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TITLE 1—GENERAL PROVISIONS

Chapter I—Administrative Committee of the Federal Register

PART 1—FEDERAL REGISTER

ELIMINATION OF REQUIREMENT FOR LEGAL SIZE PAPER

In order to eliminate the requirement that documents submitted to the Federal Register Division be prepared on legal size paper, Title 1, Part 1, Code of Federal Regulations is amended as follows, effective upon publication in the FEDERAL REGISTER:

1. In § 1.63, the figure "12½" is changed to read "10½."

2. The second sentence of § 1.81 (a) is amended by inserting the word "substantially" between the words "not" and "greater," and by changing the figure "12½" to read "10½."

3. In § 1.81 (b) the words "legal size" are deleted.

As amended, §§ 1.63 and 1.81 read as follows:

§ 1.63 *Typewritten originals.* All documents shall be typewritten on white bond paper approximately 8 by 10½ inches, shall have a left-hand margin of approximately 1½ inches, and a right-hand margin of approximately 1 inch, and shall be double-spaced.

§ 1.81 *Illustrations and tabular material.* Whenever possible documents should be so drafted as to make the inclusion of illustrations and tabular material unnecessary. If their inclusion cannot be avoided the following provisions shall apply:

(a) *Illustrations.* The original drawings of all maps, charts, graphs, or other illustrations shall be submitted to the Division at least six working days before the date on which publication is desired. A legible reproduction of the original drawing, reduced to a size not substantially greater than 8 by 10½ inches, shall appear as part of the original document and the three certified copies.

(b) *Tabular material.* Tabular material comprising more than two typewritten pages must be forwarded to the Division at least six working days before the date on which publication is desired.

The requirements of § 1.91 respecting the form of Executive Orders and Proclamations are not affected by the foregoing amendments.

(Sec. 6, 49 Stat. 501, as amended; 44 U. S. C. 306. E. O. 10530, 19 F. R. 2709; 3 CFR, 1954 Supp.)

ADMINISTRATIVE COMMITTEE
OF THE FEDERAL REGISTER,
By: WAYNE C. GROVER,
Chairman.

Approved:

HERBERT BROWNELL, Jr.,
Attorney General.
FRANKLIN G. FLOETE,
Administrator of General Services.

[F. R. Doc. 56-5314; Filed, June 29, 1956; 4:08 p. m.]

TITLE 6—AGRICULTURAL CREDIT

Chapter V—Agricultural Marketing Service, Department of Agriculture

PART 502—SPECIAL MILK PROGRAM FOR CHILDREN

REVISION OF PART

Regulations are hereby revised and re-issued for the operation of a Special Milk Program for Children pursuant to the authority contained in section 201 (c) of the Agricultural Act of 1949, as amended.

Sec.	General purpose and scope.
502.200	Administration.
502.201	Advance of funds to State agencies.
502.202	Accounting for program funds by State agencies.
502.203	Use of funds.
502.204	Agreements between CCC and State agencies.
502.205	Agreements between State agencies and schools and child-care institutions.
502.206	Agreements between CCC and private schools and child-care institutions.
502.207	Reimbursement.
502.208	Requirements for participation.
502.209	Effective dates for reimbursement.
502.210	Administrative analyses and audits.
502.211	State agency reports and records.
502.212	Investigations.
502.213	Overclaims.
502.214	Definitions.
502.215	Miscellaneous provisions.
502.216	Program information.
502.217	

(Continued on p. 4901)

CONTENTS

	Page
Agricultural Marketing Service	
Notices:	
Union Stock Yards, Denver, Colo.; market agencies; petition for modification of rate order.....	4935
Proposed rule making:	
Milk; handling in Minneapolis-St. Paul, Minn., marketing area.....	4932
Rules and regulations:	
Cotton classification under cotton futures legislation:	
American Egyptian cotton; standards.....	4903
Miscellaneous amendments.....	4904
Cotton standards; miscellaneous amendments.....	4904
Potatoes, Irish; grown in certain counties in Idaho and Malheur County, Oregon; limitation of shipments.....	4910
Special milk program for children.....	4899
Agricultural Research Service	
Rules and regulations:	
Domestic quarantine notices:	
Black stem rust.....	4905
Gypsy moth and brown-tail moth (3 documents).....	4906, 4908, 4909
Agriculture Department	
See Agricultural Marketing Service; Agricultural Research Service.	
Army Department	
See Engineers Corps.	
Business and Defense Services Administration	
Rules and regulations:	
Defense Materials System, basic rules; designation of nickel alloys as controlled materials beginning with operations for 4th calendar quarter of 1956.....	4912
Nickel alloys.....	4914
Priorities system, basic rules; limitation on use of ratings to obtain nickel.....	4911
Civil Aeronautics Administration	
Rules and regulations:	
Alterations:	
Civil airways; designation... Control areas, zones, and reporting points; designation.....	4918
	4919



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The regulatory material appearing herein is keyed to the CODE OF FEDERAL REGULATIONS, which is published, under 50 titles, pursuant to section 11 of the Federal Register Act, as amended August 5, 1953. The CODE OF FEDERAL REGULATIONS is sold by the Superintendent of Documents. Prices of books and pocket supplements vary.

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CFR SUPPLEMENTS

(As of January 1, 1956)

The following Supplements are now available:

Title 26 (1954) Part 221 to end (Rev., 1955) (\$2.25)

Title 38 (\$2.00)

Titles 44-45 (\$1.00)

Title 50 (\$0.60)

Previously announced: Title 3, 1955 Supp. (\$2.00); Titles 4 and 5 (\$1.00); Title 6 (\$1.75); Title 7: Parts 1-209 (\$1.25), Parts 210-899 (Rev., 1955) with Supplement (\$4.50), Parts 900-959 (Rev., 1955) (\$6.00), Part 960 to end (Rev., 1955) with Supplement (\$5.85); Title 8 (\$0.50); Title 9 (\$0.70); Titles 10-13 (\$0.70); Title 14: Parts 1-300 (\$2.50), Part 400 to end (\$1.00); Title 15 (\$1.00); Title 16 (\$1.25); Title 17 (\$0.60); Title 18 (\$0.50); Title 19 (\$0.50); Title 20 (\$1.00); Title 21 (Rev., 1955) (\$5.50); Titles 22 and 23 (\$1.00); Title 24 (\$0.75); Title 25 (\$0.50); Title 26 (1954) Parts 1-220 (Rev., 1955) (\$2.00); Title 26: Parts 1-79 (\$0.35), Parts 80-169 (\$0.50), Parts 170-182 (\$0.30), Parts 183-299 (\$0.35), Part 300 to end, Ch. 1, and Title 27 (\$1.00); Titles 28 and 29 (\$1.25); Titles 30 and 31 (\$1.25); Title 32: Parts 1-399 (\$0.60), Parts 400-699 (\$0.65), Parts 700-799 (\$0.35), Parts 800-1099 (\$0.40), Part 1100 to end (\$0.35); Title 32A (Rev., 1955) (\$1.25); Title 33 (\$1.50); Titles 35-37 (\$1.00); Title 39 (Rev., 1955) (\$4.25); Titles 40-42 (\$0.65); Title 43 (\$0.50); Title 46: Parts 1-145 (\$0.60), Part 146 to end (\$1.25); Titles 47 and 48 (\$2.25); Title 49: Parts 1-70 (\$0.60), Parts 71-90 (\$1.00), Parts 91-164 (\$0.50), Part 165 to end (\$0.65)

Order from Superintendent of Documents, Government Printing Office, Washington 25, D. C.

CONTENTS—Continued

Civil Aeronautics Administration—Continued	Page
Rules and regulations—Con.	
Alterations—Continued	
Restricted areas (2 documents)	4921
Civil Aeronautics Board	
Notices:	
Hearings, etc.:	
Aero Finance Corp. and Atwood Air Service, Inc.	4937
Railway Express Agency, Inc.	4937
Rules and regulations:	
Special civil air regulation; application of:	
Airplane airworthiness; transport categories.	4917
Certification and operation rules and scheduled air carrier operations outside continental limits of United States	4917
Irregular air carrier and off-route rules	4917
Scheduled interstate air carrier certification and operation rules	4917
Commerce Department	
See also Business and Defense Services Administration; Civil Aeronautics Administration; Foreign Commerce Bureau.	
Notices:	
Klingenstein, Henry S.; report of appointment and statement of financial interests ...	4936
Defense Department	
See Engineers Corps.	
Engineers Corps	
Rules and regulations:	
Port of New York, N. Y.; anchorage regulations	4911
Federal Power Commission	
Notices:	
Hearings, etc.:	
Anderson, John G., et al.	4937
Fair, R. W., et al.	4938
Permian Basin Pipeline Co.	4937
United Gas Pipe Line Co. and Tennessee Gas Transmission Co.	4938
Federal Register Administrative Committee	
Rules and regulations:	
Elimination of requirement for legal size paper	4899
Fish and Wildlife Service	
Proposed rule making:	
Alaska commercial fisheries	4932
Foreign Assets Control	
Notices:	
Governor of Guam; delegation of authority	4934
Foreign Commerce Bureau	
Notices:	
Fleschner, Richard, Import-Export, and Hans Wolff, Export-Import; order temporarily revoking and denying export privileges	4936
Health, Education, and Welfare Department	
See Public Health Service.	

CONTENTS—Continued

Interior Department	Page
See also Fish and Wildlife Service; Land Management Bureau; Reclamation Bureau.	
Internal Revenue Service	
Proposed rule making:	
Income tax; taxable years beginning after Dec. 31, 1953; losses and bad debts	4925
Interstate Commerce Commission	
Notices:	
Fourth section applications for relief	4940
Lackawanna & Wyoming Valley Railroad Co.; rerouting or diversion of traffic	4941
Land Management Bureau	
Notices:	
Administrative Officer and General Supply Officer, Area II; delegation of authority	4934
Administrative Officer et al., Area I, delegation of authority	4934
Alaska Public Sale Act; classification	4934
Proposed rule making:	
Coal permits, leases and licenses	4931
Public Health Service	
Rules and regulations:	
Biologic products	4922
Reclamation Bureau	
Notices:	
Utah, Castle Peak Project; order of revocation	4935
Securities and Exchange Commission	
Notices:	
Hearings, etc.:	
B. S. F. Co.	4939
Helser Fund, Inc.	4940
Treasury Department	
See Foreign Assets Control; Internal Revenue Service.	
Veterans Administration	
Rules and regulations:	
Vocational rehabilitation and education; miscellaneous amendments	4916
CODIFICATION GUIDE	
A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.	
Title 1	Page
Chapter I:	
Part 1	4899
Title 6	
Chapter V:	
Part 502	4899
Title 7	
Chapter I:	
Part 27 (2 documents)	4903, 4904
Part 28	4904
Chapter III:	
Part 301 (4 documents)	4905, 4906, 4908, 4909
Chapter IX:	
Part 957	4910
Part 973 (proposed)	4932

CODIFICATION GUIDE—Con.

Title 14	Page
Chapter I:	
Part 4b.....	4917
Part 40.....	4917
Part 41.....	4917
Part 42.....	4917
Chapter II:	
Part 600.....	4918
Part 601.....	4919
Part 608 (2 documents).....	4921
Title 26 (1954)	
Chapter I:	
Part 1 (proposed).....	4925
Title 32A	
Chapter VI (BDSA):	
DMS Reg. 1, Dir. 6.....	4912
DMS Reg. 2, Dir. 7.....	4911
M-1B.....	4914
Title 33	
Chapter II:	
Part 202.....	4911
Title 38	
Chapter I:	
Part 21.....	4916
Title 42	
Chapter I:	
Part 73.....	4922
Title 43	
Chapter I:	
Part 193 (proposed).....	4931
Title 50	
Chapter I:	
Part 101 (proposed).....	4932
Part 103 (proposed).....	4932
Part 104 (proposed).....	4932
Part 105 (proposed).....	4932
Part 106 (proposed).....	4932
Part 109 (proposed).....	4932
Part 110 (proposed).....	4932
Part 115 (proposed).....	4932
Part 117 (proposed).....	4932
Part 130 (proposed).....	4932

AUTHORITY: §§ 502.200 to 502.217 issued under sec. 4, 62 Stat. 1070, 15 U. S. C. 714b. Interpret or apply sec. 201, 63 Stat. 1052, as amended, 70 Stat. 87; 7 U. S. C. 1446.

§ 502.200 General purpose and scope. This part announces the policies and prescribes the general regulations with respect to the operation of the Special Milk Program under section 201 (c) of the Agricultural Act of 1949, as amended, and sets forth the general requirements for participation in the program beginning July 1, 1956. The pertinent part of section 201 (c), as amended, reads as follows:

*** for each of the two fiscal years in the period beginning July 1, 1956, and ending June 30, 1958, not to exceed \$75,000,000, of the funds of the Commodity Credit Corporation shall be used to increase the consumption of fluid milk by children in (1) nonprofit schools of high-school grade and under; and (2) such nonprofit nursery schools, child-care centers, settlement houses, summer camps, and similar nonprofit institutions as are devoted to the care and training of underprivileged children on a public welfare or charitable basis.

§ 502.201 Administration. (a) Within the United States Department of Agriculture, the Agricultural Marketing Service (hereinafter referred to as AMS)

shall act for and on behalf of the Commodity Credit Corporation (hereinafter referred to as CCC) in connection with the operation of this program. Within AMS, and under the general supervision of the Administrator of AMS, the Food Distribution Division (hereinafter referred to as FDD-AMS) shall be responsible for program administration.

(b) To the extent practicable and permissible under State law, responsibility for the administration of this program in schools and child-care institutions within the States shall be in the respective educational agency of the State: *Provided, however,* That another agency of the State, upon request by an appropriate State official, may be approved by FDD-AMS to administer the program in child-care institutions.

(c) FDD-AMS shall administer the program in any class of schools (hereinafter referred to as private schools) and in child-care institutions in which the program is not administered by the State.

§ 502.202 Advance of funds to State agencies. (a) For each Federal fiscal year FDD-AMS shall initially reserve for advance to a State educational agency entering into agreement with CCC an amount equal to 115 percent of the expenditures of that agency under the program in the Federal fiscal year ending June 30, 1956. Expenditures in that year shall be determined by FDD-AMS on the basis of the latest information available to FDD-AMS at the time the initial annual reserves for each State are developed.

(b) This initial reserve shall be advanced to the State educational agency on a quarterly basis. FDD-AMS reserves the right to request any State educational agency to justify its need for any scheduled quarterly payment prior to its advancement. In the event that a State educational agency does not justify the need for the full amount of any scheduled quarterly payment, FDD-AMS shall withhold from such payment the amount determined to be in excess of program needs.

(c) In the event that a State educational agency justifies the need for funds in excess of the amount of its initial reserve, additional funds shall be made available, at such times as needed, up to an amount that will provide a total payment for the year equal to 130 percent of its expenditures in the Federal fiscal year ending June 30, 1956. Any needed funds in excess of 130 percent of its expenditures in that Federal fiscal year, when justified, will be provided to the extent funds are available for such purpose.

(d) For each Federal fiscal year FDD-AMS shall initially reserve for advance to a State agency, other than the State educational agency, entering into an agreement with CCC an amount equal to one hundred dollars for each one thousand children between the ages of 5 and 17 years residing in the State. This initial reserve shall be advanced quarterly to such State agency in an amount estimated to meet anticipated quarterly reimbursement obligations. In the event that such State agency justifies the need

for funds in excess of its initial annual reserve, such funds will be provided to the extent funds are available for such purpose.

(e) Following the close of the Federal fiscal year, any funds advanced under this program to an educational or other agency of a State that remain unobligated under the program shall be returned to AMS within 30 days after a demand is made by FDD-AMS. The State shall also pay to AMS any interest paid or credited to it by reason of the deposit of any funds advanced to it under this program.

§ 502.203 Accounting for program funds by State agencies. Each State agency entering into an agreement with CCC shall maintain a separate account of all Federal funds advanced to it under the program and shall maintain a current record of payments made to schools and child-care institutions and of the unexpended balance remaining on hand. All payments made from such funds shall be made only upon properly certified vouchers.

§ 502.204 Use of funds. Funds made available under this program shall be used to encourage the increased consumption of milk through reimbursement payments to schools and child-care institutions in connection with the purchase of milk for service to children.

§ 502.205 Agreements between CCC and State agencies. CCC shall enter into written agreements with State agencies for the administration of the program within the States. The agreement shall show the class or classes of schools and child-care institutions for which the State agency is assuming responsibility.

§ 502.206 Agreements between State agencies and schools and child-care institutions. State agencies shall enter into written agreements with schools and child-care institutions setting forth the terms and conditions under which the State agencies will reimburse the schools and child-care institutions in connection with the purchase of milk for service to children. Such agreements shall contain, as a minimum, the requirements of § 502.209.

§ 502.207 Agreements between CCC and private schools and child-care institutions. In those States in which FDD-AMS will administer the program in private schools and child-care institutions, CCC shall enter into written agreements with such private schools and child-care institutions setting forth the terms and conditions under which AMS will reimburse the schools and child-care institutions in connection with the purchase of milk for service to children.

§ 502.208 Reimbursement. (a) Reimbursement payments shall be made for milk purchased for service to children by participating schools and child-care institutions, except that reimbursement shall not be made for the first half pint of milk served as part of a Type A or Type B lunch by schools participating in the National School Lunch Program. The maximum rate of reimbursement

shall be 4 cents per half pint for schools serving Type A or Type B meals under the National School Lunch Program. For all other schools and for child-care institutions, the maximum reimbursement rate shall be 3 cents per half pint.

(b) Less-than-maximum rates of reimbursement shall be assigned, or assigned rates shall be adjusted, if circumstances indicate such action is advisable.

(c) In child-care institutions, and in schools operating a food service outside the National School Lunch Program or serving more than one meal a day, a portion of the milk served to children may be excluded from reimbursement if such action is deemed advisable in order to encourage the continued expansion of the service of complete school lunches or to accomplish the objectives of this program.

(d) Schools operating the program in more than one school attendance unit may be regarded as a single school or as individual schools for reimbursement purposes. If regarded as a single school, reimbursement shall not be made at a rate in excess of 3 cents per half pint unless all units are serving Type A or Type B meals under the National School Lunch Program.

(e) Schools and child-care institutions offering milk as a separately priced item shall make maximum use of the reimbursement payments received under this program to reduce the price of milk to children. The full amount of such payments shall be reflected in reduced prices to children, except that such payments may be used by schools or child-care institutions to defray distribution costs. Distribution costs shall not exceed one cent per half pint. Exceptions to this provision may be granted in instances where the situation in a school or child-care institution justifies a distribution cost margin fractionally above one cent, and such exceptions shall be subject to periodic reviews.

(f) A school or child-care center which does not offer milk to children as a separately priced item shall, at the time it applies for participation, submit for approval the methods and practices under which it plans to encourage increased consumption of milk by children. Assigned rates of reimbursement shall be subject to adjustment if there is a substantial variation between actual and planned performance with respect to increased milk consumption by children.

§ 502.209 Requirements for participation. (a) Schools and child-care institutions shall make written application for participation to the State agency, except that in those States in which FDD-AMS administers the program in private schools or child-care institutions, application shall be made to FDD-AMS. In approving the application, the State agency or FDD-AMS shall determine that the applicant is a school or child-care institution as defined in § 502.215 and shall designate the effective date on which the school or child-care institution may begin operations. Schools and child-care institutions whose applications are approved shall execute agreements with the State agency or CCC.

(b) Schools and child-care institutions participating in the program shall meet the following minimum requirements, which requirements shall be included in the agreements entered into between the schools and child-care institutions and State agencies and between the private schools and child-care institutions and CCC:

(1) Conduct a nonprofit food service or, in the event no other food service is maintained, conduct a nonprofit milk service;

(2) Claim reimbursement only for milk as defined in this part and in accordance with the provision of § 502.208;

(3) Submit claims for reimbursement in accordance with procedural requirements established by FDD-AMS; and

(4) Maintain such records and furnish such reports and documents as are prescribed by the State agency or by FDD-AMS. All invoices, receipts and records pertaining to the program shall be maintained for a period of three years after the end of each Federal fiscal year's operations. Records shall be made available for audit purposes to the State agency and AMS, or to AMS in the case of a private school or child-care institution which contracts directly with CCC.

§ 502.210 Effective dates for reimbursement. A State agency or AMS may grant written approval to begin operations under this program prior to the processing of the application from a school or child-care institution. Such approval shall be attached to the subsequently filed application and the agreement executed by the school or child-care institution. Reimbursement shall be made for any milk served in accordance with the requirements of this part from the date upon which the school or child-care institution was authorized to begin operations: *Provided, however*, That no reimbursement shall be made for milk that was served more than 30 days prior to the receipt of the application by the State agency or AMS: *Provided, further*, That in no event shall reimbursement be made by any State agency for milk served prior to the effective date of the State agency's agreement with CCC.

§ 502.211 Administrative analyses and audits. The State agency shall provide AMS with full opportunity to conduct administrative analyses and audits of all operations of the State agency under this program. The State agency shall make available its records, including the receipt and expenditure of funds under the program, upon reasonable request by AMS. AMS shall also have the right to make audits of the records and operations of any participating school or child-care institution.

§ 502.212 State agency reports and records. Within 30 days after the end of each calendar month, the State agency shall make a report to FDD-AMS concerning the operation of the program for that month, on a form provided by FDD-AMS. The State agency shall maintain for a period of three years after the end of each Federal fiscal year's

operations, all records pertaining to the program.

§ 502.213 Investigations. The State agency shall promptly investigate all complaints received or irregularities noted in connection with the operation of the program in participating schools and child-care institutions and shall take appropriate action to correct any irregularities.

§ 502.214 Overclaims. (a) Excess payments resulting from overclaims made by schools or child-care institutions which are discovered by the State agency during audits, administrative visits or by other means, shall be collected by the State agency either by direct refund or by deduction from subsequently filed claims. Any amounts thus recovered by the State agency may be used to pay other claims of the same Federal fiscal year.

(b) The State agency shall likewise recover all excess payments made by it to schools and child-care institutions discovered by AMS administrative analyses or audits of State agency operations or during AMS audits of participating schools and child-care institutions. However, before a final determination is made in such cases, the State agency shall have full opportunity to submit additional information, explanation or information concerning such excess payments.

(c) Excess payments resulting from overclaims made by schools or child-care institutions in which the program is administered by FDD-AMS, discovered by AMS during audits, administrative visits or by other means, shall be collected by AMS either by direct refund or by deduction from subsequently filed claims.

§ 502.215 Definitions—(a) *State.* The 48 States, the District of Columbia, and the Territory of Hawaii.

(b) *School.* (1) Any school which is a public school of high school grade and under within the definition of the statutes of the State, and

(2) Any private school of high school grade and under exempt from income tax under the Internal Revenue Code, as amended. The term "school" as used in this part includes, where applicable, the authorized sponsoring agency which has entered into an agreement under this program for the school.

(c) *Child-care institution.* Any nonprofit nursery school (other than nursery schools falling within the definition of school in this section), child-care center, settlement house, summer camp, or similar nonprofit institution devoted to the care and training of underprivileged children on a public welfare or charitable basis.

(d) *Nonprofit food or milk service.* Food or milk service maintained by or on behalf of the school or child-care institution for the benefit of the children, all of the income from which is used solely for the operation or improvement of such food or milk service.

(e) *Milk.* Fluid whole milk, flavored or unflavored, which meets the State and local standards for unflavored whole

milk as to butterfat content and sanitation.

(f) *Cost of milk.* The purchase price paid by the school or child-care institution to the milk distributor for milk delivered to the school. This does not include any amount paid to the milk distributor for the rental of or installment purchase of milk service equipment.

(g) *Distribution costs.* Direct expenses incurred by the school or child-care institution in connection with the sale, handling and service of milk. This may include expenses incident to acquisition or rental of necessary milk service equipment.

§ 502.216 *Miscellaneous provisions—*
(a) *Disqualifications and compliance clause.* Any State agency or any school or child-care institution may be disqualified from future participation if it fails to comply with the provisions of the regulations in this part, its agreement with CCC or the State agency, or other pertinent rules, regulations or instructions. This does not preclude the possibility of other action being taken through other means available where considered necessary. Fraud in the payment of, or claiming for, reimbursement under the program will be prosecuted under applicable Federal statutes. If any part of the money received by the State agency in connection with the program, by any improper or negligent action, is diminished, lost, misapplied, or diverted from the program by the State agency, or by any school or child-care institution to which funds are disbursed, FDD-AMS may order such money to be replaced with funds from sources within the State and, until replaced, may direct that no subsequent payments shall be made to the State agency or to such school or child-care institution. The State agency shall have full opportunity to submit additional evidence, explanation or information concerning instances of noncompliance or diversion of funds, before a final determination is made in such cases.

(b) *Saving clause.* Any or all of the provisions of this part may be waived, withdrawn, or amended, at any time by AMS: *Provided, however,* That such action shall not be taken without prior notice to State agencies having agreements with CCC.

§ 502.217 *Program information.* Schools and child-care institutions desiring information concerning the program should write to their State educational agency or to the appropriate Area Office of FDD-AMS as indicated below:

(a) In the States of Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and West Virginia:

Food Distribution Division, AMS, United States Department of Agriculture, 139 Centre Street, Room 506, New York 13, New York.

(b) In the States of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia:

Food Distribution Division, AMS, United States Department of Agriculture, 50 Seventh Street NE., Room 252, Atlanta, Georgia.

(c) In the States of Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin:

Food Distribution Division, AMS, United States Department of Agriculture, 226 West Jackson Boulevard, Room 1412, Chicago 6, Illinois.

(d) In the States of Arkansas, Colorado, Kansas, Louisiana, New Mexico, Oklahoma, and Texas:

Food Distribution Division, AMS, United States Department of Agriculture, 1114 Commerce Street, Room 1812, Dallas 2, Texas.

(e) In the States of Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon, Utah, Washington, and Wyoming:

Food Distribution Division, AMS, United States Department of Agriculture, Room 404 Appraisers Building, 630 Sansome Street, San Francisco 11, California.

Effective date. This part, as revised, shall become effectively July 1, 1956.

Issued: June 29, 1956.

[SEAL] TRUE D. MORSE,
Acting Secretary of Agriculture.

[F. R. Doc. 56-5294; Filed, July 2, 1956; 8:55 a. m.]

TITLE 7—AGRICULTURE

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

PART 27—COTTON CLASSIFICATION UNDER COTTON FUTURES LEGISLATION

SUBPART B—STANDARDS

REVISED OFFICIAL GRADE STANDARDS FOR AMERICAN EGYPTIAN COTTON

On May 15, 1956, a notice of proposed rule making was published in the *Federal Register* (21 F. R. 3186) regarding a proposed revision of the official cotton standards of the United States for the grade of American Egyptian cotton (7 CFR 27.251 through 27.260), pursuant to authority contained in section 6 of the United States Cotton Standards Act, as amended (42 Stat. 1518; 7 U. S. C. 56) and in section 4854 of the Internal Revenue Code of 1954 (68A Stat. 580; 26 U. S. C. 4854).

The proposed revised standards for grade of American Egyptian cotton were unanimously approved by representatives of producers, spinners, and merchants at a meeting held in Washington on June 5, 1956. An earlier meeting to discuss these standards was held in Washington on May 23, 1956.

The grade standards now in effect for American Egyptian cotton were prepared from cotton of the Pima 32 and Amsak varieties. Practically all American Egyptian cotton now produced is of the Pima S-1 variety. The revised standards are based on a survey of the 1955-56 American Egyptian cotton crop which indicated a need for a revision of the standards to reflect the varietal characteristics of current American Egyptian crops.

After consideration of all relevant matters presented pursuant to the notice and at the meetings on May 23 and June 5, the following official cotton standards of the United States for the grade of American Egyptian cotton are hereby promulgated to supersede on August 1, 1957, the present provisions of §§ 27.251 through 27.260 of Title 7 of the Code of Federal Regulations:

§ 27.251 *Grade No. 1.* Grade No. 1 shall be American Egyptian cotton which in grade is within the range represented by a set of samples in the custody of the United States Department of Agriculture in the District of Columbia in a container marked "Original Official Cotton Standards of the United States, American Egyptian, Grade No. 1, effective August 1, 1957."

§ 27.252 *Grade No. 2.* Grade No. 2 shall be American Egyptian cotton which in grade is within the range represented by a set of samples in the custody of the United States Department of Agriculture in the District of Columbia in a container marked "Original Official Cotton Standards of the United States, American Egyptian, Grade No. 2, effective August 1, 1957."

§ 27.253 *Grade No. 3.* Grade No. 3 shall be American Egyptian cotton which in grade is within the range represented by a set of samples in the custody of the United States Department of Agriculture in the District of Columbia in a container marked "Original Official Cotton Standards of the United States, American Egyptian, Grade No. 3, effective August 1, 1957."

§ 27.254 *Grade No. 4.* Grade No. 4 shall be American Egyptian cotton which in grade is within the range represented by a set of samples in the custody of the United States Department of Agriculture in the District of Columbia in a container marked "Original Official Cotton Standards of the United States, American Egyptian, Grade No. 4, effective August 1, 1957."

§ 27.255 *Grade No. 5.* Grade No. 5 shall be American Egyptian cotton which in grade is within the range represented by a set of samples in the custody of the United States Department of Agriculture in the District of Columbia in a container marked "Original Official Cotton Standards of the United States, American Egyptian, Grade No. 5, effective August 1, 1957."

§ 27.256 *Grade No. 6.* Grade No. 6 shall be American Egyptian cotton which in grade is within the range represented by a set of samples in the custody of the United States Department of Agriculture in the District of Columbia in a container marked "Original Official Cotton Standards of the United States, American Egyptian, Grade No. 6, effective August 1, 1957."

§ 27.257 *Grade No. 7.* Grade No. 7 shall be American Egyptian cotton which in grade is within the range represented by a set of samples in the custody of the United States Department of Agriculture in the District of Columbia in a container marked "Original Official Cotton Stand-

ards of the United States, American Egyptian, Grade No. 7, effective August 1, 1957."

§ 27.258 *Grade No. 8.* Grade No. 8 shall be American Egyptian cotton which in grade is within the range represented by a set of samples in the custody of the United States Department of Agriculture in the District of Columbia in a container marked "Original Official Cotton Standards of the United States, American Egyptian, Grade No. 8, effective August 1, 1957."

§ 27.259 *Grade No. 9.* Grade No. 9 shall be American Egyptian cotton which in grade is within the range represented by a set of samples in the custody of the United States Department of Agriculture in the District of Columbia in a container marked "Original Official Cotton Standards of the United States, American Egyptian, Grade No. 9, effective August 1, 1957."

§ 27.260 *Grade No. 10.* American Egyptian cotton which in grade is inferior to grade No. 9 shall be designated as "American Egyptian Grade No. 10." (Sec. 10, 42 Stat. 1519; 7 U. S. C. 61. Interpret or apply sec. 6, 42 Stat. 1518, as amended, sec. 4854, 68A Stat. 580; 7 U. S. C. 56, 26 U. S. C. 4854)

Done at Washington, D. C., this 28th day of June 1956.

[SEAL] FRANK E. BLOOD,
Acting Deputy Administrator,
Agricultural Marketing Service.

[F. R. Doc. 56-5251; Filed, July 2, 1956; 8:48 a. m.]

PART 27—COTTON CLASSIFICATION UNDER COTTON FUTURES LEGISLATION

PART 28—COTTON STANDARDS

MISCELLANEOUS AMENDMENTS

On May 18, 1956, a notice of proposed rule making was published in the FEDERAL REGISTER (21 F. R. 3283) concerning proposed amendments to the regulations under cotton futures legislation (7 CFR Part 27, Subpart A, as amended) and the regulations under the United States Cotton Standards Act (7 CFR Part 28, Subpart A, as amended) pursuant to authority contained in section 4863 of the Internal Revenue Code of 1954 (68A Stat. 582; 26 U. S. C. 4863), and in section 4 of the United States Cotton Standards Act (42 Stat. 1517; 7 U. S. C. 54).

After consideration of all relevant matters presented pursuant to the notice, said regulations are hereby amended as follows, effective upon publication in the FEDERAL REGISTER:

1. Section 27.10 is amended to read:

§ 27.10 *Supervisor of cotton inspection.* The Administrator or the chairman of a board of cotton examiners may when necessary designate an official or employee of the Department of Agriculture to supervise the inspection and sampling and the preparation of samples of cotton for classification by a board of cotton examiners, and to perform such other duties as may be required of him for the purposes of this subpart.

2. Section 27.13 is amended to read:

§ 27.13 *Micronaire determination request incidental to classification request.* The classification request may include a request for Micronaire determination.

3. Paragraph (b) of § 27.28 is amended to read:

(b) The sample may be removed, by the current holder of the cotton classification certificate covering the cotton represented by such sample, at any time within 30 days after whichever of the following occurs first: (1) Such certificate becomes invalid as provided in § 27.42, or (2) the certificate (covering tenderable cotton) is surrendered for cancellation without the issuance of a new certificate in lieu thereof, or (3) the cotton is classified as untenderable and an application for review is not filed within the time specified in § 27.62, or (4) the cotton is classified as untenderable in review classification, or (5) the cotton is found untenderable in an official Micronaire determination: *Provided*, That the chairman of the board of cotton examiners may for good cause retain the samples for a longer period.

4. Section 27.44 is amended to read:

§ 27.44 *Invalidity of cotton class certificates.* Any cotton class certificate shall become invalid for use in the tender or delivery of the cotton covered thereby on a section 4863 contract whenever such cotton shall be removed from the place of storage specified therein, except when it is handled and re-stored or transferred to a different place of storage and re-stored under the supervision of an exchange inspection agency.

5. Section 27.48 is deleted.

6. The third sentence in § 27.64 (a), which reads as follows, is deleted: "A copy of each such application shall be mailed by the person receiving it under this section to the other party in interest."

7. Section 27.68 is deleted.

8. Section 27.69 is amended to read:

§ 27.69 *Classification review; notation on certificate.* If upon review the classification of the cotton is found to be the same as shown by the cotton class certificate, there shall be placed upon the certificate a notation, which shall be signed by the chairman of the board and dated, to the effect that the classification of the cotton covered by such certificate has been reviewed and determined to be as stated in such certificate. Thereupon the certificate shall be returned to the person who requested the review.

9. Sections 27.73 through 27.79 are deleted and the following is substituted for § 27.73:

§ 27.73 *Supervision of transfers of cotton.* Whenever the owner of any cotton inspected and sampled for classification pursuant to this subpart and for which he holds valid cotton class certificates, desires to transfer such cotton to a different place, or to a different warehouse at the same place, for the purpose of having it made available for delivery

upon a section 4863 contract, such transfer shall be effected under the supervision of the exchange inspection agency in accordance with procedures approved by the Administrator or his representative. For transfers of cotton between different places the owner of the cotton shall surrender the cotton class certificates for the cotton involved to the exchange inspection agency at the place from which the cotton is being transferred. The exchange inspection agency shall cancel the cotton class certificates and forward them, together with other necessary transfer papers, to the exchange inspection agency at the location to which the cotton is being transferred. When the cotton has been delivered for storage at the place of its destination and new warehouse receipts have been issued therefor, the exchange inspection agency at that point shall surrender the cancelled cotton class certificates, other transfer papers, and the new warehouse receipts for the cotton to the board of cotton examiners. Thereupon the board will issue a new cotton class certificate for each bale involved, valid for use at such destination without the reclassification of the cotton or a new Micronaire determination with respect to the cotton. Transfers between different warehouses at the same place shall be under the supervision of the exchange inspection agency at that place and the procedure as nearly as possible shall be the same as that for transfers between different places. The exchange inspection agency shall report the facts of all transfers to the board of cotton examiners in accordance with § 27.46. Supervision of transfers in accordance with this subpart shall not be granted, nor shall any certificate be issued with respect to any bale which appears, upon examination by the exchange inspection agency, or by a supervisor of cotton inspection or other authorized representative of the Service, to be in such condition that its grade or staple length or fiber fineness and maturity is different from that shown by the cotton class certificate, until such bale has been reclassified, and, if a Micronaire determination is shown on such certificate, until a new Micronaire determination has been made for the bale in accordance with this subpart.

