving Romeo, Armada, and Richmond, Mich., as intermediate points. RESTRICTION: (a) The authority applied for is subject to the condition that service to be performed shall be limited to service which is auxiliary to, or supplemental of, railway express, (b) shipments transported by carrier shall be limited to those moving on a through bill of lading, or express receipt, covering, in addition to the motor carrier movement by carrier, an immediately prior or immediately subsequent movement by air or rail, and (c) such further specific conditions as the Commission in the future may find it necessary to impose in order to restrict carrier's operation to service which is auxiliary to, or supplemental of, air or railway express service. Applicant is authorized to conduct operations throughout the United States.

No. MC 66562 Sub 1244, filed August 4, 1955, RAILWAY EXPRESS AGENCY, INCORPORATED, 219 East 42nd Street, New York 17, N. Y. Applicant's attorney: J. H. Mooers, same address as applicant. For authority to operate as a common carrier, over regular routes, transporting: *General commodities, including Class A and B explosives*, moving in express service, between Louisville, Ky., and Lexington, Ky., from Louisville over U. S. Highway 60 to junction Kentucky Highway 146, thence over Kentucky Highway 146 to Crestwood, Ky., thence over Kentucky Highway 22 to Eminence, Ky., thence over Kentucky Highway 55 to Shelbyville, Ky., thence over U. S. Highway 60 to Frankfort, Ky., thence over U. S. Highway 421 to Lexington, and also from Louisville over U. S. Highway 60 to Lexington, and return over the same routes, serving the following intermediate points: Anchorage, Crestwood, Eminence, Shelbyville, Frankfort, Versailles, and Midway, Ky. RESTRICTION: (a) The authority applied for is subject to the condition that service to be performed shall be limited to service which is auxiliary to, or supplemental of, railway express service; (b) shipments transported by carrier shall be limited to those moving on a

through bill of lading, or express receipt, covering, in addition to the motor carrier movement by carrier, an immediately prior or immediately subsequent movement by air or rail, and (c) such further specific conditions as the Commission in the future may find it necessary to impose in order to restrict carrier's operation to service which is auxiliary to, or supplemental of, air or railway express service. Applicant is authorized to conduct operations throughout the United States.

No. MC 66562 Sub 1245, filed August 4, 1955, RAILWAY EXPRESS AGENCY, INCORPORATED, 219 East 42nd Street, New York 17, N. Y. Applicant's attorney: J. H. Mooers, same address as applicant. For authority to operate as a common carrier, over regular routes, transporting: *General commodities, including Class A and B explosives*, moving in express service, between Wilkes-Barre, Pa., and Hazleton, Pa., from Wilkes-Barre over U. S. Highway 309 to Hazleton, and return over the same route, serving no intermediate points. RESTRICTION: (a) The authority applied for is subject to the condition that service to be performed shall be limited to service which is auxiliary to, or supplemental of, railway express service; (b) shipments transported by carrier shall be limited to those moving on a through bill of lading, or express receipt, covering, in addition to the motor carrier movement by carrier, an immediately prior or immediately subsequent movement by air or rail, and (c) such further specific conditions as the Commission in the future may find it necessary to impose in order to restrict carrier's operations to service which is auxiliary to, or supplemental of, air or railway express service. Applicant is authorized to conduct operations throughout the United States.

No. MC 66562 Sub 1246, filed August 8, 1955, RAILWAY EXPRESS AGENCY, INCORPORATED, 219 East 42nd Street, New York 17, N. Y. Applicant's attorney: William H. Marx, same address as applicant. For authority to operate as a common carrier, transporting: *General commodities, including Class A and B explosives*, moving in express service, serving Harrodsburg and Lawrenceburg, Ky., as off-route points in connection with applicant's regular route operations between Cincinnati, Ohio, and Somerset, Ky. RESTRICTION: (a) The service to be performed by carrier shall be limited to service which is auxiliary to, or supplemental of, air or railway express service; (b) Shipments transported by carrier shall be limited to those moving on a through bill of lading or express receipt covering in addition to the motor carrier movement by carrier, an immediately prior or immediately subsequent movement by air or rail; and (c) Such further specific conditions as the Commission in the future may find it necessary to impose in order to restrict carrier's operation to service which is auxiliary to, or supplemental of, air or railway express service. Applicant is authorized to conduct operations throughout the United States.

No. MC 70330 Sub 25, filed August 5, 1955, J. TOM MILLER, doing business

as MILLER TRUCK LINE, 901 N. E. 28th St., Fort Worth, Tex. Applicant's attorney: Reagan Sayers, Century Life Building, Fort Worth, Tex. For authority to operate as a contract carrier, over irregular routes, transporting: *Meats, meat products, meat by-products, dairy products, and articles distributed by meat-packing houses*, as defined by the Commission, and advertising matter used in promoting the sale of the aforesaid commodities, between Dallas, and Fort Worth, Tex., on the one hand, and, on the other, points in Texas. Applicant is authorized to conduct operations in Arkansas, Louisiana, Mississippi, New Mexico, Oklahoma, and Texas.

NOTE: If and when the authority applied for herein is granted applicant's present outstanding authority under Permits issued in Docket No. MC 70330 and Subs thereof insofar as it is duplicated by authority now being applied for will or should be cancelled before issuance of Permit covering instantly applied for authority.

