*Part II begins on page 10981*

PART I

# FEDERAL REGISTER

THE NATIONAL ARCHIVES — LITTERA SCRIPTA MANET — 1934 — OF THE UNITED STATES

VOLUME 22 NUMBER 251

*Washington, Saturday, December 28, 1957*

## TITLE 6—AGRICULTURAL CREDIT

### Chapter III—Farmers Home Administration, Department of Agriculture

Subchapter E—Account Servicing

[FHA Instruction 451.5]

PART 361—ROUTINE

NOTICE AND ACKNOWLEDGEMENT OF FINAL PAYMENT

Paragraph (d) of § 361.23 is revoked and paragraphs (a), (b), and (c) of § 361.23, Title 6, Code of Federal Regulations (21 F. R. 5556), are revised to simplify notification to the holder by the Finance Office when payment in full of the insured loan account is from borrower's funds, refinancing by a new lender on a noninsured basis, and sale of farm except when the holder finances the purchaser. The revised portion reads as follows:

§ 361.23 *Payment in full from borrower's funds, refinancing by a new lender on a noninsured basis, and sale of a farm except when holder finances purchaser.* * * *

(a) *Determining balance of indebtedness and collection.* When the borrower is ready to make his final payment, the County Supervisor will, upon receipt of Form FHA–835 from the Finance Office, compute the amount necessary to repay in full the note and loan insurance accounts.

(1) The County Supervisor will collect from the borrower the full amount, if any, owed the loan insurance account and the balance of the principal and interest due on the note account. He will remit the collection to the Finance Office with Form FHA–37. The County Supervisor also will inform the Finance Office of the requirements in the loan closing instruction with respect to a satisfaction or release of mortgage.

(2) Since the Farmers Home Administration is the collection agent for the holder, the County Supervisor will advise the borrower, purchaser, or new lender, as the case may be, that the remittance for final payment should be made payable to, or endorsed to, the order of the Farmers Home Administration.

(b) *Finance Office action—(1) Adjustment of records.* Upon receipt of the collection in the Finance Office, if the collection pays in full the outstanding balance of the loan insurance account to the date of the receipt issued to the borrower, and the outstanding balance of the note account to the date of the U. S. Treasury check to be issued to the holder, the Director, Finance Office, will satisfy the Finance Office records as a fully paid account.

(2) *Notice to holder.* The Finance Office will prepare Form FHA–993A, "Notice and Acknowledgment of Final Payment," and forward to the holder the original and one copy for execution and return of the original, together with the canceled promissory note and any other instruments indicated on Form FHA–993A, to the appropriate County Supervisor.

(c) *County Office action.* Upon receipt from the holder of the canceled promissory note and the original of the completed Form FHA–993A, and in the case of an insured loan for which the lender holds the mortgage, also receipt of the real estate mortgage and an instrument of satisfaction or release, the County Supervisor will proceed as follows:

(1) In the case of an insured loan for which the lender held the mortgage, or an insured loan for which the mortgage has been assigned to the Government in trust, the instrument of satisfaction or release (furnished by the lender or by the County Supervisor in accordance with § 361.22 (d)) and Form FHA–366 will be delivered to the borrower, mortgagee, purchaser, or the recorder of deeds and mortgages, as the case may require. The canceled promissory note and the satisfied real estate mortgage will be delivered to the borrower. Except in the case of sale (transfer) of farm within the program, any abstracts of title held by the Farmers Home Administration which are the property of the borrower also will be delivered to the borrower. The County Supervisor

(Continued on p. 10887)

*This issue includes two parts bound together. Part II contains a revision of 47 CFR Part 1, Federal Communications Commission.*

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FEDERAL REGISTER

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## CONTENTS—Continued



## CONTENTS—Continued



## CODIFICATION GUIDE

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

## CODIFICATION GUIDE—Con.



will make proper disposition of any property insurance as prescribed in Part 306 of this chapter.

(2) In the case of an insured loan for which the Government is named mortgagee in the mortgage, an instrument of satisfaction or release will be delivered to the borrower, mortgagee, purchaser, or the recorder of deeds and mortgages, as the case may require. The canceled promissory note and the satisfied real estate mortgage will be delivered to the borrower. The County Supervisor will make proper disposition of any property insurance as prescribed in Part 306 of this chapter.

(R. S. 161, secs. 41, 6, 50 Stat. 528, as amended; 870, sec. 510, 63 Stat. 437, sec. 10, 68 Stat. 735; 5 U. S. C. 22, 7 U. S. C. 1015, 16 U. S. C. 590w, 42 U. S. C. 1480, 16 U. S. C. 590x-3)

Dated: December 23, 1957.

[SEAL] K. H. HANSEN,
*Administrator,*
*Farmers Home Administration.*

[F. R. Doc. 57-10761; Filed, Dec. 27, 1957; 8:46 a. m.]

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

### Subchapter D—Regulations Under Soil Bank Act

[Amdt. I]

### PART 485—SOIL BANK

### SUBPART—ACREAGE RESERVE PROGRAM

### SUPPLEMENT II—SPRING-PLANTED COMMODITIES

Supplement II (22 F. R. 9644) to the general regulations governing the 1958 acreage reserve part of the Soil Bank Program is hereby amended by adding at the end of § 485.380 the following:

COUNTY RATES OF COMPENSATION PER ACRE FOR 1958 ACREAGE RESERVE PROGRAM—CORN

1958 ACREAGE RESERVE PROGRAM—COUNTY RATE OF COMPENSATION PER ACRE

ALABAMA

| County | Dollars per acre | County | Dollars per acre |
|---|---|---|---|
| Baldwin | 42 | Geneva | 20 |
| Cherokee | 29 | Houston | 19 |
| Coffee | 19 | Jackson | 31 |
| Conecuh | 20 | Limestone | 24 |
| Covington | 19 | Madison | 32 |
| Dale | 19 | Marshall | 32 |
| De Kalb | 33 | Monroe | 21 |
| Escambia | 28 | Morgan | 26 |
| Etowah | 31 | | |

ARKANSAS

| | | | |
|---|---|---|---|
| Clay | 24 | Greene | 23 |
| Craighead | 25 | Mississippi | 27 |

DELAWARE

| | | | |
|---|---|---|---|
| Kent | 48 | Sussex | 46 |
| New Castle | 52 | | |

FLORIDA

| | | | |
|---|---|---|---|
| Calhoun | 22 | Jackson | 19 |
| Gadsden | 33 | Santa Rosa | 26 |
| Holmes | 20 | | |

GEORGIA

| County | Dollars per acre | County | Dollars per acre |
|---|---|---|---|
| Appling | 24 | Jenkins | 17 |
| Baker | 18 | Lowndes | 19 |
| Berrien | 23 | Macon | 21 |
| Brooks | 19 | Miller | 19 |
| Bullock | 21 | Mitchell | 21 |
| Candler | 18 | Peach | 34 |
| Colquitt | 21 | Screvens | 19 |
| Cook | 23 | Seminole | 19 |
| Decatur | 19 | Tattnall | 24 |
| Early | 20 | Thomas | 25 |
| Emanuel | 16 | Tift | 23 |
| Evans | 22 | Toombs | 21 |
| Grady | 25 | Wayne | 26 |
| Houston | 25 | Worth | 19 |

ILLINOIS

| | | | |
|---|---|---|---|
| Adams | 55 | Lee | 65 |
| Alexander | 32 | Livingston | 55 |
| Bond | 44 | Logan | 62 |
| Boone | 67 | McDonough | 60 |
| Brown | 52 | McHenry | 60 |
| Bureau | 65 | McLean | 59 |
| Calhoun | 52 | Macon | 59 |
| Carroll | 69 | Macoupin | 54 |
| Cass | 58 | Madison | 48 |
| Champaign | 59 | Marion | 34 |
| Christian | 59 | Marshall | 59 |
| Clark | 44 | Mason | 52 |
| Clay | 36 | Massac | 36 |
| Clinton | 41 | Menard | 36 |
| Coles | 54 | Mercer | 59 |
| Cook | 50 | Monroe | 44 |
| Crawford | 44 | Montgomery | 54 |
| Cumberland | 47 | Morgan | 59 |
| De Kalb | 67 | Moultrie | 55 |
| De Witt | 59 | Ogle | 67 |
| Douglas | 59 | Peoria | 59 |
| Du Page | 58 | Perry | 33 |
| Edgar | 56 | Piatt | 61 |
| Edwards | 42 | Pike | 54 |
| Effingham | 42 | Pope | 35 |
| Fayette | 41 | Pulaski | 31 |
| Ford | 54 | Putnam | 61 |
| Franklin | 32 | Randolph | 40 |
| Fulton | 57 | Richland | 37 |
| Gallatin | 43 | Rock Island | 60 |
| Greene | 55 | St. Clair | 47 |
| Grundy | 55 | Saline | 38 |
| Hamilton | 33 | Sangamon | 57 |
| Hancock | 57 | Schuyler | 55 |
| Hardin | 37 | Scott | 52 |
| Henderson | 57 | Shelby | 52 |
| Henry | 61 | Stark | 60 |
| Iroquois | 53 | Stephenson | 67 |
| Jackson | 36 | Tazewell | 61 |
| Jasper | 42 | Union | 33 |
| Jefferson | 33 | Vermilion | 57 |
| Jersey | 52 | Wabash | 47 |
| Jo Daviess | 62 | Warren | 61 |
| Johnson | 31 | Washington | 36 |
| Kane | 65 | Wayne | 35 |
| Kankakee | 53 | White | 39 |
| Kendall | 59 | Whiteside | 61 |
| Knox | 61 | Will | 53 |
| Lake | 53 | Williamson | 31 |
| La Salle | 60 | Winnebago | 63 |
| Lawrence | 40 | Woodford | 62 |