10. Section 27.81 is amended to read:

§ 27.81 *Fees; certificates.* For each new certificate issued in substitution for a prior certificate at the request of the holder thereof, for his business convenience, or when made necessary by the transfer of the cotton as provided in § 27.73, the person making the request shall pay a fee of 15 cents for each certificate issued, to cover the cost of such service and the handling of samples incidental thereto.

11. Section 27.84 is deleted.

12. Section 28.64 is deleted.

13. Paragraph (b) (1) of § 28.115 is amended to read:

(1) That no practical form of any of the official cotton standards for grade, the 6-sample guide boxes for the grade of American upland cotton, or the tentative standards for the preparation of

long-staple cotton shall be considered or used as representing such standards after the date of its cancellation in accordance with this section or in any event after the expiration of 12 months following the date of its certification: *Provided*, That sets of practical forms stored, protected, and preserved in accordance with certain agreements for the adoption of universal standards may be used for such periods as may be prescribed in such agreements.

A proposed revision of paragraph (b) (1) of § 28.115 was not included in the notice of proposed rule making but the sole purpose of the amendment as shown above is to provide that the validity period of practical forms of standards or guide boxes for grade or preparation of any cotton shall be 12 months rather than 18 months. Tests and studies conducted by the Department show that such practical forms deteriorate with age and usage and that shortening the validity period will help insure their representativeness. The Department announced a proposal to limit the validity period of the practical forms to 12 months at the Universal Cotton Standards Conference in Washington in May 1956 and no objections were voiced. In order to be of maximum benefit to the affected persons, the amendment should be made effective for the practical forms to be distributed for the 1956-57 season. This amendment will impose no hardship and require no preparation by any affected person. Therefore, under section 4 of the Administrative Procedure Act (5 U. S. C. 1003) it is found upon good cause that to issue a notice of rule making or to delay the effective date for this amendment until 30 days after publication in the FEDERAL REGISTER would be impracticable, unnecessary, and contrary to the public interest.

The other amendments (1) relieve restrictions on removal of samples from Department custody after classification and restrictions in both the cotton futures and Cotton Standards Act regulations which provide that the original classification shall be changed upon review "only when it shall appear upon the review that such classification was clearly erroneous;" (2) clarify procedures for submitting requests for classification and Micronaire determinations for cotton futures purposes; (3) simplify procedures for the transfer of certificated bales of cotton from one futures delivery location to another delivery location; and (4) delete obsolete provisions in cotton futures regulations. The amendments will impose no hardship and require no advance preparation by any affected person. In order to be of maximum benefit to the affected persons, the amendments should be made effective promptly. Therefore, under section 4 of the Administrative Procedure Act (5 U. S. C. 1003), it is found upon good cause that the amendments should be made effective upon publication in the FEDERAL REGISTER.

(Sec. 4, 42 Stat. 1517, sec. 4863, 68A Stat. 582; 7 U. S. C. 54, 26 U. S. C. 4963)

Done at Washington, D. C., this 28th day of June 1956.

[SEAL] FRANK E. BLOOD,
Acting Deputy Administrator,
Agricultural Marketing Service.

[P. R. Doc. 56-5250; Filed July 2, 1956;
8:48 a. m.]

Chapter III—Agricultural Research Service, Department of Agriculture

[P. P. C. 577, 2d Rev.]

PART 301—DOMESTIC QUARANTINE NOTICES

SUBPART—BLACK STEM RUST

ADMINISTRATIVE INSTRUCTIONS DESIGNATING RUST-RESISTANT SPECIES AND VARIETIES OF BARBERRY, MAHOBERBERIS, AND MAHONIA PLANTS

Pursuant to the authority conferred upon him by § 301.38-5 of the regulations (7 CFR, 1954 Supp., 301.38-5) supplemental to the Black Stem Rust Quarantine (Notice of Quarantine No. 38, 7 CFR, 1954 Supp., 301.38) under section 8 of the Plant Quarantine Act of 1912, as amended (7 U. S. C. 161), the Chief of the Plant Pest Control Branch hereby revises the administrative instructions in 7 CFR, Supp., 301.38-5a (20 F. R. 2150) to read as follows:

§ 301.38-5a *Administrative instructions designating rust-resistant barberry, mahoberberis, and mahonia plants.* (a) The Chief of the Branch, upon the basis of evidence satisfactory to him, has determined that the following species and horticultural varieties of barberry, mahoberberis, and mahonia are resistant to black stem rust, and such species and varieties are hereby designated as rust-resistant:

Scientific name:
Berberis arido-calida.
B. beaniana.
B. buxifolia.
B. buxifolia nana.
B. callantha.
B. candidula.
B. chenautili.
B. circumserrata.
B. concinna.
B. darwini.
B. formosana.
B. franchetiana.
B. gagnepaini.
B. gilgiana.
B. horvathi.
B. hybrido-gagnepaini.
B. insignis.
B. julianae.
B. koreana.
B. lempergiana.
B. lepidifolia.
B. linearifolia.
B. linearifolia var. Orange King.
B. lologensis.
B. mentorensis.
B. pallens.
B. potanini.
B. Renton.
B. replicata.
B. sanguinea.
B. sargentiana.
B. stenophylla.
B. stenophylla diversifolia.
B. stenophylla gracilis.
B. stenophylla irwini.
B. stenophylla nana compacta.
B. telomaica artispala.
B. thunbergi.

B. thunbergi atropurpurea.
B. thunbergi atropurpurea nana.
B. thunbergi erecta.
B. thunbergi "globe".
B. thunbergi "golden".
B. thunbergi maximowiczii.
B. thunbergi minor.
B. thunbergi pluriflora.
B. thunbergi "thornless".
B. thunbergi "variegata".
B. thunbergi xanthocarpa.
B. triacanthophora.
B. verruculosa.
B. virgatorum.
B. xanthoxylon.
Mahoberberis aquicandidula.
M. aquisargentiae.
M. miethkeana.
Mahonia aquifolium.
M. bealei.
M. compacta.
M. dictyota.
M. fortunei.
M. lomarifolia.
M. nervosa.
M. pinnata.
M. repens.

(b) Plants of the species and varieties listed in paragraph (a) of this section may be moved interstate in compliance with the regulations in this subpart.

(c) Under the regulations in this subpart, seeds and fruit of the species and varieties listed in paragraph (a) of this section, if produced in any of the States of Colorado, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Montana, Nebraska, North Dakota, Ohio, Pennsylvania, South Dakota, Virginia, Washington, West Virginia, Wisconsin, and Wyoming, may be moved between such States only under permit or, wherever produced, may be moved from the States named to points outside thereof, and between States other than those named, without restriction. Under the regulations, seeds and fruits of the species and varieties listed in paragraph (a) of this section generally are prohibited movement into the States named.

(Sec. 9, 37 Stat. 318; 7 U. S. C. 162. Interpretations or applies sec. 8, 37 Stat. 318, as amended; 7 U. S. C. 161)

These instructions shall become effective on July 3, 1956, when they shall supersede P. P. C. 577, revised, effective April 6, 1955 (7 CFR, Supp., 301.38-5a).

The purpose of this amendment is to add to the list of rust-resistant species and horticultural varieties of barberry, mahoberberis, and mahonia plants the following two additional species and varieties: Mahoberberis aquicandidula and Mahoberberis aquisargentiae. The designation of such rust-resistant species and varieties in effect constitutes a relaxation of the restrictions of the regulations and depends upon facts within the knowledge of the Plant Pest Control Branch. It has been determined that there is no unwarranted pest risk involved in the permitted movement of such species and varieties. The determination having been made that these species and varieties are rust-resistant, authorization for their movement in accordance with the regulations should be accomplished promptly. Accordingly, under section 4 of the Administrative Procedure Act (5 U. S. C. 1003), it is found upon good cause that notice and other public procedure concerning these

instructions are impracticable, unnecessary, and contrary to the public interest, and since the instructions relieve restrictions, they may be made effective less than thirty days after publication in the FEDERAL REGISTER.

Done at Washington, D. C., this 27th day of June, 1956.

[SEAL] E. D. BURGESS,
Chief,
Plant Pest Control Branch.

[F. R. Doc. 56-5254; Filed, July 2, 1956;
8:49 a. m.]

PART 301—DOMESTIC QUARANTINE NOTICES
SUBPART—GYPSY MOTH AND BROWN-TAIL
MOTH

REVISION OF QUARANTINE AND REGULATIONS

On May 4, 1956, there was published in the FEDERAL REGISTER (21 F. R. 2987) a notice of proposed rule making concerning an amendment of notice of quarantine No. 45 relating to the gypsy moth and brown-tail moth and the regulations supplemental to said quarantine (7 CFR, and 1954 Supp., 301.45, 301.45-1 et seq.). After due consideration of all matters presented, and pursuant to sections 8 and 9 of the Plant Quarantine Act of 1912, as amended (7 U. S. C. 161, 162) and section 3 of the Insect Pest Act (7 U. S. C. 143), the notice of quarantine and supplemental regulations are hereby amended to read as follows:

QUARANTINE	
Sec.	
301.45	Notice of quarantine.
REGULATIONS	
301.45-1	Definitions.
301.45-2	Designation of regulated areas.
301.45-3	Regulated articles.
301.45-4	Conditions governing the movement of regulated articles.
301.45-5	Certificates, limited permits and certificates of exemption.
301.45-6	Marking.
301.45-7	Relieving restrictions of regulations.
301.45-8	Assembly of regulated articles.
301.45-9	Inspection and disposition.
301.45-10	Treatment of means of conveyance and containers.
301.45-11	Nonliability of Department.
301.45-12	Shipments for scientific purposes.

AUTHORITY: §§ 301.45 to 301.45-12 issued under secs. 1, 8, 33 Stat. 1269, 1270, sec. 9, 27 Stat. 318; 7 U. S. C. 141, 143, 162.

QUARANTINE

§ 301.45 *Notice of quarantine.* Under the authority conferred by section 8 of the Plant Quarantine Act of August 20, 1912, as amended (7 U. S. C. 161), and after public hearing required thereby, the States of Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont have been and hereby are continued to be quarantined to prevent the further spread of the gypsy moth (*Porthetria dispar* L.) and the brown-tail moth (*Nygmia phaeorrhoea* Donovan), dangerous insects of foreign origin notoriously injurious to forest and shade trees and not heretofore widely prevalent or distributed within and throughout the United States, and under the authority

conferred by the Plant Quarantine Act and the Insect Pest Act of March 3, 1905 (7 U. S. C. 141 et seq.), supplemental regulations are hereinafter prescribed (§§ 301.45-1 to 301.45-12) governing the movement of gypsy and brown-tail moths and carriers thereof. Hereafter (a) live gypsy moths and brown-tail moths in any stage of development; (b) timber and timber products; (c) plants having persistent woody stems (including deciduous trees and shrubs and Christmas trees), and parts thereof; (d) stone and quarry products; and (e) any aircraft, trucks, wagons, railway cars, boats, and other means of conveyance, containers and products and articles of any character whatsoever which by reason of infestation or exposure constitute a hazard of spreading the gypsy moth or the brown-tail moth as determined in accordance with the supplemental regulations (§§ 301.45-1 to 301.45-12), shall not be shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved, or allowed to be moved from any of said quarantined States into or through any other State, Territory, or District of the United States, in manner or method or under conditions other than those prescribed in the supplemental regulations, as from time to time amended; *Provided*, That the requirements of this quarantine and of the supplemental regulations, except as otherwise provided in the regulations, are hereby limited to the areas in any quarantined State which may be designated as within the gypsy moth regulated area or the brown-tail moth regulated area as provided in the regulations, as long as, in the judgment of the Administrator of the Agricultural Research Service, the enforcement of the regulations as to such regulated areas will be adequate to prevent the spread of the gypsy and brown-tail moths, except that such limitation is further conditioned upon the affected State's providing for and enforcing control of the movement within such State of the regulated articles under the same conditions as those which apply to their interstate movement under the provisions of currently existing Federal quarantine regulations, and upon the State's enforcing such control and sanitation measures with respect to such areas or portions thereof as, in the judgment of said Administrator, shall be deemed adequate to prevent the spread therefrom within such State of the infestations of said insects: *Provided, further*, That whenever the Chief of the Plant Pest Control Branch shall find that facts exist as to the pest risk involved in the movement of one or more of the articles to which the supplemental regulations apply, except live gypsy or brown-tail moths in any stage of development, making it safe to modify, by making less stringent, the requirements contained in the regulations, he shall set forth and publish such finding in administrative instructions, specifying the manner in which the applicable regulations should be made less stringent, whereupon such modification shall become effective, for such period and for such regulated area or portion thereof and for such article or articles

as shall be specified in said administrative instructions, and every reasonable effort shall be made to give publicity to such administrative instructions throughout the affected areas.

REGULATIONS

§ 301.45-1 *Definitions.* For the purpose of the regulations in this subpart the following terms shall be construed, respectively, to mean:

(a) *Gypsy moth.* The insect known as the gypsy moth, *Porthetria dispar* L., in any stage of development.

(b) *Brown-tail moth.* The insect known as the brown-tail moth, *Nygmia phaeorrhoea* Donovan, (formerly referred to as *Euproctis chryorrhoea*), in any stage of development.

(c) *Infestation.* The presence of either the gypsy moth or the brown-tail moth.

(d) *Regulated area.* The counties, cities, townships, plantations, villages, and other minor civil divisions, or parts thereof, in any quarantined State, designated in administrative instructions under § 301.45-2 as coming within the area regulated because of the gypsy moth or within the area regulated because of the brown-tail moth.

(e) *Regulated articles.* Articles the movement of which is controlled under the regulations in this subpart as provided in § 301.45-3.

(f) *Suppressive area.* That part of a regulated area in which suppressive measures are cooperatively carried out with the objective of eradicating infestations in this area, as designated in administrative instructions under § 301.45-2.

(g) *Generally infested area.* All of a regulated area, exclusive of the suppressive area, as designated in administrative instructions under § 301.45-2.

(h) *Inspector.* An inspector of the United States Department of Agriculture.

(i) *"Moved" ("movement," "move").* Shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved, or allowed to be moved, interstate, directly or indirectly, from or within a regulated area. "Movement" and "move" shall be construed accordingly.

(j) *Interstate.* From one State, Territory, or District of the United States into or through another.

(k) *Certificate.* A valid document issued by an inspector authorizing the movement of regulated articles.

(l) *Certificate of exemption.* A valid document issued by an inspector certifying to the eligibility for movement of regulated articles from specified inspected or treated premises in accordance with the provisions of administrative instructions under § 301.45-7.

(m) *Limited permit.* A valid document issued by an inspector to allow controlled movement of noncertified regulated articles to a designated and authorized destination for processing, utilization, or other regulated safe handling.

(n) *Dealer-carrier agreement.* A document constituting an agreement to comply with stipulated quarantine con-

ditions, executed by persons or firms engaged in purchasing, handling, processing, utilizing, or moving regulated articles.

§ 301.45-2 *Designation of regulated areas.* The Chief of the Plant Pest Control Branch shall, from time to time, in administrative instructions promulgated by him, list the counties, cities, townships, towns, plantations, villages, and other minor civil divisions, or parts thereof, in the quarantined States, in which infestation of the gypsy moth or brown-tail moth has been determined to exist, or in which it has been determined such infestation is likely to exist, or which it is deemed necessary to regulate because of their proximity to infestation or their inseparability for quarantine enforcement purposes from infested localities, and shall designate the counties, cities, and other civil divisions, or parts thereof, listed because of the gypsy moth, as constituting the gypsy moth regulated area and shall designate the counties, cities, and other civil divisions, or parts thereof, listed because of the brown-tail moth, as constituting the brown-tail moth regulated area. Civil divisions, or parts thereof, so designated shall continue in a regulated status until the Chief of the Plant Pest Control Branch shall have determined that adequate eradication measures have been practiced for a sufficient length of time to eradicate the gypsy moth or brown-tail moth therein, as the case may be, and that regulation of such civil divisions, or parts thereof, is not otherwise necessary under this section, and shall have issued administrative instructions revoking the designation of such civil divisions, or parts thereof, as coming within the gypsy moth regulated area or the brown-tail moth regulated area, as the case may be. The Chief of the Plant Pest Control Branch may, in said administrative instructions promulgated by him, divide a regulated area into a suppressive area and a generally infested area.

§ 301.45-3 *Regulated articles—(a) Articles the removal of which is prohibited.* The removal of live gypsy moths or brown-tail moths from any State or Territory into any other State or Territory or the District of Columbia, or from said District into any State or Territory, except for scientific purposes, is prohibited. Provisions for such removal of live gypsy moths or brown-tail moths, for scientific purposes, are set forth in § 301.45-12.

(b) *Articles the movement of which is regulated.* The movement of the following articles from or within the respective regulated area indicated below is regulated as provided in this subpart.

(1) *Gypsy moth regulated area.* (i) Timber and timber products, including but not limited to lumber, planks, poles, logs, cordwood, and pulpwood;

(ii) Plants having persistent woody stems (including deciduous trees and shrubs and Christmas trees) and parts thereof;

(iii) Stone and quarry products;

(iv) Any aircraft, trucks, wagons, railway cars, boats, and other means of

conveyance, containers and products and articles of any character whatsoever which by reason of infestation or exposure are determined by an inspector to constitute a hazard of spreading the gypsy moth.

(2) *Brown-tail moth regulated area.*

(i) Deciduous trees and shrubs, and branches and other parts thereof, with leaves attached;

(ii) Any aircraft, trucks, wagons, railway cars, boats, and other means of conveyance, containers and products and articles of any character whatsoever which by reason of infestation or exposure are determined by an inspector to constitute a hazard of spreading the brown-tail moth.

§ 301.45-4 *Conditions governing the movement of regulated articles—(a) Movement from either regulated area.* Except as exempted by administrative instructions of the Chief of the Plant Pest Control Branch, or as provided in § 301.45-12, regulated articles designated in § 301.45-3 (b) shall not be moved from the respective regulated area into or through any point outside thereof unless accompanied by a certificate or limited permit.

(b) *Movement from the generally infested area into the suppressive area.* Except as exempted by administrative instructions of the Chief of the Plant Pest Control Branch, or as provided in § 301.45-12, regulated articles designated in § 301.45-3 (b) shall not be moved from the generally infested area into or through the suppressive area, within the respective regulated area, unless accompanied by a certificate or limited permit.

(c) *Articles originating outside the regulated area.* No certificates or limited permits are required under paragraph (a) or (b) of this section for the movement of regulated articles designated in § 301.45-3 (b) (1) or (2) originating outside of the respective regulated area and moving within or through such regulated area when the point of origin is clearly indicated, when their identity has been maintained, and when the articles have been protected against infestation while in such regulated area, in a manner satisfactory to the inspector.

§ 301.45-5 *Certificates, limited permits and certificates of exemption—(a) Certification of regulated articles.* Certificates may be issued for the movement of the regulated articles designated in § 301.45-3 (b) under any one of the following conditions:

(1) When, in the judgment of the inspector, they have not been exposed to infestation.

(2) When they have been examined by an inspector and found to be free of infestation.

(3) When they have been treated under the observation of an inspector and in accordance with methods selected by him from administratively authorized procedures known to be effective under the conditions applied.

(4) When they have been grown, produced, processed, manufactured, stored or handled in such a manner that, in the judgment of the inspector, no infestation could be transmitted thereby.

(b) *Safeguards against reinfestation.* Subsequent to certification, as provided in paragraph (a) of this section, the regulated articles may be moved under this subpart only if they are loaded, handled, and shipped under such protection and safeguards against reinfestation as are required by the inspector.

(c) *Limited permits.* Limited permits may be issued by the inspector for the movement of noncertified regulated articles designated in § 301.45-3 (b) to specified destinations for limited handling, utilization, or processing. Persons shipping, transporting, or receiving such articles may be required by the inspector to enter into written agreements with the Plant Pest Control Branch to maintain such safeguards against the establishment and spread of infestation and to comply with such conditions as to the maintenance of identity, handling, or subsequent movement of such articles and to the cleaning or treatment of aircraft, trucks, wagons, railway cars, boats, and other means of conveyance and containers used in the transportation of such articles as may be required by the inspector.

(d) *Cancellation of certificates, limited permits, and certificates of exemption.* Certificates, limited permits, and certificates of exemption issued under the regulations in this subpart may be withdrawn or canceled by the inspector and further certificates, limited permits, or certificates of exemption refused whenever, in his judgment, the further use thereof might result in the dissemination of infestation.

§ 301.45-6 *Marking.* Except as exempted by administrative instructions of the Chief of the Plant Pest Control Branch, or as provided in § 301.45-12, and except for means of conveyance, every container of articles designated in § 301.45-3 (b) the movement of which is subject to the regulations in this subpart, or if there is no container, the articles themselves, shall be plainly marked with the name and address of the consignor and the name and address of the consignee, when offered for shipment, and shall have securely attached to the outside thereof a certificate or limited permit as required by § 301.45-4: *Provided,* That (a) in the case of less-than-carlot freight or express shipments a certificate or limited permit attached to one of the containers or articles and another certificate attached to the waybill will be sufficient, and in the case of carlot freight or express shipments, either in containers or in bulk, only a certificate or limited permit attached to the waybill is required and (b) in the case of shipments by road vehicle, the certificate or limited permit shall accompany the shipment and shall be surrendered to the consignee upon delivery of the shipment.

§ 301.45-7 *Relieving restrictions of regulations.* (a) In relieving restrictions of the regulations in this subpart pursuant to the second proviso in § 301.45, the Chief of the Plant Pest Control Branch may, in administrative instructions, provide for the issuance of certificates of exemption covering premises in the regulated areas which have been inspected or treated in accordance

with procedures approved by said Chief as adequate to assure that the movement of regulated articles from such premises will not disseminate infestation and permit the movement of regulated articles designated in § 301.45-3 (b) (1) (i) through (iii) or (2) (i) directly from such premises without restriction under §§ 301.45-4, 301.45-6, and 301.45-8.

(b) Said Chief from time to time will notify the persons concerned as to the premises for which certificates of exemption are in effect under this section. The Chief may also, in administrative instructions, relieve restrictions of the regulations in such other manner and under such other conditions as he shall deem proper in accordance with § 301.45.

§ 301.45-8 *Assembly of regulated articles.* Except as exempted by administrative instructions of the Chief of the Plant Pest Control Branch, or as provided in § 301.45-12, persons intending to move any of the regulated articles designated in § 301.45-3 (b) shall make application for inspection as far in advance as possible and may be required to prepare and assemble materials at such points and times and in such manner as the inspector shall designate, so that thorough inspection may be made or approved treatments may be applied as required under the regulations in this subpart.

§ 301.45-9 *Inspection and disposition.* Any aircraft, truck, wagon, railway car, boat, or other means of conveyance, or container, which is moving (interstate) and which an inspector has probable cause to believe carries or contains any gypsy moth or brown-tail moth or other regulated article the movement of which is prohibited or restricted under this subpart, may be inspected by the inspector at any time or place. When regulated articles are found to be moving or to have been moved in violation of the provisions in this subpart, the inspector may seize, destroy, or otherwise dispose of such articles as he deems necessary to eliminate the danger of dissemination of the gypsy moth and the brown-tail moth. If found to be infested, such articles must be freed of infestation.

§ 301.45-10 *Treatment of means of conveyance and containers.* When in the judgment of the inspector a hazard of spread of the gypsy moth or brown-tail moth is presented, thorough cleaning or other treatment of aircraft, railway cars, trucks, wagons, boats, and other means of conveyance, and containers, may be required by the inspector before movement thereof from a regulated area, or from a generally infested area into or through a suppressive area.

§ 301.45-11 *Nonliability of Department.* The United States Department of Agriculture disclaims liability for any cost incident to inspection or treatment required under the regulations in this subpart, other than for the services of the inspector.

§ 301.45-12 *Shipments for scientific purposes.* Live gypsy moths and brown-tail moths in any stage of development may be removed from any State or Territory into any other State or Territory

or the District of Columbia or from said District into any State or Territory, and other articles subject to the requirements of the regulations in this subpart may be moved from a regulated area into or through any point outside thereof or from a generally infested area into or through a suppressive area, for experimental or other scientific purposes, on such conditions and under such safeguards as may be required by the Chief of the Plant Pest Control Branch. The container of articles so moved shall bear, securely attached to the outside thereof, an identifying tag from the Plant Pest Control Branch.

The foregoing quarantine and regulations shall be effective on and after July 20, 1956, on which date they shall supersede notice of quarantine No. 45 and supplemental regulations effective October 10, 1945, as amended effective August 30, 1948, and August 9, 1952 (7 CFR, and 1954 Supp., 301.45, 301.45-1 et seq.).

This amendment authorizes the Chief of the Plant Pest Control Branch to publish, from time to time, in administrative instructions a list of the minor civil divisions or parts thereof, in quarantined States, in which infestation of either the gypsy moth or brown-tail moth has been determined to exist, or in which it has been determined such infestation is likely to exist, or which it is deemed necessary to regulate because of their proximity to infestation or their inseparability for quarantine enforcement purposes from infested districts, and to designate such civil divisions or parts thereof as a regulated area. Civil divisions or parts thereof so designated will, under the amendment, continue in a regulated status until the Chief of the Plant Pest Control Branch has determined that adequate eradication measures have been practiced for a sufficient length of time to eradicate the infestation therein and that regulation of such area is not otherwise necessary for quarantine enforcement purposes, and has issued administrative instructions revoking the designation of such civil divisions or parts thereof as a regulated area. The amendment also authorizes the Chief to divide the regulated area into a generally infested area and a suppressive area wherein measures to eradicate infestation are being conducted.

The amendment further authorizes the Chief to provide for the issuance of certificates of exemption for premises which have been inspected or treated in accordance with approved procedures and permit the movement of regulated articles from such premises without compliance with restrictions otherwise applicable.

The amendment also makes the provisions of these regulations conform as closely as possible in phraseology with similar domestic plant quarantine regulations and makes numerous clarifying changes.

In order to be of maximum protection to the public the foregoing quarantine and regulations should be made effective as soon as possible. Therefore, under section 4 of the Administrative Procedure Act (5 U. S. C. 1003) good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

NOTE: Under the Plant Quarantine Act of August 20, 1912, as amended, the movement of regulated articles except as permitted by the foregoing quarantine and regulations is a misdemeanor punishable by a fine not exceeding \$500 or imprisonment not exceeding one year, or both. Under the Insect Pest Act of March 3, 1905, the removal of live gypsy or brown-tail moths except as permitted in the regulations is a felony punishable by a fine of not more than \$5,000 or imprisonment for not more than 5 years, or both.

Done at Washington, D. C., this 25th day of June 1956.

[SEAL] M. R. CLARKSON,
Acting Administrator,
Agricultural Research Service.

[F. R. Doc. 56-5252; Filed, July 2, 1956;
8:49 a. m.]

[P. F. C. 386, 2d Revision]

PART 301—DOMESTIC QUARANTINE NOTICES
SUBPART—GYPSY MOTH AND BROWN-TAIL
MOTH

REVISED ADMINISTRATIVE INSTRUCTIONS EX-
EMPTING CERTAIN ARTICLES FROM SPECIFIC
REQUIREMENTS

On May 4, 1956, there was published in the FEDERAL REGISTER (21 F. R. 2989) a notice of proposed rule making concerning an amendment of administrative instructions exempting certain articles from requirements of the regulations supplemental to the gypsy moth and brown-tail moth quarantine (7 CFR, 1954 Supp., 301.45a, B. E. P. Q. 386, revised). After due consideration of all matters presented, and pursuant to the authority conferred on him by the second proviso of the gypsy moth and brown-tail moth quarantine (Notice of Quarantine No. 45, 7 CFR 301.45, supra) and by § 301.45-7 (a) of the regulations supplemental to said quarantine (7 CFR 301.45-7 (a), supra), under sections 8 and 9 of the Plant Quarantine Act of 1912, as amended (7 U. S. C. 161, 162), the Chief of the Plant Pest Control Branch hereby issues such amended administrative instructions to read as follows:

§ 301.45a *Administrative instructions exempting certain articles from requirements of regulations.* (a) The Chief of the Plant Pest Control Branch has found that facts exist as to the pest risk involved in the movement of the following regulated articles making it safe to modify, by making less stringent, the requirements of the regulations supplemental to the gypsy moth and brown-tail moth quarantine as follows. The movement of the following articles, when meeting the conditions specified, is hereby exempted from the requirements of §§ 301.45-4, 301.45-6 and 301.45-8 of the regulations supplemental to the gypsy moth and brown-tail moth quarantine with respect to both the gypsy moth regulated area and the brown-tail moth regulated area, insofar as such requirements apply to such areas.

(1) *Timber products.* (i) Manufactured wood products such as box shooks, shingles, laths, flooring, furniture, containers, crates, handles, dowels, staves,

and new industrial shoring and blocking, if they have not been exposed to infestation.

(i) Lumber that has been (a) dressed four sides with ends clipped, or (b) square edged sawed four sides with ends clipped, and freed from surface bark, or (c) kiln dried; when such lumber is shipped direct after processing from planer, log saw or kiln; and when way-bills or other transportation papers are marked to show that the lumber was so processed and is being so shipped: *Provided, however*, That this exemption does not apply to piled or stuck lumber.

(iii) Shavings, sawdust, wood flour, excelsior, and cedar bedding.

(iv) Wood and bark novelties, when waxed, polished or otherwise treated.

(2) *Woody plants and plant parts.* (i) Plants of the following kinds (and parts thereof):

Clubmoss ("ground pine") (*Lycopodium* spp.).

Partridgeberry (*Mitchella repens*).

Trailing arbutus (*Epigaea repens*).

Wintergreen (*Gaultheria procumbens*, *Pyrola* spp.).

(ii) Plants and parts thereof that have been grown in the greenhouse throughout the year, when so labeled on the outside of each container.

(iii) Herbarium specimens, when dried and pressed, and when so labeled on outside of each container.

(iv) Leaves of deciduous or evergreen trees that have been treated or dyed, when so labeled on outside of each container.

(v) Seeds, fruits, and cones.

(vi) Cuttings:

* *Acacia* (*Acacia* spp.).

Boxwood (*Buxus sempervirens*).

California pepper tree (*Schinus molle*).

Eucalyptus (*Eucalyptus globulus*).

Evergreen smilax (*Smilax lanceolata*).

Galax (*Galax aphylla*).

Heather (*Erica* spp., *Calluna* spp.).

Mistletoe (*Phoradendron flavescens*, *Viscum album*, etc.).

Western red cedar (*Thuja plicata*).

Oregon holly (*Ilex aquifolium*).

Oregon huckleberry (*Vaccinium ovatum*).

Salal (known to the trade as lemon cuttings) (*Gaultheria shallon*).

(vii) Scions.

(viii) Tip cuttings of deciduous plants without leaves or blossoms, or tip cuttings of evergreen plants, when not more than 12 inches in length, and articles constructed of such tip cuttings, such as wreaths, sprays, and roping.

(3) *Stone and quarry products.* (i) Stone and quarry products when processed by crushing, grinding, or pulverizing.

(ii) Feldspar, granite, marble, quartz, or slate moving from premises covered by a certificate of exemption issued under paragraph (b) of this section and originating on premises covered by such a certificate or from other sources approved in advance by an inspector.

(4) *Pulpwood.* Pulpwood moving from a regulated area to a nearby pulp mill in a contiguous nonregulated area, or from a generally infested area to a nearby pulp mill in a contiguous suppressive area, if such mill has entered into a written agreement with the Plant Pest Control Branch to apply such treat-

ments and to maintain such sanitation safeguards as will, in the judgment of the inspector, prevent the establishment of gypsy moth infestation on or surrounding the mill premises; and if such mill has been approved by the Chief of the Plant Pest Control Branch to receive such pulpwood.

(b) A certificate of exemption will be issued by an inspector for any premises in the gypsy moth regulated area which have been inspected or treated in accordance with procedures approved by the Chief of the Plant Pest Control Branch as adequate to assure that movement from such premises of regulated articles will not disseminate infestation, if the person in possession of such premises agrees in writing (1) that he will move regulated articles under the certificate of exemption pursuant to paragraph (a) (3) (ii) of this section only from such premises and only if the articles originate on premises certified under this paragraph or from other sources approved in advance by the inspector and (2) that no regulated articles of the kinds specified in paragraph (a) (3) (ii) of this section will be brought to his certified premises except from other premises certified under this paragraph or from such other sources as are approved in advance by the inspector.

These amended administrative instructions shall become effective July 20, 1956, on which date they shall supersede B. E. P. Q. 386, as revised effective November 5, 1951 (7 CFR, 1954 Supp., 301.45a).

These instructions exempt the movement of pulpwood, under specified conditions, from certain requirements of the regulations supplemental to the gypsy moth and brown-tail moth quarantine and make various modifications in the exemptions previously provided for various articles by changing some of the conditions of exemption and more specifically identifying certain exempted articles. Exemption is provided for treated or dyed leaves of evergreen trees, when properly labeled. The previous exemptions for excelsior waste and mica have been eliminated.

Provisions are made in the amended instructions for the issuance of certificates of exemption for inspected or treated premises and for the movement of certain stone and quarry products from such premises without compliance with restrictions otherwise applicable.

Primarily the instructions relieve restrictions and to this extent are within the exception in section 4 (c) of the Administrative Procedure Act (5 U. S. C. 1003 (c)) and may properly be made effective less than 30 days after their publication in the FEDERAL REGISTER. Insofar as the instructions impose stricter requirements they should be made effective promptly to prevent the spread of the gypsy moth and the brown-tail moth and good cause is found under section 4 of the Administrative Procedure Act for making them effective less than 30 days after their publication in the FEDERAL REGISTER.

(Secs. 8, 9, 37 Stat. 318, as amended; 7 U. S. C. 161, 162)

Done at Washington, D. C., this 27th day of June 1956.

[SEAL]

E. D. BURGESS,

Chief,

Plant Pest Control Branch.

[F. R. Doc. 56-5255; Filed, July 2, 1956; 8:49 a. m.]

[P. P. C. 617]

PART 301—DOMESTIC QUARANTINE NOTICES

SUBPART—GYPSY MOTH AND BROWN-TAIL MOTH

ADMINISTRATIVE INSTRUCTIONS DESIGNATING REGULATED AREAS

On May 4, 1956, there was published in the FEDERAL REGISTER (21 F. R. 2990) a notice of proposed rule making concerning the issuance of administrative instructions designating regulated areas in conformity with § 301.45-2 of amended gypsy moth and brown-tail moth quarantine regulations (7 CFR 301.45-2, supra). After due consideration of all matters presented, and pursuant to the said § 301.45-2, under sections 8 and 9 of the Plant Quarantine Act of 1912, as amended (7 U. S. C. 161, 162), the Chief of the Plant Pest Control Branch hereby issues such administrative instructions to appear in 7 CFR 301.45-2a as follows:

§ 301.45-2a *Administrative instructions designating regulated areas under the gypsy moth and brown-tail moth quarantine and regulations.* Infestations of either the gypsy moth or the brown-tail moth have been determined to exist, in the quarantined States, in the respective counties, cities, towns, plantations, and other civil divisions, and parts thereof, listed below, or it has been determined that such infestation is likely to exist therein, or it is deemed necessary to regulate such civil divisions and parts thereof because of their proximity to infestation or their inseparability for quarantine enforcement purposes from infested localities. Accordingly, such civil divisions and parts thereof are hereby designated, as follows, respectively, as a single, continuous gypsy moth regulated area and a single, continuous brown-tail moth regulated area within the meaning of the provisions in this subpart:

GYPSY MOTH REGULATED AREA

Connecticut. All counties in the State.