No. MC 74846 Sub 41, filed August 2, 1955, LEWIS G. JOHNSON, West Union Extension, Newark, N. Y. Applicant's representative: Bert Collins, 140 Cedar Street, New York 6, N. Y. For authority to operate as a common carrier, over irregular routes, transporting: *Fertilizer*, from Carteret, N. J., to points in Tompkins and Cortland Counties, N. Y., and empty containers or other such incidental facilities (not specified) used in transporting the commodity specified, on return. Applicant is authorized to conduct operations in Maryland, New Jersey, New York, and Pennsylvania.

No. MC 76564 Sub 50, filed August 4, 1955, HILL LINES, INC., 1300 Grant St., Amarillo, Tex. Applicant's attorneys: Donovan N. Hoover, P. O. Box 897, Santa Fe, N. Mex. and Morris G. Cobb, P. O. Box 1750, Amarillo, Tex. For authority to operate as a common carrier, over regular routes, transporting: *General commodities, including Class A and Class B explosives and commodities in bulk*, but excepting those of unusual value, household goods as defined by the Commission, and commodities requiring special equipment, between Amarillo, Tex. and El Paso, Tex., from Amarillo over U. S. Highway 66 to junction with U. S. Highway 54, thence over U. S. Highway 54 to El Paso, Tex. and return over the same route, serving all intermediate points between Santa Rosa, N. Mex. and Carrizozo, N. Mex., not including Carrizozo, and with service at Santa Rosa, N. Mex. restricted against traffic originating at or destined to Albuquerque, N. Mex. and Amarillo, Tex. and points beyond Albuquerque and Amarillo. Applicant is authorized to conduct operations in New Mexico and Texas.

No. MC 95376 Sub 1, filed July 25, 1955, FLOYD WILLEY, Rossville, Ill. Applicant's attorney: Ray M. Foreman, 704-710 Baum Bldg., Danville, Ill. For authority to operate as a common carrier, over irregular routes, transporting: (1) *Sand and gravel*, from points in Warren, Fountain, Parke and Vermillion Counties, Ind., to points in Vermillion County, Ill.; and (2) *haydite, limestone, crushed rock and coal*, from points in Vermillion County, Ill., to points in Indiana. Appli-



cant is authorized to conduct operations in Illinois and Indiana.

No. MC 96489 Sub 16, filed August 4, 1955, BOWEN TRUCKING, INC., Holley, N. Y. Applicant's representative: Raymond A. Richards, 13 Lapham Park, Box 382, Webster, N. Y. For authority to operate as a *common carrier*, over irregular routes, transporting: *Class A and B explosives*, from points in Erie, Genesee, Monroe, Niagara, and Orleans Counties, N. Y., to points in Martin County, Ind., and those in Mineral County, Nev. *Empty containers or other such incidental facilities* (not specified), from the above-specified destination points to the above-described origin points.

No. MC 102616 Sub 613 (amended), filed July 25, 1955, COASTAL TANK LINES, INC., Grantley Road, York, Pa. Applicant's attorney: Harold G. Hernly, 1624 Eye St., N. W., Washington 6, D. C. For authority to operate as a *common carrier*, over irregular routes, transporting: *Petroleum products*, in bulk, in tank vehicles, from Wellsville, Ohio, to points in Pennsylvania on and south of U. S. Highway 322 from the Ohio-Pennsylvania state line to junction U. S. Highway 219, and thence on and west of U. S. Highway 219 to the Pennsylvania-Maryland state line, and those in West Virginia west of the West Virginia-Maryland state line from the Pennsylvania-Maryland-West Virginia state lines to point where intersected by U. S. Highway 219, thence on and west of U. S. Highway 219 to junction U. S. Highway 33, and thence on and north of U. S. Highway 33 to the West Virginia-Ohio state line. Applicant is authorized to conduct operations in Connecticut, Delaware, Illinois, Indiana, Kentucky, Maryland, Massachusetts, Michigan, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Tennessee, Virginia, West Virginia, Wisconsin, and the District of Columbia.

No. MC 103378 Sub 45, filed August 10, 1955, PETROLEUM CARRIER CORPORATION, 369 Margaret Street, Jacksonville, Fla. Applicant's attorney: Martin Sack, Atlantic National Bank Bldg., Jacksonville 2, Fla. For authority to operate as a *common carrier*, over irregular routes, transporting: *Petroleum and petroleum products*, in bulk, in tank vehicles, from St. Marks, Fla., to points in Georgia lying on and between a line 175 miles from St. Marks, Fla., and the northerly and easterly boundaries of Haralson, Paulding, Cobb, Fulton, DeKalb, Newton, Morgan, Putnam, Baldwin, Wilkinson, Laurens, Wheeler, Montgomery, Toombs, Appling, Wayne, Brantley and Camden Counties, Ga. Applicant is authorized to conduct operations in Alabama, Florida, Georgia, North Carolina and South Carolina.

No. MC 103880 Sub 153, filed August 9, 1955, PRODUCERS TRANSPORT, INC., 530 Paw Paw Ave., Benton Harbor, Mich. Applicant's attorney: Jack Goodman, 39 S. La Salle St., Chicago 3, Ill. For authority to operate as a *common carrier*, over irregular routes, transporting: *Salt*, in bulk, in hopper tank vehicles, from the Ports of Entry on the boundary between the United States and Canada at or near Detroit, Mich. and at or near

Port Huron, Mich. to points in Michigan, Illinois, Indiana, and Ohio.