INDIANA

| | | | |
|---|---|---|---|
| Adams | 57 | Delaware | 55 |
| Allen | 57 | Dubois | 45 |
| Bartholomew | 51 | Elkhart | 56 |
| Benton | 52 | Fayette | 57 |
| Blackford | 53 | Floyd | 41 |
| Boone | 57 | Fountain | 53 |
| Brown | 42 | Franklin | 53 |
| Carroll | 58 | Fulton | 54 |
| Cass | 59 | Gibson | 45 |
| Clark | 42 | Grant | 61 |
| Clay | 52 | Greene | 42 |
| Clinton | 57 | Hamilton | 57 |
| Crawford | 35 | Hancock | 55 |
| Daviess | 50 | Harrison | 42 |
| Dearborn | 44 | Hendricks | 56 |
| Decatur | 56 | Henry | 58 |
| DeKalb | 53 | Howard | 63 |

INDIANA—continued

| County | Dollars per acre | County | Dollars per acre |
|---|---|---|---|
| Huntington | 57 | Porter | 51 |
| Jackson | 45 | Posey | 45 |
| Jasper | 50 | Pulaski | 48 |
| Jay | 52 | Putnam | 54 |
| Jefferson | 40 | Randolph | 55 |
| Jennings | 41 | Ripley | 46 |
| Johnson | 56 | Rush | 59 |
| Knox | 46 | St. Joseph | 56 |
| Kosciusko | 57 | Scott | 40 |
| Lagrange | 55 | Shelby | 54 |
| Lake | 51 | Spencer | 42 |
| La Porte | 51 | Starke | 47 |
| Lawrence | 43 | Steuben | 56 |
| Madison | 58 | Sullivan | 44 |
| Marion | 52 | Switzerland | 44 |
| Marshall | 56 | Tippecanoe | 55 |
| Martin | 41 | Tipton | 64 |
| Miami | 59 | Union | 62 |
| Monroe | 42 | Vanderburgh | 46 |
| Montgomery | 54 | Vermillion | 50 |
| Morgan | 53 | Vigo | 44 |
| Newton | 50 | Wabash | 58 |
| Noble | 58 | Warren | 52 |
| Ohio | 45 | Warrick | 40 |
| Orange | 42 | Washington | 42 |
| Owen | 44 | Wayne | 57 |
| Parke | 54 | Wells | 58 |
| Perry | 39 | White | 51 |
| Pike | 41 | Whitley | 57 |

IOWA

| | | | |
|---|---|---|---|
| Adair | 45 | Jefferson | 45 |
| Adams | 49 | Johnson | 57 |
| Allamakee | 54 | Jones | 60 |
| Appanoose | 39 | Keokuk | 48 |
| Audubon | 48 | Kossuth | 49 |
| Benton | 57 | Lee | 47 |
| Black Hawk | 54 | Linn | 54 |
| Boone | 51 | Louisa | 53 |
| Bremer | 53 | Lucas | 40 |
| Buchanan | 52 | Lyon | 45 |
| Buena Vista | 51 | Madison | 45 |
| Butler | 47 | Mahaska | 48 |
| Calhoun | 48 | Marion | 45 |
| Carroll | 48 | Marshall | 56 |
| Cass | 48 | Mills | 49 |
| Cedar | 64 | Mitchell | 49 |
| Cerro Gordo | 48 | Monona | 42 |
| Cherokee | 53 | Monroe | 39 |
| Chickasaw | 46 | Montgomery | 51 |
| Clarke | 41 | Muscatine | 56 |
| Clay | 48 | O'Brien | 53 |
| Clayton | 55 | Osceola | 46 |
| Clinton | 60 | Page | 49 |
| Crawford | 46 | Palo Alto | 45 |
| Dallas | 48 | Plymouth | 43 |
| Davis | 40 | Pocahontas | 48 |
| Decatur | 39 | Polk | 51 |
| Delaware | 55 | Pottawattamie | 47 |
| Des Moines | 58 | Poweshiek | 52 |
| Dickinson | 46 | Ringgold | 42 |
| Dubuque | 59 | Sac | 52 |
| Emmet | 51 | Scott | 61 |
| Fayette | 53 | Shelby | 51 |
| Floyd | 49 | Sioux | 48 |
| Franklin | 52 | Story | 52 |
| Fremont | 45 | Tama | 57 |
| Greene | 48 | Taylor | 42 |
| Grundy | 59 | Union | 43 |
| Guthrie | 44 | Van Buren | 43 |
| Hamilton | 51 | Wapello | 45 |
| Hancock | 51 | Warren | 43 |
| Hardin | 54 | Washington | 53 |
| Harrison | 46 | Wayne | 39 |
| Henry | 52 | Webster | 49 |
| Howard | 41 | Winnebago | 51 |
| Humboldt | 51 | Winneshiek | 53 |
| Ida | 49 | Woodbury | 42 |
| Iowa | 54 | Worth | 49 |
| Jackson | 56 | Wright | 51 |
| Jasper | 52 | | |

KANSAS

| | | | |
|---|---|---|---|
| Anderson | 27 | Doniphan | 38 |
| Atchison | 32 | Douglas | 31 |
| Brown | 37 | Franklin | 27 |
| Clay | 26 | Jackson | 26 |
| Cloud | 26 | Jefferson | 27 |

KANSAS—continued

| | | | |
|---|---|---|---|
| Jewell | 20 | Pottawatomie | 26 |
| Johnson | 32 | Republic | 24 |
| Leavenworth | 32 | Riley | 26 |
| Marshall | 29 | Shawnee | 27 |
| Miami | 27 | Smith | 20 |
| Nemaha | 33 | Washington | 27 |
| Phillips | 18 | | |

KENTUCKY

| | | | |
|---|---|---|---|
| Allen | 35 | Jefferson | 50 |
| Ballard | 34 | Larue | 45 |
| Barren | 38 | Livingston | 35 |
| Boone | 47 | Logan | 41 |
| Boyle | 52 | Lyon | 37 |
| Breckenridge | 35 | McCracken | 31 |
| Bullitt | 42 | McLean | 35 |
| Butler | 35 | Marion | 50 |
| Caldwell | 35 | Mason | 55 |
| Calloway | 32 | Meade | 41 |
| Carlisle | 35 | Monroe | 36 |
| Carroll | 45 | Muhlenberg | 33 |
| Christian | 37 | Nelson | 50 |
| Crittenden | 34 | Ohio | 33 |
| Daviess | 40 | Oldham | 51 |
| Edmonson | 32 | Shelby | 47 |
| Fulton | 36 | Simpson | 42 |
| Graves | 32 | Spencer | 45 |
| Grayson | 33 | Taylor | 44 |
| Green | 38 | Todd | 40 |
| Hancock | 37 | Trigg | 37 |
| Hardin | 42 | Trimble | 43 |
| Hart | 41 | Union | 43 |
| Henderson | 40 | Warren | 41 |
| Hickman | 37 | Washington | 50 |
| Hopkins | 35 | Webster | 35 |

MARYLAND

| | | | |
|---|---|---|---|
| Baltimore | 52 | Kent | 50 |
| Caroline | 45 | Montgomery | 49 |
| Carroll | 57 | Queen Annes | 49 |
| Cecil | 52 | Somerset | 42 |
| Dorchester | 44 | Talbot | 45 |
| Frederick | 49 | Washington | 46 |
| Harford | 56 | Wicomico | 40 |
| Howard | 49 | Worcester | 44 |

MICHIGAN

| | | | |
|---|---|---|---|
| Allegan | 40 | Lenawee | 57 |
| Barry | 42 | Livingston | 44 |
| Bay | 46 | Macomb | 45 |
| Berrien | 38 | Mecosta | 38 |
| Branch | 47 | Midland | 45 |
| Calhoun | 43 | Monroe | 57 |
| Cass | 40 | Montcalm | 42 |
| Clinton | 49 | Oakland | 44 |
| Eaton | 48 | Ottawa | 42 |
| Genesee | 47 | Saginaw | 50 |
| Gratiot | 49 | St. Clair | 44 |
| Hillsdale | 49 | St. Joseph | 38 |
| Ingham | 50 | Sanilac | 43 |
| Ionia | 47 | Shiawassee | 49 |
| Isabella | 45 | Tuscola | 48 |
| Jackson | 49 | Van Buren | 37 |
| Kalamazoo | 40 | Washtenaw | 51 |
| Kent | 42 | Wayne | 49 |
| Lapeer | 46 | | |