Maine. Counties of Androscoggin, Cumberland, Kennebec, Knox, Lincoln, Sagadahoc, Waldo, and York; towns of Avon, Berlin, Carthage, Chesterville, Crockertown, Dallas Plantation, Farmington, Freeman, Greenville, Industry, Jay, Jerusalem, Kingfield, Madrid, Mount Abraham, New Sharon, New Vineyard, Perkins, Phillips, Rangleey Plantation, Redington, Salem, Sandy River Plantation, Strong, Temple, Washington, Weld, and Wilton; and Townships D and E, in Franklin County; all of Hancock County except Plantations 3, 4, 35, and 41; all that part of Oxford County south and southeast of, and including, the towns of Magalloway and Richardsontown; towns of Alton, Argyle, Bradford, Bradley, Carmel, Charleston, Clifton, Corinna, Corinth, Dexter, Dixmont, Edgington, Etna, Exeter, Garland, Glenburn, Grand Falls Plantation, Greenbush, Greenfield, Hampden, Hermon, Holden, Hudson, Kenduskeag, LaGrange, Levant, Milford,

Newburgh, Newport, Orono, Orrington, Plymouth, Stetson, Summit, and Veazie, and cities of Bangor, Brewer, and Old Town, in Penobscot County; towns of Abbott, Atkinson, Dover-Foxcroft, Gullford, Kingsbury Plantation, Medford, Milo, Orneville, Parkman, Sangerville, Sebec, and Wellington, in Piscataquis County; all that part of Somerset County south and southeast of, and including, Highland and Pleasant Ridge Plantations, town of Moscow, and Mayfield Plantation; towns of Beddington, Cherryfield, Columbia, Debiots, Harrington, Millbridge, and Steuben, and Plantations 18 and 24, in Washington County.

Massachusetts. All counties in the State.
New Hampshire. Counties of Belknap, Carroll, Cheshire, Grafton, Hillsboro, Merrimack, Rockingham, Strafford, and Sullivan; all that part of Coos County lying south of, and including, the towns of Stratford, Odell, Dummer, and Cambridge.

New York. Counties of Albany, Clinton, Columbia, Delaware, Dutchess, Fulton, Greene, Montgomery, Nassau, Orange, Otsego, Putnam, Rensselaer, Rockland, Saratoga, Schoenectady, Schoharie, Suffolk, Sullivan, Ulster, Warren, Washington, and Westchester; towns of Chesterfield, Crown Point, Elizabethtown, Essex, Jay, Keene, Lewis, Moriah, North Hudson, Schroon, Ticonderoga, Westport, Willsboro, and Wilmington, in Essex County; towns of Benson, Hope, and Wells in Hamilton County; all of Herkimer County except the towns of Ohio, Russia, and Webb; town of Brookfield in Madison County; towns of Bridgewater, Deerfield, Kirkland, Marcy, Marshall, New Hartford, Paris, Sangerfield, Utica, Westmoreland, and Whitestown, in Oneida County.

Rhode Island. All counties in the State.
Vermont. Counties of Addison, Bennington, Chittenden, Grand Isle, Orange, Rutland, Washington, Windham, and Windsor; towns of Barnet, Danville, Groton, Kirby, Peacham, Ryegate, St. Johnsbury, and Waterford, in Caledonia County; towns of Concord, Granby, Guildhall, Lunenburg, Maidstone, and Victory, in Essex County; all of Franklin County except the towns of Bakersfield, Berkshire, Enosburg, Montgomery, and Richford; and the town of Elmore in Lamolle County.

BROWN-TAIL MOTH REGULATED AREA

All of the above described gypsy moth regulated area, exclusive of that in the State of New York, constitutes the brown-tail moth regulated area.

These administrative instructions shall become effective July 20, 1956.

These instructions list the localities that are regulated under a revision of the gypsy moth and brown-tail moth notice of quarantine and supplemental regulations. The former gypsy moth generally infested area and gypsy moth suppressive area are combined into a single, continuous regulated area. The instructions also include in that regulated area for the first time a number of additional civil divisions in Connecticut, Maine, New York and Vermont. Further, they redefine and enlarge the area regulated because of the brown-tail moth.

Both the revised notice of quarantine and supplemental regulations and these instructions must be made concurrently effective in order to carry out the purposes thereof. The quarantine and regulations are to become effective less than 30 days after the publication hereof in the FEDERAL REGISTER. Accordingly, under section 4 of the Administrative Procedure Act (5 U. S. C. 1003), good cause is found for making the effective date

of the instructions less than 30 days after publication in the FEDERAL REGISTER.

(Secs. 8, 9, 37 Stat. 318, as amended; 7 U. S. C. 161, 162)

Done at Washington, D. C., this 27th day of June 1956.

[SEAL]

E. D. BURGESS,

Chief,

Plant Pest Control Branch.

[F. R. Doc. 56-5253; Filed, July 2, 1956; 8:49 a. m.]

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

PART 957—IRISH POTATOES GROWN IN CERTAIN DESIGNATED COUNTIES IN IDAHO AND MALHEUR COUNTY, OREGON

LIMITATION OF SHIPMENTS

§ 957.314 *Limitation of shipments—*
(a) *Findings.* (1) Pursuant to Marketing Agreement No. 98 and Order No. 57, as amended (7 CFR Part 957), regulating the handling of Irish potatoes grown in certain designated counties in Idaho and Malheur County, Oregon, 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 Idaho-Eastern Oregon Potato committee, established pursuant to said marketing agreement and order, as amended, and upon other available information, it is hereby found that the limitation of shipments, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) 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 section 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 section is based became available and the time when this section 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 section, (iii) compliance with this section will not require any preparation on the part of handlers which cannot be completed by the effective date, (iv) a reasonable time is permitted under the circumstances, for such preparation, and (v) information regarding the committee's recommendations has been made available to producers and handlers in the production area.

(b) *Order.* (1) During the period from July 5, 1956, through September 20, 1956, no handler shall ship potatoes of any variety unless such potatoes are generally "fairly clean", which means that at least 90 percent of such potatoes are "fairly clean," and (i) if they are of the red skin varieties, such potatoes meet the

requirements of the U. S. No. 2 or better grade, 1 $\frac{1}{8}$ inch minimum diameter, *Provided*, That such potatoes meeting the requirement of U. S. No. 1, size B, may be shipped, and (ii) if they are of the White Rose or Kennebec varieties, such potatoes meet the requirements of the U. S. No. 2 or better grade, size A, 1 $\frac{1}{8}$ inch minimum diameter, and (iii) if they are of any other variety, including, but not limited to, Russet Burbank and Early Gem varieties, such potatoes meet the requirements of the U. S. No. 2 or better grade, size A, 2-inch minimum diameter or 4-ounce 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 July 5, 1956, through September 20, 1956, and subject to the requirements set forth in subparagraph (1) of this paragraph no handler shall ship (i) any lot of potatoes of the Kennebec and White Rose varieties if more than 30 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 (ii) any lot of potatoes of any other varieties 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"; *Provided*, That during such period, not to exceed 100 hundredweight of each variety of such potatoes may be handled for any producer without regard to the aforesaid skinning requirement; *Provided further*, That, in addition to the above, any lot of potatoes may be handled for any producer without regard to the aforesaid skinning requirement if (a) such lot of potatoes previously failed, upon inspection by a Federal-State inspector, to meet grade and size requirements but met the aforesaid skinning requirements applicable to such lot of potatoes, (b) such lot of potatoes has been regraded, and such lot of potatoes otherwise meets, as indicated by a Federal-State inspection certificate, the grade and size requirement applicable to such potatoes, and (c) such potatoes failing to meet the aforesaid skinning requirements are not in excess of 100 hundredweight in any such lot. Prior to each shipment of potatoes exempt from the above skinning requirements, the handler thereof shall report the name and address of the producer of such potatoes, and each such shipment shall be handled as an identifiable entity.

(3) Each handler may make one shipment of not in excess of 5 hundredweight per week without regard to the regulatory, assessment and inspection requirements of this part.

(4) For the purpose of determining who shall be entitled to the exemption, set forth in the maturity requirements: (i) "Producer" means any individual, partnership, corporation, association, landlord-tenant crop sharing relationship, community property ownership, or any other business unit engaged in the production of potatoes for market; (ii) it is intended that each 100 hundred-

weight exemption to the aforesaid maturity requirements shall apply only to the potatoes grown on each farm of a producer.

(5) The grade, size and maturity limitations set forth in subparagraphs (1) and (2) of this paragraph shall not be applicable to shipments of potatoes for the following purposes: (i) As certified seed potatoes; (ii) export: *Provided*, That no handler shall ship potatoes for export which do not meet the requirements of the U. S. No. 2 or better grade, 1½ inch minimum diameter; (iii) canning, freezing, dehydration or manufacture or conversion into starch, flour, meal, or alcohol, and (iv) charity.

(6) Each handler making shipments of potatoes pursuant to subparagraph (5) of this paragraph shall with respect to such shipments other than certified seed potatoes: (i) Obtain a Certificate of Privilege, (ii) have each of such shipments inspected, (iii) pay assessments on such shipments, (iv) with respect to each shipment furnish a copy of the bill of lading or appropriate record of movement in case of trucks, applicable thereto, to the committee, (v) with respect to each shipment for export, include in his application for the Certificate of Privilege, therefore, the export license number and shall enter such number on the Federal-State inspection certificate and bill of lading applicable to such shipment, or in the event no export license is required on such shipment, the handler shall furnish the committee with a copy of the Department of Commerce Shippers Export Declaration Form No. 7525-V applicable to such shipment, and (vi) accompany each application for a Certificate of Privilege to ship potatoes (except for shipment for export) with the applicant handler's certification and buyer's certification that the potatoes to be shipped are to be used for the purpose stated in the application.

(7) Terms used in this section shall have the same meaning as when used in Marketing Agreement No. 98 and Order No. 57, as amended (§§ 957.1 to 957.92).

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

Done at Washington, D. C., this 29th day of June 1956, to become effective July 5, 1956.

[SEAL]

S. R. SMITH,
Director,

Fruit and Vegetable Division.

[F. R. Doc. 56-5324; Filed, July 2, 1956; 8:55 a. m.]

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, Department of the Army

PART 202—ANCHORAGE REGULATIONS PORT OF NEW YORK, N. Y.

Pursuant to the provisions of section 7 of the River and Harbor Act of March 4, 1915 (38 Stat. 1053; 33 U. S. C. 471),

§ 202.155 establishing and regulating the use of anchorage grounds in the Port of New York is hereby amended with respect to paragraph (d) (5), redesignating the boundaries of Anchorage 21 in Upper Bay, as below. The regulations shall become effective 10 days after publication in the FEDERAL REGISTER to eliminate promptly existing hazards to navigation.

§ 202.155 *Port of New York.* * * *
(d) *Upper Bay.*

(5) *Anchorage No. 21.* North of the east-west line passing through Gowanus Flats Lighted Gong Buoy 22 and Bay Ridge Channel Lighted Bell Buoy 1; east of a line bearing 355° 45' from Gowanus Flats Lighted Gong Buoy 22 to Gowanus Flats Lighted Bell Buoy 24, thence bearing 26° 08' through Gowanus Flats Lighted Bell Buoy 26 and Gowanus Flats Lighted Bell Buoy 28 to Gowanus Flats Lighted Bell Buoy 30; south of a line bearing 65° 38' from Gowanus Flats Lighted Bell Buoy 30 to Red Hook Channel Lighted Bell Buoy 11, thence bearing 118° 46' to Red Hook Channel Lighted Bell Buoy 9; west of a line bearing 172° 50' from Red Hook Lighted Bell Buoy 9 to Bay Ridge Channel Lighted Bell Buoy 7, thence 218° 28' through Bay Ridge Channel Buoy 5 and Bay Ridge Channel Lighted Bell Buoy 3 to a point at latitude 40° 38' 41.5", longitude 74° 02' 34" and thence 197° 47' to Bay Ridge Channel Lighted Bell Buoy 1. A fairway 600 feet wide crossing the anchorage, marked by buoys at each entrance, shall be excluded therefrom. Its northerly side is on range with Claremont Terminal Lighted Buoy 1, at the entrance to Claremont Terminal Channel, and the center of the head of the north pier of the Long Island Railroad Terminal at the foot of 64th Street, Bay Ridge, Brooklyn. Anchorage No. 21 is divided into Anchorages Nos. 21-A and 21-B.

[Regs., 22 June 1956, 800.212 (New York Harbor)—ENGWO] (Sec. 7, 38 Stat. 1053; 33 U. S. C. 471)

[SEAL]

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

[F. R. Doc. 56-5236; Filed, July 2, 1956; 8:45 a. m.]

TITLE 32A—NATIONAL DEFENSE, APPENDIX

Chapter VI—Business and Defense Services Administration, Department of Commerce

[BDSA Reg. 2 (Formerly NPA Reg. 2), Direction 7 of June 29, 1956]

BDSA REG. 2—BASIC RULES OF THE PRIORITIES SYSTEM

REG. 2, DIR. 7—LIMITATION ON USE OF RATINGS TO OBTAIN NICKEL

This direction under BDSA Reg. 2 is found necessary and appropriate to promote the national defense and is issued pursuant to the Defense Production Act of 1950, as amended. In the formulation of this direction, there has been con-

sultation with industry representatives, including trade association representatives, and consideration has been given to their recommendations. However, consultation with representatives of all industries affected in advance of the issuance of this direction has been rendered impracticable because it affects many industries.

Sec.

1. What this direction does.
2. Definitions.
3. Limitation on the acquisition of nickel with the use of ratings.

AUTHORITY: Sections 1 to 3 issued under sec. 704, 64 Stat. 816, as amended, sec. 10, 69 Stat. 583; 50 U. S. C. App. 2154. Interpret or apply sec. 101, 64 Stat. 799, as amended, sec. 705, 64 Stat. 816, as amended, sec. 10, 69 Stat. 583; 50 U. S. C. App. 2071, 2155; E. O. 10480, 18 F. R. 4939; 3 CFR, 1953 Supp.; DMO-I-7, 18 F. R. 5366, 6736; 32A CFR Ch. I; Commerce Dept. Order No. 152, 18 F. R. 6503, 6791, 20 F. R. 6263.

SECTION 1. What this direction does. This direction requires a person filling mandatory acceptance orders by producing alloys containing nickel to determine the quantity of primary nickel he is authorized to acquire with the use of ratings to fill such orders by deducting the quantity of usable nickel contained in scrap generated by him in such production from his gross requirements of primary nickel for these purposes.

SEC. 2. Definitions. (a) "BDSA" means the Business and Defense Services Administration of the United States Department of Commerce.

(b) "Mandatory acceptance order" means a delivery order which a person is required to accept pursuant to any regulation or order of BDSA, or pursuant to a specific authorization or directive of BDSA.

(c) "Primary nickel" means primary nickel in the following forms or shapes:

Electrolytic cathodes.
Ingots.
Pigs.
Rondelles.
Cubes and pellets.
Shot.
Oxide (including slanted oxide).
Powder.

(d) "Gross requirements of nickel" means the total quantity of nickel, whether primary or contained in scrap, required to be put into the charge for melting to produce a specified quantity of a particular alloy containing nickel.

(e) "Alloys containing nickel" means nickel alloys as defined in Direction 6 to DMS Regulation No. 1 and alloys of iron, steel, copper, aluminum or any other material which contain any quantity of nickel by specification.

SEC. 3. Limitation on the acquisition of nickel with the use of ratings. (a) Notwithstanding the provisions of any BDSA regulation or order, no person shall place rated orders for primary nickel for use in the production of alloys containing nickel to fill mandatory acceptance orders in an amount greater than the difference between his gross requirements of nickel for such production and the amount of nickel contained in scrap generated by him in production

of alloys containing nickel to fill mandatory acceptance orders and which is usable in melting to produce such alloys.

(b) If at any time any person who has generated scrap in the course of producing alloys containing nickel to fill mandatory acceptance orders has on hand such scrap containing a quantity of usable nickel which exceeds the quantity of such nickel needed by him to fill mandatory acceptance orders received by him, he shall promptly notify BDSA of the quantity and location of such scrap, and his proposed use, sale or disposition thereof. Pending receipt of written instructions from BDSA he may use such scrap only to fill mandatory acceptance orders.

This direction shall take effect June 29, 1956.

BUSINESS AND DEFENSE
SERVICES ADMINISTRATION,
CHAS. F. HONEYWELL,
Administrator.

[F. R. Doc. 56-5300; Filed, July 2, 1956;
8:54 a. m.]

[DMS Regulation No. 1, Direction 6 of
June 29, 1956]

DMS REG. 1—BASIC RULES OF THE
DEFENSE MATERIALS SYSTEM

DMS REG. 1, DIR. 6—DESIGNATION OF
NICKEL ALLOYS AS CONTROLLED MAT-
TERIALS BEGINNING WITH OPERATIONS
FOR THE FOURTH CALENDAR QUARTER OF
1956

This direction under DMS Regulation No. 1 is found necessary and appropriate to promote the national defense and is issued pursuant to the Defense Production Act of 1950, as amended. In the formulation of this direction, there has been consultation with industry representatives, including trade association representatives, and consideration has been given to their recommendations. However, consultation with representatives of all industries affected in advance of the issuance of this direction has been rendered impracticable because it affects many different industries.

Sec.

1. What this direction does.
2. Definition.
3. Applicability of this direction.
4. Applicability of other regulations and orders.
5. Designation of nickel alloys as controlled materials.
6. Conversion of orders and other special rules.
7. Application for allotment of nickel alloys.
8. General explanatory provisions.

AUTHORITY: Sections 1 to 8 issued under sec. 704, 64 Stat. 816, as amended, sec. 10, 69 Stat. 583, 50 U. S. C. App. 2154. Interpret or apply sec. 101, 64 Stat. 799, as amended, sec. 705, 64 Stat. 816, as amended, sec. 10, 69 Stat. 583; 50 U. S. C. App. 2071, 2155; E. O. 10480, 18 F. R. 4939; 3 CFR, 1953 Supp.; DMO I-7, 18 F. R. 5366, 6736; 32A CFR Ch. I; Commerce Dept. Order No. 152, 18 F. R. 6503, 6791, 20 F. R. 6263.

SECTION 1. What this direction does. The purpose of this direction is to designate nickel alloys as controlled materials beginning with operations for the fourth calendar quarter of 1956, under the Defense Materials System regulations and all other regulations and orders of BDSA, with respect to production, construction, and all other uses. It also establishes rules to provide for an orderly transition in the accomplishment of this objective. Those alloys of steel, copper, or aluminum which contain nickel, and which pursuant to the provisions of DMS Regulation No. 1 (as amended April 1, 1954) are controlled materials, continue as steel, copper, or aluminum controlled materials and do not become nickel alloy controlled materials. The designation of nickel alloys as controlled materials will result in these materials being subject to the same quantitative controls and other applicable procedures that relate to the existing controlled materials—steel, copper and aluminum. BDSA order M-1B which is issued concurrently with this direction establishes rules affecting suppliers of nickel alloys.

SEC. 2. Definition. As used in this direction, "nickel alloys" means those alloys for which the specified nickel content is 5 percent or more up to and including pure nickel, and which do not contain as much as 50 percent of iron or steel, nor as much as 40 percent of copper, nor as much as 50 percent of aluminum, in the following mill and foundry shapes and forms:

Ingot, blooms, slabs, and billets.
Plate, sheet, strip, and foil.
Rods, bars, pipe, tubing, and shapes (rolled, drawn, or extruded).
Wire and wire rod.
Powder.
Castings (less gates and risers, rough as cast).
Anodes (rolled or cast).

It also includes cast iron (less gates and risers, rough as cast) for which the specified nickel content is 5 percent or more. It does not include primary nickel in the forms of electrolytic cathodes, pigs, rondelles, cubes, pellets, shot, oxide (including sintered oxide), salts, or chemicals; nor does it include primary nickel in the forms of ingots or powder for remelting.

SEC. 3. Applicability of this direction. The provisions of this direction are applicable to orders for nickel alloys which call for delivery only after the third calendar quarter of 1956, and to all actions taken in connection therewith. The provisions of all DMS regulations and all other BDSA regulations and orders, including the directions and amendments thereto, as heretofore issued, shall continue to apply to orders for nickel alloys which call for delivery prior to the fourth calendar quarter of 1956, and to all actions taken in connection therewith.

SEC. 4. Applicability of other regulations and orders. The provisions of all DMS regulations and all other BDSA regulations and orders, including the directions and amendments thereto, as here-

tofore issued, are superseded to the extent to which they are inconsistent with the provisions of this direction. In all other respects the provisions of such regulations, orders, directions, and amendments shall remain in full force and effect.

Sec. 5. Designation of nickel alloys as controlled materials. (a) Notwithstanding the provisions of DMS regulations and any other BDSA regulations and orders, including the directions and amendments thereto, nickel alloys are hereby designated as controlled materials for operations during the fourth calendar quarter of 1956 and succeeding calendar quarters.

(b) With respect to operations beginning with the fourth calendar quarter of 1956, all DMS regulations and all other BDSA regulations and orders, including the schedules, directions, amendments, forms, and instructions thereto, and in addition the "Official Class B Product List" of BDSA, shall be deemed to be amended to provide that nickel alloys are controlled materials.

(c) Beginning with operations for the fourth calendar quarter of 1956, the following shall be the 4 basic controlled materials under regulations and orders of BDSA:

- (1) Steel.
- (2) Copper.
- (3) Aluminum.
- (4) Nickel alloys.

Beginning with operations for the fourth calendar quarter of 1956, the following shall be the 8 kinds of controlled materials for the purposes of allotments, actions related to allotments, delivery orders, and shipments under regulations and orders of BDSA:

- (1) Carbon steel (including wrought iron).
- (2) Alloy steel (except stainless steel).
- (3) Nickel-bearing stainless steel.
- (4) Copper and copper-base alloy brass mill products.
- (5) Copper wire mill products.
- (6) Copper and copper-base alloy foundry products and powder.
- (7) Aluminum.
- (8) Nickel alloys.

SEC. 6. Conversion of orders and other special rules. (a) DO or DX rated orders placed pursuant to regulations and orders of BDSA prior to August 1, 1956, calling for delivery of nickel alloys after September 30, 1956, shall be deemed to be authorized controlled material orders for purposes of all regulations and orders of BDSA. Beginning August 1, 1956, no person shall place and no person shall accept any DO or DX rated order calling for delivery of nickel alloys after September 30, 1956.

(b) Beginning August 1, 1956, any person who is authorized to acquire nickel alloys pursuant to allotment or self-authorization under any regulation or order of BDSA, for preferential delivery after September 30, 1956, shall place an authorized controlled material order or authorized controlled material orders therefor.

(c) Any prime consumer or secondary consumer (as defined in DMS Regulation No. 1) and any prime contractor or subcontractor (as defined in DMS Regulation No. 2) who, pursuant to orders placed or to be placed by him after July 31, 1956, requires delivery of nickel alloys after September 30, 1956, to complete an authorized production schedule or an authorized construction schedule for which he has not received an allotment of nickel alloys, shall immediately submit an application for an allotment in accordance with section 7 of this direction. The submission of such an application shall, subject to the adjustments called for in paragraph (d) of this section, constitute authorization to place an authorized controlled material order or authorized controlled material orders for the quantity of nickel alloys requested in such application for allotment, and to make allotments, where appropriate, for the production of Class A products or for the performance of construction.

(d) Any person who receives an allotment of nickel alloys for the fourth calendar quarter of 1956 or subsequent calendar quarters and who has previously placed a rated order or an authorized controlled material order for the purpose for which such allotment is made must charge the quantity of nickel alloys covered by such order against the appropriate quarterly allotment. In no event shall such allotment be exceeded and to the extent that orders previously placed are in excess of such allotment they shall be promptly cancelled or reduced. However, if such cancellation or reduction would result in failure by a person to fill an order or a contract which he is required to accept by BDSA, he shall immediately apply for an additional allotment to the person who made the allotment of nickel alloys to him. He need not cancel nor reduce such outstanding orders pending receipt by him of a response to his application for an additional allotment.

SEC. 7. Application for allotment of nickel alloys. (a) Applications for allotment of nickel alloys shall be made on Form DMS-4A for production of Class A products; Form DMS-4C for construction; or Form DMS-4 (APRA) for production of APRA B products. Revised versions of these forms, showing nickel alloys as a controlled material, will be available at Department of Commerce field offices and at offices of the Department of Defense and the Atomic Energy Commission.

(b) Any person who is required to submit an application for an allotment of nickel alloys pursuant to paragraph (c) of section 6 of this direction shall do so on the appropriate form referred to in paragraph (a) of this section. If such form is not available, he shall submit his application on Form DMS-4S set forth in Schedule I of this direction in accordance with the instructions contained in that Schedule. In using Form DMS-4S, the applicant shall duplicate the form as provided in such instructions. Printed

copies of this form will not be available because it is intended for temporary use only, pending the availability of the standard DMS application forms referred to in paragraph (a) of this section.

SEC. 8. General explanatory provisions. The changes effected by this direction in the Defense Materials System and the supporting regulations and orders of BDSA are comprehensive in scope. Some of the more significant changes include, but are not limited to, the following:

(a) The definition of controlled material in section 3 (c) of DMS Regulation No. 1 and in other regulations and orders of BDSA has been expanded to include nickel alloys as well as steel, copper, and aluminum.

(b) Class A and Class B products (sections 3 (i) and 3 (j) of DMS Regulation No. 1 and sections 3 (f) and 3 (g) of DMS Regulation No. 2) become such by virtue of incorporation therein of controlled materials. Since nickel alloys have been designated as controlled materials the "Official Class B Product List", issued May 1, 1953, will cover products containing nickel alloys even though they do not contain steel, copper, or aluminum.

(c) Applications for allotments for Class A products (section 9 of DMS Regulation No. 1) and for construction (section 8 of DMS Regulation No. 2) will include requirements for nickel alloys as well as requirements for steel, copper, and aluminum.

(d) In addition to the 7 kinds of controlled materials used for the purposes of making allotments (section 11 (b) of DMS Regulation No. 1 and section 10 (b) of DMS Regulation No. 2), a new kind, nickel alloys, will be employed in making allotments.

(e) The rules for designation and use of allotment numbers (section 12 of DMS Regulation No. 1 and section 11 of DMS Regulation No. 2), including calendar quarter identification in placing authorized controlled material orders, apply to nickel alloys.

(f) The so-called "85 percent rule" (section 13 (b) of DMS Regulation No. 1 and section 12 (b) of DMS Regulation No. 2) will apply to nickel alloys as well as to the other 7 kinds of controlled materials.

(g) The short form of allotment (section 13 (g) and Schedule II of DMS Regulation No. 1 and section 12 (h) of DMS Regulation No. 2) when reproduced and utilized by persons making allotments shall include a separate line for nickel alloys.

(h) The rules for cancellation or reduction of allotments and for changes in requirements (sections 14 and 15 of DMS Regulation No. 1 and sections 13 and 14 of DMS Regulation No. 2) apply to nickel alloys, except as modified in paragraph (d) of section 6 of this direction.

(i) The prohibition on making allotments of controlled materials for the production of Class B products (section 17 (a) of DMS Regulation No. 1) extends to nickel alloys. Persons who receive

rated orders for Class B products requiring nickel alloys will, by self-authorization, obtain their requirements of nickel alloys by placing authorized controlled material orders therefor.

(j) The rules for placement of authorized controlled material orders (section 20 of DMS Regulation No. 1 and section 18 of DMS Regulation No. 2) apply to delivery orders for nickel alloys.

(k) The rules applicable to controlled materials suppliers (sections 21, 22, and 23 of DMS Regulation No. 1), except to the extent modified or supplemented by the provisions of BDSA Order M-1B which is issued concurrently with this direction, apply to suppliers of nickel alloys.

(l) The rules regarding maintenance of records of allotments received, made, or used (section 25 of DMS Regulation No. 1 and section 21 of DMS Regulation No. 2) apply to nickel alloys.

(m) The self-authorization procedure for defense contract laboratories (Direction 3 to DMS Regulation No. 1) is changed to the extent that requirements of nickel alloys will be obtained by placing authorized controlled material orders, rather than rated orders, therefor.

(n) The self-authorization procedure for MRO (Direction 4 to DMS Regulation No. 1 and Direction 3 to DMS Regulation No. 2) is changed to the extent that requirements of nickel alloys will be obtained by placing authorized controlled material orders, rather than rated orders, therefor.

(o) Manufacturers of APRA B products (Direction 5 to DMS Regulation No. 1) will apply for and receive allotments of nickel alloys, in addition to allotments of steel, copper, and aluminum.

(p) Amendment 2 (June 1, 1954) to BDSA Reg. 2 provides that holders of certain listed forms of nickel acquired by use of ratings must notify BDSA under specified conditions before use or disposition of same. The rules in said Amendment 2 continue to apply to the forms of nickel listed therein even though certain forms have been designated as controlled materials by this direction and will be acquired by the placement of authorized controlled material orders rather than by the placement of rated orders.

(q) Section 3 (k) of BDSA Order M-1A defines high-temperature alloys which, under the provisions of that order, are not controlled materials. To the extent that such high-temperature alloys fall within the definition of nickel alloys in section 2 of this direction, they become controlled materials.

NOTE: All reporting and record-keeping requirements of this direction have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

This direction shall take effect June 29, 1956.

**BUSINESS AND DEFENSE
SERVICES ADMINISTRATION,
CHAS F. HONEYWELL,
Administrator.**

SCHEDULE I OF DIRECTION 6 TO DMS REGULATION No. 1

(See Section 7 (b))

Form DMS-48 U. S. Department of Commerce Business and Defense Services Administration		Item 3. Supplement to: Check Form DMS-4A <input type="checkbox"/> Which: Form DMS-4C <input type="checkbox"/> Form DMS-4 (APRA) <input type="checkbox"/>				
APPLICATION FOR ALLOTMENT OF NICKEL ALLOYS		Item 4. Control Number (if any).				
Item 1. Name and Address of Applicant (Street, City, Zone, State)		Item 5. Name and Address of Government Agency or Company to Which Application is Submitted:				
Item 2. Name, Address, Title of Your Company Representative:		Item 6. Allotment Symbol Previously Received (if any).				
		Item 7. Product to be made by Applicant.				
SECTION I—For previously authorized construction schedule insert identification of Project.						
For previously authorized production schedule show unit of measure						
Previously Authorized Production Schedule						
4th qtr. 1956		1st qtr. 1957		2d qtr. 1957		
SECTION II—Allotment of Nickel Alloys Requested for Production Schedule or Construction Schedule Shown in Section I.						
Item No.	Controlled material	Unit of measure	4th qtr. 1956	1st qtr. 1957	2d qtr. 1957	3d qtr. 1957
80	Nickel Alloys.....	Pounds...				
CERTIFICATION: The undersigned company and the official executing this certification on its behalf, hereby certify that the information contained in this application or report is correct and complete to the best of their knowledge and belief.						
..... (Name of Company)			By..... (Signature of authorized official)			
..... (Date)		 (Title)			
The U. S. Code, Title 18 (Crimes and Criminal Procedure), Section 1001, formerly Section 80, makes it a criminal offense to make a wilfully false statement or representation to any department or agency of the United States as to any matter within its jurisdiction. The individual company information reported on this form is for use in defense mobilization activities. The unauthorized publication or disclosure of individual company information is prohibited by law, and persons having access to such information are subject to fine and imprisonment for unauthorized disclosure.						

INSTRUCTIONS FOR USE OF APPLICATION FOR ALLOTMENT OF NICKEL ALLOYS—DMS-4S

DMS-4S may only be used as an application for an allotment of nickel alloys by those persons who have received an authorized production schedule or an authorized construction schedule and an allotment of controlled materials for the fourth quarter of 1956. In these cases, Form DMS-4S will represent a supplemental application for an allotment of nickel alloys.

Form DMS-4S may be duplicated by such applicants. Printed copies of this form will not be reproduced and made publicly available. The size of the form may be varied but all of the information called for by the form must be supplied.

In lieu of submitting Form DMS-4S, such applicants may use the revised Forms DMS-4A, DMS-4C, or DMS-4 (APRA) which list nickel alloys as a controlled material. These revised forms are dated June 1956 and will be available at the Department of Commerce Field Offices.

If a person is required to submit an application for an allotment of nickel alloys and has not received an authorized production or construction schedule with related allot-

ments of steel, copper, or aluminum, he should submit a revised Form DMS-4A for production of Class A products, DMS-4C for construction, or Form DMS-4 (APRA) for production of APRA B products.

[P. R. Doc. 56-5301; Filed, July 2, 1956; 8:55 a. m.]

[BDSA Order M-1B of June 29, 1956]

M-1B—NICKEL ALLOYS

This order is found necessary and appropriate to promote the national defense and is issued pursuant to the Defense Production Act of 1950, as amended. In the formulation of this order, there has been consultation with industry representatives, including trade association representatives, and consideration has been given to their recommendations. However, consultation with representatives of all industries affected in advance of the issuance of this order has been rendered impracticable

because it affects many different industries.

Sec.

1. What this order does.
2. Definitions.
3. Applicability of this order.
4. Applicability of other regulations and orders.
5. Directives.
6. Opening of order books.
7. Acceptance of orders.
8. Rejection of authorized controlled material orders.
9. Priority status of delivery orders.
10. Further converters.
11. Acceptance of orders and replacement of inventory by distributors.
12. Direct shipments by distributors.
13. Records and reports.
14. Requests for adjustment or exception.
15. Communications.
16. False statements.
17. Violations.

AUTHORITY: Sections 1 to 17 issued under sec. 704, 64 Stat. 816, as amended, sec. 10, 69 Stat. 583; 50 U. S. C. App. 2154. Interpret or apply sec. 101, 64 Stat. 799, as amended, sec. 705, 64 Stat. 816, as amended, sec. 10, 69 Stat. 583; 50 U. S. C. App. 2071, 2155; E. O. 10480, 18 F. R. 4939; 3 CFR, 1953 Supp.; DMO I-7, 18 F. R. 5366, 6736; 32A CFR Ch. I; Commerce Dept. Order No. 152, 18 F. R. 6503, 6791, 20 F. R. 6263.

SECTION 1. What this order does. This order supplements DMS regulations, particularly Direction 6 to DMS Regulation No. 1 which is issued concurrently with this order and which designates nickel alloys as controlled materials for operations beginning with the fourth calendar quarter of 1956. This order applies to all producers and distributors of nickel alloys. It requires producers to accept authorized controlled material orders and further converter orders for nickel alloys. It also provides for the acceptance of authorized controlled material orders by distributors and for replacement in inventory of nickel alloys delivered by them pursuant to authorized controlled material orders.

Sec. 2. Definitions. As used in this order:

(a) "Person" means any individual, corporation, partnership, association, or any other organized group of persons, and includes any agency of the United States Government or any other government.

(b) "BDSA" means the Business and Defense Services Administration of the United States Department of Commerce.

(c) "Nickel alloys" means those alloys for which the specified nickel content is 5 percent or more up to and including pure nickel, and which do not contain as much as 50 percent of iron or steel, nor as much as 40 percent of copper, nor as much as 50 percent of aluminum, in the following mill and foundry shapes and forms:

Ingots, blooms, slabs, and billets.
Plate, sheet, strip, and foil.
Rods, bars, pipe, tubing, and shapes (rolled, drawn, or extruded).
Wire and wire rod.
Powder.
Castings (less gates and risers, rough as cast).
Anodes (rolled or cast).