No. MC 105217 Sub 36, filed July 21, 1955, RICE TRUCK LINES, a corporation, 712 Central Avenue West, Great Falls, Mont. Applicant's attorney: Randall Swanberg, 527-529 Ford Bldg., Great Falls, Mont. For authority to operate as a *common carrier*, over irregular routes, transporting: *Petroleum and petroleum products*, in bulk, in tank vehicles, (1) from points in Glacier County, Mont., to Logan, Ogden and Salt Lake City, Utah; and (2) from points in Salt Lake and Davis Counties, Utah, to points in Montana. Applicant is authorized to conduct operations in Idaho, Montana and Washington.

No. MC 106074, Sub 10, filed August 8, 1955, HOWELL BRYSON, BERNARD GOLDSTEIN, and NEMIAH GOLDSTEIN, doing business as B & P MOTOR LINES, 101 Main Street, Hazelwood, N. C. Applicant's attorney: Robert R. Williams, Jr., P. O. Box 7295, Jackson Building, Asheville, N. C. For authority to operate as a *common carrier*, over irregular routes, transporting: *New furniture*, (1) from Memphis, Tenn., to all points in North Carolina, Virginia, West Virginia, Maryland, Delaware, District of Columbia, Pennsylvania, New Jersey, New York, Maine, Vermont, New Hampshire, Connecticut, Massachusetts, and Rhode Island, and (2) from Hazelwood, Bryson City, and Woodfin, N. C., to all points in Mississippi, Louisiana, Arkansas, Texas, Missouri, Kansas, Iowa, Minnesota, Wisconsin, Michigan, and Oklahoma. *Damaged shipments* of new furniture from the above-specified destination points to the above-designated origin points. Applicant is authorized to conduct operations in Alabama, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Maryland, Massachusetts, Michigan, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, West Virginia, and the District of Columbia.

No. MC 106965 Sub 81, filed August 9, 1955, M. I. O'BOYLE & SON, INC., doing business as O'BOYLE TANK LINES, 817 Michigan Ave., N. E., Washington, D. C. Applicant's attorney: Dale C. Dillon, Suite 944 Washington Bldg., Washington 5, D. C. For authority to operate as a *common carrier*, over irregular routes, transporting: *Fluid coke*, in bulk, from Baltimore, Md., to Newark, N. J.

No. MC 106977 Sub 11, filed July 18, 1955, T. S. C. MOTOR FREIGHT LINES, INC., P. O. Box 2625, 400 Pinckney Street, Houston, Tex. Applicant's representative: Reagan Sayers, Century Life Building, Fort Worth, Tex. For authority to operate as a *common carrier*, over regular and irregular routes, transporting: *Government-owned compressed gas trailers, loaded with compressed gas other than liquefied petroleum gas, and such empty trailers*, over all regular and irregular routes authorized to applicant in Certificate No. MC 30012 and Sub Nos. 3, 15, 22, 23, 24, 25, 26, 27, 29, 32, 44, 46, 47, 48, 51, 54, and 56 thereunder, and in Certificate No. MC 106977 and Sub No. 2 thereunder, from, to, and/or between points in Alabama, Louisiana, Mississippi and Texas.

No. MC 107295 Sub 49, filed August 1, 1955, PRE-FAB TRANSIT CO., a corporation, Farmer City, Ill. Applicant's attorney: Mack Stephenson, First National Bank Bldg., Springfield, Ill. For authority to operate as a *common carrier*, over irregular routes, transporting: *Prefabricated buildings*, complete, knocked down, or in sections, from points in Iowa, to points in Colorado, New Mexico, Utah, Nevada, Idaho, Montana, North Dakota, South Dakota, and Wyoming. Applicant is authorized to conduct operations in all states in the United States except Arizona, California, Idaho, Nevada, Oregon and Washington.

No. MC 107515 Sub 189, filed August 3, 1955, REFRIGERATED TRANSPORT CO., INC., 290 University Avenue, S. W., Atlanta, Ga. Applicant's attorney: Allan Watkins, 214 Grant Building, Atlanta 3, Ga. For authority to operate as a *common carrier*, over irregular routes, transporting: *Meats, meat products, and meat by-products*, as defined by the Commission from Mt. Pleasant, Tex., to points in Alabama, Georgia, Florida, North Carolina, South Carolina, and Tennessee, except Memphis. Applicant is authorized to conduct operations in Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Texas and Wisconsin. NOTE: Applicant states it does not propose to join the authority applied for herein with any authority otherwise held by applicant for the purpose of performing through transportation service other than that applied for herein.

No. MC 107515 Sub 190, filed August 4, 1955, REFRIGERATED TRANSPORT CO., INC., 290 University Ave., S. W., Atlanta, Ga. Applicant's attorney: Allan Watkins, 214 Grant Building, Atlanta 3, Ga. For authority to operate as a *common carrier*, over irregular routes, transporting: *Meats, meat products, and meat by-products*, as defined by the Commission, from San Antonio, Tex., to points in Alabama, Georgia, Florida, North Carolina, South Carolina, and Tennessee, excepting Memphis. Applicant is authorized to conduct operations in Alabama, Florida, Georgia, Iowa, Kansas, Louisiana, Mississippi, Missouri, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Texas, and Wisconsin.

NOTE: J. S. Lawhon, President and principal stockholder in applicant herein holds authority under Permits issued in Docket No. MC 104589 and Subs thereof to perform certain contract carrier operations; therefore, Section 210 matters may be involved in this proceeding.