MINNESOTA

| | | | |
|---|---|---|---|
| Anoka | 39 | Kandiyohi | 42 |
| Benton | 38 | Lac qui Parle | 41 |
| Big Stone | 33 | Le Sueur | 53 |
| Blue Earth | 51 | Lincoln | 34 |
| Brown | 47 | Lyon | 40 |
| Carver | 56 | McLeod | 54 |
| Chippewa | 39 | Martin | 48 |
| Chisago | 42 | Meeker | 45 |
| Cottonwood | 43 | Mille Lacs | 42 |
| Dakota | 48 | Morrison | 38 |
| Dodge | 46 | Mower | 45 |
| Douglas | 38 | Murray | 40 |
| Faribault | 50 | Nicollet | 52 |
| Fillmore | 48 | Nobles | 43 |
| Freeborn | 48 | Olmsted | 50 |
| Goodhue | 52 | Otter Tail | 34 |
| Grant | 34 | Pipestone | 35 |
| Hennepin | 46 | Pope | 38 |
| Houston | 53 | Redwood | 41 |
| Isanti | 42 | Renville | 44 |
| Jackson | 47 | Rice | 52 |

MINNESOTA—continued

| | | | |
|---|---|---|---|
| Rock | 40 | Traverse | 29 |
| Scott | 53 | Wabasha | 52 |
| Sherburne | 34 | Waseca | 53 |
| Sibley | 48 | Washington | 47 |
| Stearns | 41 | Watonwan | 47 |
| Steele | 51 | Wilkin | 27 |
| Stevens | 35 | Winona | 51 |
| Swift | 35 | Wright | 47 |
| Todd | 38 | Yellow Medicine | 40 |

MISSOURI

| | | | |
|---|---|---|---|
| Adair | 41 | Lincoln | 42 |
| Andrew | 44 | Linn | 39 |
| Atchison | 44 | Livingston | 42 |
| Audrain | 35 | Macon | 43 |
| Bates | 35 | Marion | 46 |
| Benton | 27 | Mercer | 40 |
| Bollinger | 31 | Mississippi | 39 |
| Boone | 38 | Moniteau | 35 |
| Buchanan | 42 | Monroe | 41 |
| Caldwell | 37 | Montgomery | 42 |
| Callaway | 36 | Morgan | 32 |
| Cape Girardeau | 43 | New Madrid | 40 |
| Carroll | 43 | Nodaway | 43 |
| Cass | 36 | Perry | 41 |
| Chariton | 45 | Pettis | 36 |
| Clark | 44 | Pike | 47 |
| Clay | 42 | Platte | 44 |
| Clinton | 44 | Putnam | 38 |
| Cole | 37 | Ralls | 39 |
| Cooper | 40 | Randolph | 39 |
| Daviess | 42 | Ray | 38 |
| De Kalb | 37 | St. Charles | 45 |
| Dunklin | 32 | St. Clair | 26 |
| Franklin | 39 | St. Louis | 42 |
| Gasconade | 38 | Ste. Genevieve | 40 |
| Gentry | 39 | Saline | 50 |
| Grundy | 39 | Schuyler | 40 |
| Harrison | 42 | Scotland | 41 |
| Henry | 28 | Scott | 35 |
| Holt | 42 | Shelby | 37 |
| Howard | 42 | Stoddard | 31 |
| Jackson | 36 | Sullivan | 37 |
| Jefferson | 42 | Vernon | 25 |
| Johnson | 34 | Warren | 41 |
| Knox | 40 | Wayne | 35 |
| Lafayette | 44 | Worth | 45 |
| Lewis | 44 | | |

NEBRASKA

| | | | |
|---|---|---|---|
| Adams | 23 | Johnson | 33 |
| Antelope | 25 | Kearney | 32 |
| Boone | 27 | Knox | 29 |
| Boyd | 24 | Lancaster | 29 |
| Buffalo | 29 | Lincoln | 22 |
| Burt | 41 | Madison | 32 |
| Butler | 33 | Merrick | 36 |
| Cass | 36 | Nance | 26 |
| Cedar | 33 | Nemaha | 36 |
| Clay | 25 | Nuckolls | 23 |
| Colfax | 36 | Otoe | 34 |
| Cuming | 40 | Pawnee | 33 |
| Custer | 19 | Phelps | 32 |
| Dakota | 39 | Pierce | 31 |
| Dawson | 40 | Platte | 34 |
| Dixon | 33 | Polk | 33 |
| Dodge | 40 | Richardson | 38 |
| Douglas | 39 | Saline | 28 |
| Fillmore | 27 | Sarpy | 38 |
| Franklin | 22 | Saunders | 36 |
| Furnas | 21 | Seward | 33 |
| Gage | 31 | Sherman | 21 |
| Garfield | 23 | Stanton | 34 |
| Gosper | 23 | Thayer | 24 |
| Greeley | 22 | Thurston | 36 |
| Hall | 38 | Valley | 25 |
| Hamilton | 31 | Washington | 42 |
| Harlan | 21 | Wayne | 34 |
| Holt | 21 | Webster | 19 |
| Howard | 21 | York | 33 |
| Jefferson | 27 | | |

NEW JERSEY

| | | | |
|---|---|---|---|
| Burlington | 53 | Monmouth | 53 |
| Cumberland | 53 | Ocean | 50 |
| Gloucester | 51 | Salem | 55 |
| Hunterdon | 56 | Somerset | 53 |
| Mercer | 53 | Warren | 56 |
| Middlesex | 53 | | |

NORTH CAROLINA

| County | Dollars per acre | County | Dollars per acre |
|---|---|---|---|
| Beaufort | 40 | Jones | 33 |
| Bertie | 38 | Lenoir | 34 |
| Camden | 48 | Martin | 45 |
| Chowan | 40 | Nash | 38 |
| Columbus | 35 | Northampton | 35 |
| Craven | 32 | Onslow | 32 |
| Currituck | 51 | Pasquotank | 48 |
| Duplin | 32 | Perquimans | 42 |
| Edgecombe | 37 | Pitt | 37 |
| Gates | 39 | Robeson | 31 |
| Greene | 34 | Sampson | 32 |
| Halifax | 36 | Tyrrell | 42 |
| Harnett | 34 | Wake | 36 |
| Hertford | 37 | Washington | 39 |
| Hyde | 41 | Wayne | 33 |
| Johnston | 36 | Wilson | 39 |

NORTH DAKOTA

| County | Dollars per acre |
|---|---|
| Richland | 24 |

OHIO

| County | Dollars per acre | County | Dollars per acre |
|---|---|---|---|
| Adams | 47 | Lorain | 51 |
| Allen | 59 | Lucas | 57 |
| Ashland | 53 | Madison | 60 |
| Athens | 52 | Mahoning | 47 |
| Auglaize | 59 | Marion | 57 |
| Brown | 46 | Medina | 51 |
| Butler | 54 | Mercer | 60 |
| Champaign | 59 | Miami | 59 |
| Clark | 58 | Montgomery | 56 |
| Clermont | 47 | Morgan | 55 |
| Clinton | 61 | Morrow | 56 |
| Columbiana | 46 | Muskingum | 53 |
| Coshocton | 56 | Ottawa | 56 |
| Crawford | 56 | Paulding | 52 |
| Darke | 57 | Perry | 54 |
| Defiance | 54 | Pickaway | 58 |
| Delaware | 58 | Pike | 51 |
| Erie | 53 | Preble | 60 |
| Fairfield | 62 | Putnam | 58 |
| Fayette | 59 | Richland | 53 |
| Franklin | 59 | Ross | 58 |
| Fulton | 57 | Sandusky | 57 |
| Greene | 59 | Scioto | 52 |
| Hamilton | 52 | Seneca | 56 |
| Hancock | 57 | Shelby | 60 |
| Hardin | 58 | Stark | 48 |
| Henry | 58 | Tuscarawas | 54 |
| Highland | 56 | Union | 56 |
| Hocking | 51 | Van Wert | 58 |
| Holmes | 54 | Vinton | 51 |
| Huron | 52 | Warren | 53 |
| Jackson | 48 | Wayne | 54 |
| Knox | 57 | Williams | 57 |
| Lawrence | 47 | Wood | 57 |
| Licking | 57 | Wyandot | 56 |
| Logan | 56 | | |

PENNSYLVANIA

| | | | |
|---|---|---|---|
| Adams | 49 | Lancaster | 59 |
| Berks | 51 | Lebanon | 52 |
| Blair | 49 | Lehigh | 51 |
| Bucks | 51 | Lycoming | 52 |
| Carbon | 46 | Mifflin | 49 |
| Centre | 52 | Monroe | 46 |
| Chester | 55 | Montgomery | 51 |
| Clinton | 52 | Montour | 46 |
| Columbia | 50 | Northampton | 52 |
| Cumberland | 52 | Northumberland | 47 |
| Dauphin | 49 | Perry | 49 |
| Delaware | 51 | Schuylkill | 46 |
| Franklin | 52 | Snyder | 49 |
| Fulton | 46 | Union | 52 |
| Huntingdon | 49 | York | 52 |
| Juniata | 49 | | |

SOUTH CAROLINA

| | | | |
|---|---|---|---|
| Dillon | 26 | Horry | 29 |

SOUTH DAKOTA

| | | | |
|---|---|---|---|
| Aurora | 22 | Charles Mix | 24 |
| Beadle | 21 | Clark | 21 |
| Bon Homme | 30 | Clay | 36 |
| Brookings | 28 | Codington | 22 |
| Brule | 18 | Davison | 27 |