It also includes cast iron (less gates and risers, rough as cast) for which the specified nickel content is 5 percent or

more. It does not include primary nickel in the forms of electrolytic cathodes, pigs, rondelles, cubes, pellets, shot, oxide (including sintered oxide), salts, or chemicals; nor does it include primary nickel in the forms of ingots or powder for remelting.

(d) "Nickel alloy products" means those nickel alloy forms and shapes listed under Column A of Table I of this order.

(e) "Nickel" means primary nickel in following forms or shapes:

- Electrolytic cathodes.
- Ingots.
- Pigs.
- Rondelles.
- Cubes and pellets.
- Shot.
- Oxide (including sintered oxide).
- Salts.
- Chemicals.
- Powder.

(f) "Authorized controlled material order" means any delivery order for any controlled material (as distinct from a product containing controlled material) which is placed pursuant to an allotment, or pursuant to self-authorization, as provided in section 20 of DMS Regulation No. 1, or which is specifically designated to be such an order by any regulation or order of BDSA.

(g) "Producer" means a person who produces one or more nickel alloy products, as defined in paragraph (d) of this section.

(h) "Allocation directive" means a directive issued by BDSA to a producer-supplier providing for the shipment by him of certain quantities of nickel alloy products to further converters.

(i) "Production directive" means a directive issued by BDSA to a producer directing the production by him of the quantities of nickel alloy products indicated therein.

(j) "Distributor" means any person (including a warehouseman, jobber, dealer, or retailer) engaged in the business of stocking any nickel alloy product at one or more locations regularly maintained by him for such purpose, for sale or resale, in the form or shape as received or after performing the operations described in the next sentence of this paragraph, and who, in connection therewith, maintains facilities and equipment necessary to conduct such business. Such operations are cutting, shearing, burning, or torch-cutting to length, size, or shape; pipe threading; sorting and grading; and the like. A person who in connection with any sale of any nickel alloy product from his stock, bends, punches, or performs any fabricating or processing operation designed to prepare such material for final use or assembly, shall not be deemed a distributor with respect to such sale; and a person who, in connection with any purchase of any nickel alloy product for resale, does not take physical delivery of any such nickel alloy product into his own stock at a location regularly maintained by him for such purpose, shall not be deemed a distributor with respect to such resale.

(k) "Further conversion" means the further processing of one nickel alloy item into another nickel alloy item for

resale by operations other than those described in the second sentence of paragraph (j) of this section.

(l) "Further converter" means a producer who receives a nickel alloy item from a producer-supplier for further conversion, and who, by further processing, converts such nickel alloy item into another nickel alloy item for resale.

(m) "Further converter order" means an authorized controlled material order for a nickel alloy product placed by a further converter with a producer-supplier.

(n) "Producer-supplier" means a producer of a nickel alloy product who ships the same to a further converter for further conversion.

(o) "Nickel alloy item" means nickel alloy in any of the forms or shapes listed in Column A of Table I of this order which is different from all other items of nickel alloy by reason of one or more of its specifications, such as composition, form, shape, width, thickness, temper, or finish.

Sec. 3. Applicability of this order. The provisions of this order are applicable to orders for nickel alloys which call for delivery only after the third calendar quarter of 1956, and to all actions taken in connection therewith. The provisions of all DMS regulations and all other BDSA regulations and orders, including the directions and amendments thereto, as heretofore issued, shall continue to apply to orders for nickel alloys which call for delivery prior to the fourth calendar quarter of 1956, and to all actions taken in connection therewith.

Sec. 4. Applicability of other regulations and orders. The provisions of all DMS regulations and all other BDSA regulations and orders, including the directions and amendments thereto, as heretofore issued, are superseded to the extent to which they are inconsistent with the provisions of this order. In all other respects the provisions of such regulations, orders, directions, and amendments shall remain in full force and effect.

Sec. 5. Directives. BDSA may, from time to time, issue production, allocation, and other directives to producers. Each producer who receives such a directive shall comply therewith.

Sec. 6. Opening of order books. (a) Each producer shall open his order books for the acceptance of authorized controlled material orders and further converter orders for nickel alloy products for each calendar quarter not later than the number of days prior to the first day of the quarter as shown in the following schedule:

For nickel alloy products with lead time of (days) (see Table I of this order):	Books opened prior to first day of quarter, not later than (days)
60	105
75	120
90	135
105	150
120	165

(b) A producer may open his order books for the purpose of accepting authorized controlled material orders and

further converter orders for any calendar quarter as long in advance of the periods set forth in paragraph (a) of this section as he may choose, but after his order books are opened he shall accept such orders as provided in section 7 of this order.

Sec. 7. Acceptance of orders. (a) During the period extending from the date of opening his books until the commencement of lead time for the particular nickel alloy product involved, each producer shall, unless otherwise directed by BDSA, accept authorized controlled material orders and further converter orders for nickel alloy products produced by him, except as provided in section 8 of this order.

(b) Each producer shall, after receipt of any authorized controlled material order tendered to him, promptly accept or reject such order. Receipt of an order shall not be deemed to have occurred until the order is received at the place where the producer usually processes such order. Upon such acceptance or rejection, he shall immediately notify, by letter or by telegram, the person who tendered the order, of such acceptance or rejection. For the purpose of this paragraph, the word "promptly" shall mean as soon as possible, but in no event later than 10 consecutive calendar days after receipt.

Sec. 8. Rejection of authorized controlled material orders. Unless otherwise specifically directed by BDSA, a producer may reject an authorized controlled material order in any of the following cases:

(a) If the person seeking to place the order is unwilling or unable to meet such producer's regularly established prices and terms of sale or payment.

(b) If the order tendered by a distributor is not in accordance with section 11 (b) of this order, or if the order tendered by a further converter is not in accordance with section 10 of this order.

(c) If the order calls for delivery of any nickel alloy product in a particular month and is received after the commencement of lead time for that product for the month involved, as set forth in column B of Table I of this order.

Sec. 9. Priority status of delivery orders. (a) Except as provided in paragraph (b) of this section, authorized controlled material orders and further converter orders for nickel alloy products shall take precedence over all other delivery orders for such products, and shall be shipped during the accepted shipment month, or in accordance with section 21 (f) of DMS Regulation No. 1 within 15 days prior to such month. All authorized controlled material orders and further converter orders shall have equal preferential status: *Provided, however*, That, if due to circumstances beyond the control of a producer, or for any other reason, shipment of all such orders during the accepted shipment month is not made, then authorized controlled material orders and further converter orders carried over from any previous month, shall take precedence over other authorized controlled material orders and further converter orders for the same nickel

alloy product calling for delivery during the current month involved.

(b) A delivery order for nickel alloy products placed pursuant to a directive issued by BDSA shall take precedence over any other delivery order previously or subsequently received, unless a contrary instruction appears in the directive.

Sec. 10. Further converters. In obtaining nickel alloy products to fill authorized controlled material orders or to replace in his inventory such products used by him to fill authorized controlled material orders, a further converter shall place further converter orders with his regular supplier or suppliers of such products. Such further converter orders are hereby designated as authorized controlled material orders and shall be certified by the further converter as provided in section 20 of DMS Regulation No. 1. In placing such orders, the further converter shall indicate thereon the allotment symbol "FC" and the calendar quarter in which delivery of the nickel alloy products is required: *Provided, however,* That such orders may be placed only for the purpose of obtaining material required to fill authorized controlled material orders already accepted at the time of placement thereof, or for the purpose of replacing in inventory material used within the same calendar quarter or the immediately preceding calendar quarter to fill authorized controlled material orders.

Sec. 11. Acceptance of orders and replacement of inventory by distributors. (a) Subject to the limitations set forth in this order and in applicable DMS regulations, every distributor shall accept all authorized controlled material orders.

(b) Commencing October 1, 1956, and during each succeeding calendar month thereafter, any distributor who has delivered nickel alloy products from his inventory after September 30, 1956, to fill authorized controlled material orders or any distributor located in the Dominion of Canada or in any province thereof who has delivered nickel alloy products from his inventory to fill atomic energy or defense orders, may obtain nickel alloy products to replace in inventory the nickel alloy products delivered pursuant to such orders, by affixing the allotment number D-8 to the purchase order he places with his regular supplier of such products in the United States. Such purchase orders are hereby designated as authorized controlled material orders and shall be certified by the distributor as provided in section 20 of DMS Regulation No. 1, except that in the case of a Canadian distributor, they shall be certified as provided in section 5 of BDSA Reg. 3. In placing such authorized controlled material orders, the distributor shall indicate thereon the allotment number D-8 and the calendar quarter in which delivery of the nickel alloy products is required: *Provided, however,* That authorized controlled material orders placed by a distributor pursuant to this section shall call only for delivery of a quantity of each nickel alloy product no greater than the quantity of such product which such distribu-

tor delivered from his inventory pursuant to authorized controlled material orders or to fill atomic energy or defense orders in the case of Canadian distributors: *And provided further,* That the allotment number D-8 may be used to place orders for nickel alloy products pursuant to this paragraph only in the calendar quarter in which they were taken from inventory or in the immediately succeeding calendar quarter.

Sec. 12. Direct shipments by distributors. Nothing in this order shall prevent a distributor who normally acts as authorized agent of a producer from acting not only in the capacity of a distributor as defined in section 2 of this order, but also as an agent of a producer for the purpose of receiving and transmitting to such producer authorized controlled material orders for direct shipment by the producer to the person placing such order.

Sec. 13. Records and reports. (a) Each person participating in any transaction covered by this order shall make, and preserve for at least 3 years thereafter, accurate and complete records of receipts and deliveries in sufficient detail to permit the determination, after audit, whether each transaction complies with the provisions of this order. This order does not specify any particular accounting method and does not require alteration of the system of records customarily used, provided such records supply an adequate basis for audit. Records may be retained in the form of microfilm or other photographic copies instead of the originals.

(b) Persons subject to this order shall make such records and submit such reports to BDSA as it shall require, subject to the terms of the Federal Reports Act of 1942 (5 U. S. C. 139-139F).

Sec. 14. Requests for adjustment or exception. Any person subject to any provision of this order may file a request for adjustment or exception upon the ground that such provision works an undue or exceptional hardship upon him not suffered generally by others in the same trade or industry, or that its enforcement against him would not be in the interest of the national defense or in the public interest. The filing of a request for adjustment or exception shall not relieve any person of his obligation to comply with any such provision. In examining requests for adjustment or exception claiming that the public interest is prejudiced by the application of any provision of this order, consideration will be given to the requirements of public health and safety, civilian defense, and dislocation of labor and resulting unemployment that would impair the defense program. Each request shall be in writing, by letter in triplicate, shall set forth all pertinent facts and the nature of the relief sought, and shall state the justification therefor.

Sec. 15. Communications. All communications concerning this order shall be addressed to the Business and Defense

Services Administration, Washington 25, D. C., Ref: BDSA Order M-1B.

Sec. 16. False statements. The furnishing of false information or the concealment of any material fact in the course of operation under this order constitutes a violation of this order.

Sec. 17. Violations. Violation of any provision of this order may subject any person committing or participating in such violation to administrative action to require compliance with this order and correction of such violation. In addition to such administrative action, an injunction and order may be obtained prohibiting any such violation and enforcing compliance with the provisions hereof. Any person who wilfully violates any provision of this order, or who wilfully furnishes false information or conceals any material fact in the course of operation under this order, is guilty of a crime and upon conviction may be punished by fine or imprisonment or both.

This order shall take effect June 29, 1956.

BUSINESS AND DEFENSE
SERVICES ADMINISTRATION,
CHAS. F. HONEYWELL,
Administrator.

TABLE I OF BDSA ORDER M-1B—NICKEL ALLOYS TO WHICH THIS ORDER APPLIES

Column A	Column B
Name of Product	Number of days in advance of first day of month in which shipment is required
Rods and bars:	
Hot rolled.....	90
Forging quality.....	105
Cold finished.....	120
Sheet and strip:	
Hot rolled.....	90
Cold rolled.....	120
Foil.....	120
Plate.....	90
Pipe, tubing.....	120
Wire.....	120
Other mill forms:	
Ingot.....	75
Blooms, slabs, billets.....	75
Wire rod.....	90
Anodes:	
Roller.....	60
Cast.....	60
Powder (produced mechanically from nickel shot).....	90
Castings (Gee gates and risers, rough as cast).....	90
Shapes and forms not listed above.....	(*)

* By direct negotiation between producer and customer.
[F. R. Doc. 56-5809; Filed, July 2, 1956;
8:55 a. m.]

TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration PART 21—VOCATIONAL REHABILITATION AND EDUCATION

MISCELLANEOUS AMENDMENTS

1. In § 21.2005, paragraph (a) (1) is amended to read as follows:

§ 21.2005 *Definitions.* (a) * * *
(1) The term "basic service period" means the period beginning on June

27, 1950, and ending on January 31, 1955, except that with respect to persons in the active service in the Armed Forces on January 31, 1955, such term for the purpose of initiating a program of education or training (sec. 212 (a), Public Law 550, 82d Cong., as amended by Public Law 610, 83d Cong.) means the period beginning on June 27, 1950, and ending on the date of the person's first unconditional discharge or release from such service after January 31, 1955. As to a person who was in the active service in the Armed Forces on January 31, 1955, and whose first discharge or release from such service after that date was of a conditional nature, i. e., exclusively for administrative purposes, the term "basic service period" for the purpose of determining the duration of entitlement to education and training (sec. 214 (a), Public Law 550, 82d Cong.) means the period beginning June 27, 1950, and ending as of the date such person's enlistment or obligated period of service would ordinarily have expired had he not been so conditionally discharged or released. The term "unconditional discharge or release" is interpreted to mean a discharge or release from active service which relieves the recipient thereof from any obligation for continued active service. A discharge or release from active service given solely for administrative purposes, such as acceptance of appointment as a commissioned or warrant officer, or to reenlist in the Regular Establishment, etc. is a conditional discharge. A discharge which does not relieve a recipient from obligation for continued active service must be considered as a conditional discharge.

2. Section 21.2013 is amended to read as follows:

§ 21.2013 *Expiration of all education and training.* (a) No education or training shall be afforded an eligible veteran beyond 8 years after his discharge or release from active service, and in no event beyond January 31, 1965.

(b) The date of discharge or release from active service means the date of discharge or release from the last period of active service, any part of which occurs during the basic service period. The date of discharge or release for a person on active duty in the armed forces on January 31, 1955, will be fixed as of the date of his first unconditional discharge or release from active service occurring after the date of January 31, 1955.

3. In § 21.2014, that portion of paragraph (a) preceding subparagraph (1) is amended to read as follows:

§ 21.2014 *Duration of veteran's education or training—(a) Computation of entitlement.* Each eligible veteran shall have a period of basic entitlement to education or training under Public Law 550, 82d Congress, measured in months and days (or the equivalent thereof in part-time training). The basic entitlement shall be computed by multiplying one and one-half times the duration of the veteran's active service, whether performed in one or more active duty assignments during his basic service period.

In computing the duration of his active service, the following periods of time will be excluded:

4. Section 21.2901 is revoked:

§ 21.2901 *Entitlement to education or training benefits under the provisions of Title II, Public Law 550, 82d Congress, as amended, based upon active service occurring in the Armed Forces after the date January 31, 1955.* (Instruction 1, Public Law 7, 84th Cong.) [Revoked.]

(Sec. 2, 46 Stat. 1016, sec. 7, 48 Stat. 9, sec. 2, 57 Stat. 43, as amended, sec. 400, 58 Stat. 287, as amended; 38 U. S. C. 11a, 701, 707, ch. 12A. Interpret or apply secs. 3, 4, 57 Stat. 43, as amended, secs. 300, 1500-1504, 1506, 1507, 58 Stat. 286, 300, as amended, sec. 261, 66 Stat. 663; 38 U. S. C. 693g, 697-697d, 697f, g, 971, ch. 12A)

This regulation is effective July 3, 1956.

[SEAL] H. V. HIGLEY,
Administrator of Veterans Affairs.

[F. R. Doc. 56-5204; Filed, July 2, 1956; 8:45 a. m.]

TITLE 14—CIVIL AVIATION

Chapter I—Civil Aeronautics Board

[Reg. SR-406C]

PART 4b—AIRPLANE AIRWORTHINESS; TRANSPORT CATEGORIES

PART 40—SCHEDULED INTERSTATE AIR CARRIER CERTIFICATION AND OPERATION RULES

PART 41—CERTIFICATION AND OPERATION RULES FOR SCHEDULED AIR CARRIER OPERATIONS OUTSIDE THE CONTINENTAL LIMITS OF THE UNITED STATES

PART 42—IRREGULAR AIR CARRIER AND OFF-ROUTE RULES

SPECIAL CIVIL-AIR-REGULATION; APPLICATION OF TRANSPORT CATEGORY REQUIREMENTS TO C-46 TYPE AIRPLANES

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 28th day of June, 1956.

On June 30, 1954, the Civil Aeronautics Board adopted Special Civil Air Regulation No. SR-406, effective July 1, 1954, which provided for the modification and operation of C-46 type airplanes in passenger service. On June 7, 1955, the Board adopted Special Civil Air Regulation No. SR-406A, effective June 7, 1955, which added certain substantive and clarifying amendments to SR-406. On March 30, 1956, the Board adopted Special Civil Air Regulation No. SR-406B, effective April 1, 1956, which extended the date for modification of C-46 airplanes in passenger service from April 1, 1956, to July 1, 1956. The preamble material of these three Special Civil Air Regulations is incorporated herein by reference.

SR-406B provided only temporary relief from those provisions of Special Civil Air Regulation No. SR-406A which prevented the use of C-46 airplanes in passenger operations under Part 42 of the Civil Air Regulations on and after April 1, 1956, unless recertificated in accordance with the regulation. In SR-406B,

the Board indicated, that subject to persuasive reasons for failing, type certification had to be accomplished before July 1, 1956, and that, within the effective period of the regulation, the Board would determine a later end effective date by which recertification of these airplanes in the transport category must be completed. It was expressly stated that the later end effective date for recertification would depend on a bona fide showing of meeting the type certification requirements.

Since the adoption of Special Civil Air Regulation No. SR-406B, two type certificates have been issued under its provisions and one application for a type certificate has been received although complete data has not been submitted to the Civil Aeronautics Administration as of the date of adoption of this regulation, SR-406C.

In adopting SR-406B, the Board anticipated obtaining a schedule of modification of C-46 airplanes from the applicants for type certification. In its attempt to obtain this information, not only has the Board not received such a schedule, but has been advised that only a comparatively few operators have actual contractual agreements with holders of type certificates to accomplish the required modification.

The Board has previously stated that a final compliance date for modification would depend on a bona fide showing that the aircraft certification requirements will be met in the reasonably near future. However, in the absence of such a showing by more than a few operators, the Board must establish an end compliance date without the benefit of any complete and detailed modification schedules. In the only formal request for an extension of the effective date of these regulations which the Board has received, it is indicated that required modifications are expected to be completed by January 1, 1957. No other information available to the Board indicates that this is not a reasonable end effective date; therefore, January 1, 1957, is hereby established as the date when recertification is required.

Since October 1, 1955, the Administrator has been authorized to permit the continued operation of C-46 aircraft in passenger service on a showing by operators that "genuine and diligent efforts" have been made to accomplish the required modifications. In the light of the fact that there now exist at least two persons possessing type certificates on the basis of which such modifications may be made, there no longer appears to be any reason for not requiring the showing of a firm contract between the operator and the holder of such a type certificate indicating that the required modifications will be completed prior to January 1, 1957, prior to such operations. Accordingly, this Special Civil Air Regulation contains a requirement that before the Administrator is authorized to continue to permit operation of C-46 airplanes in passenger service, between July 1, 1956, and January 1, 1957, there must be a showing by the operator that he has a firm contract with the holder of a type certificate to complete modifica-

tions prior to January 1, 1957, except that the Administrator may authorize during the period July 1, 1956, through July 15, 1956, such operations without a showing of such firm contract where the Administrator has previously permitted such operations based on genuine and diligent efforts to complete the required modifications. In other words, the Administrator may authorize continued operations of C-46 airplanes in passenger service from July 1, 1956, to July 16, 1956, where he has previously given such authority. However, on and after July 16, 1956, the Administrator may authorize such continued operations only upon a showing by the operator that he has a firm contract with the holder of a type certificate to complete modifications prior to January 1, 1957.

As stated hereinbefore, all the preamble material pertinent to the application of transport category requirements to C-46 type airplanes appearing in SR-406, SR-406A, and SR-406B is incorporated herein by reference. However, in order to obviate any possible confusion as to which specific regulations are presently applicable to accomplish the recertification of the C-46 in passenger service, all such regulations are included in this Special Civil Air Regulation.

Since this regulation continues in effect the same rules as are presently applicable to C-46 type airplanes, with the exception of the compliance date listed herein, without diminution in safety standards, and since it would be in the public interest to prescribe rules to become effective on July 1, 1956, to permit the continuation of operation of C-46 type airplanes in passenger service, the Board finds that omission of notice and public procedure is not contrary to public interest and that good cause exists for making this regulation effective on less than 30 days' notice.

In consideration of the foregoing, the Civil Aeronautics Board hereby makes and promulgates the following Special Civil Air Regulation, effective July 1, 1956:

1. Contrary provisions of the Civil Air Regulations notwithstanding (in particular the provisions of § 42.15 (b) of Part 42), C-46 airplanes may be used in passenger operations conducted under Part 42 of the Civil Air Regulations. Such airplanes shall be operated in accordance with § 42.15 (a) of Part 42 and the provisions of this special regulation.

2. C-46 type airplanes, when used in passenger operations in accordance with paragraph 4 of this regulation, shall not be operated at weights exceeding those which are demonstrated to the Administrator will allow compliance with the performance requirements of Part 4b, except that in determining the maximum take-off weight, such weight shall be limited only to a value at which the airplane has a rate of climb equal to $0.035 V_{st}^2$ in the take-off configuration at sea level with the landing gear retracted but with the propeller of the inoperative engine feathered rather than windmilling.

3. Provisionally, pending a determination by the Administrator of the weights at which C-46 airplanes will meet the standards prescribed by paragraph 2 of this regulation, the maximum take-off weight of such airplanes, when used in the manner herein referred to, shall not exceed 44,300 pounds: *Provided*, That in the case of C-46 airplanes equipped

with Hamilton Standard propellers with blades Model Number 6491A-9 or approved equivalent which have been clipped in accordance with specifications approved by the Administrator, such provisional maximum weight shall be increased by 1,000 pounds until such time as the Administrator shall have determined by suitable tests another value to correspond to the additional efficiency obtainable by the use of such propellers, and thereafter by such other value.

4. The Administrator of Civil Aeronautics may authorize continued operation of C-46 airplanes in passenger service in accordance with paragraphs 2 and 3 of this regulation until January 1, 1957, if he finds that the applicant for such authorization has a bona fide, firm contract with the holder of a type certificate indicating that the required modifications will be completed prior to January 1, 1957, except that the Administrator may authorize during the period July 1, 1956, through July 15, 1956, such continued operation without a showing of such firm contract where the Administrator has previously permitted such operations based on genuine and diligent efforts to complete the required modifications. Such type certificate shall indicate that it meets the transport category requirements of Part 4b of the Civil Air Regulations in effect on July 20, 1950, with the exceptions authorized in SR-406A.

5. On and after July 1, 1956 (except as provided in paragraph 4), C-46 airplanes in passenger service shall comply with the provisions of Part 4b as in effect on July 20, 1950, except as otherwise provided hereinafter:

a. The provisions of §§ 4b.0 through 4b.19 of Part 4b, effective May 18, 1954, shall be complied with.

b. The provisions of §§ 4b.100 through 4b.190 need not be complied with.

c. The birdproof windshield requirements of § 4b.352 need not be complied with.

d. The provisions of §§ 4b.480 through 4b.490 effective May 16, 1953, shall be complied with in lieu of §§ 4b.480 through 4b.489 effective July 20, 1950, with the exception of subparagraph 4b.484 (a) (1) which shall be applicable as effective July 20, 1950, and paragraph 4b.487 (e) which has no counterpart in the 1950 regulations.

6. On and after January 1, 1957, C-46 airplanes in passenger service shall be recertificated in the transport category in accordance with paragraph 5 of this regulation, and shall comply with the provisions of §§ 4b.100 through 4b.190 with the following exception: In determining the take-off path in accordance with § 4b.116 and the one-engine-inoperative climb in accordance with § 4b.120 (a) and (b), the propeller of the inoperative engine may be assumed to be feathered if there is installed either an approved means for automatically indicating when the particular engine has failed or an approved means for automatically feathering the propeller of the inoperative engine.

7. In applying the provisions of paragraph 5 and 6 of this regulation, where literal compliance with the requirements of §§ 4b.130 through 4b.190 of Subpart B and Subparts C, D, E, and F of Part 4b is extremely difficult to accomplish, and where the Administrator finds that service experience with the C-46 type airplane so justifies, the Administrator may authorize deviations from specific details of these requirements, taking into account the effect of design changes.

8. On or after January 1, 1957, C-46 airplanes in passenger service shall be operated in accordance with the performance operating limitations applicable to transport category airplanes.

9. C-46 airplanes which comply with the provisions of paragraphs 5 and 6 of this regulation may be used in passenger operations conducted under the provisions of Parts 40 and 41 provided they are operated in accordance with paragraph 8.

10. This Special Civil Air Regulation supersedes Special Civil Air Regulation SR-406B.

(Sec. 205, 52 Stat. 984; 49 U. S. C. 425. Interpret or apply secs. 601, 603, 604, 52 Stat. 1007, 1009, 1010, as amended; 49 U. S. C. 551, 553, 554)

By the Civil Aeronautics Board.

[SEAL]

M. C. MULLIGAN,
Secretary.

[F. R. Doc. 56-5273; Filed, July 2, 1956; 8:52 a. m.]

Chapter II—Civil Aeronautics Administration, Department of Commerce

[Amdt. 11]

PART 600—DESIGNATION OF CIVIL AIRWAYS ALTERATIONS

The civil airway alterations appearing hereinafter have been coordinated with the civil operators involved, the Army, the Navy and the Air Force, through the Air Coordinating Committee, Airspace Panel, and are adopted to become effective when indicated in order to promote safety. Compliance with the notice procedures, and effective date provisions of section 4 of the Administrative Procedure Act would be impracticable and contrary to public interest and therefore is not required.

Part 600 is amended as follows:

1. Section 600.101 *Amber civil airway No. 1 (United States-Mexican Border to Nome, Alaska)* is amended by changing the portion which reads: "excluding the portion which overlaps the Fort Lewis, Wash., restricted area (R-244):" to read: "excluding the portion below 1,500 feet mean sea level which lies over Fort Lewis, Wash., restricted area (R-503) and the portion below 5,000 feet mean sea level which lies over Fort Lewis, Wash., restricted area (R-504):".

2. Section 600.107 *Amber civil airway No. 7 (Key West, Fla., to United States-Canadian Border)* is amended between the Charleston, S. C., and Raleigh, N. C., radio range stations to read: "Charleston, S. C., radio range station; the intersection of the northeast course of the Charleston, S. C., radio range and the south course of the Florence, S. C., radio range; Florence, S. C., radio range station; the intersection of the north course of the Florence, S. C., radio range and the southwest course of the Raleigh, radio range; Raleigh, N. C., radio range station;"

3. Section 600.216 is amended by changing caption to read: "*Red civil airway No. 16 (Tallahassee, Fla., to Raleigh, N. C.)*" and by changing the last portion to read: "From the Augusta, Ga., radio range station via the Columbia, S. C., radio range station; the intersection of the east course of the Columbia, S. C., radio range and the south course of the Florence, S. C., radio range; Florence, S. C., radio range station; Lumberton, N. C., nondirectional radio beacon; the intersection of a line bearing 21° True from the Lumberton, N. C., nondirectional radio beacon and a line bearing 191° True from the Raleigh, N. C., radio

range station to the Raleigh, N. C., radio range station."

4. Section 600.274 is amended to read:

§ 600.274 *Red civil airway No. 74 (New Orleans, La., to Bay Minette, Ala.)*. From the intersection of the east course of the New Orleans, La., radio range with a line bearing 225° True from the Bay Minette, Ala., nondirectional radio beacon to the Bay Minette, Ala., nondirectional radio beacon.

5. Section 600.603 *Blue civil airway No. 3 (Miami, Fla., to Sault Ste Marie, Mich.)* is amended by changing the portion which reads: "Cross City, Fla., radio range to the intersection of the northwest course of the Cross City, Fla., radio range and the east course of the Tallahassee, Fla., radio range." to read: "Cross City, Fla., radio range station to the Tallahassee, Fla., radio range station, excluding the portion above 19,000 feet mean sea level which lies within the Tyndall AFB restricted area (R-336) between sunset and sunrise."

6. Section 600.6001 *VOR civil airway No. 1 (Charleston, S. C. to New York, N. Y.)* is amended by changing the first portion to read: "From the Charleston, S. C., omnirange station via the Myrtle Beach, S. C., omnirange station; Wilmington, N. C., omnirange station; New Bern, N. C., omnirange station; Cofield, N. C., omnirange station; intersection of the Cofield omnirange 058° true radial and the southwest course of the Norfolk, Va., ILS localizer; Norfolk, Va., ILS localizer; to the point of intersection of the Norfolk ILS localizer northeast course and the Norfolk, Va., VAR north course, excluding the portion of this airway above 5,500 feet mean sea level within 60 statute miles of a point at latitude 34°54'30", longitude 76°53'00", daily from sunset to sunrise."

7. Section 600.6007 *VOR civil airway No. 7 (Miami, Fla., to Green Bay, Wis.)* is amended by changing all before the Muscle Shoals, Ala., omnirange station to read: "From the Miami, Fla., omnirange station via the Fort Myers, Fla., omnirange station; Lakeland, Fla., omnirange station, including an east alternate via the intersection of the Fort Myers omnirange 035° True and the Lakeland omnirange 161° True radials; Cross City, Fla., omnirange station, including a west alternate from the Fort Myers omnirange station to the Cross City omnirange station via the Tampa, Fla., omnirange station and the intersection of the Tampa omnirange 012° True and the Cross City omnirange 150° True radials; Tallahassee, Fla., omnirange station; Marianna, Fla., omnirange station, including a west alternate from the Cross City omnirange station to the Marianna omnirange station via the intersection of the Cross City omnirange 287° True and the Marianna omnirange 141° True radials; Dothan, Ala., terminal omnirange station; intersection of the Dothan terminal omnirange 336° True and the Montgomery omnirange 123° True radials; Montgomery, Ala., omnirange station; Birmingham, Ala., omnirange station, including an east alternate via the intersection of the Montgomery omnirange 358° True and the Birmingham omnirange 138° True

radials and also a west alternate; intersection of the Birmingham omnirange 358° True and the Muscle Shoals omnirange 129° True radials; Muscle Shoals, Ala., omnirange station;".

8. Section 600.6023 *VOR civil airway No. 23 (San Diego, Calif., to Bellingham, Wash.)* is amended by adding a new last sentence to read: "The portion of this airway below 1,500 feet above mean sea level which overlaps the Fort Lewis restricted area (R-503) and the portion of this airway below 5,000 feet above mean sea level which overlaps the Fort Lewis restricted area (R-504) are excluded."

9. Section 600.6097 *VOR civil airway No. 97 (Miami, Fla., to Alexandria, Minn.)* is amended by changing the portion which reads: "Tallahassee, Fla., omnirange station, including an east alternate from the Tampa omnirange station to the Tallahassee omnirange station via the intersection of the Tampa omnirange 331° True and the Cross City omnirange 182° True radials, the Cross City, Fla., omnirange station and the intersection of the Cross City omnirange 287° True and the Tallahassee omnirange 150° True radials;" to read: "Tallahassee, Fla., omnirange station, including an east alternate from the Tampa omnirange station to the Tallahassee omnirange station via the intersection of the Tampa omnirange 331° True and the Cross City omnirange 182° True radials and the Cross City, Fla., omnirange station;".

10. Section 600.6099 *VOR civil airway No. 99 (Newport, Oreg., to Vancouver, British Columbia)* is amended by changing the portion which reads: "to the Vancouver, British Columbia, radio range station, excluding the portion which overlaps the Fort Lewis restricted area." to read: "to the Vancouver, British Columbia, radio range station, excluding the portion of this airway, below 14,000 feet above mean sea level, which overlaps the Fort Lewis restricted area (R-505)."

11. Section 600.6194 *VOR civil airway No. 194 (Royston, Ga., to Norfolk, Va.)* is amended by changing all after the Charlotte, N. C., omnirange station to read: "Charlotte, N. C., omnirange station; Raleigh, N. C., omnirange station; Rocky Mount, N. C., omnirange station, including a south alternate via the intersection of the Raleigh omnirange 116° True and the Rocky Mount omnirange 237° True radials; Cofield, N. C., omnirange station; point of intersection of the Cofield omnirange 058° True and the Norfolk ILS localizer southwest course; Norfolk, Va., ILS localizer; to the point of intersection of the Norfolk ILS localizer northeast course and the Norfolk, Va., VAR north course."

12. Section 600.6208 is amended to read:

§ 600.6208 *VOR civil airway No. 208 (Los Angeles, Calif., to Needles, Calif.)*. From the Los Angeles, Calif., omnirange station via the intersection of the Los Angeles omnirange 185° True and the Oceanside omnirange 280° True radials; Oceanside, Calif., omnirange station; point of intersection of the Oceanside 101° True and the San Diego, Calif., omnirange 046° True radials; Thermal,

Calif., omnirange station; to the Needles, Calif., omnirange station.

13. Section 600.6241 is added to read:

§ 600.6241 *VOR civil airway No. 241 (Kinston, N. C., to Cofield, N. C.)*. From the point of intersection of the Wilmington, N. C. omnirange 005° True and the New Bern, N. C., omnirange 297° True radials to the Cofield, N. C., omnirange station.

14. Section 600.6243 is added to read:

§ 600.6243 *VOR civil airway No. 243 (Chattanooga, Tenn. to Bowling Green, Ky.)*. From the Chattanooga, Tenn., omnirange station to the Bowling Green, Ky., omnirange station.

15. Section 600.6244 is added to read:

§ 600.6244 *VOR civil airway No. 244 (Crestview, Fla., to Dothan, Ala.)*. From the Crestview, Fla., omnirange station via the intersection of the Crestview omnirange 076° true and the Dothan terminal omnirange 240° true radials; to the Dothan, Ala., terminal omnirange station. The portion of this airway above 19,000 feet above mean sea level, which lies within the Tyndall AFB restricted area (R-336), is excluded daily between sunset and sunrise.

(Sec. 205, 52 Stat. 984, amended; 49 U. S. C. 425. Interpret or apply sec. 302, 52 Stat. 985, as amended; 49 U. S. C. 452)

This amendment shall become effective 0001 e. s. t. July 26, 1956.

[SEAL]

C. J. LOWEN,
Administrator of Civil Aeronautics.

[F. R. Doc. 56-3237; Filed, July 2, 1956; 8:45 a. m.]

[Amdt. 11]

PART 601—DESIGNATION OF CONTROL AREAS
CONTROL ZONES, AND REPORTING POINTS

ALTERATIONS

The control area, control zone and reporting point alterations appearing hereinafter have been coordinated with the civil operators involved, the Army, the Navy and the Air Force, through the Air Coordinating Committee, Airspace Panel, and are adopted to become effective when indicated in order to promote safety. Compliance with the notice, procedures, and effective date provisions of section 4 of the Administrative Procedure Act would be impracticable and contrary to public interest and therefore is not required.

Part 601 is amended as follows:

1. Section 601.216 is amended to read:

§ 601.216 *Red civil airway No. 16 control areas (Tallahassee, Fla., to Raleigh, N. C.)*. All of Red civil airway No. 16.

2. Section 601.1025 *Control area extension (New Orleans, La.)* is amended by changing the words which read: "and on the north by Green civil airway No. 6;" to read: "and on the north by Red civil airway No. 30;".