No. MC 108358 Sub 4, filed August 8, 1955, CONCRETE DELIVERY CO., INC., 7 North Steelawanna Avenue, Lackawanna, N. Y. Applicant's representative: Floyd B. Piper, Crosby Building, Franklin Street at Mohawk, Buffalo 2, N. Y. For authority to operate as a *contract carrier*, over irregular routes, transporting: *Cement*, portland and mortar, in bulk, in tank vehicles, from the town of Hamburg, Erie County, N. Y., to points in Warren County, Pa. Appli-



cant is authorized to conduct operations in New York and Pennsylvania.

No. MC 110525 Sub 276, filed August 1, 1955, **CHEMICAL TANK LINES, INC.**, 520 East Lancaster Ave., Downingtown, Pa. Applicant's attorney: Gerald L. Phelps, 600 Munsey Building, Washington 4, D. C. For authority to operate as a common carrier, over irregular routes, transporting: *Dacrol fuel oil treatment* (an additive composed of numerous raw chemicals to prevent the formation of sludge and to improve the combustion efficiency of fuel oil), from East Liverpool, Ohio, to East Chicago, and Gary, Ind., and South Chicago, Ill. Applicant is presently authorized to transport chemicals in Connecticut, Delaware, Illinois, Kentucky, Maryland, Massachusetts, Michigan, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Tennessee, Virginia, West Virginia, and the District of Columbia, but does not presently hold any authority to transport the specific commodity named in this application.

No. MC 112924 Sub 6, filed August 3, 1955, **THREE G MOTOR LINES, INC.**, Pier 66 North River, New York, N. Y. Applicant's representative: Bert Collins, 140 Cedar St., New York 6, N. Y. For authority to operate as a common carrier, over irregular routes, transporting: *General commodities, including household goods, as defined by the Commission and commodities requiring special equipment, but excluding commodities in bulk, Class A and B explosives, and commodities of unusual value, between Elizabeth, N. J., on the one hand, and, on the other points in Essex, Union, Middlesex, Hudson, Bergen, and Passaic Counties, N. J.* RESTRICTION: The service authorized immediately above is restricted to the transportation of shipments having an immediately prior or immediately subsequent movement by motor carrier.

NOTE: Applicant holds a certificate to provide service for the commodities and in the area immediately above with the restriction to "shipments moving on through bills of lading of freight forwarders". It now seeks to be permitted to provide this pick up and delivery service for motor carriers too. Applicant is authorized to conduct operations in New York and New Jersey.

No. MC 113524 Sub 5, filed August 5, 1955, **JAMES F. BLACK**, doing business as **PARKVILLE TRUCKING COMPANY**, 3618 Pulaski Highway, Baltimore, Md. Applicant's attorney: Dale C. Dillon, Suite 944, Washington Bldg., Washington 5, D. C. For authority to operate as a common carrier, over irregular routes, transporting: *Fluid coke, in bulk, from Baltimore, Md., to Newark, N. Y.*

No. MC 115335, (CORRECTED), filed April 28, 1955, **BORTON LEASING, INC.**, R. R. #7, Lafayette, Ind. Applicant's attorney: Ferdinana Born, 708 Chamber of Commerce Bldg., Indianapolis 4, Ind. For authority to operate as a contract carrier, over regular routes, transporting: *Building materials, electrical appliances, equipment, and parts, kitchen equipment, as described by the Commission, and air conditioners, dryers, washers, and humidifiers, (1) between Lafayette, Ind., and Horseheads, N. Y., as follows: From Lafayette over Indiana Highway 25 to Logansport, Ind., thence*

*over U. S. Highway 24 to junction U. S. Highway 224, thence over U. S. Highway 224 to Van Wert, Ohio, thence over U. S. Highway 30 to junction U. S. Highway 30N, thence over U. S. Highway 30N to junction Ohio Highway 4, thence over Ohio Highway 4 to junction U. S. Highway 20, thence over U. S. Highway 20 to junction U. S. Highway 15, thence over U. S. Highway 15 to Corning, N. Y., thence over New York Highway 17 to Horseheads, and (2) between Lafayette, Ind., and Tyler, Texas, as follows: from Lafayette, over Indiana Highway 43 to junction U. S. Highway 40, thence over U. S. Highway 40 to St. Louis, Mo., thence over U. S. Highway 67 to Texarkana, Ark., thence over U. S. Highway 59 to junction U. S. Highway 80, thence over U. S. Highway 80 to junction U. S. Highway 271, thence over U. S. Highway 271 to Tyler, and return over the above routes, serving no intermediate points.*

NOTE: Instant application was published on page 3205, issue of May 11, 1955, and incorrectly designated the destination point in Route (2) as Tyler, Ind.; the correct destination point is Tyler, TEXAS.