SOUTH DAKOTA—continued

| County | Dollars per acre | County | Dollars per acre |
|---|---|---|---|
| Day | 22 | Lincoln | 38 |
| Deuel | 29 | McCook | 30 |
| Douglas | 26 | Miner | 26 |
| Grant | 28 | Minnehaha | 36 |
| Gregory | 22 | Moody | 35 |
| Hamlin | 25 | Roberts | 26 |
| Hanson | 30 | Sanborn | 25 |
| Hutchinson | 33 | Tripp | 18 |
| Jerauld | 21 | Turner | 35 |
| Kingsbury | 26 | Union | 37 |
| Lake | 30 | Yankton | 34 |

TENNESSEE

| | | | |
|---|---|---|---|
| Bedford | 35 | Lauderdale | 31 |
| Benton | 27 | Lincoln | 33 |
| Carroll | 28 | Marion | 39 |
| Cheatham | 38 | Montgomery | 36 |
| Coffee | 38 | Moore | 34 |
| Crockett | 28 | Obion | 35 |
| Dyer | 32 | Robertson | 39 |
| Franklin | 41 | Sequatchie | 39 |
| Gibson | 31 | Stewart | 34 |
| Grundy | 40 | Tipton | 25 |
| Haywood | 25 | Warren | 34 |
| Henry | 31 | Weakley | 31 |
| Lake | 32 | | |

VIRGINIA

| | | | |
|---|---|---|---|
| Accomac | 44 | Northumberland | 46 |
| Charles City | 44 | Princess Anne | 43 |
| Clarke | 49 | Richmond | 47 |
| Isle of Wight | 46 | Southampton | 43 |
| Loudoun | 53 | Surry | 43 |
| Nansemond | 46 | Sussex | 42 |
| Norfolk | 43 | Westmoreland | 47 |
| Northampton | 46 | | |

WEST VIRGINIA

| | | | |
|---|---|---|---|
| Berkeley | 42 | Jefferson | 45 |

WISCONSIN

| | | | |
|---|---|---|---|
| Adams | 33 | Marquette | 43 |
| Buffalo | 51 | Milwaukee | 55 |
| Columbia | 55 | Monroe | 48 |
| Crawford | 51 | Outagamie | 52 |
| Dane | 59 | Pepin | 44 |
| Dodge | 61 | Pierce | 44 |
| Dunn | 48 | Polk | 41 |
| Eau Claire | 50 | Racine | 56 |
| Fond du Lac | 57 | Richland | 52 |
| Grant | 58 | Rock | 59 |
| Green | 54 | St. Croix | 43 |
| Green Lake | 56 | Sauk | 55 |
| Iowa | 55 | Trempealeau | 46 |
| Jackson | 45 | Vernon | 52 |
| Jefferson | 61 | Walworth | 59 |
| Juneau | 42 | Waukesha | 56 |
| Kenosha | 53 | Waupaca | 52 |
| La Crosse | 56 | Waushara | 41 |
| Lafayette | 55 | Winnebago | 55 |

(Sec. 124, 70 Stat. 198; 7 U. S. C. 1812)

[SEAL] TRUE D. MORSE,
*Acting Secretary.*

DECEMBER 19, 1957.

[F. R. Doc. 57-10747; Filed, Dec. 27, 1957; 8:49 a. m.]

# TITLE 4—ACCOUNTS

## Chapter I—General Accounting Office

Chapter I of Title 4 is revised to read as follows:

### Subchapter A—General Procedures



### Subchapter B—[Reserved]

### Subchapter C—Claims—General



### Subchapter D—Transportation



### Subchapter E—Standardized Fiscal Procedures



### Subchapter F—Records



### SUBCHAPTER A—GENERAL PROCEDURES

### PART 1—RECOGNITION OF ATTORNEYS AND OTHER REPRESENTATIVES



AUTHORITY: §§ 1.1 to 1.9 issued under sec. 311, 42 Stat. 25, as amended; 31 U. S. C. 52.

§ 1.1 *Right to representation before the General Accounting Office.* All persons having a claim or other rights assertable in the General Accounting Office may prosecute such claim or right individually or through a recognized attorney or other representative.

§ 1.2 *Practice by attorneys.* Any person who is a member in good standing of the bar of the Supreme Court of the United States or of the highest court of any State, territory, or of the District of Columbia, and is not under any order of any court suspending, enjoining, restraining, disbarring, or otherwise restricting him in the practice of law, may represent others before the General Accounting Office.

§ 1.3 *Signature to constitute certificate.* When such member of the bar acting in a representative capacity appears in person or signs a paper in practice before this agency, his personal appearance or signature shall constitute a representation that under the provisions of this part and the law he is authorized and qualified to represent the particular party in whose behalf he acts.

§ 1.4 *Application for enrollment of representatives.* All persons desiring to appear before this Office in a represent-

ative capacity other than as a member of the bar shall submit an application for enrollment to the General Counsel, General Accounting Office.

§ 1.5 *Committee on enrollment and disbarment.* A committee on enrollment and disbarment has been created consisting of the General Counsel, who shall act as Chairman, the Director, Claims Division, and the Director, Transportation Division of the General Accounting Office. The committee shall meet at such times as are necessary to consider applications for recognition to appear before the General Accounting Office; receive complaints against those enrolled; conduct hearings, make inquiries and perform all duties necessary in the carrying out of their assigned tasks under this part.

§ 1.6 *Register of representatives.* The committee shall maintain a register of representatives other than attorneys admitted to practice before the General Accounting Office and shall likewise maintain lists of those whose applications have been rejected. All offices and divisions of the General Accounting Office shall ascertain from the committee whether the name of any one appearing before them in a representative capacity other than a member of the bar appears on the register of those entitled to practice. The head of an office or division may in his discretion temporarily recognize any such representative pending application for enrollment.

§ 1.7 *Complaint and disbarment proceedings.* Upon receipt of a complaint that any attorney or other representative has been incompetent, disreputable or otherwise engaged in any improper practice before the General Accounting Office, the committee may, after due notice, and an opportunity for a hearing, and upon finding that the charges warrant disciplinary action, suspend for a given period or disbar from practice before the General Accounting Office any such attorney or representative. The committee shall maintain lists of those attorneys or representatives who have been suspended or disbarred.

§ 1.8 *Authority to prosecute claims.* In the prosecution of claims involving payments to be made by the United States, proper powers of attorney shall always be filed, before an attorney or representative is recognized. Also, a power of attorney from the principal may be required of attorneys or representatives in any case.

§ 1.9 *Amendment of rules.* The Comptroller General may withdraw or amend at any time or from time to time all or any of the rules and regulations in this part, with or without previous notice, and may make such special orders as he may deem proper in any case.

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## SUBCHAPTER B—[RESERVED]

## SUBCHAPTER C—CLAIMS; GENERAL

## PART 31—CLAIMS AGAINST THE UNITED STATES; GENERAL PROCEDURE

Sec.
31.1 Scope of part.

FILING REQUIREMENTS FOR CLAIMANTS

Sec.
31.2 Form of claim.
31.3 Claim filed by attorney or agent.
31.4 Where claims should be filed.
31.5 Responsibility of claimants to protect their own interests.

INFORMATION RELATING TO CLAIMS

31.6 Information relating to claims presented to the Claims Division of the General Accounting Office.
31.7 Basis of claim settlements.
31.8 Form of claim settlements.

AUTHORITY: §§31.1 to 31.8 issued under sec. 311, 42 Stat. 25, as amended; 31 U. S. C. 52. Interpret or apply sec. 305, 42 Stat. 24; 31 U. S. C. 71.

§ 31.1 *Scope of part.* This part prescribes general procedures applicable to claims against the United States which must be adjudicated in the General Accounting Office before payment is made or denied exclusive of transportation claims. Special procedures applicable to specified types or classes of claims against the United States are contained in the subsequent parts of this subchapter.

FILING REQUIREMENTS FOR CLAIMANTS

§ 31.2 *Form of claim.* Unless otherwise specifically provided, claims will be considered only when presented in writing over the signature and address of the claimant or over the signature of the claimant's authorized agent or attorney. Generally, no particular form is required for filing a claim; however, claim forms are prescribed in succeeding parts of this subchapter for specific classes of claims.

§ 31.3 *Claim filed by attorney or agent.* A claim filed by an agent or attorney must be supported by a duly executed power of attorney or other documentary evidence of the agent's or attorney's right to act for the claimant. See § 1.8 of this chapter.

§ 31.4 *Where claims should be filed.* Action will generally be expedited if claimants file their claims initially with the administrative department or agency out of whose activities they arose. Claims which cannot be disposed of administratively will be transmitted to the Claims Division of the General Accounting Office by the administrative office. This does not preclude a claimant from filing a claim direct with the General Accounting Office if such action is considered necessary to protest his interests, particularly if the statutory period of limitation is about to expire, as to which see 31 U. S. C. 71a and 31 U. S. C. 122. Claims filed direct with the General Accounting Office should be directed to the Claims Division, U. S. General Accounting Office, Washington 25, D. C.

§ 31.5 *Responsibility of claimants to protect their own interests.* To protect their own interests, claimants should submit their claims directly to the Claims Division of the General Accounting Office if the applicable statutory period of limitation will soon expire. It is not intended to imply that statutes of limitation imposed by the Congress are necessarily limited to those quoted in § 31.4. It is incumbent on claimants to inform themselves regarding other possible statutory limitations.