3. Section 601.1086 is amended to read:

§ 601.1086 *Control area extension (Memphis, Tenn.)*. That airspace within a 50-mile radius of the Memphis

radio range station lying in the south-east, southwest and northwest quadrants of the radio range and that airspace within an arc 45 miles in radius from the Memphis NAS radio range station bounded on the west and northwest by VOR civil airway No. 11 and on the southeast by Green civil airway No. 5.

4. Section 601.1125 is amended to read:

§ 601.1125 *Control area extension (Tallahassee, Fla.)*. That airspace bounded on the north by VOR civil airway No. 22, on the east by VOR civil airway No. 159 and on the south and west by VOR civil airway No. 7W, excluding the portion above 19,000 feet mean sea level between sunset and sunrise which lies within Tyndall AFB restricted area (R-336).

5. Section 601.1133 is amended to read:

§ 601.1133 *Control area extension (Seattle, Wash.)*. That airspace within a 30-mile radius of the Seattle-Tacoma International Airport, excluding the portion below 1,500 feet mean sea level which lies over Fort Lewis restricted area (R-503), below 5,000 feet mean sea level which lies over Fort Lewis restricted area (R-504), and below 14,000 feet mean sea level which lies over Fort Lewis restricted area (R-505); that airspace south-southwest of Seattle bounded on the south by latitude 46°35'00", on the west by longitude 123°03'00" and on the north-north-east by Blue civil airway No. 71; that airspace north of Seattle bounded on the south by Red civil airway No. 79, on the east by Green civil airway No. 10, and on the northwest by a line extending from a point at latitude 48°02'00", longitude 122°26'00" to a point at latitude 47°55'00", longitude 122°32'00".

6. Section 601.1265 is added to read:

§ 601.1265 *Control area extension (Edenton, N. C.)*. That airspace bounded on the west by Amber civil airway No. 9, on the north by the Norfolk, Va., control area extension (§ 601.1149), on the northeast by Red civil airway No. 34 and the Elizabeth City, N. C., control area extension (§ 601.1181), on the southeast by the northwest shore of Pamlico Sound, and on the south by the Cherry Point restricted area (R-123), excluding the portions which overlap Albemarle Sound restricted areas R-1, R-2, R-3, R-6, R-7, R-8 and R-9.

7. Section 601.1283 is amended to read:

§ 601.1283 *Control area extension (Toledo, Wash.)*. Within 5 miles either side of the east course of the Toledo radio range extending from the radio range station to a point 20 miles east and within 5 miles either side of the west course of the radio range extending from the radio range station to a point 25 miles west, excluding the portion which overlaps restricted areas.

8. Section 601.1320 *Control area extension (Cross City, Fla.)* is amended by adding the following portion to present control area extension: "and within 5 miles either side of the 242° True radial

of the Cross City omnirange extending from the omnirange station to the eastern boundary of VOR civil airway Nos. 35 and 97."

9. Section 601.1331 is amended to read:

§ 601.1331 *Control area extension (Tacoma, Wash.)*. That airspace within a 40-nautical-mile radius of McChord Air Force Base excluding the following: the portions which overlap Hood Canal Caution Area (C-243) and VOR civil airway No. 27, the portion which conflicts with Olympic Peninsula restricted area (R-241), the portions below 1,500 feet mean sea level which lie over Fort Lewis restricted area (R-503), below 5,000 feet mean sea level which lie over Fort Lewis restricted area (R-504) and below 14,000 feet mean sea level which lie over Fort Lewis restricted area (R-505).

10. Section 601.1387 *Control area extension (Fayetteville, N. C.)* is revoked.

11. Section 601.1387 is added to read:

§ 601.1387 *Control area extension (Blytheville, Ark.)*. That airspace northwest of the Blytheville Air Force Base bounded on the east by VOR civil airway No. 9, on the south by VOR civil airway No. 140, on the west by VOR civil airway No. 69, and on the north by a line extending through a point at latitude 36°21'00", longitude 90°04'00" and a point at latitude 36°32'00", longitude 90°40'00".

12. Section 601.1403. *Control area extension (Yakutat, Alaska)* is amended by changing the last word from "southwest" to "Southeast."

13. Section 601.1984 *Five-mile radius zones* is amended by deleting the following airport: Memphis, Tenn.: Naval Air Station.

14. Section 601.2180 *Oakland, Calif., control zone*, is amended by changing the name "Newark fan marker" to read: "Fremont fan marker."

15. Section 601.2199 is amended to read:

§ 601.2199 *Syracuse, N. Y., control zone*. Within a 5-mile radius of the Clarence E. Hancock Airport, within 2 miles either side of the Syracuse ILS localizer east course extending from the localizer to a point 10 miles east of the outer marker, within 2 miles either side of a direct line extending westward from the airport to the Syracuse radio range station thence within 2 miles either side of the west course of the radio range extending from the radio range station to a point 10 miles west, and the airspace within 2 miles either side of the 120° True and 300° True radials of the Syracuse omnirange extending to a point 10 miles northwest of the omnirange station.

16. Section 601.2251 is amended to read:

§ 601.2251 *Albany, Ga., control zone*. Within a 5-mile radius of the Albany Municipal Airport, within 2 miles either side of the 155° True and 335° True radials of the Albany omnirange extending from the Municipal Airport control

zone to a point 10 miles northwest of the omnirange station, within a 5-mile radius of Turner Air Force Base, within 2½ miles either side of a line extending from Turner AFB to the Doles nondirectional beacon, and within 2 miles either side of the east and south courses of the Albany radio range extending from the radio range station to points 10 miles east and south of the radio range station.

17. Section 601.2281 is amended to read:

§ 601.2281 *Tacoma, Wash., control zone*. Within a 5-mile radius of McChord Air Force Base, Tacoma, Wash., excluding the portion below 1,500 feet mean sea level which lies over Fort Lewis restricted area (R-503).

18. Section 601.2383 is added to read:

§ 601.2383 *Memphis, Tenn., control zone*. Within a 5-mile radius of the Memphis Naval Air Station and within 2 miles either side of the southwest and northeast courses of the Memphis NAS radio range extending from the 5-mile radius control zone to the Gainesville nondirectional radio beacon.

19. Section 601.2384 is added to read:

§ 601.2384 *Blytheville, Ark., control zone*. Within a 5-mile radius of the Blytheville Air Force Base and within 2 miles either side of a line extending from the Air Force Base to a point 2 miles north of the Blytheville nondirectional radio beacon.

20. Section 601.4107 *Amber civil airway No. 7 (Key West, Fla., to United States-Canadian Border)* is amended by deleting the following reporting point: "Lumberton, N. C., nondirectional radio beacon;"

21. Section 601.4216 is amended to read:

§ 601.4216 *Red civil airway No. 16 (Tallahassee, Fla., to Raleigh, N. C.)*. Albany, Ga., radio range station; Columbia, S. C., radio range station; Lumberton, N. C., nondirectional radio beacon.

22. Section 601.6007 is amended to read:

§ 601.6007 *VOR civil airway No. 7 control areas (Miami, Fla., to Green Bay, Wis.)*. All of VOR civil airway No. 7 including east and west alternates, but excluding all that airspace below 2,000 feet above mean sea level which lies beyond the continental limits of the United States and also excluding the airspace between the main airway and its west alternate between the Cross City, Fla., omnirange station and the Marianna, Fla., omnirange station.

23. Section 601.6097 is amended to read:

§ 601.6097 *VOR civil airway No. 97 control areas (Miami, Fla., to Alexandria, Minn.)*. All of VOR civil airway No. 97 including east and west alternates, but excluding all the airspace below 2,000 feet above mean sea level which lies beyond the continental limits of the United States.

24. Section 601.6208 is amended to read:

§ 601.6208 VOR civil airway No. 208 control areas (Los Angeles, Calif., to Needles, Calif.). All of VOR civil airway No. 208.

25. Section 601.6241 is added to read: § 601.6241 VOR civil airway No. 241 control areas (Kinston, N. C., to Cofield, N. C.). All of VOR civil airway No. 241.

26. Section 601.6243 is added to read: § 601.6243 VOR civil airway No. 243 control areas (Chattanooga, Tenn., to Bowling Green, Ky.). All of VOR civil airway No. 243.

27. Section 601.6244 is added to read: § 601.6244 VOR civil airway No. 244 control areas (Crestview, Fla., to Dothan, Ala.). All of VOR civil airway No. 244.

28. Section 601.7001. VOR Domestic reporting points is amended by adding the following reporting points to read:

Dothan, Ala., terminal omnirange station.
Cofield, N. C., omnirange station:

by changing the following reporting point to read:

Avalon Intersection: The intersection of the Oceanside, Calif., omnirange 280° True and the Long Beach, Calif., omnirange 200° True radials.

and by revoking the following reporting point:

Harrelsville Intersection: The intersection of the Williamston, N. C., VAR north course and the Rocky Mount, N. C., omnirange 064° True radial.

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

This amendment shall become effective 0001 e. s. t. July 26, 1956.

[SEAL] C. J. LOWEN,
Administrator of Civil Aeronautics.

[F. R. Doc. 56-5238; Filed, July 2, 1956; 8:45 a. m.]

[Amdt. 169]

PART 608—RESTRICTED AREAS
ALTERATIONS

The restricted area alterations appearing hereinafter have been coordinated with the civil operators involved, the Army, the Navy and the Air Force, through the Air Coordinating Committee, Airspace Panel, and are adopted to become effective when indicated in order to promote safety of the flying public. Since a military function of the United States is involved, compliance with the notice, procedure, and effective date, provisions of section 4 of the Administrative Procedure Act is not required.

Part 608 is amended as follows:

1. In § 608.20 The Craters of the Moon, Idaho, area (R-458 formerly D-458), published on May 29, 1954, in 19 F. R. 3183, is rescinded.

2. In § 608.34, A Virgelle, Mont., area (R-507), is added to read:

Name and location (chart)	Description by geographical coordinates	Designated altitudes	Time of designation	Controlling agency
Virgelle Bombing and Gunnery Range (R-507) (Butte, Glacier Park)	Beginning at latitude 48°07'45", longitude 110°04'00"; thence to latitude 47°46'50", longitude 109°53'40"; thence to latitude 47°44'00", longitude 110°06'00"; thence to latitude 48°07'45", longitude 110°17'30"; thence to point of beginning.	50,000 feet mean sea level.	Daylight hours.	Malmstrom Air Force Base, Mont.

3. In § 608.55, the Coulee Dam, Wash., area (R-248 formerly D-248), amended on October 31, 1951, in 16 F. R. 11066, is redesignated as follows:

Name and location (chart)	Description by geographical coordinates	Designated altitudes	Time of designation	Controlling agency
Coulee Dam, Wash. (R-248) (Spokane, Kootenai, Seattle)	Beginning at Tonasket, Wash.; thence on a direct line to Colville, Wash.; thence due south to latitude 48°21'00", longitude 117°54'00"; thence counterclockwise along an arc of 45 nautical miles radius centered on Fairchild Air Force Base to a point at latitude 47°44'35", longitude 118°44'00"; thence on a direct line to Entiat, Wash.; thence northeasterly along the Columbia River to its junction with the Okanogan River, thence northerly along the Okanogan River to point of beginning.	All airspace above 20,000 feet mean sea level.	Continuous.	Ninth Air Division (Defense), Geiger Field, Spokane, Wash.

4. In § 608.52, the Wendover, Utah, No. 3 area (R-508) is added to read:

Name and location (chart)	Description by geographical coordinates	Designated altitudes	Time of designation	Controlling agency
Wendover, Restricted Area No. 3 (R-508) (Elko)	Beginning at latitude 40°30'30", longitude 114°14'00"; thence to latitude 40°38'00", longitude 114°07'40"; thence to latitude 40°38'00", longitude 114°00'00"; thence to latitude 40°26'00", longitude 114°08'00"; thence to latitude 40°20'00", longitude 114°08'00"; thence to latitude 40°20'00", longitude 114°18'00"; thence to point of beginning.	Surface to 50,000 feet mean sea level.	Continuous.	Wendover Air Force Base, Utah.

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

This amendment shall become effective on July 20, 1956.

[SEAL] C. J. LOWEN,
Administrator of Civil Aeronautics.

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[Amdt. 169]

PART 608—RESTRICTED AREAS
ALTERATIONS

The restricted area alterations appearing hereinafter have been coordinated with the civil operators involved, the Army, the Navy and the Air Force, through the Air Coordinating Committee, Airspace Panel, and are adopted to become effective when indicated in order to promote safety of the flying public. Since a military function of the United States is involved, compliance with the notice, procedure, and effective date, provisions of section 4 of the Administrative Procedure Act is not required.

Part 608 is amended as follows:

1. In § 608.30, the Camp Lucas, Mich., area (R-467), amended on April 12, 1956, in 21 F. R. 2373, is further amended by changing the "Description by Geographical Coordinates" column to read: "Beginning at latitude 46°58'15" North, longitude 85°03'00" West; thence to latitude 46°53'30" North, longitude 84°51'30" West; thence to latitude 46°52'30" North, longitude 84°51'15" West; thence to latitude 46°49'00" North, longitude 84°54'30" West; thence to latitude 46°53'30" North, longitude 85°07'00" West; thence to point of beginning", and by changing the "Time of Designation" column to read: "Days, April 1 to November 30 annually".

2. In § 608.55, the Fort Lewis, Wash., area (R-244 formerly D-24), amended on January 3, 1951, in 16 F. R. 4 is rescinded.

3. In § 608.58, the Casper, Wyo., area (R-461 formerly D-461), amended on June 26, 1954, in 19 F. R. 3906, is further amended by changing the "Controlling Agency" column to read: "Adjutant General, Wyoming National Guard, Cheyenne, Wyo."

4. In § 608.55, a Fort Lewis, Wash., area (R-503), is added to read:

Name and location (chart)	Description by geographical coordinates	Designated altitudes	Time of designation	Controlling agency
Fort Lewis, Wash. (R-530) (Seattle).	From a point on Highway U. S. 99 at latitude 47°09'55", longitude 122°34'05"; southeasterly along road to Northern Pacific Railroad at latitude 47°05'25", longitude 122°30'15"; thence southerly along railroad to latitude 47°03'10", longitude 122°31'25"; thence northwesterly to the western edge of Victor Airway No. 23 at latitude 47°04'25", longitude 122°35'15"; thence northerly along the western edge of Victor Airway No. 23 to point of beginning at latitude 47°06'50", longitude 122°34'05".	Surface to 1,500 feet mean sea level.	Continuous.	Commanding General, Fort Lewis, Wash.

5. In § 608.55, a Fort Lewis, Wash., area (R-504), is added to read:

Name and location (chart)	Description by geographical coordinates	Designated altitudes	Time of designation	Controlling agency
Fort Lewis, Wash. (R-504) (Seattle).	From a point on the Northern Pacific Railroad at latitude 47°03'10", longitude 122°31'25", southerly along railroad to latitude 47°02'30", longitude 122°31'40"; thence east to latitude 47°02'30", longitude 122°31'00"; thence southerly to latitude 47°00'50", longitude 122°31'25"; thence west to the Northern Pacific Railroad at latitude 47°00'50", longitude 122°32'10"; thence southerly along the railroad to latitude 46°54'20", longitude 122°30'20"; thence northeasterly along the western edge of Victor Airway No. 23 to latitude 47°04'25", longitude 122°35'15"; thence southeasterly to point of beginning at latitude 47°03'10", longitude 122°31'25".	Surface to 5,000 feet mean sea level.	Continuous.	Commanding General, Fort Lewis, Wash.

6. In § 608.55, a Fort Lewis, Wash., area (R-505), is added to read:

Name and location (chart)	Description by geographical coordinates	Designated altitudes	Time of designation	Controlling agency
Fort Lewis, Wash. (R-505) (Seattle).	From a point along Highway U. S. 99 at latitude 47°05'25", longitude 122°38'10"; thence southeasterly to the western edge of Victor Airway No. 23 at latitude 47°04'25", longitude 122°39'15"; thence southwesterly along the western edge of Victor Airway No. 23 to latitude 46°54'20", longitude 122°39'20"; thence southwesterly along the Northern Pacific Railroad to town of Ranker, Washington at latitude 46°55'12", longitude 122°41'15"; thence northwesterly along road to road junction at latitude 46°57'12", longitude 122°46'47"; thence due north to Northern Pacific Railroad at latitude 46°59'32", longitude 122°46'47"; thence northeasterly along Railroad to Highway U. S. 99 at latitude 47°03'00", longitude 122°40'04"; thence northeasterly along Highway 99 to point of beginning at latitude 47°05'25", longitude 122°38'10".	Surface to 14,000 feet mean sea level.	Continuous.	Commanding General, Fort Lewis, Wash.

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

This amendment shall become effective on July 26, 1956.

[SEAL] C. J. LOWEN,
Administrator of Civil Aeronautics.

[F. R. Doc. 56-5240; Filed, July 2, 1956; 8:46 a. m.]

TITLE 42—PUBLIC HEALTH

Chapter I—Public Health Service, Department of Health, Education, and Welfare

Subchapter F—Quarantine, Inspection, Licensing

PART 73—BIOLOGIC PRODUCTS

ADDITIONAL STANDARDS: POLIOMYELITIS VACCINE

On February 9, 1956, a notice of proposed rule making with respect to the

licensing of biological products was published in the FEDERAL REGISTER (21 F. R. 906) inviting any interested parties to present written views or arguments respecting the proposed regulations there published. Notice was also given that it was proposed, for the protection of the public health, to make any regulations that were adopted effective upon their publication in the FEDERAL REGISTER.

Several views and suggestions have been received from representatives of drug manufacturers relating particularly to that portion of the proposed regulations that would establish additional standards for poliomyelitis vaccine. All of the views expressed have been carefully considered. On the basis of these and other considerations, it is deemed necessary, in order to assure the continued safety, purity and potency of biological products, to issue at this time the following amendments to Part 73 and, in

the public interest for the protection of the public health, to make such amendments effective upon their publication in the FEDERAL REGISTER.

1. Part 73 is hereby amended so that wherever in such part reference is made to "Federal Security Administrator" or "Administrator", such reference is changed to, respectively, "Secretary of Health, Education, and Welfare" or "Secretary".

2. Section 73.2 is amended to read as follows:

§ 73.2 *Applications.* To obtain a license for any establishment, biologic product or trivalent organic arsenical, the manufacturer shall make application to the Surgeon General on forms prescribed for such purpose, and in the case of an application for a product license, shall submit a description of the production methods, samples of the product and specimens of the labels, enclosures, and containers proposed to be used for such product. No product shall be licensed if any production method relating to such product would, in the judgment of the Surgeon General, impair the assurances of continued safety, purity and potency as provided by the regulations of this part.

3. Part 73 is further amended by the addition of the following new provisions constituting §§ 73.100 to 73.105, inclusive:

ADDITIONAL STANDARDS: POLIOMYELITIS VACCINE

§ 73.100 *The product—(a) Proper name and definition.* For the purpose of section 351 (a) (2) of the act and § 73.1 (j), the proper name of this product shall be "Poliomyelitis Vaccine", which shall consist of an aqueous preparation of poliomyelitis viruses types 1, 2, and 3, grown in monkey kidney tissue cultures, inactivated by a suitable method, and combined in equal proportions with a tolerance of five percent of the total volume, applied to one or more of the three components.

(b) *Strains of virus.* Strains of poliomyelitis virus used in the production of vaccine shall be identified by historical records, infectivity tests and immunological methods. Any strain of virus may be used that produces a vaccine meeting the safety and potency requirements of §§ 73.101, 73.102 and 73.103, but the Surgeon General may from time to time prohibit the use of any specific strain whenever he finds that it is practicable to use another strain of the same type that is potentially less pathogenic to man and that will produce a vaccine of equivalent safety and potency.

(c) *Monkeys.* Only cynomolgus or rhesus monkeys, or other species of equal suitability, in overt good health that have reacted negatively to tuberculin within two weeks prior to use, shall be used as the source of kidney tissue for the production of virus. Each animal shall be examined at necropsy under the supervision of a qualified pathologist for gross signs of disease and, if there is any gross pathological lesion of significance to their use in the preparation of the vaccine, the kidneys shall be discarded. Kidney tissue from monkeys that have been used previously for experimental

purposes shall not be used, except that monkeys in overt good health, used for the safety or potency tests with negative clinical findings (§§ 73.102 and 73.103) that have reacted negatively to tuberculin prior to such test, may be used within two weeks of the end of the test period.

§ 73.101 *Production of poliomyelitis vaccine*—(a) *Cultivation of virus.* Virus for preparing vaccine shall be grown with aseptic techniques in monkey kidney cell tissue cultures. Suitable antibiotics in the minimum concentration required may be used. If penicillin is used, not more than 200 units per milliliter may be added.

(b) *Filtration.* Within 72 hours preceding the beginning of inactivation, the virus suspensions shall be filtered or clarified by a method having an efficiency equivalent to that of filtration through an S1 Seitz type filter pad.

(c) *Virus titer.* The 50 percent end-point (TCID₅₀) of the virus fluids after filtration shall be 10⁻⁶ or greater as confirmed by comparison in a simultaneous test (using groups of 10 tubes at 1 log steps or groups of 5 tubes at 0.5 log steps) with a reference virus distributed by the National Institutes of Health. Acceptable titrations of the reference virus shall not vary more than ±10-fold from its labeled titer using 0.5 milliliter inoculum in tissue culture.

(d) *Inactivation of virus.* The virus shall be inactivated, as evidenced by the tests prescribed in § 73.102, through the use of an agent or method which has been demonstrated to the satisfaction of the Surgeon General to be consistently effective in the hands of the manufacturer in inactivating a series of lots of poliomyelitis virus. If formaldehyde is used for inactivation, it shall be added to the virus suspension to a final concentration of U. S. P. solution of formaldehyde of 1:4000, and the inactivation conducted under controlled conditions of pH and time, at a temperature of 36 to 38° C. Three or more virus titers, suitably spaced to indicate rate of inactivation, shall be determined during the inactivation process. Filtration equivalent to that described in paragraph (b) of this section shall be performed after the estimated base-line time (time at which the 50 percent end-point reaches 10⁻⁶), but prior to sampling for the first single strain tissue culture test required in § 73.102 (b).

(e) *Additional processing.* Single strain or trivalent pools that have failed to pass safety tests prescribed in § 73.102 (b), (c), or (e) may be treated as follows:

(1) Filtration of clarification by a method having an efficiency equivalent to that of filtration through an S1 Seitz type filter pad.

(2) Negative tests performed as described in § 73.102 (b) and (c) must be obtained on each of two successive samples taken so as to be separated by an interval of at least three days while the material is being subjected to treatment with 1:4000 U. S. P. formaldehyde solution and heat at 36°-38° C. The first sample may be taken before incubation is begun and the second sample is to be

taken after the incubation of at least 3 days is completed. In the case of single strain pools, the volume tested for each tissue culture safety test shall be at least 500 milliliters and in the case of trivalent pools, at least 1,500 milliliters.

(3) Pools which are positive following such additional processing shall not be used for the preparation of poliomyelitis vaccine.

(f) *Supplemental inactivation.* Supplemental inactivation employing a method capable of reducing the titer of a similarly produced virus suspension by a factor of 10⁻⁴ may be applied at any point after the filtration step described in paragraph (d) or (e) (1) of this section.

§ 73.102 *Tests for safety.* In the preparation of the product, the following tests relating to safety shall be conducted by the manufacturer.

(a) *The virus pool.* Prior to inactivation each virus pool shall be tested for the presence of B virus and Mycobacterium tuberculosis by suitable animal and culture methods.

(b) *Single strain pool tissue culture tests for poliomyelitis virus.* (1) During inactivation, before pooling to make the final poliomyelitis vaccine, each monovalent bulk strain pool shall be tested for the presence of virus by tissue culture methods. Two samples separated by an interval of at least three days during inactivation at 36°-38° C. shall be tested.

(2) No less than 500 milliliters of each sample shall be subjected to the complete testing process and each test shall be performed on a different monkey kidney tissue culture cell preparation. Each sample shall be inoculated into five or more tissue culture bottles of a suitable capacity, the ratio of the vaccine to the nutrient fluid being approximately 1:1 to 1:3, and the area of the surface growth of cells being at least 3 square centimeters per milliliter of vaccine. The tissue culture bottles shall be observed at least 14 days.

(3) A first subculture shall be made at the end of seven days from date of inoculation by planting at least 2 percent of the volume from each original bottle into suitable tissue culture containers, followed by refeeding.

(4) A second subculture shall be made from each original bottle in the same manner at the end of 14 days from date of inoculation.

(5) The first and second subcultures shall be each observed for at least seven days.

(6) If cytopathogenic effects occur either in the original bottles of the two tests or in the subcultures from them, or if cellular degeneration appears in the original bottles or in the subcultures before degeneration occurs in uninoculated cultures, the pool shall be held until the matter is resolved. If active poliomyelitis virus is indicated, the strain pool shall not be used for inclusion in a final vaccine unless effectively reprocessed as described in § 73.101 (e). If other viruses are present, the pool shall not be used unless it can be demonstrated that such viruses have originated from other than the strain pool being tested.

(c) *Trivalent vaccine pool tissue culture test.* No less than 1,500 milliliters of the trivalent vaccine pool, without final preservative, prepared by pooling the three type pools, each of which has passed all tests described in paragraph (b) of this section, shall be subjected to the complete tissue culture test prescribed in such paragraph in at least two approximately equal tests in separate monkey kidney tissue culture preparations.

(d) *Trivalent vaccine pool lymphocytic choriomeningitis test.* The final vaccine shall be shown to be free of lymphocytic choriomeningitis virus by intracerebral inoculation into 10 or more mice which shall be observed daily for at least 21 days and a negative test shall not be valid unless at least 8 mice survive for this period.

(e) *Final vaccine test for active virus in monkeys.* (1) Vaccine from a sufficient number of final containers selected at random from each filling of each lot shall be pooled to provide a test sample of at least 100 milliliters representing the filling.

(2) Where the number of fillings in a lot is four or more, a test sample from each filling shall be inoculated into a group of five or more monkeys. Where the number of fillings in a lot is less than four, test samples from the several fillings shall be inoculated into a total of not less than twenty monkeys. A pre-injection serum sample must contain no neutralizing antibody against the three poliomyelitis virus types in a dilution of 1:4 when tested against not more than 1,000 TCID₅₀ doses of virus. At least 80 percent of the test animals representing each filling must survive the test period without significant weight loss, except that if at least 60 percent of the test animals survive the first 48 hours after injection, those animals which do not survive this 48 hour period may be replaced by an equal number of test animals. If less than 60 percent of the test animals survive the first 48 hours, or if less than 80 percent of the animals representing each filling survive the test period without significant weight loss, the test must be repeated.

(3) Vaccine is injected by combined intracerebral, intraspinal, and intramuscular routes into rhesus or cynomolgus monkeys in overt good health, under deep barbiturate anesthesia. The intracerebral injection consists of 0.5 milliliter into the thalamic region of each hemisphere. The intraspinal injection consists of 0.5 milliliter into the lumbar spinal cord enlargement. The intramuscular injection consists of 1.0 milliliter into the right leg muscles. At the same time, an injection of 200 milligrams of cortisone acetate is given into the left leg muscles, and 1.0 milliliter of procaine penicillin (300,000 units) into the right arm muscles. The monkeys are observed for 17 to 19 days and symptoms suggestive of poliomyelitis are recorded.

(4) At the end of the observation period, samples of nervous tissue are taken for virus recovery and identification. Histological sections are prepared from both spinal cord enlargements and examined.

(5) The monkeys inoculated as described in § 73.103 (a) are sacrificed at the time of collection of the final serum samples described in § 73.103 (b). Histological sections are prepared from both spinal cord enlargements and examined.

(6) Doubtful histopathological findings necessitate (i) examination of a sample of sections from several regions of the brain in question, and (ii) attempts at virus recovery from the nervous tissues previously removed from the animal. The test is considered negative if the histological and other studies leave no doubt that poliomyelitis infection did not occur.

§ 73.103 *Potency test.* Each lot of vaccine shall be subject to a potency test which permits an estimation of the antigenic capacity of the vaccine. This is done by means of a simultaneous comparison of the antibody levels produced in monkeys by the vaccine under test with the antibody levels of reference serums distributed by the National Institutes of Health. The potency test shall be performed on samples taken after final processing of the trivalent pool including addition of preservative, and shall be conducted as follows:

(a) *Inoculation of monkeys.* A group of 12 or more rhesus or cynomolgus monkeys shall be used. Animals shall weigh between 4 and 8 pounds and shall be in overt good health. Animals that become ill and then remain ill during the course of immunization shall be excluded from the group. The test shall not be valid unless at least 8 survive the test period. The test vaccine shall be given intramuscularly to each monkey in 3 doses of 1.0 milliliter each at seven day intervals. Only undiluted vaccine shall be used. The initial intramuscular injection is accompanied by the intracerebral injection of 0.5 milliliter into the thalamic region of each hemisphere.

(b) *Serum samples.* A blood sample shall be taken from each monkey prior to vaccination and then again 7 days after the last injection. Serum shall be separated aseptically, and stored under refrigeration.

(c) *Serum-virus neutralization test.* The titers of individual monkey serums shall be determined in comparison with N. I. H. reference serums in tests designed to include controls for all the variables of significance including the following:

- (1) Serum toxicity control;
- (2) Cell control and cell titration;
- (3) Virus titration control (at least 4 tubes/dilution at 1/2 log steps); and
- (4) Serum controls using type-specific serums to identify the type of virus used in the neutralization test.

(d) *Interpretation of the test.* Animals showing preinoculation titers of 1/4 or over when tested against not more than 1,000 TCID₅₀ of virus, shall be ex-

cluded from the test. The geometric mean titer of antibody induced in the monkeys surviving the course of immunization and bleeding, shall be calculated. A comparison of the value so obtained shall be made with the values for the reference serums that were tested simultaneously and expressed as ratios between the mean titer values of the serums under test and the mean titer value of the reference serums.

(e) *Potency requirements.* A lot of vaccine tested against National Institutes of Health reference serums IIA, IIA 1/4, and IIA 1/16 shall be satisfactory if the geometric mean value of the group of individual monkey serums representing the lot of vaccine tested is at least 0.86 times the geometric mean value of the three reference serums for type 1, at least 0.75 times for type 2, and at least 0.48 times for type 3. In applying the foregoing requirements, a variation of 66% percent is acceptable.

§ 73.104 *General requirements—(a) Final container tests.* Tests shall be made on final containers for identity, safety, and sterility in accordance with § 73.70. In addition, the lot shall not be released unless the test for the presence of living poliomyelitis virus described in § 73.102 (e) is negative.

(b) *Extraneous protein.* Extraneous protein, capable of producing allergenic effects on injection into human subjects, shall not be added to the final virus production medium. If animal serum is used at any stage, its calculated concentration in the final medium shall not exceed 1:1,000,000.

(c) *Dose.* These additional standards are based on a human dose of 1.0 milliliter for a single injection and a total human immunizing dose of three injections of 1.0 milliliter given at appropriate intervals.

(d) *Labeling.* In addition to compliance with the requirements of §§ 73.50 to 73.55, inclusive, the label or the package enclosure shall include an appropriate statement indicating the type and amounts of antibiotics added, if any. The preservative used shall be stated on the label, as well as allergenic substances added, if any, and the source, composition and method of inactivation of the viruses.

(e) *Dating.* The expiration date shall not be more than six months after the date of manufacture or the date of issue. The date of issue shall not be more than three months after the date of manufacture as defined in § 73.78 (c).

(f) *Requirements for samples and reports.* For each lot of vaccine, the following material shall be submitted to the Division of Biologics Standards, National Institutes of Health, Bethesda 14, Maryland:

(1) A 2,500 milliliter sample, neutralized, not dialyzed, and without final

preservative, taken at the latest possible stage of production before the addition of such preservative.

(2) A 200 milliliter bulk sample of the final vaccine containing final preservative.

(3) A total of not less than 200 milliliter sample of the final vaccine in final labeled containers.

(4) Protocols showing the history of the lot and the results of the tests prescribed in these additional standards.

§ 73.105 *Equivalent methods.* Modification of any particular manufacturing method or process or the conditions under which it is conducted as set forth in the additional standards relating to poliomyelitis vaccine (§§ 73.100 to 73.104, inclusive) shall be permitted whenever the manufacturer presents evidence to demonstrate that such modification will provide equal or greater assurances of the safety, purity and potency of the vaccine as the assurances provided by such standards, and the Surgeon General so finds and makes such finding a matter of official record.

4. The additional standards relating to poliomyelitis vaccine (§§ 73.100 to 73.105, inclusive) shall be applicable to all virus pools and vaccine in process on the date of publication of these amendments in the FEDERAL REGISTER and thereafter: *Provided, however,* That compliance with any test, method or procedure otherwise required by such additional standards shall be waived as to such material to the extent the Surgeon General of the Public Health Service determines (i) that the production or processing of such material has proceeded to a stage at which it is impossible to comply with any such requirement, and (ii) that the manufacturer has provided evidence satisfactory to the Surgeon General of the use of tests, methods or procedures equivalent to such requirements in assuring the safety, purity and potency of the vaccine.

(Sec. 215, 58 Stat. 690; 42 U. S. C. 216. Interpret or apply sec. 351, 58 Stat. 702; 42 U. S. C. 262)

Issued jointly by:

[SEAL] LEONARD A. SCHEELE,
Surgeon General,
Public Health Service.
S. B. HAYS,
Surgeon General of the Army.
B. E. BRADLEY,
Acting Surgeon General of the Navy.

Approved: June 27, 1956.

M. B. FOLSOM,
Secretary of Health, Education,
and Welfare.

[F. R. Doc. 56-5241; Filed, July 2, 1956; 8:46 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR (1954) Part 1]

INCOME TAX; TAXABLE YEARS BEGINNING
AFTER DECEMBER 31, 1953

LOSSES AND BAD DEBTS

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth below in tentative form are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the 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 Commissioner of Internal Revenue, Attention: T:P, 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] RUSSELL C. HARRINGTON,
Commissioner of Internal Revenue.

The following regulations relating to losses and bad debts are hereby prescribed under sections 165 and 166, respectively, of the Internal Revenue Code of 1954, and are applicable to taxable years beginning after December 31, 1953, and ending after August 16, 1954:

Sec.	
1.165	Statutory provisions; losses.
1.165-1	Losses.
1.165-2	Amount of deduction in general.
1.165-3	Limitations on losses of individuals.
1.165-4	Wagering losses.
1.165-5	Theft losses.
1.165-6	Capital losses.
1.165-7	Worthless securities.
1.166	Statutory provisions; bad debts.
1.166-1	Bad debts.
1.166-2	Examples of bad debts.
1.166-3	Uncollectible deficiency upon sale of mortgaged or pledged property.
1.166-4	Worthless securities.
1.166-5	Bonds.
1.166-6	Reserve for bad debts.
1.166-7	Nonbusiness bad debts.
1.166-8	Guarantors, endorsers, or indemnitors of certain noncorporate obligations.

§ 1.165 Statutory provisions; losses.

Sec. 165. Losses—(a) *General rule.* There shall be allowed as a deduction any loss sustained during the taxable year and not compensated for by insurance or otherwise.

(b) *Amount of deduction.* For purposes of subsection (a), the basis for determining the amount of the deduction for any loss shall be the adjusted basis provided in section 1011 for determining the loss from the sale or other disposition of property.

(c) *Limitation on losses of individuals.* In the case of an individual, the deduction under subsection (a) shall be limited to—

(1) Losses incurred in a trade or business;

(2) Losses incurred in any transaction entered into for profit, though not connected with a trade or business; and

(3) Losses of property not connected with a trade or business, if such losses arise from fire, storm, shipwreck, or other casualty, or from theft. No loss described in this paragraph shall be allowed if, at the time of the filing of the return, such loss has been claimed for estate tax purposes in the estate tax return.