No. MC 115449, filed July 7, 1955, **ROBERT LANE**, doing business as **LANE'S HAULAGE**, 6 George Street, Georgetown, Ontario, Canada. Applicant's attorney: John M. Veale, Guardian Building, Detroit 26, Mich. For authority to operate as a contract carrier, over irregular routes, transporting: *Boats, between points in Indiana, Illinois, Michigan, New York and Ohio, and all ports of entry in Michigan and New York on the International Boundary line between the United States and Canada. Stone, between points in Ohio and all ports of entry in Michigan and New York on the International Boundary line between the United States and Canada. Satin white (liquid lime used for coating paper), and returned empty containers or other such incidental facilities (not specified) used in transporting satin white, between points in Michigan and all ports of entry in Michigan and New York on the International Boundary line between the United States and Canada.*

No. MC 115480, filed July 25, 1955, (Amended) published page 5799 issue of August 10, 1955, **E. L. ANGERTER**, 741 West Fifth North, Green River, Wyo. Applicant's attorney: Marion F. Jones, Suite 526 Denham Bldg., Denver 2, Colo. For authority to operate as a common carrier, over irregular routes, transporting: *Cement, in sacks, from Devils Slide, Utah to points in Sweetwater County, Wyo., Restricted against movement to oil fields or refineries; green native lumber, from Wilson, Wyo. to Ogden, Utah.*

No. MC 115493, filed August 3, 1955, **JAMES B. LEVENS**, doing business as **LEVENS TRUCKING CO.**, 421 Southeast Ave., Tallmadge, Ohio. Applicant's representative: John R. Meeks, 607 Copley Road, Akron 20, Ohio. For authority to operate as a contract carrier, over irregular routes, transporting: *Cordials, wines, and non-alcoholic beverages, from Chicago, Ill. and the Commercial Zone thereof, as defined by the Commission, and Canandaigua, Fredonia, Lewistown, Hammondsport, and New York,*

*N. Y., and the Commercial Zone thereof, as defined by the Commission, to points in Ohio.*

No. MC 115498, filed August 4, 1955, **CARL E. CARSON, JR.**, and **CARL E. CARSON, SR.**, doing business as **CARSON & CARSON**, Box 184, Carthage, Ind. Applicant's attorney: Walter F. Jones, Jr., 706-08 Chamber of Commerce Bldg., Indianapolis, Ind. For authority to operate as a contract carrier, over irregular routes, transporting: *Rough native lumber, from Indianapolis and Mooresville, Ind., to points in Ohio, Kentucky, and Illinois.*

No. MC 115501, filed August 5, 1955, **FRANK MOWCZAN**, 381 Jericho Turnpike, Floral Park, N. Y. For authority to operate as a common carrier, over irregular routes, transporting: *Scrap iron and scrap steel, loose or in packages, from points in Nassau and Suffolk Counties, N. Y., to points in New York, New Jersey and Pennsylvania.*

No. MC 115505, filed August 8, 1955, **JACK SHANNON**, 1610 North 24th St., Quincy, Ill. For authority to operate as a contract carrier, over irregular routes, transporting: *House trailers, between points in Missouri, Illinois, Indiana, and Iowa.*

No. MC 115509, filed August 10, 1955, **HOWARD BARGREEN** doing business as **CROWN DISTRIBUTING CO.**, 2110 Hewitt Street, Everett, Wash. Applicant's attorney: George R. LaBissoniere, 835 Central Bldg., Seattle 4, Wash. For authority to operate as a common carrier, over irregular routes, transporting: *Beer, shingles, shakes, plywood, salt, building stone, paper and paper products, and canned goods, between San Francisco, Calif., and points in Washington.*

No. MC 115513, filed August 12, 1955, **ARTHUR E. SWAER**, doing business as **E. C. SWAER & SON**, 1215 Division St., Green Bay, Wis. Applicant's attorney: C. R. Dineen, 341 Empire Bldg., 710 N. Plankinton Ave., Milwaukee 3, Wis. For authority to operate as a common carrier, over irregular routes, transporting: *Fresh and frozen fruits, fresh and frozen vegetables, fresh and frozen fish and fresh and frozen seafoods, from Chicago, Ill., and Milwaukee, Green Bay and Sturgeon Bay, Wis. to the International Boundary between the United States and Canada at or near Noyes, Minn.; fresh and frozen fish and fresh and frozen seafoods from the International Boundary between the United States and Canada at or near Noyes, Minn. to Marinette, Green Bay, Sheboygan, and Milwaukee, Wis. and Chicago, Ill.*

# CORRECTIONS

No. MC 115465, **CHARLES W. NORTHCUTT** and **CECIL V. HUFF**, doing business as **H & N SERVICE CO.**, published page 5567, issue of August 3, 1955. ADD: Address of applicant, Brewton, Ala.

No. MC 72806 Sub 4, **BUCKEYE STAGES, INC.**, Postoria, Ohio, published in the August 17, 1955, issue, on page 5992 Route (4) requests Between Genoa, Ohio, and Marblehead, Ohio, from Genoa over Ohio Highway 51 to Elmore, Ohio, etc. Applicant states Ohio Highway 120 shown from Genoa



to Elmore, Ohio, in previous notice has been rerouted because of the turnpike interchange over the expressway as indicated by Ohio Highway Map 1955.

#### APPLICATIONS OF MOTOR CARRIERS OF PASSENGERS

No. MC 45626 Sub 29, filed August 4, 1955, VERMONT TRANSIT CO., INC., 343 No. Winoski Avenue, Burlington, Vt. Applicant's attorney: L. C. Major, Jr., 2001 Massachusetts Avenue, N. W., Washington 6, D. C. For authority to operate as a *common carrier*, over a regular route, transporting: *Passengers and their baggage*, and *express, newspapers and mail*, in the same vehicle with passengers, between Winchendon, Mass., and Rindge, N. H., over U. S. Highway 202, serving all intermediate points. Applicant is authorized to conduct operations in Massachusetts, New Hampshire, New York and Vermont.