INFORMATION RELATING TO CLAIMS

§ 31.6 *Information relating to claims presented to the Claims Division of the General Accounting Office.* Claimants or their authorized representatives may obtain information relating to claims which have been presented to the Claims Division of the General Accounting Office by addressing correspondence to the Claims Division, U. S. General Accounting Office, Washington 25, D. C.

§ 31.7 *Basis of claim settlements.* Claims are settled on the basis of the facts as established by the Government agency concerned and by evidence submitted by the claimant. Settlements are founded on a determination of the legal liability of the United States under the factual situation involved as established by the written record. The burden is on claimants to establish the liability of the United States, and the claimants' right to payment. The settlement of claims is based upon the written record only.

§ 31.8 *Form of claim settlements.* The Claims Division of the General Accounting Office will certify claims for payment either by use of a Certificate of Settlement, GAO Form 39, or by certificate of allowance placed on the voucher when voucher procedures are in effect. Claims for the proceeds of unnegotiated checks may be disposed of by an authorization for payment placed on the reverse of the check. When part of a claim is allowed and part disallowed, a statement relating to the disallowed portion will be included on the certificate of settlement or the voucher. When the full amount of a claim is disallowed, the claimant will be advised by issuance of Settlement Certificate, GAO Form 44.

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## PART 32—REVIEW AND RECONSIDERATION OF GENERAL ACCOUNTING OFFICE CLAIMS SETTLEMENTS

Sec.
32.1 Who may obtain review.
32.2 Basis for request for review.
32.3 Return of check or warrant with request for review.

AUTHORITY: §§ 32.1 to 32.3 issued under sec. 311, 42 Stat. 25, as amended; 31 U. S. C. 52.

§ 32.1 *Who may obtain review.* Settlements made pursuant to 31 U. S. C. 71 will be reviewed (a) in the discretion of the Comptroller General upon the written application of (1) a claimant whose claim has been settled or (2) the head of the department or Government establishment to which the claim or account relates, or (b) upon motion of the Comptroller General at any time.

§ 32.2 *Basis for request for review.* Applications for review of claim settlements should state the errors which the applicant believes have been made in the settlement and which form the basis of his request for reconsideration.

§ 32.3 *Return of check or warrant with request for review.* Unless otherwise directed by the Comptroller Gen-

eral on the presentation of proper facts in the particular case, the check issued upon a settlement must not be cashed when its amount includes any item as to which review is applied for, but should accompany the application for review.

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PART 33—DECEASED CIVILIAN OFFICERS AND EMPLOYEES; PROCEDURES FOR SETTLEMENT OF ACCOUNTS

Sec.
33.1 Scope of part.
33.2 Definitions.
33.3 Forms prescribed for procedures in Part 35 of this subchapter.
33.4 Notifying employees; agency responsibility.
33.5 Designation of beneficiary.
33.6 Claims jurisdiction.
33.7 Securing claims on employee's death.
33.8 Claims involving minors or incompetents.
33.9 Return of unnegotiated Government checks.
33.10 Applicability of general provisions.

AUTHORITY: §§ 33.1 to 33.10 issued under sec. 311, 42 Stat. 25, as amended; 31 U. S. C. 52. Interpret or apply sec. 3, 64 Stat 396, as amended; 5 U. S. C. 61h,

§ 33.1 *Scope of part.* (a) This part prescribes forms and procedures for the prompt settlement of amounts of deceased civilian officers and employees of the Federal Government and of the government of the District of Columbia (including wholly owned and mixed-ownership Government corporations), as contemplated by the act of August 3, 1950, as amended, 5 U. S. C. 61f–61k.

(b) The procedures prescribed by this part do not apply to:

(1) Accounts of deceased officers and employees of the Federal land banks, Federal intermediate credit banks, production credit corporations, or regional banks for cooperatives. See 5 U. S. C. 61k.

(2) Payment of unpaid balance of salary or other sums due deceased Senators or officers or employees of the Senate. See 2 U. S. C. 36a.

(3) Payment of unpaid balance of salary or other sums due deceased Members of the House of Representatives. See 2 U. S. C. 38a.

(4) Claims for amounts due civilian officers and employees of the Federal Government who die subsequent to separation from the employing agency. See Part 34 of this subchapter.

§ 33.2 *Definitions.* The term "unpaid compensation," as defined in the act and when used in this part, means the pay, salary, or allowances, or other compensation due on account of the services of the decedent for the Federal Government or the government of the District of Columbia. It shall include, but not be limited to, (a) all per diem in lieu of subsistence, mileage, and amounts due in reimbursement of travel expenses, including incidental and miscellaneous expenses which are incurred in connection with the travel and for which reimbursement is due; (b) all allowances upon change of official station; (c) all quarters and cost-of-living allowances and overtime or premium pay; (d) amounts due for payment of cash awards for employees suggestions; (e) amounts due as refund of salary deductions for United States Savings bonds; (f) lump-sum payment for all accumulated and current accrued annual or vacation leave equal to the compensation the decedent would have received had he remained in the service until the expiration of the period of such annual or vacation leave; except that such lump-sum payment shall not include compensation for any period of accumulated leave in excess of thirty days, plus current accrued leave, or in excess of the number of days of accumulated leave to which he would have been entitled on the date of separation (excluding accumulated leave earned in the 1954 leave year and thereafter), plus current accrued leave, whichever is the greater; (g) the amounts of all checks drawn in payment of such compensation which were not delivered by the Government to the officer or employee during his lifetime or of any unnegotiated checks returned to the Government because of the death of the officer or employee.

§ 33.3 *Forms prescribed for procedures in Part 35 of this subchapter.* Forms prescribed for procedures in Part 35 of this subchapter are:

SF 1152, Designation of Beneficiary, Unpaid Compensation of Deceased Civilian Employee.

SF 1153, Claim of Designated Beneficiary and/or Surviving Spouse for Unpaid Compensation of Deceased Civilian Employee.

SF 1155, Claim for Unpaid Compensation of Deceased Civilian Employee (No Designated Beneficiary or Surviving Spouse).

§ 33.4 *Notifying employees; agency responsibility.* Each agency of the Government affected will bring to the attention of its civilian employees the provisions of the act relative to their right to designate a beneficiary or beneficiaries to receive the amounts due and the disposition to be made of unpaid amounts where no beneficiary or beneficiaries have been designated.

§ 33.5 *Designation of beneficiary—*(a) *Designation Form.* SF 1152, Designation of Beneficiary, Unpaid Compensation of Deceased Civilian Employee, is prescribed for use by employees in designating a beneficiary and in changing or revoking a previous designation. However, in the absence of the prescribed form, any designation, change, or cancellation of beneficiary witnessed and filed in accordance with the general requirements of this part shall be acceptable. Each agency subject to the provisions of the act will furnish the employee SF 1152 upon request therefor.

(b) *Who may be designated.* An employee may designate any person or persons as beneficiary. The term "person or persons" as used in this part includes a legal entity or the estate of the deceased employee.

(c) *Executing and filing a designation of beneficiary form.* The SF 1152 must be executed in duplicate by the employee and filed with the employing agency where the proper officer will sign it and insert the date of receipt in the space provided on each part, file the original, and return the duplicate to the employee. The designation will be filed in the particular office which authorizes payment of the employee's compensation, or such other place as the head of the agency may direct.

(d) *Effective period of a designation.* A designation of beneficiary, properly executed and filed in the agency of employment, will be effective as long as employment by the same agency continues or until changed or revoked. Should an employee resign and be reemployeed, or be transferred to another agency, and desire the unpaid compensation to be paid to a designated beneficiary, another designation of beneficiary form must be executed, as directed in paragraph (c) of this section.

(e) *Change or revocation of a designation.* A designation of beneficiary previously made may be changed or revoked as of a later date by the execution and filing of another SF 1152 by the employee, as directed in paragraph (c) of this section. When a designation of beneficiary is changed or revoked, the employing agency should return the earlier designation to the employee.

§ 33.6 *Claims jurisdiction—*(a) *Administrative agencies.* Claims for unpaid compensation due deceased employees of the District of Columbia, of the Canal Zone Government on the Isthmus of Panama, and of wholly owned and mixed-ownership Government corporations will be paid by the employing agency. See 5 U. S. C. 61h. Claims for unpaid compensation due deceased employees of other agencies of the Federal Government will be paid by the employing agency when payment can be made to a designated beneficiary or surviving spouse, unless the provisions of paragraph (b) of this section apply.

(b) *General Accounting Office.* Except in cases involving employees of the District of Columbia, Canal Zone Government, or Government corporations, claims for unpaid compensation due deceased employees of the Federal Government will be paid only upon settlement by the Claims Division of the General Accounting Office:

(1) When no beneficiary has been designated and there is no surviving spouse;

(2) When the designated beneficiary is a minor, is an incompetent, or is the estate of the deceased employee, since such claims are considered as always involving doubt; or

(3) When any doubtful question of law or fact is involved.

§ 33.7 *Securing claim on employee's death.* As soon as practicable after the death of a civilian employee included within the provisions of the act, the agency in which he or she was last employed, upon determining that unpaid compensation is due the decedent, will request each designated beneficiary or, if no beneficiary was designated, the surviving spouse, to execute SF 1153, Claim of Designated Beneficiary and/or Surviving Spouse for Unpaid Compensation of Deceased Civilian Employee. When there is no designated beneficiary or surviving spouse, the employing agency will furnish the person or persons next in order of precedence, in accordance

with the first section of the act, 5 U. S. C. 61f, SF 1155, Claim for Unpaid Compensation of Deceased Civilian Employee (No Designated Beneficiary or Surviving Spouse). When the designated beneficiary is the estate of the decedent, the employing agency will furnish the legal representative, heir, or heirs of the decedent SF 1055, Claim Against the United States for Amounts Due in the Case of a Deceased Creditor, prescribed in Part 35 of this chapter, since this form will elicit the information required for settlement of such claims. Any assistance deemed necessary for the proper execution of the forms will be furnished to all claimants by the employing agency.