(d) *Wagering losses.* Losses from wagering transactions shall be allowed only to the extent of the gains from such transactions.

(e) *Theft losses.* For purposes of subsection (a), any loss arising from theft shall be treated as sustained during the taxable year in which the taxpayer discovers such loss.

(f) *Capital losses.* Losses from sales or exchanges of capital assets shall be allowed only to the extent allowed in sections 1211 and 1212.

(g) *Worthless securities—(1) General rule.* If any security which is a capital asset becomes worthless during the taxable year, the loss resulting therefrom shall, for purposes of this subtitle, be treated as a loss from the sale or exchange, on the last day of the taxable year, of a capital asset.

(2) *Security defined.* For purposes of this subsection, the term "security" means—

(A) A share of stock in a corporation;

(B) A right to subscribe for, or to receive, a share of stock in a corporation; or

(C) A bond, debenture, note, or certificate, or other evidence of indebtedness, issued by a corporation or by a government or political subdivision thereof, with interest coupons or in registered form.

(3) *Securities in affiliated corporation.* For purposes of paragraph (1), any security in a corporation affiliated with a taxpayer which is a domestic corporation shall not be treated as a capital asset. For purposes of the preceding sentence, a corporation shall be treated as affiliated with the taxpayer only if—

(A) At least 95 percent of each class of its stock is owned directly by the taxpayer, and

(B) More than 90 percent of the aggregate of its gross receipts for all taxable years has been from sources other than royalties, rents (except rents derived from rental from properties to employees of the corporation in the ordinary course of its operating business), dividends, interest (except interest received on deferred purchase price of operating assets sold), annuities, and gains from sales or exchanges of stocks and securities.

In computing gross receipts for purposes of the preceding sentence, gross receipts from sales or exchanges of stocks and securities shall be taken into account only to the extent of gains therefrom.

(h) *Cross references.* (1) For special rule for banks with respect to worthless securities, see section 582.

(2) For disallowance of deduction for worthlessness of securities to which subsection (g) (2) (C) applies, if issued by a political party or similar organization, see section 271.

§ 1.165-1 Losses—(a) *Allowance of deduction in general.* (1) Losses sustained by individual citizens or residents of the United States and by domestic corporations which are not compensated for by insurance or otherwise are deductible under section 165 (a) if deduction of such losses is not prohibited or limited by any other provisions of the Internal Revenue Code. See, for example, section 165 (c), relating to individuals; sections 165 (g) and 1211, relating to capital

losses; section 165 (d), relating to wagering losses; section 267 (a), relating to losses from sales or exchanges of property between related taxpayers; section 271, relating to debts owed by political parties; section 931, relating to income from sources within possessions of the United States; section 932, relating to citizens of possessions of the United States; and subchapter O, relating to gain or loss on disposition of property. See also sections 871, 873, and 876 as to limitation upon losses sustained by non-resident aliens.

(2) In general, losses for which an amount may be deducted from gross income must be evidenced by closed and completed transactions, fixed by identifiable events, bona fide and actually sustained during the taxable year for which allowed. Substance and not mere form will govern in determining deductible losses. Full consideration must be given to any salvage value and to any insurance or other compensation received in determining the amount of losses actually sustained. See section 1016.

(b) *Voluntary removal of buildings.* Subject to the provisions of § 1.167 (a)-8, an abnormal retirement loss due to the voluntary removal or demolition of old buildings, the scrapping of old machinery, equipment, etc., incident to renewals and replacements is deductible from gross income. When a taxpayer buys real estate upon which is located a building, which he proceeds to raze with a view to erecting thereon another building, it will be considered that the taxpayer has sustained no deductible loss by reason of the demolition of the old building, and no deductible expense on account of the cost of such removal. It will be presumed that the value of the real estate, exclusive of old improvements, is equal to the purchase price of the land and building plus the cost of removing the useless building.

(c) *Loss of useful value.* (1) When, through some change in business conditions, the usefulness in the business of some or all of the assets is suddenly terminated, so that the taxpayer discontinues the business or discards such assets permanently from use in such business, he may claim as a loss for the year in which he takes such action the difference between the basis (adjusted to the extent provided in section 1016 or as otherwise specifically provided for under applicable provisions of internal revenue laws) and the salvage value of the property. This exception to the rule requiring a sale or other disposition of property in order to establish a loss requires proof of some unforeseen cause by reason of which the property has been prematurely discarded, as, for example, where an increase in the cost or change in the manufacture of any product makes it necessary to abandon such manufacture, to which special machinery is exclusively devoted, or where new legislation directly or indirectly makes the continued profitable use of the property impossible.

This exception does not extend to a case where the useful life of property terminates solely as a result of those gradual processes for which depreciation allowances are authorized. It does not apply to inventories. The exception applies to buildings only when they are permanently abandoned or permanently devoted to a radically different use, and to machinery only when its use as such is permanently abandoned. Any loss to be deductible under this exception must be fully explained in the return of income. The limitations provided in sections 1211 and 1212 with respect to the sale or exchange of capital assets have no application to losses due to the discarding of capital assets.

(2) The method of computing the allowable deduction resulting from a casualty loss to business and nonbusiness property is provided for in the regulations under § 1.165-3 (c). For special rules relating to losses due to the retirement or abandonment of depreciable property used in a trade or business or held for the production of income, see § 1.167 (a)-8.

(d) *Shrinkage in value of stocks.* A person possessing stock of a corporation cannot deduct from gross income any amount claimed as a loss merely on account of shrinkage in value of such stock through fluctuation of the market or otherwise. The loss allowable in such cases is that actually suffered when the stock is disposed of. If stock of a corporation becomes worthless, its cost or other basis as determined under section 1012 and adjusted to the extent provided in section 1016 or as otherwise specifically provided for under applicable provisions of internal revenue laws is deductible by the owner for the taxable year in which the stock becomes worthless, provided a satisfactory showing is made of its worthlessness. See § 1.165-7. Federal or State authorities, incident to the regulation of banks and certain other corporations, may require that stock be charged off as worthless or written down to a nominal value. If, in any such case, the basis of the requirement is the worthlessness of the stock, such charging off or writing down will, for income tax purposes, be considered prima facie evidence of worthlessness; but if the charging off or writing down is due to market fluctuations, or if no reasonable attempt has been made to determine worthlessness, no deduction for income tax purposes of the amount so charged off or written down can be allowed. For dealers in securities, see section 471 and the regulations thereunder. For limitations on deductions for losses from sales or exchanges of capital assets generally, including stocks and bonds, see sections 1211 and 1212.

(e) *Losses in farming.* Losses incurred in the operation of farms as business enterprises are deductible from gross income. If farm products are held for favorable markets, no deduction on account of shrinkage in weight or physical value or by reason of deterioration in storage shall be allowed, except as such shrinkage may be reflected in an inventory if used to determine profits. The total loss by frost, storm, flood, or fire of

a prospective crop is not a deductible loss in computing taxable income. A taxpayer engaged in raising and selling stock, such as cattle, sheep, horses, etc., is not entitled to claim as a loss the value of animals that perish from among those animals that were raised on the farm, except as such loss is reflected in an inventory if used. If livestock has been purchased for any purpose, and afterwards dies from disease, exposure, or injury, or is killed by order of the authorities of a State or the United States, the actual purchase price of such livestock, less any depreciation allowable as a deduction in respect of such perished livestock, may be deducted as a loss if the loss is not compensated for by insurance or otherwise. The actual cost of other property (with proper adjustment for depreciation) which is destroyed by order of the authorities of a State or of the United States, may in like manner be claimed as a loss. If reimbursement in whole or in part is made by a State or the United States on account of stock killed or other property destroyed in respect of which a loss was claimed for a prior year, the amount received shall be reported as income for the year in which reimbursement is made. The cost of any feed, pasture, or care which has been deducted as an expense of operation shall not be included as part of the cost of the stock for the purpose of ascertaining the amount of a deductible loss. If gross income is ascertained by inventories, no deduction can be made for livestock or products lost during the year, whether purchased for resale or produced on the farm, as such losses will be reflected in the inventory by reducing the amount of livestock or products on hand at the close of the year. If a taxpayer owns and operates a farm, in addition to being engaged in another trade, business, or calling, and sustains a loss from such operation of the farm, then the amount of loss sustained may be deducted from gross income received from all sources, provided the farm is not operated for recreation or pleasure. As to losses claimed as deductions for estate tax purposes, see § 1.165-3 (a) (1). See also sections 61 and 162 and the regulations thereunder.

§ 1.165-2 *Amount of deduction in general.* In ascertaining the amount of the deduction for a loss allowed under section 165 (a), the amount of the loss realized and recognized is determined under sections 1001 and 1002, by reference to the adjusted basis provided in section 1011 for determining the loss from the sale or other disposition of property. Adjustments to basis shall be made in accordance with section 1016. For example, proper adjustment under section 1016 must be made for any expenditure, receipt, loss, or other item properly chargeable to capital account and for depreciation, obsolescence, amortization, and depletion.

§ 1.165-3 *Limitation on losses of individuals—(a) In general.* (1) In the case of an individual, the deduction under section 165 (a) shall be limited to:

(i) Losses incurred in trade or business;

(ii) Losses incurred in any transaction entered into for profit, though not connected with a trade or business; and

(iii) Losses of property not connected with a trade or business, if such losses arise from fire, storm, shipwreck, or other casualty, or from theft. No loss described in this subdivision shall be allowed, if at the time the return is filed, such loss has been claimed for estate tax purposes in the estate tax return. Where a loss described in this subdivision would be allowable in computing the taxable estate of a decedent under section 2054, such loss shall be allowed in computing the taxable income of a taxpayer if the taxpayer establishes that such loss has not been, and will not be, allowed as a deduction under section 2054. This requirement is satisfied if the taxpayer files a statement to the effect that such loss has not been allowed as a deduction under section 2054 and a waiver of the right to have such loss allowed at any time as a deduction under section 2054. Such statement and waiver must be signed by the executor or administrator of the decedent's estate. For the time, manner, and form of filing such statement and waiver see section 642 (g) and the regulations thereunder.

(2) A loss occasioned by damage to an automobile maintained for pleasure, where such damage results from the faulty driving of the taxpayer or other person operating the automobile, but is not due to the willful act or negligence of the taxpayer, is a deductible loss in the computation of taxable income. If damage to a taxpayer's automobile results from the faulty driving of the operator of an automobile with which the automobile of the taxpayer collides, the loss occasioned to the taxpayer by such damage is likewise deductible.

(3) No loss is realized by the transfer of property by gift or by death. But see sections 453 (d) and 691.

(b) *Sale of residential property.* A loss on the sale of residential property purchased or constructed by the taxpayer for use as his personal residence and so used by him up to the time of the sale is not deductible. If, however, property so purchased or constructed is before its sale rented or otherwise appropriated to income-producing purposes and is used for such purposes up to the time of its sale, a loss from the sale of the property, computed as provided in section 1001, is, subject to the limitations provided in sections 1211 and 1212, an allowable deduction in an amount not to exceed the lesser of:

(1) The fair market value of the property at the time it was appropriated to income-producing purposes (with proper adjustment for depreciation), or

(2) The adjusted basis of the property at the time it was appropriated to income-producing purposes (with proper adjustment for depreciation).

over the amount realized from the sale. Similarly, the basis for computing depreciation shall be the fair market value of the property at the time it was appropriated to income-producing purposes, or the adjusted basis on that date, whichever is the lesser. See § 1.167 (f)-1.

Example (1). Residential property was purchased by a taxpayer in 1940 for use as his personal residence at a cost of \$25,000, of which \$15,000 was allocable to the building. The property was so used by the taxpayer until January 1, 1949. From that date to January 1, 1955, when the property was sold, it was rented by the taxpayer. The fair market value of the property at the time it was rented on January 1, 1949, was \$22,000, of which \$12,000 was allocable to the building. The building had an estimated life of 20 years on January 1, 1949. The property was sold on January 1, 1955, and the amount realized was \$16,000. The loss from the sale allowable as a deduction, except as limited by section 1211, is \$2,400, computed as follows:

Cost of property in 1940.....	\$25,000
Less depreciation allowed (not less than amount allowable) in respect of the building (depreciation for 6 years at 5 percent on the straight-line method of depreciation based on \$12,000, value of building when converted to business use).....	3,600
	<hr/> 21,400
Amount realized.....	16,000
	<hr/> 5,400
Loss computed as provided in section 1001.....	5,400
Value of property at time it was rented on Jan. 1, 1949.....	22,000
Less depreciation allowed or allowable.....	3,600
	<hr/> 18,400
Amount realized.....	16,000
	<hr/> 2,400
Portion of \$5,400 loss which is deductible except as limited by section 1211.....	2,400

Example (2). If, under the circumstances set forth in example (1), the property had been purchased at a cost of \$21,000, of which \$10,000 was allocable to the building, but otherwise the facts assumed are the same, the deductible loss, except as limited by section 1211, is \$2,000, computed as follows:

Cost of property in 1940.....	\$21,000
Less depreciation allowed (not less than amount allowable) in respect of the building (depreciation for 6 years at 5 percent on the straight-line method of depreciation based on \$10,000, cost of building).....	3,000
	<hr/> 18,000
Amount realized.....	16,000
	<hr/> 2,000
Loss computed as provided in section 1001.....	2,000
Deductible loss, except as limited by section 1211.....	2,000

(c) Casualty losses—(1) Casualty losses under section 165 (c) (1) and (2). In the case of a casualty loss incurred in a trade or business, or in connection with any transaction entered into for profit, where the destroyed or damaged property has at all times been devoted to business or income-producing purposes in the hands of the taxpayer, the deductible loss will be the proportion of the adjusted basis determined under section 1011 which the value of the destroyed property bears to the value of the entire property, reduced by any insurance or other compensation received in respect of the property. For limitations on the amount of the deductible loss where property was devoted to personal use prior to its devotion to use in the trade or business or in connection

with a transaction entered into for profit, see § 1.165-3 (b).

Example. A purchased an automobile for \$4,200 on January 1, 1955, and at once devoted it to business use. The expected life of the automobile was 6 years. On January 1, 1957, the automobile sustained damages through casualty. The value of the automobile immediately before the casualty was \$2,000. The value of the automobile immediately after the casualty is \$1,500. A is compensated by insurance in the amount of \$300. The amount of the allowable deduction to A is \$400 (loss of \$700 less insurance of \$300), computed as follows:

Cost.....	\$4,200
Less: Depreciation for 1955 and 1956 at \$700 per year.....	1,400
	<hr/> 2,800
Adjusted basis at time of casualty.....	2,800
Value before casualty.....	2,000
Value after casualty.....	1,500
	<hr/> 500
Value of destroyed property.....	500
Allowable loss $\left(\frac{\$500}{\$2,000 \times \$2,800}\right)$	700
Less: Insurance received.....	300
	<hr/> 400
Allowable deduction.....	400

(2) Casualty losses under section 165 (c) (3). In the case of property described in section 165 (c) (3) the amount of the deduction for any casualty loss is the lesser of—

- (i) The difference between the value of the property before the casualty and after the casualty (including any salvage value), or
- (ii) The amount of the adjusted basis of the property determined under section 1011,

reduced by any insurance or other compensation received in respect of the property. This method may be used in computing the amount of casualty damage to buildings and to ornamental and fruit trees where the buildings and trees are integral parts of the realty, in which case the loss may be measured by considering the decrease in fair market value of the entire property (including the land and improvements) as a unit.

Example (1). A purchased a residential estate containing ornamental trees and shrubbery at a cost of \$100,000 in 1955. In 1960 the estate was damaged by hurricane and many of the ornamental trees were destroyed. The value of the estate immediately before the casualty was \$210,000. The value of the estate immediately after the casualty is \$60,000. A is compensated by insurance in the amount of \$40,000. A is entitled to a deduction of \$60,000 for casualty loss under section 165 (c) (3), computed as follows:

Value of property immediately before casualty.....	\$210,000
Less: Value of property immediately after casualty.....	60,000
	<hr/> 150,000
Value of property destroyed.....	150,000
Allowable loss (limited to adjusted basis).....	100,000
Less: Insurance received.....	40,000
	<hr/> 60,000
Allowable deduction.....	60,000

Example (2). A purchased land and a building in 1955 for \$20,000 to be used as a personal residence. In 1960 the building was damaged by fire. The fair market value of the property immediately before the cas-

ualty was \$30,000. The fair market value of the property immediately after the casualty is \$18,000. Insurance received in respect of the property damaged is \$8,000. The amount of the allowable deduction is \$4,000 (loss of \$12,000 less insurance of \$8,000) computed as follows:

Value of property immediately before casualty.....	\$30,000
Less: Value of property immediately after casualty.....	18,000
	<hr/> 12,000
Value of destroyed property.....	12,000
Allowable loss (but not in excess of adjusted basis).....	12,000
Less: Insurance received.....	8,000
	<hr/> 4,000
Allowable deduction.....	4,000

Example (3). A purchased an automobile for \$3,600. Later, the automobile was partially damaged through casualty. The value immediately before the casualty was \$2,000, while the value immediately after the casualty is \$1,500. Insurance received in respect to the property damage is \$300. The allowable deduction is \$200 (loss of \$500 less insurance of \$300), computed as follows:

Value of automobile immediately before casualty.....	\$2,000
Less: Value of automobile immediately after casualty.....	1,500
	<hr/> 500
Value of destroyed property.....	500
Allowable loss (but not in excess of adjusted basis).....	500
Less: Insurance received.....	300
	<hr/> 200
Allowable deduction.....	200

(3) Valuation. In general, in determining the amount of loss resulting from casualty under this section, the difference between the fair market value of the property immediately before the casualty and the fair market value of the property immediately after the casualty shall be ascertained by competent appraisal. However, the cost of repairs may be accepted instead of such appraisal where (but only to the extent that) such repairs are necessary to restore the property to its condition immediately before the casualty.

§ 1.165-4 Wagering losses. (a) No deduction shall be allowed for losses from wagering transactions except to the extent of the gains during the taxable year from such transactions. In the case of a husband and wife making a joint return, the combined losses of the spouses as a result of wagering transactions shall be allowed to the extent of the combined gains of the spouses from such transactions during the taxable year.

(b) In the case of a taxpayer who is not engaged in the trade or business of gambling, losses from wagering transactions are not deductible from adjusted gross income in determining taxable income where the taxpayer has elected under section 144 to use the standard deduction.

(c) The application of paragraph (b) of this section may be illustrated by the following example:

Example. G, an individual taxpayer not engaged in the trade or business of gambling, realized wagering gains of \$300 in 1955 and sustained wagering losses of \$375. G is required, under the provisions of section 61, to include the \$300 wagering gains in his gross income. If G itemizes his deductions

on his income tax return, a deduction for wagering losses may be taken to the extent of \$300, the amount of wagering gains included in gross income. If C elects under section 144 to use the standard deduction, no part of the \$375 wagering losses is deductible.

§ 1.165-5 Theft losses. (a) For purposes of section 165 (a), any loss arising from theft (including embezzlement, larceny, etc.) shall be treated as sustained during the taxable year in which the taxpayer discovers such loss, and is deductible only in that year.

(b) If any loss from theft is treated as sustained in the year in which the taxpayer discovers such loss, there can be no deduction for such loss for a prior year under section 165 or any provision of the Internal Revenue Code of 1939. Similarly, if any loss from theft is taken into account in computing a tax under any provisions of the Internal Revenue Code of 1939, there shall be no deduction for such loss under this provision. See section 7852 (c), relating to the disallowance of double deductions.

§ 1.165-6 Capital losses. Deductions allowed to individuals and to corporations under section 165 for losses sustained on the sale or exchange of a capital asset shall be limited to the extent provided in sections 1211 and 1212.

§ 1.165-7 Worthless securities—(a) In general. Any loss sustained by virtue of a security becoming worthless during the taxable year is, under section 165 (g), made subject to the limitations provided in sections 1211 and 1212 with respect to sales or exchanges, provided the security is a "capital asset" as that term is defined in section 1221. For the purposes of computing the taxable income of any taxpayer, other than a bank as defined in section 581, such loss is to be considered as being sustained from the sale or exchange of the security on the last day of the taxable year, irrespective of when during the taxable year such security actually became worthless. No deduction shall be allowed on account of the worthlessness of any security, as defined in section 165 (g) (2) and paragraph (b) of this section, which is recoverable only in part. For special rule for banks with respect to worthless securities, see section 582. For disallowance of deduction for worthlessness of securities to which section 165 (g) (2) (C) applies, if issued by a political party or similar organization, see section 271.

(b) **Definition of security.** As used in section 165 (g) and this section, the term "security" means a share of stock in a domestic or foreign corporation; a right to subscribe for or to receive such a share; or a bond, debenture, note, or certificate, or other evidence of indebtedness to pay a fixed or determinable sum of money, which has been issued at any time by a domestic or foreign corporation (including those issued by any government or political subdivision thereof), in registered form or with interest coupons.

(c) **Loss on securities of affiliate—(1) In general.** If a taxpayer is a domestic corporation and is affiliated, within the provisions of section 165 (g) (3) and subparagraph (2) of this paragraph, with

another corporation, a security in such affiliated corporation owned by the taxpayer shall not be deemed to be a "capital asset" for the purpose of determining the loss under section 165 (g) from the worthlessness of such security. No deduction shall be allowed to the taxpayer with respect to any security which is recoverable only in part.

(2) **Affiliated corporation defined.** For the purpose of section 165 (g), a corporation shall be deemed to be affiliated with the taxpayer only if all the following factors are present:

(i) The taxpayer is a domestic corporation;

(ii) The taxpayer owns directly at least 95 percent of each class of the stock of such corporation; and

(iii) More than 90 percent of the aggregate of the gross receipts of such corporation for all the taxable years during which it has been in existence has been from sources other than royalties, rents (except rents derived from rental of properties to employees of the corporation in the ordinary course of its operating business), dividends, interest (except interest received on deferred purchase price of operating assets sold), annuities, and gains from sales or exchanges of stocks and securities. For the purposes of section 165 (g) (3) (B), gross receipts is the total amount of receipts before deduction of cost of goods sold. In computing gross receipts for the purposes of section 165 (g) (3) (B), gross receipts from sales or exchanges of stocks and securities shall be taken into account only to the extent of gains therefrom.

(3) **Example.** The application of this paragraph may be illustrated by the following example:

Example. Corporation P, a domestic manufacturing corporation which makes its income tax returns on the calendar year basis, owns 100 percent of each class of the stock of Corporation S, and, in addition, 4 percent of the common stock (the only class of stock) of Corporation R which it acquired in 1948. Corporation S, a domestic manufacturing corporation which makes its income tax returns on the calendar year basis, owns 96 percent of the common stock of Corporation R which it acquired in 1952. It is established that the stock of Corporation R which has from its inception derived all its gross receipts from manufacturing operations, became worthless during 1956. Since Corporation P does not own directly at least 95 percent of the stock of Corporation R, and thus for purposes of section 165 (g) (3) and this section is not affiliated with Corporation R, the stock of Corporation R is a capital asset. The loss upon the worthlessness of such stock will, under section 165 (g), be considered to be a loss from the sale or exchange of a capital asset. Since such stock was held for more than six months, such loss shall be considered a long-term capital loss as defined in section 1222 (see also section 1211). Since Corporation R is deemed to be affiliated with Corporation S for the purposes of section 165 (g) (3) and this paragraph, the stock of Corporation R is not a capital asset in the hands of Corporation S for the purposes of section 165 (g). Consequently, the loss upon such stock may, under section 165, be deducted as an ordinary loss and is not limited by the provisions of section 165 (g) or sections 1211 and 1212.

(4) **Special rule.** If a loss from the worthlessness of securities of an affli-

ated corporation would, under the provisions of section 165 (g) (1) and paragraph (a) of this section, be treated as a capital loss, the taxpayer may not convert such loss into an ordinary loss under this paragraph by the acquisition of additional securities in the affiliated corporation solely for the purpose of bringing the holdings of the taxpayer up to the minimum stock ownership requirement provided in section 165 (g) (3).

§ 1.166 Statutory provisions; bad debts.

Sec. 166. Bad debts—(a) General rule—(1) Wholly worthless debts. There shall be allowed as a deduction any debt which becomes worthless within the taxable year.

(2) **Partially worthless debts.** When satisfied that a debt is recoverable only in part, the Secretary or his delegate may allow such debt, in an amount not in excess of the part charged off within the taxable year, as a deduction.

(b) **Amount of deduction.** For purposes of subsection (a), the basis for determining the amount of the deduction for any bad debt shall be the adjusted basis provided in section 1011 for determining the loss from the sale or other disposition of property.

(c) **Reserve for bad debts.** In lieu of any deduction under subsection (a), there shall be allowed (in the discretion of the Secretary or his delegate) a deduction for a reasonable addition to a reserve for bad debts.

(d) **Nonbusiness debts—(1) General rule.** In the case of a taxpayer other than a corporation—

(A) Subsection (a) and (c) shall not apply to any nonbusiness debt; and

(B) Where any nonbusiness debt becomes worthless within the taxable year, the loss resulting therefrom shall be considered a loss from the sale of exchange, during the taxable year, of a capital asset held for not more than 6 months.

(2) **Nonbusiness debt defined.** For purposes of paragraph (1), the term "nonbusiness debt" means a debt other than—

(A) A debt created or acquired (as the case may be) in connection with a taxpayer's trade or business; or

(B) A debt the loss from the worthlessness of which is incurred in the taxpayer's trade or business.

(e) **Worthless securities.** This section shall not apply to a debt which is evidenced by a security as defined in section 165 (g) (2) (C).

(f) **Guarantor of certain noncorporate obligations.** A payment by the taxpayer (other than a corporation) in discharge of part or all of his obligation as a guarantor, endorser, or indemnitor of a noncorporate obligation the proceeds of which were used in the trade or business of the borrower shall be treated as a debt becoming worthless within such taxable year for purposes of this section (except that subsection (d) shall not apply), but only if the obligation of the borrower to the person to whom such payment was made was worthless (without regard to such guaranty, endorsement, or indemnity) at the time of such payment.

(g) **Cross references.** (1) For disallowance of deduction for worthlessness of debts owed by political parties and similar organizations, see section 271.

(2) For special rule for banks with respect to worthless securities, see section 582.

(3) For special rule for bad debt reserves of certain mutual savings banks, domestic building and loan associations, and cooperative banks, see section 593.

§ 1.66-1 Bad debts—(a) In general. Bad debts may be treated in either of two ways:

(1) By a deduction from income in respect of debts which become worthless in whole or in part, or

(2) By a deduction from income of an addition to a reserve for bad debts.

Taxpayers were given the option of selecting either of these two methods under the corresponding provisions of prior law, and the method elected under such corresponding provisions must be used in returns for all subsequent years unless permission is granted by the Commissioner to change to the other method. A taxpayer filing a first return of income may select either of the two methods subject to approval by the Commissioner upon examination of the return. If the method selected is approved, it must be followed in returns for all subsequent years except as permission may be granted by the Commissioner to change to another method. Application for permission to change the method of treating bad debts shall be made at least 30 days prior to the close of the taxable year for which the change is to be effective. (See also § 1.166-6.)

(b) *Amount of deduction.* The basis for determining the amount of the deduction under section 166 for any bad debt shall be the adjusted basis provided in section 1011 for determining the loss from the sale or other disposition of property.

(c) *Partial and total worthlessness.*

(1) If, from all the surrounding and attending circumstances, the Commissioner is satisfied that a debt is partially worthless, the amount which has become worthless, to the extent charged off during the taxable year, shall be allowed as a deduction in computing taxable income. If a taxpayer claims a deduction for a part of a debt for the taxable year within which such part of the debt is charged off and such deduction is disallowed for such year and the debt becomes partially worthless subsequent to such year, a deduction may be allowed for a subsequent taxable year, not in excess of the amount charged off in the prior year plus any amount charged off in the subsequent year, the chargeoff in the prior year, if consistently maintained as such, being sufficient to that extent to meet the chargeoff requirement. Before a taxpayer may deduct a debt in part, he must be able to demonstrate to the satisfaction of the Commissioner the amount thereof which is uncollectible and the part thereof which was charged off.

(2) If a debt becomes wholly worthless during the taxable year, the amount thereof which has not been allowed as a deduction for any prior taxable year shall be allowed as a deduction for the taxable year.

(3) There should accompany the return a statement of facts substantiating any deduction claimed for bad debts. Any amount subsequently received on account of a bad debt or on account of a part of such debt previously allowed as a deduction for income tax purposes must be included in gross income for the taxable year in which received, except to the extent excludable from gross income under the provisions of section 111. In determining whether a debt is worthless

in whole or in part the Commissioner will consider all pertinent evidence, including the value of the collateral, if any, securing the debt and the financial condition of the debtor. Partial deductions will be allowed with respect to specific debts only.

(d) *Evidence of worthlessness.* Where the surrounding circumstances indicate that a debt is worthless and uncollectible and that legal action to enforce payment would in all probability not result in the satisfaction of execution on a judgment, a showing of these facts will be sufficient evidence of the worthlessness of the debt for the purpose of deduction. Bankruptcy is generally an indication of the worthlessness of at least a part of an unsecured and unpreferred debt. In bankruptcy cases a debt may become worthless before settlement in some instances, and in others only when a settlement in bankruptcy shall have been had. In either case the mere fact that bankruptcy proceedings instituted against the debtor are terminated in a later year, confirming the conclusion that the debt is worthless, will not authorize shifting the deductions to such later year. If a taxpayer computes his income upon the basis of valuing his notes or accounts receivable at their fair market value when received, which may be less than their face value, the amount deductible for bad debts in any case is limited to such original valuation.

(e) *Rules for banks and banking corporations.* Where banks or other corporations which are subject to supervision by Federal authorities (or by State authorities maintaining substantially equivalent standards) in obedience to the specific orders of such supervisory officers charge off debts in whole or in part, such debts shall, to the extent charged off during the taxable year, be conclusively presumed, for income tax purposes, to have become worthless or worthless only in part, as the case may be, during the taxable year. But no such debt shall be so conclusively presumed to be worthless or worthless only in part, as the case may be, if the amount so charged off is not claimed as a deduction by the taxpayer at the time of filing the return for the taxable year in which such chargeoff takes place. If a taxpayer does not claim a deduction in its return for such a totally or partially worthless debt for the year in which such chargeoff takes place, but claims such deduction for a later year, then such chargeoff in the prior year will be deemed to have been involuntary and the deduction shall be allowed for the year for which claimed, if the taxpayer produces sufficient evidence to show (1) that the debt became wholly worthless in such later year or became recoverable only in part subsequent to the year of such involuntary chargeoff, as the case may be, and (2) that, to the extent that the deduction claimed in the later year for a debt partially worthless was not involuntarily charged off in prior years, it was charged off in the later year.

(f) *Applicability of rules.* The provisions of paragraphs (a) to (d), inclusive, of this section apply generally to all taxpayers. However, they do not apply in the case of a taxpayer, other than a cor-

poration, with respect to a nonbusiness debt as defined in section 166 (d) and § 1.166-7. Nor shall any deduction be allowed on account of the worthlessness of any debt of the type described in section 165 (g) (3) which is recoverable only in part. In the case of taxpayers other than banks as defined in section 581, the term "debts" as used in paragraphs (a) to (d), inclusive, of this section means obligations to pay fixed or determinable sums of money which are not evidenced by a security as defined in section 165 (g) (2) and § 1.165-7 (b). For disallowance of deduction for worthlessness of debts owed by political parties and similar organizations, see section 271.

§ 1.166-2 *Examples of bad debts.* Worthless debts arising from unpaid wages, salaries, rents, and similar items of taxable income will not be allowed as a deduction unless the income such items represent has been included in the return of income for the year for which the deduction as a bad debt is sought to be made or for a previous year. Only the difference between the amount received in distribution of the assets of a bankrupt and the amount of the claim may be deducted as a bad debt. The difference between the amount received by a creditor of a decedent in distribution of the assets of the decedent's estate and the amount of his claim may be considered a worthless debt. A purchaser of accounts receivable which become worthless is entitled to deduct them, the amount of deduction to be based upon the price he paid for them and not upon their face value.

§ 1.166-3 *Uncollectible deficiency upon sale of mortgaged or pledged property.*

(a) If mortgaged or pledged property is lawfully sold (whether to the creditor or another purchaser) for less than the amount of the debt, and the portion of the indebtedness remaining unsatisfied after such sale is wholly or partially uncollectible, the mortgagee or pledgee may deduct such amount (to the extent that it constitutes capital or represents an item the income from which has been returned by him) as a bad debt for the taxable year in which it has become wholly worthless or is charged off as partially worthless. In addition, if the creditor buys in the mortgaged or pledged property, loss or gain is realized measured by the difference between the amount of those obligations of the debtor which are applied to the purchase or bid price of the property (to the extent that such obligations constitute capital or represent an item the income from which has been returned by him) and the fair market value of the property. The fair market value of the property shall be presumed to be the amount for which it is bid in by the taxpayer in the absence of clear and convincing proof to the contrary. If the creditor subsequently sells the property so acquired, the basis for determining gain or loss is the fair market value of the property at the date of acquisition.

(b) Accrued interest may be included as part of the deduction only if it has previously been returned as income.

§ 1.166-4 Worthless securities. No deduction is allowable under section 166 and this section to any taxpayer with respect to a debt evidenced by a security as defined in section 165 (g) (2) (C) which has become worthless in whole or in part. See, however, section 582 and the regulations thereunder for special rule for banks with respect to worthless securities.

§ 1.166-5 Bonds. (a) A bond issued by an individual, if it has become worthless, may be treated as a bad debt. A bond (whether or not a security) of an insolvent corporation secured only by a mortgage from which nothing is realized for the bondholders on foreclosure is regarded as having become worthless not later than the year of the foreclosure sale, and no deduction is allowable under either section 165 or 166 in computing a bondholder's income for a subsequent year.

(b) A taxpayer (other than a dealer in bonds or other similar obligations) possessing debts evidenced by bonds or other similar obligations (which are not securities as defined in section 165 (g) (2) (C)) cannot deduct from gross income any amount merely on account of market fluctuation. On the other hand, the taxpayer may, in computing taxable income, deduct the uncollectible part of a debt evidenced by bonds or other similar obligations if, owing to the financial condition of the debtor or to conditions other than market fluctuations, he will recover upon maturity only a part of the debt evidenced by such bonds or other similar obligations and he so demonstrates to the satisfaction of the Commissioner. In addition, the taxpayer must have made a proper chargeoff with respect to that part of the debt which is uncollectible. For deduction of bad debts of banks, see section 582.

§ 1.166-6 Reserve for bad debts—(a) In general. Taxpayers who have established the reserve method of treating bad debts and maintained proper reserve accounts for bad debts, or who, in accordance with § 1.166-1, adopt the reserve method of treating bad debts, may deduct from gross income a reasonable addition to a reserve for bad debts in lieu of a deduction for specific bad debt items.

(b) *Reasonable addition to a reserve for bad debts.* What constitutes a reasonable addition to a reserve for bad debts must be determined in the light of the facts, and will vary as between classes of business and with conditions of business prosperity. It will depend primarily upon the total amount of debts outstanding as of the close of the taxable year, those arising currently as well as those arising in prior taxable years, and the total amount of the existing reserve. In case subsequent realizations upon outstanding debts prove to be more or less than estimated at the time of the creation of the existing reserve, the amount of the excess or inadequacy in the existing reserve should be reflected in the determination of the reasonable addition necessary in the taxable year. A taxpayer using the reserve method should make a statement in his return showing

the volume of charge sales (or other business transactions) for the year and the percentage of the reserve to such amount, the total amount of notes and accounts receivable at the beginning and close of the taxable year, and the amount of the debts which have become wholly or partially worthless and have been charged against the reserve account. For special rules for bad debt deserves of certain mutual savings banks, domestic building and loan associations, and cooperative banks, see section 593 and the regulations thereunder.