No. MC 112257 Sub 3, filed August 4, 1955, LEWIS PIERCE, doing business as LAKE OF THE WOODS BUS LINE, Route 2, West University, Grand Forks, N. Dak. Applicant's attorney: John S. Whittlesey, Suite 2-3, 69½ Broadway, Fargo, N. Dak. For authority to operate as a *common carrier*, over a regular route, transporting: *Passengers and their baggage*, and *express, mail, and newspapers*, in the same vehicle with passengers, between Baudette, Minn., and International Falls, Minn., over Minnesota Highway 11, serving all intermediate points. Applicant is authorized to conduct operations in Minnesota.

No. MC 115420 Sub 1, filed August 8, 1955, MERLE E. MARTIN, doing business as SUPERIOR BUS SERVICE, P. O. Box 169, Harrisonburg, Va. For authority to operate as a *common carrier*, over a regular route, transporting: *Passengers and their baggage*, and *express, mail, and newspapers*, in the same vehicle with passengers, between Harrisonburg, Va., and Mathias, W. Va., from Harrisonburg, over Virginia Highway 42 to Timberville, Va., thence return over Virginia Highway 42 to Broadway, Va., thence over Virginia Highway 259 to the Virginia-West Virginia State line, thence over West Virginia Highway 259 to Mathias, and return over the same route, serving all intermediate points.

#### APPLICATIONS UNDER SECTION 5 AND 210a (b)

No. MC-F 6041, published in the August 10, 1955, issue of the FEDERAL REGISTER on page 5801. Application filed August 12, 1955, for temporary authority under Section 210a (b).

No. MC-F 6047. Authority sought for purchase by LIGHTNING LOCAL EXPRESS COMPANY, 2701 Railroad St., Pittsburgh, Pa., of a portion of the operating rights of WM. A. SHIELDS, doing business as SHIELDS MOTOR LINES, 1115 Brighton Road, Pittsburgh, Pa., and for acquisition by FRANK W. SALVATORA and JOSEPH L. SALVATORA, both of 2701 Railroad St., Pittsburgh, Pa., of control of the operating rights through the transaction. Applicants' attorney: Samuel P. Delisi, 1211 Berger Bldg., Pittsburgh, Pa. Operating rights sought to be transferred: *General commodities*, with certain exceptions, in-

cluding household goods, as a *common carrier*, over regular routes, between Pittsburgh, Pa., and Butler, Pa.; between Bakerstown, Pa., and Evans City, Pa.; between Zelienople, Pa., and Butler, Pa., and Portersville, Pa.; serving all intermediate points. Vendee is authorized to operate in Pennsylvania. Application has not been filed for temporary authority under Section 210a (b).

No. MC-F 6048. Authority sought for control and merger by LIGHTNING LOCAL EXPRESS COMPANY, 2701 Railroad St., Pittsburgh 22, Pa., of the operating rights and property of BEAVER VALLEY SERVICE COMPANY, 2701 Railroad St., Pittsburgh 22, Pa.; for the purchase of the operating rights and property of FRANK W. SALVATORA, JOSEPH L. SALVATORA, and L. B. SALVATORA, doing business as PENN-WHEELING MOTOR FREIGHT, 2701 Railroad St., Pittsburgh 22, Pa.; and for acquisition by FRANK W. SALVATORA and JOSEPH L. SALVATORA, both of 2701 Railroad St., Pittsburgh 22, Pa., of the operating rights and property through the transactions. Applicants' attorney: Samuel P. Delisi, 1211 Berger Bldg., Pittsburgh 19, Pa. Operating rights sought to be controlled and merged: *General commodities*, with certain exceptions including household goods, as a *common carrier*, over regular routes, between Pittsburgh, Pa., and Beaver Falls, Pa., between Rochester, Pa., and Kobuta, Pa., and between Midland, Pa., and Rochester, Pa., serving certain intermediate and off-route points. Operating rights sought to be purchased: *General commodities*, with certain exceptions including household goods, over regular routes, between Pittsburgh, Pa., and Wheeling, W. Va., serving certain intermediate and off-route points. Vendee is authorized to operate in Pennsylvania. Application has not been filed for temporary authority under Section 210a (b).

No. MC-F 6049. Authority sought for control by PACIFIC INTERMOUNTAIN EXPRESS CO., 299 Adeline St., Oakland, Calif., of the operating rights and property of M & M FAST FREIGHT, INC., 2450 Sixth Ave., South, Seattle, Wash. Applicant's attorneys: A. S. Glikbarg, 155 Sansome St., San Francisco 4, Calif., and Edward M. Berol, 100 Bush St., San Francisco 4, Calif. Operating rights sought to be controlled: *General commodities*, with certain exceptions including household goods, as a *common carrier*, over regular routes, including routes between Salt Lake City, Utah, and Seattle, Wash., and between Pendleton, Oreg., and Ellensburg, Wash., serving certain intermediate points. Applicant is authorized to operate in Colorado, Utah, Wyoming, California, Nevada, Idaho, Missouri, Kansas, and Illinois. Application has not been filed for temporary authority under Section 210a (b).