§ 33.8 *Claims involving minors or incompetents.* If a guardian or committee has been appointed for a minor or incompetent appearing entitled to unpaid compensation, the claim should be accompanied by a short certificate of the court showing the appointment and qualification of the claimant in such capacity. Under some circumstances payment may be made, in the discretion of the Comptroller General, to the person or persons having care and custody of the minor or incompetent, or to close relatives who will hold the amount for the use and benefit of the minor or incompetent. Therefore, if no guardian or committee has been or will be appointed, the claim should be accompanied by a statement showing (a) claimant's relationship to the minor or incompetent, if any; (b) the name and address of the person having care and custody of the minor or incompetent; (c) that any moneys received will be applied to the use and benefit of the minor or incompetent; and (d) that the appointment of a guardian or committee is not contemplated.

§ 33.9 *Return of unnegotiated Government checks.* All unnegotiated U. S. Government checks drawn to the order of a decedent, representing unpaid compensation as defined in § 33.2, and in the possession of the claimant should be returned to the employing agency concerned for inclusion with the claim. Claimants should be instructed to return any other U. S. Government checks, drawn to the order of a decedent for purposes other than unpaid compensation, such as veteran benefits, social security benefits, or Federal tax refunds, to the agency from which received with request for further instructions from that agency.

§ 33.10 *Applicability of general procedures.* When not in conflict with this part, the provisions of Part 31 of this subchapter relating to procedures applicable to claims generally, are also applicable to the settlement of accounts of deceased civilian officers and employees.

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PART 34—DECEASED MEMBERS OF THE UNIFORMED SERVICES; PROCEDURES FOR SETTLEMENT OF ACCOUNTS

Sec.
34.1 Scope of part
34.2 Forms prescribed by the General Accounting Office
34.3 Jurisdiction
34.4 Furnishing claim forms and assistance to claimants.
34.5 Claims involving minors or incompetents.
34.6 Claims for unnegotiated Government checks.
34.7 Applicability of general procedures.

AUTHORITY: §§ 34.1 to 34.7 issued under sec. 311, 42 Stat. 25, as amended; 31 U. S. C. 52. Interpret or apply secs. 1–5, 69 Stat. 295, 296; 31 U. S. C. 361–365.

§ 34.1 *Scope of part.* (a) This part prescribes forms and procedures for the prompt settlement of the accounts of deceased members of the uniformed services (including the National Guard and the Air National Guard) pursuant to Public Law 147, 84th Congress, approved July 12, 1955, 37 U. S. C. 361–365.

(b) Claims for amounts due former members of the uniformed services who die subsequent to discharge or separation from the service do not come within the provisions of this act and therefore are not within the scope of this part. Such claims, exclusive of those payable administratively under other statutes, will be forwarded to the Claims Division of the General Accounting Office for settlement in accordance with the procedures prescribed in part 35.

(c) The payment provisions of 37 U. S. C. 361–365 are effective only when the member's death occurs on or after January 1, 1956. Claims relating to the accounts of members dying before such date are for consideration by the Claims Division of the General Accounting Office under various laws existing prior to January 1, 1956.

(d) The words "pay and allowances" when used in this part include any amount due a decedent from the uniformed service of which he was a member on the date of his death, exclusive of amounts payable administratively under other statutes.

§ 34.2 *Forms prescribed by General Accounting Office.* The following standard forms are prescribed for use in the settlement of the accounts to which this part relates:

SF 1174, Claim of Designated Beneficiary for Unpaid Pay and Allowances of Deceased Member of the Uniformed Services.
SF 1175, Claim for Unpaid Pay and Allowances of Deceased Member of the Uniformed Services (No Designated Beneficiary).

§ 34.3 *Jurisdiction*—(a) *Administrative agencies.* Amounts payable pursuant to section 2 of the act of July 12, 1955, 37 U. S. C. 362, to beneficiaries designated by the member under section 4 of that act, 37 U. S. C. 364, shall be paid by the department or uniformed service concerned, provided there is no doubtful question of law or fact involved.

(b) *General Accounting Office.* Payments shall be made only upon settlement by the Claims Division of the General Accounting Office in the following cases:

(1) When no beneficiary has been designated.

(2) When a beneficiary has been designated but any doubtful question of law or fact is involved. In this connection, all claims are considered doubtful when the designated beneficiary is a minor, is an incompetent, or is the estate of the decedent.

§ 34.4 *Furnishing claim forms and assistance to claimants.* As soon as practicable after death of a member, the department under which the member was serving at date of death will furnish the designated beneficiary or beneficiaries SF 1174, Claim of Designated Beneficiary for Unpaid Pay and Allowances of Deceased Member of the Uniformed Services, for use in filing claim for any unpaid pay or allowances that may be due the decedent. If there is no designated beneficiary, the department will furnish the person or persons next in order of precedence, in accordance with section 2 of the act, SF 1175, Claim for Unpaid Pay and Allowances of Deceased Member of the Uniformed Services (No Designated Beneficiary). Any assistance deemed necessary for the proper execution of the forms will be furnished to all claimants by the departments concerned.

§ 34.5 *Claims involving minors or incompetents.* If a guardian or committee has been appointed for a minor or incompetent appearing entitled to payment, the claim should be accompanied by a short certificate of the court showing the appointment and qualification of the claimant in such capacity. Under some circumstances payment may be made, in the discretion of the Comptroller General, to the person or persons having care and custody of the minor or incompetent, or to close relatives who will hold the amount for the use and benefit of the minor or incompetent. Therefore, if no guardian or committee has been or will be appointed, the claim should be accompanied by a statement showing (a) claimant's relationship to the minor or incompetent, if any; (b) the name and address of the person who has care and custody of the minor or incompetent; (c) that any moneys received will be applied to the use and benefit of the minor or incompetent; and (d) that the appointment of a guardian or committee is not contemplated.

§ 34.6 *Claims for unnegotiated Government checks.* Unnegotiated U. S. Government checks drawn to the order of the decedent by the uniformed service of which he was a member should be returned to the department concerned for consideration in connection with the settlement of the member's account. Claimants should be advised that all other unnegotiated U. S. Government checks drawn to the order of the decedent should be returned to the agency from which received with request for further instructions from that agency.

§ 34.7 *Applicability of general procedures.* When not in conflict with this part, provisions of Part 31 of this subchapter, relating to procedures applicable to claims generally, are also applicable to the settlement of accounts of deceased members of the uniformed services.

PART 35—DECEASED PUBLIC CREDITORS GENERALLY; PROCEDURES FOR SETTLEMENT OF ACCOUNTS

Sec.
35.1 Scope of part.
35.2 Jurisdiction.
35.3 Forms
35.4 Use of prescribed form.
35.5 Disposition of Government checks in claimant's possession.
35.6 Assisting claimants in filing claims.
35.7 Applicability of general claim procedures.

AUTHORITY: §§ 35.1 to 35.7 issued under sec. 311, 42 Stat. 25, as amended; 31 U. S. C. 52. Interpret or apply sec. 305, 42 Stat. 24; 31 U. S. C. 71.

§ 35.1 *Scope of part.* This part prescribes the form and procedures relating to the settlement of claims for amounts alleged to be due the estates of deceased individual public creditors, including claims for the proceeds of Government checks drawn on the Treasurer of the United States or other authorized Government depositary to the order of such public creditors, except when such claims are within the scope of other parts of this title or are within the exclusive jurisdiction of administrative agencies pursuant to specific statutory authority. The claims coming within the scope of this part include, among others, claims for amounts due former members of the uniformed services and former civilian employees of the United States who die subsequent to discharge or separation and claims for amounts due deceased contractors and other deceased public creditors for supplies furnished or services rendered.

§ 35.2 *Jurisdiction.* The claims to which this part relates require the consideration and application of the law of the domicile of the deceased public creditor to determine entitlement to amounts found due. Therefore, they are considered as involving such elements of doubt as to require their submission to the Claims Division of the General Accounting Office for adjudication.

§ 35.3 *Forms—(a) Forms prescribed for procedures in this part.*

SF 1055, Claim Against the United States for Amounts Due in the Case of a Deceased Creditor.

(b) *Use of SF 1055 for claims outside scope of part.* SF 1055 may be used for filing claims which are within the exclusive jurisdiction of administrative agencies, if the agencies concerned so desire.

§ 35.4 *Use of prescribed form.* Claims to which this part relates, including claims for the proceeds of U. S. Government checks, will be filed on SF 1055.

§ 35.5 *Disposition of Government checks in claimant's possession.* All unnegotiated U. S. Government checks in the possession of the claimant, drawn to the order of the decedent and involved in the claim, shall accompany the claim application on SF 1055.

§ 35.6 *Assisting claimants in filing claims.* Such assistance as is deemed necessary may be given to claimants by the administrative agency concerned to insure proper execution and submission of the SF 1055.