§ 1.166-7 Nonbusiness bad debts—(a) In general. In the case of a taxpayer, other than a corporation, if a nonbusiness bad debt becomes entirely worthless within the taxable year, the loss resulting therefrom shall be treated as a loss from the sale or exchange of a capital asset held for not more than six months. Such a loss is subject to the limitations provided in sections 1211 and 1212 with respect to gains and losses from the sale or exchange of capital assets. A loss with respect to such a debt will be treated as sustained only if and when the debt has become totally worthless, and no deduction shall be allowed for a nonbusiness debt which is recoverable in part during the taxable year.

(b) *Definition.* A nonbusiness debt is a debt other than one created or acquired in connection with a taxpayer's trade or business, without regard to the relationship of the debt to a trade or business of the taxpayer at the time that it becomes worthless, or other than a debt the loss from the worthlessness of which is incurred in the taxpayer's trade or business. The question whether a debt is one the loss from the worthlessness of which is incurred in the taxpayer's trade or business is a question of fact in each particular case. The determination of this question is substantially the same as that which is made for the purpose of ascertaining whether a loss from the type of transaction covered by section 165 is "incurred in trade or business" under section 165 (c) (1).

(c) *Character of the debt.* The application of this section shall depend upon the existence of a bona fide debt as distinguished from a gift or a contribution to the capital of a corporation. Once it is determined that there is a bona fide debt, the debt may be characterized either as a business bad debt or a nonbusiness bad debt depending upon the circumstances. The character of the debt for purposes of this section is controlled either by the circumstances attending its creation or by its subsequent acquisition by the taxpayer. Further, the character of the debt is determined by whether or not the loss resulting from the debt's becoming worthless was incurred in taxpayer's trade or business.

(d) *Examples.* The provisions of this section may be illustrated by the following examples:

A, an individual engaged in the grocery business and who makes his income tax returns on the calendar year basis, extends credit on an open account to B in 1955:

(1) In 1956 A sells the business, but retains the claim against B. The claim becomes worthless in A's hands in 1957. A's

loss is not controlled by the nonbusiness debt provisions. Since the original consideration was advanced by A in his trade or business, the loss is treated as a business bad debt.

(2) In 1956 A sells the business to C, but sells the claim against B to the taxpayer, D. The claim becomes worthless in D's hands in 1957. D's loss is controlled by the nonbusiness debt provisions, even though the original consideration was advanced by A in his trade or business, since the debt was not related to any trade or business of D either at the time he acquired it or at the time it became worthless.

(3) In 1956 A dies, leaving the business, including the accounts receivable, to his son, C, the taxpayer. The claim against B becomes worthless in C's hands in 1957. C's loss is not controlled by the nonbusiness debt provisions. While C did not advance any consideration for the claim or acquire it in carrying on his trade or business, it was a debt the loss from the worthlessness of which was incurred in the taxpayer's trade or business.

(4) In 1956 A dies, leaving the business to his son, C, but leaves the claim against B to another son, D, the taxpayer. The claim against B becomes worthless in D's hands in 1957. D's loss is controlled by the nonbusiness debt provisions, even though the original consideration was advanced by A in his trade or business, since the debt was not related to any trade or business of D either at the time he acquired it or at the time it became worthless.

(5) In 1956 A dies and while his executor, C, is carrying on the business, the claim against B becomes worthless in 1957. The loss sustained by A's estate is not controlled by the nonbusiness debt provisions since the debt was acquired in connection with a trade or business of A's estate and it was also related to such trade or business at the time it became worthless.

(6) In 1956, A, in liquidating the business, attempts to collect the claim against B but finds that it has become worthless. A's loss is not controlled by the nonbusiness debt provisions, since a loss incurred in liquidating a trade or business is related thereto at the time it became worthless.

§ 1.166-8 Guarantors, endorsers, or indemnitors of certain noncorporate obligations. There may be deducted from gross income losses sustained by a noncorporate taxpayer through payment during the taxable year of part or all of his obligation as a guarantor, endorser, or indemnitor of a noncorporate obligation. In order to obtain a business bad debt deduction, the taxpayer must establish that the proceeds of the loan were used in the trade or business of the borrower and that the obligation of the borrower, to the person to whom the taxpayer made payment in discharge of his guarantor's obligation, was worthless at the time of such payment without regard to the guaranty, endorsement, or indemnity. The terms guarantor, endorser, and indemnitor include not only those persons having collateral obligations as guarantors or endorsers but also those persons having direct obligations as indemnitors. The application of this section may be illustrated by the following examples:

Example (1). A is a guarantor of an obligation of B, an individual, to C, the proceeds of which were used in B's trade or business. B defaults on his obligation. A makes payment in discharge of his obligation as guarantor at a time when the obligation of the borrower to C is worthless. A may claim a business bad debt deduction.

Example (2). A is a guarantor of an obligation of B, an individual, to C, the proceeds of which were used in B's trade or business. B pays a portion of the obligation but defaults on the remainder. A makes payment, in discharge of his obligation as guarantor, of the remaining unpaid portion of the debt at a time when the obligation of the borrower as to such unpaid balance is worthless. A may claim a business bad debt deduction for the remaining portion of the debt which he pays in discharge of his obligation.

Example (3). A is a guarantor of an obligation of B, an individual, to C, the proceeds of which were used for B's personal use. B defaults on the obligation. A makes payment in discharge of his obligation as guarantor for the entire amount of the debt. Assuming that A is not regularly engaged in the business of lending money, A may not take a business bad debt deduction because the proceeds of the loan were not used in B's trade or business.

[F. R. Doc. 56-5259; Filed, July 2, 1956; 8:50 a. m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[43 CFR Part 193]

COAL PERMITS, LEASES AND LICENSES

MISCELLANEOUS AMENDMENTS

Notice is hereby given that pursuant to the authority vested in the Secretary of the Interior under sections 2 to 8, inclusive, of the act of February 25, 1920 (41 Stat. 438 et seq., 30 U. S. C. 201, 202-208), as amended, it is proposed to amend certain sections of the coal regulations approved March 27, 1951, as amended September 7, 1955. The proposed amendment of the sections is set forth below.

Interested persons may submit, in triplicate, written comments, suggestions, or objections with respect to the proposed amendment of the sections to the Bureau of Land Management, Washington 25, D. C., within 30 days from date of publication of this notice in the FEDERAL REGISTER.

WESLEY A. D'EWART,
Assistant Secretary of the Interior.

JUNE 27, 1956.

Sections 193.9 and 193.14 are revised; §§ 193.10 and 193.17 are amended; the present text of § 193.24 is designated as paragraph (a) and a new paragraph (b) added thereto; and paragraph (c) of § 193.25 is amended and new paragraphs (d) and (e) added thereto, as follows:

1. Section 193.9 is revised to read:

§ 193.9 *Lease bond.* A compliance bond, in no event less than \$1,000, with approved corporate surety (Form 4-1113), or the lessee's personal bond in similar amount (Form 4-1114), will be required prior to the issuance of a lease. Personal bonds must be accompanied by negotiable Federal securities in the amount of the bond. If the amount of the bond is fixed at \$1,000, the lessee may, instead, furnish a bond on Form 4-1113 with two qualified individual sureties, as provided in § 191.13 of this subchapter. The right is reserved at any time before or after issuance of the lease to require an increase of the amount of the bond,

whether a corporate, personal or individual surety bond, in any case where the Bureau of Land Management deems it proper to do so.

2. Section 193.10 is amended to read:

§ 193.10 *Minimum production.* Leases shall be conditioned upon the payment of a royalty on a minimum annual production beginning with the sixth year of the lease, except when operation is interrupted by strikes, the elements, or casualties not attributable to the lessee, unless, on application and showing made, operations shall be suspended when market conditions are such that the lease cannot be operated except at a loss or for the other reasons specified in section 39 of the act.¹ Operations under the lease shall be continuous except in the circumstances described or unless the lessee shall pay a royalty, less rent, on the minimum production for one year in advance, in which case operations may be suspended for that year.

3. Section 193.14 is revised to read:

§ 193.14 *Sale; bidding requirements, action by successful bidder.* (a) When the sale is by public auction, before bidding is commenced by those persons present, the Manager or other officer conducting the sale will open and read to those persons the sealed bids received on or before the time set in the notice of lease offer. The successful bidder at a sale by public auction must on the day of sale deposit with the Manager or other officer conducting the sale and each bidder at a sale by sealed bid must submit with his bid, the following: Certified check, cashier's check, bank draft, money order or cash for one-fifth of the amount of the bid by him, and a statement over the bidder's own signature with respect to citizenship and interests held, similar to that prescribed in § 193.11 (a) (2) and (3).

(b) Upon receipt of the high bid at, and at the close of, an oral auction, or the opening of the sealed bids, the authorized officer, subject to his right to reject any and all bids, will award the lease to the successful bidder, who will be notified accordingly. If the land is surveyed, four lease forms will be sent to the successful bidder, who will be required within 30 days from receipt thereof to execute them, pay the balance of the bonus bid, the first year's rental, and the cost of publication of the notice of lease offer as specified in § 193.13, and file a bond as required by § 193.9. The lease will be dated as of the first day of the month following its issuance unless the successful bidder requests that it be dated as of the first day of the month of issuance. If the land is unsurveyed, the successful bidder will not be required to comply with the requirements of this subsection until the land has been surveyed and the plat of such survey accepted and officially filed. Such survey will be at the expense of the Government. If the bidder, after being awarded a lease, fails to execute it or otherwise comply with the applicable regulations, his deposit will be forfeited and disposed

¹ See showing required under § 191.26 of this subchapter.

of as other receipts under the Mineral Leasing Act. If the lease awarded to the successful bidder, is executed by an attorney acting in behalf of the bidder, the lease must be accompanied by evidence that the bidder authorized the attorney to execute the lease. If the bidder dies before the lease is issued, there must be furnished satisfactory evidence, such as specified in § 193.24 (b), in order that the Manager of the appropriate land office may determine to whom the lease may be issued.

4. Section 193.17 is amended to read:

§ 193.17 *Relinquishment of lease.* Upon a satisfactory showing that the public interest will not be impaired, the lessee may surrender the entire lease or any legal subdivision thereof. A relinquishment must be filed in duplicate in the appropriate land office. Upon its acceptance it shall be effective as of the date it is filed, subject to the continued obligation of the lessee and his surety to make payment of all accrued rentals and royalties and to provide for the preservation of any mines or productive works or permanent improvements on the leased lands in accordance with the regulations and terms of the lease.

5. The present text of § 193.24 is designated paragraph (a) and a new paragraph (b) added, as follows:

§ 193.24 *Reward for discovery.* (a)

(b) If the permittee dies before the lease is issued, the lease will be issued to the executor or administrator of the estate if probate of the estate has not been completed; if probate has been completed, or is not required, to the heirs or devisees; and if there are minor heirs or devisees, to their legal guardian or trustee in his name, provided there is filed in all cases the following information:

(1) Where probate of the estate has not been completed:

(i) Evidence that the person, who as executor or administrator submits forms of lease and bond, has authority to act in that capacity and to sign such forms.

(ii) Evidence that the heirs or devisees are the heirs or devisees of the deceased permittees and are the only heirs or devisees of the deceased.

(iii) A statement over the signature of each heir or devisee concerning citizenship and holdings similar to that required by § 193.11 (a) (2) and (3).

(2) Where the executor or administrator has been discharged or no probate proceedings are required:

(i) A certified copy of the will or decree of distribution, if any, and if not, a statement signed by the heirs that they are the only heirs of the permittees and citing the provisions of the law of the deceased's last domicile showing no probate is required.

(ii) A statement over the signature of each of the heirs or devisees with reference to citizenship and holdings similar to that required by § 193.11 (a) (2) and (3), except that if the heir or devisee is a minor, the statement must be over the signature of the guardian or trustee.

(3) Where there is a legal guardian or trustee:

(1) A certified copy of the court order authorizing the guardian or trustee to act as such and to fulfill in behalf of the minor or minors all obligations of the lease or arising thereunder; statements by the guardian or trustee as to the citizenship and holdings of each of the minors and as to his own citizenship and holdings, including his holdings for the benefit of other minors similar to that required by § 193.11 (a) (2) and (3).

6. Paragraph (c) of § 193.25 is amended and new paragraphs (d) and (e) added, as follows:

§ 193.25 *Transfers, including sub-leases.*

(c) An application for approval of any instrument transferring a lease or permit, or interest therein, must be accompanied by a service fee of \$10. An application not accompanied by such a fee will not be accepted. The fee will not be returned even though the application is later withdrawn or rejected.

(d) No transfer will be approved if the transferee is not qualified to take and hold a permit or lease or if his bond is insufficient. A minor, except a minor heir or devisee of a permittee or lessee, is not qualified to hold a permit or lease and a transfer to a minor will not be approved.

(e) In order for the heirs or devisees of a deceased holder of a permit or lease, an operating agreement, or a royalty interest in a permit or lease, to be recognized by the Secretary as the holder of the permit or lease, agreement or interest, there must be furnished the appropriate showing required under § 153.-24 (b).

[P. R. Doc. 56-5246; Filed, July 2, 1956; 8:47 a. m.]

Fish and Wildlife Service

[50 CFR Parts 101, 103, 104, 105, 106, 109, 110, 115, 117, 130]

ALASKA COMMERCIAL FISHERIES

NOTICE OF PROPOSED RULE MAKING

Pursuant to Section 4 of the Administrative Procedure Act of June 11, 1946 (5 U. S. C. 1003) notice is hereby given that the Secretary of the Interior, under the authority of the act of June 18, 1926 (44 Stat. 752; 48 U. S. C. 221 et seq.), as amended, and the act of August 12, 1954 (68 Stat. 698; 48 U. S. C. 1021 et seq.), on the basis of successful exploratory net fishing for salmon native to Alaska on the high seas of the North Pacific Ocean, and after consultation with the United States section of the International North Pacific Fisheries Commission, proposes to:

1. Add the following section to Part 101:

§ 101.19 *Waters of Alaska.* For the purpose of this part, the term "waters of Alaska" north and west of the International Boundary at Dixon Entrance are defined as including those extending

three miles seaward (a) from the coast, (b) from lines extending from headland to headland across all bays, inlets, straits, passes, sounds and entrances, and (c) from any island or groups of islands, including the islands of the Alexander Archipelago, and the waters between such groups of islands and the mainland.

2a. To amend § 103.1 so as to define the Kotzebue-Yukon-Kuskokwim area to include all waters of Alaska between Point Hope and Cape Newenham;

b. To amend § 104.1 so as to define the Bristol Bay area to include all waters of Alaska in Bristol Bay east of a line from Cape Newenham to a point 3 statute miles south of Cape Mensehikof;

c. To amend § 105.1 so as to define the Alaska Peninsula area to include all waters of Alaska from a point 3 statute miles south of Cape Mensehikof to Unimak Pass, thence easterly to the western point at the entrance to Kulukta Bay;

d. To amend § 106.1 so as to define the Aleutian Islands area to include all waters of Alaska in the Aleutian Islands west of, and including, Unimak Pass;

e. To amend § 109.1 so as to define the Cook Inlet area to include all waters of Alaska in Cook Inlet north of Cape Douglas and west of Point Gore, including the Barren Islands;

f. To amend § 110.1 so as to define the Resurrection Bay area to include all waters of Alaska in the Gulf of Alaska between Point Gore and Cape Fairfield;

g. To amend §§ 115.1, 116.1, 117.1, 118.1, 119.1, 120.1, 121.1, 122.1, 123.1, and 124.1 so as to define the Southeastern Alaska area to include all waters of Alaska in Southeastern Alaska between Cape Fairweather and Dixon Entrance;

h. To amend §§ 117.2, 118.2, 119.2, 121.2, 122.2, 123.2, and 124.2 by deleting the words "territorial waters" and substituting in lieu thereof the words "waters of the area."

3. To add a new part reading as follows:

PART 130—NORTH PACIFIC AREA

§ 130.1 *Definition.* The North Pacific Area is defined to include all waters of the North Pacific Ocean and Bering Sea north of Dixon Entrance and east of 175 degrees west longitude, exclusive of the waters of Alaska as defined in Part 101 of this subchapter.

§ 130.2 *Salmon fishing prohibited, exception.* No person or fishing vessel subject to the jurisdiction of the United States shall fish for or take salmon, except by trolling, in the North Pacific Area, as defined in this part.

Interested persons are invited to participate in the proposed rule making by submitting their views, data, or arguments in writing to the Director, Fish and Wildlife Service, Washington 25, D. C., within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

WESLEY A. D'EWART,
Assistant Secretary of the Interior.

JUNE 29, 1956.

[P. R. Doc. 56-5276; Filed, July 2, 1956; 8:54 a. m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 973]

[Docket No. AO-178-A8]

MILK IN MINNEAPOLIS-ST. PAUL, MINN., MARKETING AREA

NOTICE OF RECOMMENDED DECISION AND OPPORTUNITY TO FILE WRITTEN EXCEPTIONS WITH RESPECT TO PROPOSED MARKETING AGREEMENT AND ORDER

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), hereinafter referred to as the act, and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of the filing with the Hearing Clerk of the recommended decision of the Deputy Administrator, Agricultural Marketing Service, United States Department of Agriculture, with respect to proposed amendments to the tentative marketing agreement and to the order, as amended, regulating the handling of milk in the Minneapolis-St. Paul, Minnesota, marketing area. Interested parties may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington 25, D. C., not later than the close of business on the 5th day after publication of this decision in the FEDERAL REGISTER. Exceptions should be filed in quadruplicate.

Preliminary statement. The hearing on the record of which the proposed marketing agreement and the order amending the order, as amended, were formulated was conducted at Minneapolis, Minnesota, on April 26, 1956, pursuant to notice thereof which was issued on April 18, 1956 (21 F. R. 2604).

The only material issues of record related to modifying the definition of "base milk" and revising the base rules to make the base plan more effective in leveling out seasonal production in the market.

Findings and conclusions. The following findings and conclusions on the issues of record are based upon the evidence in the record.

1. In § 973.17 which defines the term "base milk", the phrase "on which the milk was produced" should be deleted.

The order now requires that a volume of milk at least equal to his earned base be delivered to a pool plant from each day's production if the producer is to receive the maximum return for his base milk. The intent of this requirement was to prevent producers from shipping a volume of milk equal to their bases for the entire delivery period during a portion of the delivery period and sending their milk to a nonpool plant for the remainder of the delivery period. This practice should not develop to any great extent, certainly not to the point where it would endanger a supply of milk for the month. Since the base plan is effective only during the months of relatively flush production, it is unlikely that a producer could find a market for such milk,

other than at a manufacturing plant, as his milk would be available to such an outlet during only a portion of the month. Since manufacturing plants would pay approximately the excess price provided by the order there would be little incentive for producers to seek such an outlet.

The proponents of the amendment stated that the deletion of this phrase would effect very great savings in the man hours required to compute producer payrolls. The market administrator testified that a similar savings would be made in his office and that elimination of the phrase in question would greatly expedite the computation of the pool each month. It is now necessary to check each producer's deliveries for each day to determine whether he shipped for that particular day an amount equal to his daily base. Under the amendment, it would be necessary only to check the producer's total deliveries for the month against the producer's daily base multiplied by the number of days in the delivery period.

The savings that would be accomplished in the offices of the handlers and of the market administrator would outweigh any disadvantages that might occur as a result of the amendment.

2. The base-forming period should be changed to include the month of July.

The month of July is now a month of relatively short production and in some years July production is no greater than production during the month of October. The addition of July to the base-forming period will provide an incentive for producers to increase their production at this season of the year and help to eliminate the shortage which sometimes has made it necessary to import emergency supplies during July in years past. Since it is too late for producers to change their production pattern for the year 1956, the addition of July to the base-forming period should be postponed until the year 1957. This will provide producers with a whole year's notice that their deliveries during July will be used in computing their bases for the following year.

3. The elimination of the provision under which a new producer, who commences to deliver his milk to the market after the base-forming period, is allotted a base, was proposed. Its proponents argued that since several weeks and perhaps months, may elapse between the time the farmer decides to equip his farm to produce Grade A milk and the issuance of his Grade A permit, a farmer contemplating such a move should plan to do so only when the market is in short supply and in need of additional production, and that permitting such a producer to acquire a base other than by the purchase of an existing base would be unfair to base-holding producers and would lower their returns by increasing the supply of milk going into manufacturing dairy products.

A market as short of milk as the Minneapolis-St. Paul market has been in recent years might well need milk which might be furnished by a new producer at the end of the base-forming period. It should be noted that dairy farmers,

already producing Grade A milk, may become producers under the order if the plant to which they have been furnishing milk qualifies as a pool plant. This may happen without the prior knowledge of these farmers. It would be inequitable to penalize them by requiring them to take the excess price for their entire production because the plant to which they shipped their milk became a pool plant under the Minneapolis-St. Paul order during the base-paying period or so late in the base-forming period that such producer would have shipped only a few days' production on which to establish a base. Accordingly, it is concluded that producers who do not ship to a pool plant during the base-forming period or who ship during only a small portion of it should be allotted bases. These bases, however, should be somewhat less than those provided in the current order for new producers.

The present provisions of the order have, with respect to the bases allotted to new producers, worked against the purpose of the base plan. Payment to a new producer for 40 percent of his deliveries at the base price will afford a more workable basis for distinguishing between producers who have supplied the market in the fall as compared with those who have not. Such a percentage will encourage the individual farmer who chooses to become a producer to do so during the base-forming period in order that he may secure as large a base as possible. At the same time, it will permit producers coming on the market at other times to obtain a base and will not constitute a deterrent to nonpool plants to qualify as pool plants, as might be the case if all of the milk received from farmers at any such plant were to be priced as excess milk.

A new producer who ships less than 40 days' production during the base-forming period (32 days during the base-forming period of 1956) should be allotted the same base as a producer who commences delivery of milk to the market after the base-forming period has ended. Otherwise, the producer who delivered less than 40 days' milk to the market during the base-forming period would have a base equal to less than 40 percent of his deliveries since the bases are determined by dividing a producer's deliveries by the number of days for which delivery is made but not less than 90 (78 in 1956). A base thus computed would be smaller than the producer would obtain by waiting until the end of the base-forming period to commence deliveries to the market. This would create inequity and would increase the difficulty of the market's securing additional milk should it be needed in late September or October.

4. It was also proposed that the provision whereby a producer could relinquish his base earned during the base-forming period and earn a new base as a new producer should be deleted.

The effectiveness of the base plan in leveling out production has been adversely affected by the ease with which producers could establish a new base. Many producers who produce little or no milk during the base-forming period

when the market is in short supply and importing emergency milk have been able to secure new bases substantially greater than those of producers who have produced milk during the months when the market needs it. Producers who have permitted their herds to dry up during the summer and fall when field work and harvest are at their peaks, and produced very substantial quantities of milk during the winter and spring months when production is flush, have greatly increased the amount of base milk on the market during the present base-paying period and have substantially decreased the price of base milk. This has created considerable unrest among those producers who have adjusted their production to the needs of the market.

Unless some modification of the present provision is effected, many of these producers will be encouraged to abandon the practices they have followed to level out their production in accordance with the requirements of the market and will tend to become "grass producers" again. Continuation of the present provision would threaten the supply of milk for the market during the summer and fall months.

Preventing any producer from establishing a new base would work an undue hardship on producers who, through circumstances beyond their control such as fire, lightning, disease, etc., were unable to establish a satisfactory base in the base-forming period. Such a producer should be permitted to establish a base equal to that granted to a new producer. Because of the difficulty of identifying or defining what constitutes a hardship, the provision should apply to all producers who have earned a base. The much smaller base provided in the proposed amendment will not provide the incentive for relinquishment that is found in the present order. Likewise it should be provided that a producer who desires to relinquish his base shall notify the market administrator prior to the beginning of the base-paying period. This will provide ample protection to the producer who suffered hardship during the base-forming period and will eliminate the consent recomputation of bases which occurred during the entire base-paying period this year.

General findings. (a) The proposed marketing agreement and the order, as amended, and as hereby proposed to be further amended, and all of the terms and conditions thereof will tend to effectuate the declared policy of the act;

(b) The parity prices of milk as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply of and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and the order, as amended, and as hereby proposed to be further amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest; and

(c) The proposed order, as amended, and as hereby proposed to be further amended, will regulate the handling of milk in the same manner as and will be applicable only to persons in their respective classes of industrial and commercial activity specified in a marketing agreement upon which a hearing has been held.

Rulings on proposed findings and conclusions. Briefs were filed containing statements of fact, proposed findings and conclusions and arguments with respect to the provision of the proposed amendments. Every point covered in the briefs was carefully considered along with the evidence in the record in making the findings and reaching the conclusions hereinbefore set forth. To the extent that the findings and conclusions contained in the briefs are inconsistent with the findings and conclusions contained herein, the request to make such findings or to reach such conclusions is denied on the basis of the facts found and stated in connection with the conclusions in this recommended decision.

Recommended marketing agreement and order. The following order amending the order, as amended, is recommended as the detailed and appropriate means by which these conclusions may

be carried out. The proposed marketing agreement is not included because the regulatory provisions thereof would be the same as those contained in the order.

1. Amend § 973.17 by deleting the words "on which the milk was produced" at the end of said section.

2. Amend § 973.75 to read as follows:

§ 973.75 *Determination of base for each producer.* (a) Any producer who delivers milk representing at least 40 days' production to a pool plant during the delivery periods of July, August, September and October shall have a base computed by the market administrator to be applicable during the following January through June equal to the total pounds of milk delivered in the four-month period divided by the number of days of production represented by such deliveries during such period but not less than 90: *Provided*, That for the year 1956 the base-forming period shall be the delivery periods of August, September and October and the base of a producer shall be determined by dividing his total deliveries during the three-month period by the number of days of production represented by such deliveries but not less than 78, and

(b) Any producer who commences delivery to a pool plant less than 40 days prior to the end of the base-forming period (32 days during the base-forming period of 1956), or who commences delivery to a pool plant after the base-forming period, shall have a base for each of the months of January through June equal to 40 percent of such producer's deliveries to a pool plant during such month.

3. Delete § 973.76 and substitute therefore the following:

§ 973.76 *Establishing new bases.* Any producer for whom a base has been established pursuant to § 973.75 (a) may relinquish such base for the following base-paying period by notifying the market administrator prior to December 31. The daily base of such producer shall then be determined pursuant to § 973.75 (b).

Filed at Washington, D. C., this 28th day of June 1956.

[SEAL]

F. R. BURKE,
Acting Deputy Administrator.

[F. R. Doc. 56-5272; Filed, July 2, 1956; 8:52 a. m.]

NOTICES

DEPARTMENT OF THE TREASURY

Foreign Assets Control

GOVERNOR OF GUAM

DELEGATION OF AUTHORITY WITH RESPECT TO APPLICATIONS FOR LICENSES

Notice is hereby given that the Treasury Department has authorized the Governor of Guam to consider and act upon applications for licenses under the Foreign Assets Control Regulations (31 CFR 500.100-500.808) to export from Guam merchandise held there because of the Foreign Assets Control import restrictions.

[SEAL]

ELTING ARNOLD,
Acting Director,
Foreign Assets Control.

[F. R. Doc. 56-5258; Filed, July 2, 1956; 8:50 a. m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

ADMINISTRATIVE OFFICER, GENERAL SUPPLY OFFICER; AREA II

REDELEGATION OF AUTHORITY WITH RESPECT TO CONTRACTS AND LEASES

JUNE 22, 1956.

Pursuant to authority delegated by Order No. 619 of the Director of the Bureau of Land Management, the following redelegations of authority are made in accordance with sections 1 (a), 1 (b), and 1 (d), to become effective imme-

diately upon publication in the FEDERAL REGISTER. The authority delegated may not be redelegated.

AUTHORITY OF CERTAIN OFFICERS TO ENTER INTO CONTRACTS AND LEASES

SECTION 1. The area administrative officer is authorized to enter into contracts for construction, supplies (including the rental of equipment) or services, irrespective of amount,¹ and leases of space in real estate as provided in secs. 50 and 52 of Order No. 2509, and amendment No. 21, November 9, 1954, of the Secretary of the Interior.

SEC. 2. The area general supply officer is authorized to enter into such contracts when the amount in any such contract does not exceed \$2,000.

NEAL D. NELSON,
Area Administrator.

[F. R. Doc. 56-5242; Filed, July 2, 1956; 8:46 a. m.]

[Amdt. 3]

ALASKA

ALASKA PUBLIC SALE ACT CLASSIFICATION
NO. 13

JUNE 25, 1956.

Pursuant to the authority delegated to me under section 2.5 of Bureau Order

¹ Where the amount involved is in excess of \$10,000, five working days advance notice to the Office of the Secretary is required in accordance with the Secretary's memoranda of March 2, 1954, and October 17, 1955.

No. 541 of April 21, 1954 (19 F. R. 2473) as amended, Alaska Public Sale Classification No. 13 of December 29, 1953, as amended, is hereby further amended as follows:

The classification for industrial and commercial purposes only, which was applied to the lands in Lot 12 of Tract B of U. S. Survey No. 3292 is revised to include in addition classification for housing purposes. This amendment will take effect immediately.

ROGER R. ROBINSON,
Operations Supervisor.

[F. R. Doc. 56-5243; Filed, July 2, 1956; 8:47 a. m.]

ADMINISTRATIVE OFFICER ET AL.; AREA I DELEGATIONS OF AUTHORITY

1. Under authority conferred by Director's Order No. 615, June 12, 1956, the Acting Area Administrator and the Area Administrative Officer are authorized to enter into contracts for construction, supplies (including the rental of equipment) or services, irrespective of amount,¹ and leases of space in real estate.

2. Also pursuant to the above order, the following classes of employees of Area I are hereby authorized to enter into procurement contracts with limitations on individual transactions as indicated.

	Special purpose leases (buildings)	Equipment rental agreement	4-140 purchase orders	SF-44 purchases	Imprest funds
Acting Area Administrative Officer and Area Property and Supply Officer	\$10,000	\$10,000	\$10,000	\$500	\$100
Washington State Supervisor, California State Supervisor and Oregon State Supervisor		500	500	500	100
District Range Managers and District Foresters		500	500	500	100
Manager Land Office, Los Angeles, and Manager Land Office, Sacramento			1,200	50	25
Office Cadastral Engineers (Sacramento)			500	500	100
Cadastral Engineers (in field)			500	500	100

¹To be used only for purchases of routine office supplies from General Services Administration. Such purchases are subject to the availability of California State Office funds, quarterly apportionments, and such other limitations as may be imposed by the State Supervisor.

JAMES F. DOYLE,
Area Administrator, Area I.

[F. R. Doc. 56-5244; Filed, July 2, 1956; 8:47 a. m.]

Bureau of Reclamation

[769639]

CASTLE PEAK PROJECT, UTAH

JUNE 27, 1956.

ORDER OF REVOCATION

MAY 4, 1956.

Pursuant to the authority delegated by Departmental Order No. 2765 of July 30, 1954 (19 F. R. 5004), I hereby revoke Departmental Orders of March 12, 1918, October 18, 1918, and September 20, 1920, insofar as said orders affect the following described lands; provided, however, that such revocation shall not affect the withdrawal of any other lands by said orders or affect any other orders withdrawing or reserving the lands hereinafter described:

UINTAH SPECIAL MERIDIAN, UTAH

- T. 3 S., R. 5 W.,
Sec. 20, S $\frac{1}{2}$;
- Sec. 21, SE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$;
- Sec. 28, NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$;
- Sec. 29, NE $\frac{1}{4}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$;
- Sec. 31, SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$;
- Sec. 32, N $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$;
- T. 1 N., R. 6 W.,
Secs. 4, 5, 8, 9 and 16, all.
- T. 2 N., R. 6 W.,
Secs. 31, 32 and 33, all.
- T. 3 S., R. 6 W.,
Sec. 25, NW $\frac{1}{4}$.
- T. 4 S., R. 6 W.,
Sec. 1, lots 1, 2, SW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$;
- Sec. 2, Lot 1, S $\frac{1}{2}$ N $\frac{1}{2}$;
- Sec. 3, SE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$;
- Sec. 4, S $\frac{1}{2}$ SE $\frac{1}{4}$;
- Sec. 9, NE $\frac{1}{4}$;
- Sec. 10, NE $\frac{1}{4}$;
- T. 3 S., R. 8 W.,
Sec. 19, all;
- Sec. 30, N $\frac{1}{2}$ NE $\frac{1}{4}$.
- T. 2 N., R. 9 W.,
Secs. 13, 14, 15 and 34, all;
- Sec. 35, E $\frac{1}{2}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$;
- Sec. 36, NW $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$.
- T. 3 S., R. 9 W.,
Sec. 23, NW $\frac{1}{4}$, N $\frac{1}{2}$ S $\frac{1}{2}$;
- Sec. 24, N $\frac{1}{2}$, N $\frac{1}{2}$ S $\frac{1}{2}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
- Sec. 25, N $\frac{1}{2}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$;
- Sec. 26, S $\frac{1}{2}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ S $\frac{1}{2}$;
- Sec. 27, S $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ S $\frac{1}{2}$.

The above areas aggregate approximately 13,234.23 acres.

E. G. NIELSEN,
Acting Commissioner.

I concur.

1. The following-described lands are within the Ashley National Forest and have been open to applications and offers under the mineral-leasing laws. They will be open to such other applications, selections, and locations, as are permitted on national forest lands effective at 10:00 a. m. on August 2, 1956:

UINTAH SPECIAL MERIDIAN

- T. 1 N., R. 6 W.,
Sec. 4;
- Sec. 5, SE $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ NE $\frac{1}{4}$, and W $\frac{1}{2}$;
- Sec. 8, W $\frac{1}{2}$ and SE $\frac{1}{4}$.
- T. 2 N., R. 6 W.,
Sec. 31, N $\frac{1}{2}$, SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, and SE $\frac{1}{4}$ SE $\frac{1}{4}$.

The areas described aggregate approximately 2,160 acres.

2. The following-described lands have been patented without a reservation of minerals to the United States:

UINTAH SPECIAL MERIDIAN

- T. 3 S., R. 5 W.,
Sec. 20, S $\frac{1}{2}$;
- Sec. 21, SE $\frac{1}{4}$ SW $\frac{1}{4}$ and SE $\frac{1}{4}$;
- Sec. 28, NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, and NW $\frac{1}{4}$ SW $\frac{1}{4}$;
- Sec. 29, NE $\frac{1}{4}$ SE $\frac{1}{4}$ and S $\frac{1}{2}$ SE $\frac{1}{4}$;
- Sec. 31, SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, and SW $\frac{1}{4}$ SE $\frac{1}{4}$;
- Sec. 32, N $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, and N $\frac{1}{2}$ SW $\frac{1}{4}$;
- T. 1 N., R. 6 W.,
Sec. 5, SW $\frac{1}{4}$ NE $\frac{1}{4}$ and SE $\frac{1}{4}$;
- Sec. 8, NE $\frac{1}{4}$.
- T. 2 N., R. 6 W.,
Sec. 31, NE $\frac{1}{4}$ SE $\frac{1}{4}$;
- Sec. 32, W $\frac{1}{2}$ SW $\frac{1}{4}$.
- T. 3 S., R. 6 W.,
Sec. 25, NW $\frac{1}{4}$.
- T. 4 S., R. 6 W.,
Sec. 1, lots 1, 2, SW $\frac{1}{4}$ NE $\frac{1}{4}$, and S $\frac{1}{2}$ NW $\frac{1}{4}$;
- Sec. 2, lot 1 and S $\frac{1}{2}$ N $\frac{1}{2}$;
- Sec. 3, SE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$;
- Sec. 4, S $\frac{1}{2}$ SE $\frac{1}{4}$;
- Sec. 9, NE $\frac{1}{4}$;
- Sec. 10, NE $\frac{1}{4}$.
- T. 3 S., R. 8 W.,
Sec. 19;
- Sec. 30, N $\frac{1}{2}$ NE $\frac{1}{4}$.
- T. 2 N., R. 9 W.,
Sec. 35, E $\frac{1}{2}$ NE $\frac{1}{4}$ and NE $\frac{1}{4}$ SE $\frac{1}{4}$;
- Sec. 36, NW $\frac{1}{4}$ SW $\frac{1}{4}$ and S $\frac{1}{2}$ SW $\frac{1}{4}$.
- T. 3 S., R. 9 W.,
Sec. 23, NW $\frac{1}{4}$ and N $\frac{1}{2}$ S $\frac{1}{2}$;
- Sec. 24, N $\frac{1}{2}$, N $\frac{1}{2}$ S $\frac{1}{2}$, and SE $\frac{1}{4}$ SE $\frac{1}{4}$;
- Sec. 25, N $\frac{1}{2}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, and SW $\frac{1}{4}$ SE $\frac{1}{4}$;
- Sec. 26, S $\frac{1}{2}$ NW $\frac{1}{4}$ and S $\frac{1}{2}$ S $\frac{1}{2}$;
- Sec. 27, S $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, and S $\frac{1}{2}$ S $\frac{1}{2}$.