No. MC-F 6050. Authority sought for purchase by GRAFF TRUCKING CO., INC., 2110 Lake St., Kalamazoo, Mich., of the operating rights and certain property of ACKLEY FREIGHT LINES, INC., 600 N. Broadway, Aurora, Ill., and for acquisition by THOMAS B. WOODWORTH, Route 2, Schoolcraft, Mich., and FREDERICK J. BUCKHOUT, 5803

N. 16th St., Kalamazoo, Mich., of control of the operating rights and property through the purchase. Applicants' attorney: Glenn S. Allen, Jr., 510-503 Kalamazoo Bldg., Kalamazoo, Mich. Operating rights sought to be transferred: *Malt and carbonated beverages*, as a *common carrier*, over irregular routes, from Milwaukee, Wis., to Aurora and Elgin, Ill., and *paper products*, from Aurora, Ill., to Milwaukee, Wis. Vendee is authorized to operate in Michigan, Kentucky, Missouri, Iowa, Illinois, Indiana, Ohio, and West Virginia. Application has been filed for temporary authority under Section 210a (b).

No. MC-F 6051. Authority sought for purchase by MASTEN TRANSPORTATION, INC., Milford, Del., of the operating rights and property of MASTEN TRUCKING COMPANY, INC., Milford, Del., and for acquisition by LESTER J. LISHON, JR., Andover Road, Newtown Square, Pa., of control of the operating rights and property through the purchase. Operating rights sought to be transferred: *General commodities*, with certain exceptions including household goods, as a *common carrier*, over regular routes, between Milford, Del., and Philadelphia, Pa., and between Baltimore, Md., and Milford, Del.; *general commodities*, with certain exceptions including household goods over irregular routes, between Wilmington, Del., on the one hand, and, on the other, New York, N. Y., Washington, D. C., and certain points in Delaware, New Jersey and Pennsylvania, serving certain intermediate and off-route points; *household goods*, between points in Delaware, on the one hand, and, on the other, points in Pennsylvania, New Jersey, New York, and Maryland; *canned goods, agricultural commodities, and nursery products*, from, to and between certain points in Delaware, Maryland, New Jersey, New York, Pennsylvania, and the District of Columbia. Vendee holds no authority from the Commission, but is an officer of Eastern Tank Lines, Inc., and an officer and stockholder of Nu-Car Carriers, Inc., University Overland Express, Inc., and Dairy Transport Company. Eastern Tank Lines, Inc., is authorized to operate in New Jersey, Massachusetts, New Hampshire and Rhode Island. Nu-Car Carriers, Inc., is authorized to operate in all states in the United States, and the District of Columbia. University Overland Express, Inc., is authorized to operate in New Jersey, Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, West Virginia, Tennessee, Ohio, and the District of Columbia. Dairy Transport Company is authorized to operate in New Hampshire, Maine, Vermont, Massachusetts, Connecticut and Rhode Island. Application has not been filed for temporary authority under Section 210a (b).

No. MC-F 6052. Authority sought for purchase by STEFFKE FREIGHT CO., 204 South Bellis St., Wausau, Wis., of the operating rights and property of ALBRIGHT FREIGHT AND STORAGE CORP. and CLINTONVILLE TRANSFER LINE (Wisconsin Valley Trust Co.,



receiver for vendors), and for acquisition by Malcolm J. Boyle, Jr., and Steadfast Operating Company, Wausau, Wis. of control of the operating rights and property through the purchase. Applicants' attorneys: Axelrod, Goodman, & Steiner, 39 S. La Salle St., Chicago, Ill., and Charles J. Smith, Thorpe Building, Wausau, Wis. Operating rights sought to be transferred: (Albrent Freight and Storage Corp.) *General commodities*, with certain exceptions, including household goods, as a *common carrier*, over regular routes, including routes between Minneapolis, Minn., and Chicago, Ill., between Eau Claire, Wis., and Rhineland, Wis., between Marshfield, Wis., and Chicago, Ill., between Marshfield, Wis., and Wisconsin Rapids, Wis., between Milwaukee, Wis. and Fond du Lac, Wis., between Oshkosh, Wis. and Appleton, Wis., between Green Bay, Wis., and Schofield, Wis., and between Neillsville, Wis., and Willard, Wis. serving certain intermediate and off-route points; *general commodities*, with certain exceptions including household goods, over irregular routes, between Minneapolis and St. Paul, Minn., on the one hand, and, on the other, the site of the Twin City Ordnance Plant in Mounds View Township, Ramsey County, Minn., and the site of the Northern Pump Company near Fridley, Minn.; *Fresh meats, packing-house products, soap, soap products, canned and preserved food-stuffs, lard substitutes, coffee, stoneware, nursery stock and groceries*, from Wausau, Wis. to certain points in Wisconsin; (Clintonville Transfer Line, Inc.) *General commodities*, with certain exceptions including household goods, as a *common carrier*, over regular routes in Wisconsin, including routes between Marion and Antigo, between Green Bay and Antigo, serving certain intermediate and off-route points. *General commodities*, with the above-noted exceptions over certain routes for operating convenience only. Vendee is authorized to operate in Illinois, Wisconsin, Michigan, Indiana, and Iowa. Application has been filed for temporary authority under Section 210a (b).