§ 35.7 *Applicability of general procedures.* Except as otherwise provided in this part, the provisions of Part 31 of this subchapter relating to the procedures applicable to claims generally are equally applicable to the claims to which this part relates.

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PART 36—INCOMPETENT PUBLIC CREDITORS; PROCEDURES FOR SETTLEMENT OF ACCOUNTS

Sec.
36.1 Scope of part.
36.2 Jurisdiction.
36.3 Form of claim.
36.4 Claim filed by guardian or committee.
36.5 Claims filed by other than guardian or committee.
36.6 Applicability of general procedures.

AUTHORITY: §§ 36.1 to 36.6 issued under sec. 311, 42 Stat. 25, as amended; 31 U. S. C. 52. Interpret or apply sec. 305, 42 Stat. 24; 31 U. S. C. 71.

§ 36.1 *Scope of part.* This part prescribes the procedures applicable to the settlement of claims for amounts due incompetent public creditors of the United States, including claims for the proceeds of Government checks drawn on the Treasurer of the United States or other authorized Government depositary to the order of such creditors, except those claims which are under the exclusive jurisdiction of administrative agencies pursuant to specific statutory authority.

§ 36.2 *Jurisdiction—(a) Claims Division, General Accounting Office.* The claims to which this part relates are considered as generally involving such elements of doubt as to require their submission to the Claims Division of the General Accounting Office for adjudication. Therefore, except in the case of recurring payments to guardians and committees, they shall be submitted to the Claims Division of the General Accounting Office for direct settlement.

(b) *Administrative agencies.* After the first payment has been certified by the General Accounting Office to a guardian or committee recurring payments may be made in the same form and capacity by the administrative office as long as the appointment as guardian or committee remains in effect and the matter is otherwise free from doubt.

§ 36.3 *Form of claim.* No form is prescribed for use in making claim for sum due incompetent creditors of the United States. Such claims must be filed in writing over the signature and full address of the person claiming on behalf of the incompetent creditor and must set forth the connection of the incompetent creditor with the United States Government, giving the name of the department, bureau, establishment or agency involved.

§ 36.4 *Claim filed by guardian or committee—(a) Initial claim.* The initial claim filed by the guardian or committee of the estate of an incompetent must be accompanied by a short certificate of the court showing the appointment and qualification of the claimant as guardian or committee.

(b) *Claims for recurring payments.* Subsequent claims from guardians or committees for recurring payments need not be accompanied by an additional certificate of the court, but they must be supported by a statement that the appointment is still in full force and effect.

§ 36.5 *Claims filed by other than guardian or committee.* When the amount due the incompetent is small and no guardian or committee of the estate has been or will be appointed, payment may be made, in the discretion of the Comptroller General, to the person or persons having care or custody of the incompetent, or to close relatives who will hold the amount for the use and benefit of the incompetent. Therefore, administrative agencies should not suggest to persons claiming on behalf of incompetent creditors that the appointment of a guardian or committee is necessarily required to secure payment. The claim must be supported by a statement showing (a) that no guardian or committee has been or will be appointed; (b) the claimant's relationship to the incompetent, if any; (c) the name and address of the person having care and custody of the incompetent; and (d) that any amount paid to the claimant will be applied to the use and benefit of the incompetent.

§ 36.6 *Availability of general procedures.* The provisions of Part 31 of this subchapter relating to the procedures applicable to claims generally are applicable also to the settlement of accounts of incompetent public creditors to which this part relates.

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## SUBCHAPTER D—TRANSPORTATION

PART 51—PASSENGER TRANSPORTATION SERVICE FOR THE ACCOUNT OF THE UNITED STATES

SCOPE OF REGULATIONS

Sec.
51.1 Transactions governed.
51.2 Applicability.

PROCUREMENT OF PASSENGER TRANSPORTATION SERVICES

51.3 Procurement from carriers.
51.4 Use of travel agencies.
51.5 Use of American flag vessels.

U. S. GOVERNMENT STANDARD FORMS RELATING TO PASSENGER TRANSPORTATION

51.6 Standard forms.
51.7 Printing of transportation requests.
51.8 Numbering of transportation requests.
51.9 Unused ticket redemption form.
51.10 Passenger billing-voucher forms.
51.11 Certificate in lieu of lost transportation request.
51.12 Report of change in service.
51.13 Procurement of standard forms by Government agencies.
51.14 Procurement of standard forms by carriers.

USE AND PREPARATION OF UNITED STATES OF AMERICA TRANSPORTATION REQUESTS

51.15 Use of transportation requests in general.
51.16 Quantity ticket purchases.
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51.18 Joint procurement of rail transportation and Pullman accommodations.
51.19 Stopovers.
51.20 Taxicabs and intracity transit services, etc.
51.21 Toll charges.
51.22 Unauthorized services.

AUTHORITY: §§ 51.1 to 51.70 issued under sec. 311, 42 Stat. 25, as amended; 31 U. S. C. 52. Interpret or apply sec. 309, 42 Stat. 25; 31 U. S. C. 49.

SCOPE OF REGULATIONS

§ 51.1 *Transactions governed.* This part covers:

(a) The procurement of passenger transportation services by or for persons authorized to travel on official business for agencies of the Government of the United States;

(b) The billing and payment for such services; and

(c) Carrier refunds for unfurnished passenger transportation service and unused tickets or portions thereof.

§ 51.2 *Applicability.* The regulations in this part are applicable to passenger transportation services within the United States, between the United States and its possessions, between and within its possessions, between the United States and foreign countries, and, where United States of America Transportation Requests can be utilized, within and between foreign countries.

PROCUREMENT OF PASSENGER TRANSPORTATION SERVICES

§ 51.3 *Procurement from carriers.* Passenger transportation services by air, bus, rail, or water should be procured directly from carriers. Travel agencies may be utilized only as provided in § 51.4. They may not be utilized to secure air, rail, water, and bus passenger transportation services, or any combination thereof, (a) within the United States, Canada, or Mexico; (b) between the United States and Canada or Mexico; (c) from the United States or its possessions to foreign countries; and (d) between the United States and its possessions, and between and within its possessions.

§ 51.4 *Use of travel agencies.* (a) Travel agencies may be utilized, when their use is authorized under administrative regulations, to secure passenger transportation services by air, bus, rail, or water, or any combination thereof, for travel:

(1) Within foreign countries (except Canada or Mexico);

(2) Between foreign countries; or

(3) From foreign countries to the United States and its possessions, provided—

(i) The request for transportation is made first to a company branch office or a general agent of an American flag air or ocean carrier if the travel originates in a city or its contiguous carrier-servicing area in which such branch office or general agent is located and through ticketing arrangements for the transportation authorized cannot be secured, or

(ii) It is determined that a company branch office or a general agent of an American flag air or ocean carrier is not located in the city or its contiguous carrier-servicing area in which the official travel originates. (Information as to branch offices and general agents of American flag air and ocean carriers is available at overseas offices of the Department of State.)

(b) No payment is to be made to a travel agency in addition to that which would have been properly chargeable had the service requested been obtained directly from the carrier or carriers involved.

§ 51.5 *Use of American flag vessels.* Attention of administrative agencies as well as officers and employees of the United States is directed to section 901 of the Merchant Marine Act of 1936, 46 U. S. C. 1241, relative to the use of American flag vessels for travel on official business. In this connection, compliance with the proviso in section 901, supra, should be required by administrative agencies or officers and employees of the United States traveling on official business whether the transportation expenses are borne directly by the United States or reimbursed to the traveler.

U. S. GOVERNMENT STANDARD FORMS RELATING TO PASSENGER TRANSPORTATION

§ 51.6 *Standard forms.* The following standard forms are prescribed and published in lieu of all like forms for use in connection with the procurement of passenger transportation services for the account of the United States:

SF 1169, The United States of America Transportation Request—Original.
SF 1169a, Memorandum Card Copy.
SF 1169b, Duplicate (snapout assembly only).
SF 1169c, Triplicate (snapout assembly only).
SF 1170, Redemption of Unused Tickets.
SF 1171, Public Voucher for Transportation of Passengers—Original.
SF 1171a, Memorandum Copy.
SF 1172, Certificate in Lieu of Lost United States of America Transportation Request.
SF 1173, Report of Change in Passenger Transportation Service.

§ 51.7 *Printing of transportation requests.* SF 1169 and SF 1169a are printed on punched card stock by or for the U. S. Government only and are serially prenumbered and prepunched with corresponding serial numbers at the time of manufacture. Generally, the name and address of the paying office

is not preprinted unless authorized. Departmental numbering, coding, or symbolization is not permitted other than as herein provided to differentiate between civil and military agencies. SF 1169 and SF 1169a are bound in books of 10 sets, each set consisting of one original, SF 1169, and one memorandum card copy, SF 1169a. In addition, SF 1169 and 1169a are bound in individual snapout assemblies which contain 2 additional paper copies, namely, SF 1169b (duplicate) and SF 1169c (triplicate). Although primarily for use by the military establishments, the individual assemblies are available to civil agencies.