The areas described aggregate approximately 5,990 acres.

The remaining lands, aggregating approximately 5,084 acres, were restored to tribal ownership (Uintah and Ouray Reservation) by departmental order of August 25, 1945.

EDWARD WOOLEY,
Director,
Bureau of Land Management.

[F. R. Doc. 56-5245; Filed, July 2, 1956; 8:47 a. m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[P. & S. Docket No. 435]

MARKET AGENCIES AT UNION STOCK YARDS,
DENVER, COLO.

NOTICE OF PETITION FOR MODIFICATION OF RATE ORDER

Pursuant to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U. S. C. 181 et seq.), an order was issued on June 30, 1955 (14 A. D. 472), continuing in effect to and including July 31, 1956, the order of July 20, 1954 (13 A. D. 688), which authorized the respondents to put into effect and assess the current schedule of rates and charges. A further order was issued on May 15, 1956, authorizing respondents to modify such schedule in certain respects.

On June 21, 1956, respondents filed a petition requesting authority to make certain additional modifications in the current schedule of rates and charges and that such schedule as so modified be continued in effect beyond July 31, 1956. The modifications requested in the current schedule are set forth below.

1. To change Article 2, Section A, to read as follows:

ARTICLE 2

SELLING, RESELLING AND BUYING CHARGES

Section A

	Per head
Cattle:	
Consignments of one head and 1 head only.....	\$1.50
Consignments of more than 1 head:	
First 5 head in each consignment.....	1.20
Next 10 head in each consignment.....	1.15
Each head over 15 in each consignment.....	1.10

2. To change Article 2, Section E, to read as follows:

Section E

	Per head
Sheep:	
Consignments of 1 head and 1 head only.....	\$0.50
Consignments of more than 1 head:	
First 10 head in each 250 head in each consignment.....	.40
Next 50 head in each 250 head in each consignment.....	.22
Next 60 head in each 250 head in each consignment.....	.18
Next 130 head in each 250 head in each consignment.....	.10

3. To change paragraph (c) of the provisions relating to deductions made by selling agencies at Denver for the account of others to read as follows:

(c) For the National Live Stock and Meat Board, on cattle, calves, hogs and sheep as follows:

	Cents per head
Cattle.....	02
Calves.....	01
Hogs.....	01
Sheep, (per car).....	1 50

¹ Or $\frac{3}{4}$ cent per head on less than carlots.

Such collections, however, to be optional with shippers.

The modifications, if authorized, will produce additional revenue for the respondent market agencies and increase the cost of marketing livestock. Accordingly, it appears that this public notice of the filing of the petition and its contents should be given in order that all interested persons may have an opportunity to indicate a desire to be heard in the matter.

All interested persons who desire to be heard in the matter shall notify the Hearing Clerk, United States Department of Agriculture, Washington 25, D. C., within 15 days from the date of publication of this notice.

Done at Washington, D. C., this 27th day of June 1956.

[SEAL] DAVID M. PETTUS,
Acting Director, Livestock Division,
Agricultural Marketing Service.

[F. R. Doc. 56-5271; Filed, July 2, 1956;
8:52 a. m.]

DEPARTMENT OF COMMERCE

Bureau of Foreign Commerce

RICHARD FLESCHNER IMPORT-EXPORT AND
HANS WOLFF EXPORT-IMPORT

ORDER TEMPORARILY REVOKING AND DENYING
EXPORT PRIVILEGES

In the matter of Richard Fleschner Import-Export, Uhlandstrasse 52, Berlin W. 15—Wilmersdorf, Federal Republic of Germany. Hans Wolff Export-Import, Nussbaumallee 33 W., Berlin—Charlottenburg 9, Federal Republic of Germany, respondents.

The Investigation Staff of the Bureau of Foreign Commerce, United States Department of Commerce, applied to the Compliance Commissioner, pursuant to the provisions of § 382.11 of the Bureau of Foreign Commerce Export Regulations (Title 15, Chapter III, Subchapter C, Code of Federal Regulations), for an order temporarily suspending Richard Fleschner Import-Export and Hans Wolff Export-Import from all United States export privileges pending completion of an investigation of violations of the export regulations involving said individuals.

The Compliance Commissioner, having considered the evidence submitted in support of said application, has recommended that the temporary suspension order requested by the Investigation Staff be issued. There is reasonable ground to believe from the supporting evidence and the memorandum of the Compliance Commissioner that the respondents Fleschner and Wolff, with

knowledge that Fleschner had contracted to sell certain automobiles, trucks and equipment to a firm in Moscow, Russia, and with knowledge that such commodities might not be exported to that destination without a validated United States export license, ordered and had shipped from the United States the said commodities under general license upon the representation that the purchaser and ultimate consignee thereof was Fleschner in West Germany, and further, that Fleschner and Wolff, having obtained control of three automobiles so shipped and being in a position where they may obtain control of five trucks and equipment, intend to ship the said vehicles and equipment to Moscow in defiance of warnings that such shipment will be in violation of United States Export Control Regulations.

It appears further that an investigation of the foregoing matters is presently being conducted by the Investigation Staff and that pending the completion thereof it would be contrary to the public interest to permit said respondents or persons and firms associated with them to participate in any further exportations from the United States; and that the temporary suspension hereinafter provided is reasonable and necessary to protect the public interest pending completion of the aforementioned investigation: Now, therefore, it is ordered as follows:

(1) All outstanding validated export licenses in which respondents, Fleschner and Wolff, appear or participate as purchaser, intermediate consignee, ultimate consignee, or otherwise, are hereby revoked and shall be returned forthwith to the Bureau of Foreign Commerce for cancellation.

(2) The said respondents, Fleschner and Wolff, their agents, servants, and employees, and all persons and firms associated with them, are hereby denied all privileges of participating directly or indirectly in any manner, form or capacity in an exportation of any commodity from the United States to any foreign destination, including Canada, whether such exportation has heretofore or hereafter been completed. Without limitation of the generality of the foregoing, participation in an exportation shall include and prohibit respondents' participation (a) as parties or as representatives of a party to any validated export license application; (b) in the obtaining or using of any validated or general export license or other export control document; (c) in the receiving, ordering, buying, selling, delivering or disposing of any commodities in whole or in part exported or to be exported from the United States; and (d) in the financing, forwarding, transporting, or other servicing of exports from the United States.

(3) Such denial of export privileges shall apply not only to the said respondents, but also to any other person, firm, corporation, or business organization with which the respondents may be now or hereafter related by ownership, control, position of responsibility, or other connection in the conduct of trade which

may involve exports from the United States or services connected therewith.

(4) This order shall take effect forthwith and shall remain in effect pending the completion of the investigation and the determination of any compliance proceeding which may be instituted against respondents, except insofar as it may be hereafter extended, amended, or modified in accordance with the provisions of the export regulations.

(5) No person, firm, corporation, or other business organization, within the United States or elsewhere, and whether or not engaged in trade relating to exports from the United States, shall, without prior disclosure of the facts to, and specific authorization from, the Bureau of Foreign Commerce, directly or indirectly in any manner, form or capacity (a) apply for, obtain, transfer, or use any license, shipper's export declaration, bill of lading, or other export control document relating to any exportation of commodities from the United States, or (b) order, receive, buy, sell, use, deliver, dispose of, finance, transport, forward, or otherwise service or participate in an exportation from the United States, or in a reexportation of any commodity exported from the United States, with respect to which any of the persons or companies within the scope of paragraphs (2) and (3) hereinabove receive any benefit or have any interest or participation of any kind or nature, direct or indirect.

(6) A certified copy of this order shall be served upon the said respondents.

(7) In accordance with the provisions of § 382.11 (c) of the export regulations, the respondents may move at any time to vacate or modify this temporary suspension order by filing an appropriate motion therefor, supported by evidence, with the Compliance Commissioner and may request oral hearing thereon, which, if requested, shall be held before the Compliance Commissioner at Washington, D. C., at the earliest possible date.

Dated: June 25, 1956.

JOHN C. BORTON,
Director,
Office of Export Supply.

[F. R. Doc. 56-5257; Filed, July 2, 1956;
8:50 a. m.]

Office of the Secretary

HENRY S. KLINGENSTEIN

REPORT OF APPOINTMENT AND STATEMENT OF
FINANCIAL INTERESTS

Report of appointment and statement of financial interests required by section 710 (b) (6) of the Defense Production Act of 1950, as amended.

Report of Appointment

1. Name of appointee: Henry S. Kligenstein.
2. Employing agency: Department of Commerce, Business and Defense Services Administration.
3. Date of appointment: May 29, 1956.
4. Title of position: Scrap Copper Consultant.

5. Name of private employer: Keystone Metal Company, Pittsburgh, Pa.

CARLTON HAYWARD,
Director of Personnel.

Statement of Financial Interests

6. Names of any corporations of which the appointee is an officer or director or within 60 days preceding appointment, has been an officer or director, or in which the appointee owns or within 60 days preceding appointment has owned any stocks, bonds, or other financial interests; any partnerships in which the appointee is, or within 60 days preceding appointment was, a partner; and any other businesses in which the appointee owns, or within 60 days preceding appointment has owned, any similar interest.

Keystone Metal Co. of Alabama.
Radio Corp. of America.
Sacony Mobil Co.
Granite City Steel Co.
American Metal Co.
Rockwell Spring & Axle Co.
Wheeling Steel Corp.
Bank Deposits.

Dated: June 9, 1956.

HENRY S. KLINGENSTEIN.

[F. R. Doc. 56-5256; Filed, July 2, 1956;
8:50 a. m.]

CIVIL AERONAUTICS BOARD

[Docket Nos. 7942, 7943]

AERO FINANCE CORP. AND ATWOOD AIR SERVICE, INC.

NOTICE OF HEARING; ENFORCEMENT PROCEEDING

In the matter of Aero Finance Corporation enforcement proceeding; Docket No. 7942.

In the matter of Atwood Air Service, Inc., enforcement proceeding; Docket No. 7943.

Notice is hereby given pursuant to the Civil Aeronautics Act of 1938, as amended, that hearing in the above-entitled matters is assigned to be held on July 11, 1956, at 10:00 a. m., e. d. s. t., in Room E-224, Temporary Building No. 5, Sixteenth Street and Constitution Avenue NW., Washington, D. C., before Examiner Curtis C. Henderson.

Dated at Washington, D. C., June 27, 1956.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F. R. Doc. 56-5274; Filed, July 2, 1956;
8:53 a. m.]

[Docket No. 8055]

RAILWAY EXPRESS AGENCY, INC.; VALUATION CHARGES

NOTICE OF PREHEARING CONFERENCE

In the matter of the increased valuation and C. O. D. charges proposed by Railway Express Agency Incorporated.

Notice is hereby given that a prehearing conference in the above-entitled investigation is assigned to be held on July 12, 1956, at 10:00 a. m., e. d. s. t., in Room

E-224, Temporary Building No. 5, Sixteenth Street and Constitution Avenue NW., Washington, D. C., before Examiner James S. Keith.

Dated at Washington, D. C., June 28, 1956.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F. R. Doc. 56-5275; Filed, July 2, 1956;
8:53 a. m.]

FEDERAL POWER COMMISSION

[Docket No. 2684 etc.]

JOHN G. ANDERSON ET AL.

NOTICE OF APPLICATIONS AND DATE OF HEARING

Take notice that each of the Applicants listed below has filed an application for a certificate of public convenience and necessity pursuant to section 7 (c) of the Natural Gas Act, authorizing such Applicant to continue to sell natural gas subject to the jurisdiction of the Commission, all as more fully represented in the respective applications which are on file with the Commission and open for public inspection. These matters should be consolidated and disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on the date and at the place hereinafter stated, concerning the matters involved in and the issues presented by such applications: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) of the Commission's rules of practice and procedure.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) not less than ten days before the date of hearing. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request for waiver is made. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

The dockets, Applicants and material averments in applications to which reference is made above are as follows:

Docket No.; Name and Address; Filing Date; Gas Field and Purchaser

G-2684; John G. Anderson and William F. Cooke, a partnership, M. Thompson, H. M. Thompson, Joseph R. Busk, Rosser Reeves, C. M. Carter, Mrs. C. M. Carter, C. B. Carter, Acco Oil and Gas Company, C. J. Brown, D. D. Raymond, Jr., J. L. Roberts and C. H. Murphy, Partners, Colorado Oil and Gas Corporation, Evelyn S. Blum and George E. Blum, Houston, Tex.; 9-7-54, and supplemented

11-22-54, 11-21-55; North Louise, Wharton County, Tex., Tennessee Gas Transmission Company.

G-3029; Paul J. Fly, J. D. Wrather, Jr., Mazie Wrather, Goliad Royalty Company, and Pool & Stofor, Victoria, Tex.; 9-24-54; Terrel Point and West Terrel Point, Goliad County, Tex.; Trunkline Gas Company.

G-3761; Argo Oil Corporation, Denver, Colo.; 9-30-54; Southeast Liberal Light, Seward County, Kans.; Panhandle Eastern Pipe Line Company.

G-3875; Argo Oil Corporation, Denver, Colo.; 10-1-54; Southeast Liberal Light, Beaver County, Okla.; Panhandle Eastern Pipe Line Company.

G-4272; Monterey Oil Company, San Antonio, Tex.; 10-8-54; Kelly-Snyder, Scurry County, Tex.; Kelly-Snyder Gasoline Plant Owners.

G-4789; Alvin H. Howard and D. E. Vasser, New Orleans, La.; 11-10-54; Benedum Strawberry, Upton County, Tex.; Texas Gas Products Corporation.

G-5907; Wilbur D. Roush, Cleveland, Ohio; 11-26-54; Sutton Township, Meigs County, Ohio, Ohio Fuel Gas Company.

G-7258; Hlawatha Oil and Gas Company, Pittsburgh, Pa.; 12-1-54, amended 1-26-56; Driftwood Pool, Cameron County, Pa.; New York State Natural Gas Corporation.

G-7696; Orville Eberly, Bortz Coal Company, Katherine E. Fawcett Lawrence Parish, Arthur Guseman, J. H. Beerits, Ross Pile Estate, William E. Snee, Sally D. Augustine, Robert E. Eberly, Uniontown, Pa.; 12-2-54; Summit, Fayette County, Pa.; Manufacturers Light and Heat Company.

G-8147; Earl S. Godwin et al., Fairmont, W. Va.; 12-13-54; Union District, Upshur County, W. Va.; Watson Oil and Gas Company.

G-8149; Earl S. Godwin et al., Fairmont, W. Va.; 12-13-54; Union District, Upshur County, W. Va.; Watson Oil and Gas Company.

G-8407; Swan-Finch Gas Development Corporation, New York, N. Y.; 1-26-55; Benetzette, Jay and Lawrence Townships, Elk and Clearfield Counties, Pa.; Manufacturers Light and Heat Company and New York State Natural Gas Corporation.

G-9877; A. D. Shorts and L. R. Shorts, Shippenville, Pa.; 1-16-55; Millcreek Township, Clarion County Pa.; United Natural Gas Company.

A public hearing will be held on the 26th day of July 1956, beginning at 9:30 a. m., e. d. s. t., in the hearing room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by the above applications.

[SEAL] LEON M. FUQUAY,
Secretary.

JUNE 27, 1956.

[F. R. Doc. 56-5266; Filed, July 2, 1956;
8:51 a. m.]

[Docket No. G-9688]

PERMIAN BASIN PIPELINE CO.

NOTICE OF APPLICATION AND DATE OF HEARING

JUNE 27, 1956.

Take notice that Permian Basin Pipeline Company (Applicant), a Delaware corporation with principal office at 2223 Dodge Street, Omaha, Nebraska, filed, on April 23, 1956, an application for a certificate of public convenience and necessity, pursuant to section 7 (c) of the Natural Gas Act, authorizing Applicant

to construct and operate certain natural gas facilities as hereinafter described in addition to those heretofore authorized in this docket for the purpose of taking natural gas from Phillips Petroleum Company at its Andrews Gasoline Plant, Andrews County, Texas, subject to the jurisdiction of the Commission, all as more fully represented in the application which is on file with the Commission and open for public inspection.

Said application was filed as a petition to amend the findings and order of the Commission issued on March 30, 1956, in the Matters of Permian Basin Pipeline Company et al. in Docket No. G-9688 et al. This order authorized Permian, inter alia, to construct and operate five 1,350 horsepower compressor units at the aforesaid Gasoline Plant.

In Docket No. G-10450 Permian seeks authorization to remove five of its existing 1,350 horsepower compressor units now located at its Spraberry Compressor Station as authorized in Docket No. G-1928 for the purpose of complying with the authorization granted by Commission order on March 30, 1956 in Docket No. G-9688.

Applicant now proposes in Docket No. G-9688 to construct and operate an additional five 1,350 horsepower compressor units at the aforesaid Gasoline Plant.

Applicant states that the estimated cost of the proposed compressor facilities is approximately \$1,276,000 which will be financed by short-term borrowing; that approximately 50,000 Mcf of gas per day will be available to Applicant in 1956; that these five additional units will enable Applicant to receive a total of 50,000 Mcf of residue gas per day from Phillips in Andrews County; that the additional volumes of gas so obtained will be used to further supplement Applicant's existing gas supply; and that the purchase of this additional gas by Applicant provides a market for residue gas which would otherwise either remain in the ground or, if permitted, be flared.

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

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on Thursday, July 19, 1956, at 9:30 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 such application: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

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 July 14, 1956. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL]

LEON M. FUQUAY,
Secretary.[F. R. Doc. 56-5264; Filed, July 2, 1956;
8:51 a. m.]

[Docket Nos. G-10203, G-10204]

UNITED GAS PIPE LINE CO. AND TENNESSEE
GAS TRANSMISSION CO.NOTICE OF APPLICATIONS AND DATE OF
HEARING

JUNE 27, 1956.

Take notice that United Gas Pipe Line Company (United), a Delaware corporation with principal place of business at 1525 Fairfield Avenue, Shreveport, Louisiana, filed in Docket No. G-10203 on April 5, 1956, an application for a certificate of public convenience and necessity, pursuant to section 7 (c) of the Natural Gas Act, authorizing United to render service as hereinafter described, subject to the jurisdiction of the Commission, all as more fully described in the application which is on file with the Commission and open for public inspection.

Concurrently therewith, Tennessee Gas Transmission Company (Tennessee), a Delaware corporation with principal place of business at Commerce Building, Houston, Texas, filed in Docket No. G-10204 on April 5, 1956, an application for permission to abandon service, pursuant to section 7 (b) of the Natural Gas Act, authorizing Tennessee to terminate service as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in the application which is on file with the Commission and open for public inspection.

United proposes to construct and operate, as an integral part of its existing natural gas system, certain natural gas facilities as hereinafter described which are necessary to the delivery and sale of natural gas in interstate commerce by United, and, to sell and deliver natural gas in interstate commerce pursuant to its Form A Service Agreement and G-C Rate Schedule, FPC Gas Tariff, First Revised Volume No. 1, to the Town of Chatham (Chatham), Jackson Parish, Louisiana, for resale in said Town. Chatham is presently being served by Tennessee.

The facilities proposed to be constructed and operated by United out of current working funds at an estimated cost of \$4,615 consist of a 2-inch tap together with a meter and regulator station and appurtenant facilities to be located near Milepost No. 410 on United's 30-inch Magasco-Sterlington line.

United estimates its proposed sale of natural gas to Chatham at 14.73 p. s. i. a. for the first three years as follows: First year, 29,394 Mcf; second year, 30,396 Mcf; third year, 30,750 Mcf.

Tennessee proposes, at the request of Chatham, to abandon the sale of natural gas in interstate commerce to Chatham for resale in said Town and to dismantle its existing natural gas facilities installed at the Chatham sales meter station which represents a total investment of approximately \$5,718. This natural gas service is proposed to be abandoned as soon as other substitute gas service is made available to Chatham.

The applications state that this change of service is mutually agreeable to United, Tennessee and Chatham and that Tennessee is presently serving Chatham under the terms of a Gas Sales Contract dated March 30, 1955, which provides for the sale and delivery of Chatham's requirements up to a maximum of 250 Mcf per day.

These related matters should be heard on a consolidated record and disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on Thursday, July 19, 1956, at 9:30 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 such applications: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

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 July 14, 1956. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL]

LEON M. FUQUAY,
Secretary.[F. R. Doc. 56-5265; Filed, July 2, 1956;
8:51 a. m.]

[Docket No. G-10646]

R. W. FAIR ET AL.

ORDER SUSPENDING PROPOSED CHANGES IN
RATES

R. W. Fair et al. (Applicant), on June 8, 1956, tendered for filing a proposed change in the presently effective rate schedules for sales subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate is contained in the following designated filing which is proposed to become effective on the date shown:

Description; Purchaser; Rate Schedule Designation and Effective Date¹

Notice of change, dated June 5, 1956; Mississippi River Fuel Corporation; Supplement No. 5 to Applicant's FPC Gas Rate Schedule No. 1; July 9, 1956.

The increased rates and charges proposed in the aforesaid filing have not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds it is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change, and that the above-designated supplement be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority contained in sections 4 and 15 of the Natural Gas Act and the Commission's general rules and regulations (18 CFR, Chapter I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of said proposed change in rates and charges; and, pending such hearing and decision thereon, the above-designated supplement be and the same hereby is suspended and the use thereof deferred until December 9, 1956, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(B) Neither the supplement hereby suspended, nor the rate schedule sought to be altered thereby, shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(C) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) (18 CFR 1.8 and 1.37 (f)) of the Commission's rules of practice and procedure.

Issued: June 26, 1956.

By the Commission.²

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 56-5267; Filed, July 2, 1956;
8:51 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 812-1011]

B. S. F. Co.

NOTICE OF AND ORDER FOR HEARING ON APPLICATION FOR ORDER DECLARING THAT COMPANY IS NOT AN INVESTMENT COMPANY

JUNE 27, 1956.

Notice is hereby given that B. S. F. Company ("BSF"), a registered management closed-end, non-diversified invest-

ment company, has filed an application and an amendment thereto, pursuant to section 3 (b) (2) of the Investment Company Act of 1940 ("act"), for an order declaring it to be engaged primarily in a business or businesses other than that of investing, reinvesting, owning, holding, or trading in securities.

The application states that BSF is a Delaware corporation, organized on August 10, 1955, and is the surviving corporation of the merger of B. S. F. Company, a Pennsylvania corporation ("Pennsylvania Corporation") into BSF on September 30, 1955. On December 13, 1954, Pennsylvania Corporation changed its name from Birdsboro Steel Foundry & Machine Company to B. S. F. Company. Prior to a sale of its assets in December 1954, Pennsylvania Corporation was engaged in business as a steel foundry and machine manufacturer. Following the sale of assets, it was decided to continue Pennsylvania Corporation in existence.

From the proceeds of the sale of assets, \$236,030 was expended to purchase 12,300 shares of stock of the company on the American Stock Exchange, and \$1,881,030 was expended to purchase 93,564 shares as a result of a tender offer, invitations for which were issued April 20, 1955. The tender offer specifically stated that the remaining cash and other assets would be employed to purchase securities and, if appropriate opportunity were presented, substantial, controlling, or entire interests in one or more going businesses.

BSF filed its Notification of Registration on August 12, 1955, and in its registration statement filed in December 1955, made the following statement:

Registrant's primary purpose is to control and operate various industries, either by registrant itself or through subsidiaries. Registrant's intent is to cease to be an investment company and to enter a business other than investment in securities. Control of industrial operations, specifically factoring and hardware, is registrant's primary activity—not the business of investing. Accordingly, registrant specifically intends to apply for an exemption order under Section 3 (b) (2) of the Act, since registrant is not engaged in the business of investing, reinvesting, borrowing, holding, or trading in securities.

In the prospectus covering a recent offering of 92,636 additional shares of capital stock, reference was made to the above-quoted statement.

The company announced to its stockholders on August 29, 1955, that it was the intention that its assets be devoted to the acquisition of "control of various businesses, as and when such businesses are available."

In March 1955, the company began acquiring common stock of The American Hardware Corporation ("Hardware"). As of May 1, 1956, the company's holdings of Hardware stock totalled 151,961 shares, or 25.56 percent of the outstanding stock thereof.

It is stated in the application that BSF is the largest single stockholder of Hardware, that Hardware has a total of 5,000 stockholders, and except for BSF no stockholder owns more than 5 percent of the outstanding stock. Four members of the Board of Directors of BSF are also on the twelve man Board of Directors of

Hardware and one of these directors is also President of Hardware. It is also stated that the officers and directors of BSF have developed a close working relationship with the management and management directors of Hardware and take an active part in the affairs of Hardware and have conducted various negotiations on Hardware's behalf and have actively participated in the making of its important policy decisions.

BSF also contends that through its subsidiary, New York Factors, Inc., the company is engaged in the business of factoring. The company has invested \$361,512 to acquire all the preferred stock and 78 percent of the common stock of New York Factors, Inc., and the remaining 22 percent is under contract to the company. BSF is contingently liable for all present and future debts and liabilities of the subsidiary and recently loaned \$300,000 to the subsidiary.

Section 3 (a) (3) of the act defines an investment company as one which is engaged or proposes to engage in the business of investing, reinvesting, owning, holding, or trading in securities, and owns or proposes to acquire investment securities having a value exceeding 40 percent of the value of the company's total assets (exclusive of Government securities and cash items) on an unconsolidated basis. For purposes of this section, "investment securities" are defined as including all securities except Government securities, securities issued by employees' securities companies and securities issued by majority-owned subsidiaries which are not investment companies.

Section 3 (b) (2) of the act provides, that, notwithstanding section 3 (a) (3), the term "investment company" does not include a person whom the Commission upon application finds and by order declares to be primarily engaged in a business or businesses other than that of investing, reinvesting, owning, holding or trading in securities either directly or through majority-owned subsidiaries or through controlled companies conducting similar types of businesses.

BSF is an investment company in accordance with the statistical definition of section 3 (a) (3) of the act. At April 30, 1956, BSF's total assets (exclusive of Government securities and cash items) had a value of \$3,691,893. The value of its majority-owned subsidiary, as determined by the Board of Directors, was \$500,000 or approximately 13.5 percent of total assets (exclusive of Government securities and cash items). Investment securities (mainly the stock of Hardware), had a value of \$3,162,222 or 85.7 percent of total assets.

For the three months ending March 31, 1956, BSF's total income was \$47,932, of which \$17,600 or 36.7 percent was derived from its investment in its majority-owned subsidiary and \$30,333 or 63.3 percent from its investment in Hardware.

It appearing to the Commission that it is appropriate in the public interest and in the interest of investors that a hearing be held with respect to the application pursuant to section 3 (b) (2);

It is ordered, Pursuant to section 40 (a) of the act, that a hearing on the

¹ The stated effective date is the first day after expiration of the required thirty days' notice, or the effective date proposed by Applicant, if later.

² Commissioner Digbey dissenting in opinion.

aforesaid application under the applicable provisions of the act, and of the rules of the Commission thereunder be held on the 12th day of July 1956, at 10:00 a. m., in the offices of the Securities and Exchange Commission, 425 Second Street NW., Washington 25, D. C. At such time the Hearing Room Clerk will advise as to the room in which such hearing will be held. Any person desiring to be heard or otherwise wishing to participate in the proceedings is directed to file with the Secretary of the Commission his application as provided by Rule XVII of the Commission's rules of practice, on or before the date provided in that rule setting forth any issues of law or facts which he desires to controvert or any additional issues which he deems raised by this Notice and Order or by such application.

It is further ordered, That Edward C. Johnson, or any officer or officers of the Commission, designated by it for that purpose, shall preside at said hearing. The officer so designated is hereby authorized to exercise all the powers granted to the Commission under sections 41 and 42 (b) of the Investment Company Act of 1940 and to a hearing officer under the Commission's rules of practice.

The Division of Corporate Regulation having advised the Commission that it has made a preliminary examination of the application, and that upon the basis thereof the following matters and questions are presented for consideration, without prejudice to its specifying additional matters and questions upon further examination:

(1) Whether BSF is an investment company within the definition of section 3 (a) (3) of the act;

(2) Whether BSF is primarily engaged in the hardware business through its ownership of 25.56 percent of the voting stock of American Hardware;

(3) Whether BSF is primarily engaged in the factoring business through its ownership of 78 percent of the voting stock of New York Factors, Inc.; and

(4) Whether, pursuant to the terms of section 8 (f) of the act, an order should be issued declaring that BSF has ceased to be an investment company and that its registration as such shall cease to be in effect and whether it is necessary for the protection of investors that any appropriate conditions should be provided in such order.

It is further ordered, That at the aforesaid hearing attention be given to the foregoing matters and questions.

It is further ordered, That the Secretary of the Commission shall give notice of the aforesaid hearing by mailing a copy of this notice and order by registered mail to BSF and that notice to all other persons be given by publication of this notice and order in the FEDERAL REGISTER and that a general release of this Commission in respect of this notice and order be distributed to the press and mailed to the mailing list for releases.

By the Commission.

[SEAL] ORVAL L. DuBOIS,
Secretary.

[F. R. Doc. 56-5247; Filed, July 2, 1956;
8:48 a. m.]

[File No. 811-714]

HELSEY FUND, INC.

NOTICE OF FILING OF APPLICATION FOR ORDER
DECLARING THAT COMPANY HAS CEASED TO
BE AN INVESTMENT COMPANY

JUNE 27, 1956.

Notice is hereby given that The Helsey Fund, Inc. ("applicant"), registered under the Investment Company Act of 1940 ("act") as a closed-end investment company, has filed an application pursuant to section 8 (f) of the act for an order declaring that applicant has ceased to be an investment company under the act.

Applicant was organized under the laws of the State of Maryland on September 26, 1955. Its Notification of Registration under the act was filed on February 28, 1956.

Applicant represents that it filed a registration statement under the Securities Act of 1933 on February 29, 1956, and withdrew said registration statement on April 20, 1956. Applicant further represents that for the present it is unable to engage in the business of investing, re-investing or trading in securities and acting as an investment company.

Section 8 (f) of the act provides, in part, that whenever the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order and upon the taking effect of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than July 16, 1956, at 5:30 p. m., submit to the Commission in writing any facts bearing upon the desirability of a hearing on the matter and may request that a hearing be held, such request stating the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D. C. At any time after said date, the application may be granted as provided in Rule N-5 of the rules and regulations promulgated under the act.

By the Commission.

[SEAL] ORVAL L. DuBOIS,
Secretary.

[F. R. Doc. 56-5248; Filed, July 2, 1956;
8:48 a. m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

JUNE 28, 1956.

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. 32279: *Substituted service—Motor-rail-motor—Pennsylvania Railroad.* Filed by The Eastern Central

Motor Carriers Association, Inc., Agent, for interested motor carriers and the Pennsylvania Railroad Company. Rates on various commodities loaded in highway motor trailers and transported on railroad flat cars between Chicago and East St. Louis, Ill., Indianapolis, Ind., on one hand, and Kearny, N. J., and Philadelphia, Pa., on the other.

Grounds for relief: Motor truck competition.

FSA No. 32280: *Substituted service—Motor-rail-motor—Pennsylvania Railroad.* Filed by The Eastern Central Motor Carriers Association, Inc., Agent, for interested motor carriers and the Pennsylvania Railroad Company. Rates on various commodities loaded on highway motor trailers and transported on railroad flat cars between Chicago, Ill., and Kearny, N. J.

Grounds for relief: Motor carrier competition.

FSA No. 32281: *Anti-knock Compound—Louisiana points to Chicago district.* Filed by F. C. Kratzmeir, Agent, for interested rail carriers. Rates on motor fuel anti-knock compound from Baton Rouge and North Baton Rouge, La., to Chicago, Ill., district points, also Lemont and Lockport, Ill.

Grounds for relief: Circuitous routes in part west of the Mississippi River.

FSA No. 32282: *Plant and Office Equipment—Cleveland, Ohio, to Lawrenceburg, Tenn.* Filed by H. R. Hirsch, Agent, for interested rail carriers. Rates on equipment, plant and office, including used machinery, supplies and office records, straight or mixed carloads from Cleveland, Ohio to Lawrenceburg, Tenn.

Grounds for relief: Carrier competition and circuitry.

FSA No. 32283: *Grain and Products to Beaumont and Port Arthur, Tex.* Filed by The Wabash Railroad Company, for itself, and interested rail carriers. Rates on grain, grain products and related commodities, carloads from specified points on the Wabash in Illinois (East St. Louis), Iowa and Missouri to Beaumont and Port Arthur, Tex., for export.

Grounds for relief: Circuitous routes. Tariff: Supplement 11 to Wabash Railroad Company's I. C. 7752.

FSA No. 32284: *Substituted service—motor-rail-motor—Pa. R. R. and N. & W. Ry.* Filed by Interstate Household Goods Movers Tariff Bureau, Inc., Agent, for interested rail and motor carriers. Rates on various commodities, loaded in highway trailers on railroad flat cars (1) between Chicago and East St. Louis, Ill., to Kearny, N. J., and Pittsburgh, Pa., (2) between Pittsburgh, Pa., and Kearny, N. J., and (3) between Bristol, Va.-Tenn., and Roanoke, Va., and Kearny, N. J., and Philadelphia, Pa.

Grounds for relief: Motor truck competition.

Tariff: Supplement 14 to Interstate Household Goods Movers Tariff Bureau, Inc., Agent, tariff MF-I. C. C. 15.

By the Commission.

[SEAL] HAROLD D. McCoy,
Secretary.

[F. R. Doc. 56-5268; Filed, July 2, 1956;
8:51 a. m.]

[Rev. S. O. 562, Taylor's I. C. C. Order 72]

LACKAWANNA & WYOMING VALLEY
RAILROAD CO.

DIVERSION OR REROUTING OF TRAFFIC

In the opinion of Charles W. Taylor, Agent, the Lackawanna & Wyoming Valley Railroad Company (E. McClain Watters, Trustee), because of derailment, is unable to transport traffic routed over and to points on its line: *It is ordered, That:*

(a) Rerouting traffic: The Lackawanna & Wyoming Valley Railroad 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 re-

routed, 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 remains 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 3:00 p. m., June 25, 1956.

(g) Expiration date: This order shall expire at 11:59 p. m., June 27, 1956, 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 the agreement and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., June 25, 1956.

INTERSTATE COMMERCE
COMMISSION,
CHARLES W. TAYLOR,
Agent.

[F. R. Doc. 56-5269; Filed, July 2, 1956; 8:52 a. m.]