No. MC-F 6053. Authority sought for control and merger by TRANSCON LINES, 1206 South Maple Ave., Los Angeles 13, Calif., of the operating rights and property of M & D MOTOR FREIGHT LINES, INC., 2508 South Harwood, Dallas, Texas. Applicant's attorneys: Lee Reeder or W. E. Griffin, 1012 Baltimore, Kansas City, Mo., and Reagan Sayers, Century Life Bldg., Fort Worth, Texas. Operating rights sought to be controlled and merged: *General commodities*, with certain exceptions including household goods, as a *common carrier*, over regular routes, including routes between Wichita, Kans., and Kansas City, Mo., between Wichita, Kans., and Oklahoma City, Okla., between Oklahoma City, Okla., and Fort Worth and Dallas Tex., between Kansas City, Mo., and Chanute, Kans., from Kansas City, Mo., to Tulsa, Okla., serving certain intermediate and off-route points; *general commodities*, with the above exceptions, over certain regular routes for

operating convenience only; *general commodities*, with certain exceptions not including household goods, over regular routes, between Wichita, Kans., and Ottawa, Kans., serving no intermediate points; *dressed poultry, eggs, dairy products, petroleum products*, in containers, *glass products, machinery, scrap metals, waste paper, paints, paint products, dry ice, iron and steel articles, packing house products, and formaldehyde*, over regular routes from and to certain points in Oklahoma and Missouri; *general commodities*, with certain exceptions including household goods, over irregular routes, between certain points in Oklahoma; *roofing, building paper, insulating material, nails, and asphalt*, from Kansas City, Mo., to certain points in Kansas and Oklahoma. Transcon Lines is authorized to operate in Missouri, Illinois, Kansas, and Indiana. Application has not been filed for temporary authority under Section 210a (b).

SUPPLEMENT

MC-F 6025 published in the July 27, 1955, issue of the FEDERAL REGISTER on page 5374. Supplemental application filed August 11, 1955, to show joinder of JOHN YOUELL and T. H. YOUELL as the persons in control of YOUELL, INC., which in turn controls the vendee corporation.

No. MC-F 6018 published in the July 20, 1955, issue of the FEDERAL REGISTER on page 5217. Supplemental application filed August 11, 1955, to show JAMES E. DOUGLAS, JAMES E. DOUGLAS, JR., and HELAH L. DOUGLAS in control of vendee.

By the Commission.

[SEAL] HAROLD D. MCCOY,  
Secretary.

[F. R. Doc. 55-6852; Filed, Aug. 23, 1955;  
8:48 a. m.]

FOURTH SECTION APPLICATIONS FOR RELIEF  
AUGUST 19, 1955.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND SHORT HAUL

FSA No. 30983: *Petroleum products—Knox, Ga., to Dublin, Ga.* Filed by R. E. Boyle, Jr., Agent, for interested rail carriers. Rates on gasoline, kerosene, naphtha or naphtha distillate, tank-car loads from Knox, Ga., to Dublin, Ga.

Grounds for relief: Circuitous route. Tariff: Supplement 216 to Agent C. A. Spaninger's tariff I. C. C. 1253.

FSA No. 30984: *Carbon blacks—From, to and between the Southwest.* Filed by F. C. Kratzmeir, Agent, for interested rail carriers. Rates on blacks (carbon, gas and oil), and blacks (chemical carbon), carloads from (1) specified points in Arkansas, Kansas, Louisiana, New Mexico, Oklahoma, and Texas to specified points in southwestern gateway,

and southern territories, and (2) in the reverse direction.

Grounds for relief: Rates made with relation to former class rates from origin, base point groups, origin and destination relationships, grouping, and circuitry.

Tariff: Supplement 161 to Agent Kratzmeir's I. C. C. 3744.

FSA No. 30985: *Petroleum and products to Leatherwood, Ky.* Filed by F. C. Kratzmeir, Agent, for interested rail carriers. Rates on petroleum and petroleum products, carloads from specified points in southwestern territory and in Kansas to Leatherwood, Ky.

Grounds for relief: Destination relationship with Walter, Ky., and circuitry.

Tariff: Supplement 38 to Agent Kratzmeir's I. C. C. 4118.

By the Commission.

[SEAL] HAROLD D. MCCOY,  
Secretary.

[F. R. Doc. 55-6851; Filed, Aug. 23, 1955;  
8:48 a. m.]

[Rev. S. O. 562, Taylor's I. C. C. Order 56]  
COLUMBUS AND GREENVILLE RAILWAY CO.

DIVERSION OR REROUTING OF TRAFFIC

In the opinion of Charles W. Taylor, Agent, the Columbus and Greenville Railway Company, because of work stoppage, is unable to transport traffic routed over and to points on its lines: *It is ordered, That:*

(a) Rerouting traffic: The Columbus and Greenville Railway Company, and its connections, is hereby authorized to divert or reroute such traffic over any available route to expedite the movement, regardless of routing shown on the waybill. The billing covering all such cars rerouted shall carry a reference to this order as authority for the rerouting.

(b) Concurrence of receiving roads to be obtained: The railroads desiring to divert or reroute traffic under this order shall confer with the proper transportation officer of the railroad or railroads to which such traffic is to be diverted or rerouted, and shall receive the concurrence of such other railroads before the rerouting or diversion is ordered.

(c) Notification to shippers: The carriers rerouting cars in accordance with this order shall notify each shipper at the time each car is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic by said Agent is deemed to be due to carrier's disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipments on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic; divisions shall be, during the time this order re-



mains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) Effective date: This order shall become effective at 9:00 a. m., August 18, 1955.

(g) Expiration date: This order shall expire at 11:59 p. m., August 31, 1955, unless otherwise modified, changed, suspended or annulled.

*It is further ordered,* That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement

and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., August 18, 1955.

INTERSTATE COMMERCE  
COMMISSION,  
CHARLES W. TAYLOR,  
*Agent.*

[F. R. Doc. 55-6865; Filed, Aug. 23, 1955;  
8:50 a. m.]