§ 51.8 *Numbering of transportation requests.* An alphabetical-numerical sequence is followed in numbering SF 1169 assemblies in accordance with the following:

(a) Books of 10 for civil agencies—transportation requests start with the number A0,000,001 and will continue through A9,999,999, after which the letter symbol will change to B, thence C, etc.;

(b) Individual snapout assemblies for civil agencies—the transportation requests start with the number L0,000,001 and will continue through L9,999,999, after which the letter symbol will change to K, thence J, etc.; and

(c) Individual snapout assemblies for military agencies—the transportation requests start with the number M0,000,001 and will continue through M9,999,999, after which the letter symbol will change to N, thence forward through the remainder of the alphabet.

§ 51.9 *Unused ticket redemption from.* SF 1170, Redemption of Unused Tickets, is a four-part, snapout, carbonized set consisting of an original and three copies, of which the original and memorandum card copy are on punched card stock. The agency name and address will be preprinted on the form when there is volume use and arrangements therefor are made in advance.

§ 51.10 *Passenger billing-voucher forms.* The original of Public Voucher for Transportation of Passengers, SF 1171, is printed on white paper and is 8½ by 14 inches over-all including a perforated coupon, 8½ by 3 inches, at the bottom of the form. Carriers may request approval of proposed changes in format to conform to machine billing. SF 1171a is printed on yellow paper in the same size as the original without the perforated coupon.

§ 51.11 *Certificate in lieu of lost transportation request.* SF 1172, Certificate in lieu of lost United States of America Transportation Request, size 8 by 10½ inches, is printed on white paper stock.

§ 51.12 *Report of change in service.* SF 1173, Report of change in Passenger transportation service, size 7⅜ by 3¼ inches, is printed on manila card stock.

§ 51.13 *Procurement of standard forms by Government agencies.* Requisitions by Government agencies for supplies of SF 1169 assemblies, SF 1170, and SF 1173 shall be directed in accordance with established procedures to: The Federal Supply Service, General Services Administration, Washington 25, D. C., which will advise the Transportation Division, U. S. General Accounting Office, Washington 25, D. C., of numerical allotments made in response to requisitions for SF 1169.

§ 51.14 *Procurement of standard forms by carriers.* Carriers may purchase SF 1171, SF 1171a, and SF 1172 from the Superintendent of Documents, U. S. Government Printing Office, Washington 25, D. C., or have them printed. Unless otherwise authorized by the General Accounting Office, the forms must be reproduced exactly as to color, size, type, wording, and arrangement.

USE AND PREPARATION OF UNITED STATES OF AMERICA TRANSPORTATION REQUESTS

§ 51.15 *Use of transportation requests in general.* Transportation requests shall not be used for other than officially authorized travel for the account of the United States Government. These requests will be issued by duly authorized persons only for the transportation of persons and/or specified passenger transportation services or accommodations in conformity with proper travel authority and administrative regulations. Transportation requests will not ordinarily be used to obtain official passenger transportation when the amount involved is $1.00 or less, plus Federal transportation tax. Cash payments up to $15.00, plus Federal transportation tax, may be made by the traveler under regulations of the department or agency involved. Two copies of such regulations shall be furnished to the Transportation Division of the General Accounting Office.

§ 51.16 *Quantity ticket purchases.* When there is a continuing substantial volume of individual travel via the same mode and class of transportation between one origin and one destination and each one-way single fare does not exceed $5.00, written application from an agency or department for continuing permission, not heretofore granted, to use transportation requests to procure a group of one-way or round-trip tickets for use within any one 30-day period of a fiscal year will be given consideration by the Comptroller General of the United States. The application shall include proposed procedures and requirements under which the interests of the United States will be adequately safeguarded.

§ 51.17 *Round-trip and other reduced rate services.* Through fares, special fares, commutation fares, family plan fares, party fares, excursion, and other reduced rate one-way and round-trip fares should be utilized for official travel when it can be determined prior to the commencement of a trip that any such type of service represents practical and economical usage of Government funds, but transportation requests should be drawn for round-trip services only when it is known or can be reasonably anticipated that such tickets will be required or utilized.

§ 51.18 *Joint procurement of rail transportation and Pullman accommodations.* SF 1169 is designed to permit, and should be used for, the joint procurement from rail carriers of transportation and Pullman accommodations by the issuance of but one document. However, when such issuance is neither feasible nor practical, because of circumstances involved, the transportation request may be issued for the separate procurement of rail transportation or Pullman accommodations. Whenever a transportation request is issued to procure Pullman accommodations only, it should be drawn on the rail carrier that will issue the Pullman tickets with this exception; when the transportation request is to be presented on the train, it should be drawn on the Pullman Company.

§ 51.19 *Stopovers.* When a traveler is obliged to make several stops to conduct official business, a through ticket with stopover privileges usually can be utilized at a saving to the Government and will require the issuance of only one transportation request. However, when Pullman or excess baggage services are involved, each stopover point should be specifically indicated on the transportation request.

§ 51.20 *Taxicab and intracity transit services, etc.* Transportation requests shall not be utilized to procure taxicab, airport limousine, intracity transit, or so-called "drive-your-self" type or other for-hire automobile services.

§ 51.21 *Toll charges.* Transportation requests must not be used in lieu of cash as payment for toll road or toll bridge charges.

§ 51.22 *Unauthorized services.* Transportation requests shall not be issued for personal convenience to include at an additional cost unauthorized services or to obtain transportation services exceeding those authorized under the applicable travel regulations, such as extra-fare trains or planes, stopovers which increase the cost of passage, higher-priced indirect routings, etc. When the traveler desires such unauthorized services, the additional cost thereof (including the U. S. Government transportation tax) must be paid in cash by the traveler and collected by the carrier at the time the transportation request covering the authorized services or accommodations is exchanged for tickets.

§ 51.23 *Preparation of transportation requests.* Detailed instructions for the preparation of transportation requests are contained in appendix A, and examples of transportation requests properly executed to cover certain typical trips are contained in appendix C, to chapter 2000, title 5, General Accounting Office Policy and Procedures Manual for Guidance of Federal Agencies. This title may be purchased from the Superintendent of Documents, U. S. Government Printing Office, Washington 25, D. C.

CONTRACTS AND TENDERS

§ 51.24 *Contracts.* The original of each contract, negotiated or otherwise, for passenger transportation rates or services—excluding contracts for intracity bus services and contracts entered into by the Military Sea Transportation Service—shall be transmitted by administrative agencies, promptly upon execu-

tion, directly to the Transportation Division, U. S. General Accounting Office, Washington 25, D. C.

§ 51.25 *Tenders.* Tenders or quotations of special rates, fares, charges, or concessions for common or contract carrier passenger transportation services, including those made under section 22 of the Interstate Commerce Act, as amended, 49 U. S. C. 22, shall be reduced to writing and promptly transmitted by administrative agencies directly to the Transportation Division, U. S. General Accounting Office, Washington 25, D. C.

§ 51.26 *Procurement and billing.* Any services ordered under such contracts or tenders shall be (a) secured by the issuance of transportation requests, each of which shall bear reference to the pertinent contract or tender, (b) billed by the carrier on SF 1171, Public Voucher for Transportation of Passengers; and (c) paid in the same manner as passenger transportation charges generally.

CHARTER SERVICES

§ 51.27 *Procedures governing procurement of charter services.* When charter services are ordered from an air or bus carrier for the account of an agency of the Government, the terms of the charter must be reduced to writing and signed by the representatives of the Government and the carrier. Moreover, such charter services shall be procured by the use of United States of America Transportation Requests, SF 1169, and billed on Public Voucher for Transportation of Passengers, SF 1171. The original of each charter order or certificate must accompany the related transportation request when it is billed.

ACCOUNTABILITY FOR UNITED STATES OF AMERICA TRANSPORTATION REQUESTS

§ 51.28 *Administrative control.* Each department, agency, or other establishment of the United States Government shall promulgate appropriate procedures which will adequately control the procurement, stock, distribution, and accountability of transportation requests to safeguard properly the rights and interests of the United States.

§ 51.29 *Safeguarding of and liability for transportation requests.* Each agency shall establish appropriate safeguards to protect the United States against the improper or unauthorized use of transportation requests. In this connection, each officer and employee of the United States Government or other person having custody of requests is responsible for their safety and accountable for any amounts which the Government of the United States may be required to pay by reason of improper use of such documents through fault of negligence of the custodians.

MEMORANDUM CARD COPY OF THE UNITED STATES OF AMERICA TRANSPORTATION REQUEST

§ 51.30 *Preparation of memorandum copy of transportation request.* Administratively authorized issuing officers and official travelers are cautioned that the memorandum card copy of the United States of America Transportation Request, SF 1169a, must clearly show all information and insertions, other than signatures, that appear on SF 1169 at the time of its surrender for service.

SPOILED OR CANCELED UNITED STATES OF AMERICA TRANSPORTATION REQUESTS

§ 51.31 *Disposition of spoiled or canceled transportation requests.* All forms SF 1169 that are spoiled in preparation, canceled for any reason, or prepared for issuance but unused shall be endorsed "Canceled" across the face and forwarded immediately, through the official who furnished them, to the administrative office where accountability records are maintained. After necessary recordation entries have been accomplished, such canceled forms SF 1169 shall be disposed of as directed by General Services Administration.

HONORING OF UNITED STATES OF AMERICA TRANSPORTATION REQUESTS BY CARRIERS

§ 51.32 *Proper execution of transportation requests and identification of travelers.* Issuing officers and travelers are cautioned that transportation requests must be completely filled out and properly signed by both issuing officer and traveler before the requests are valid for presentation to obtain transportation and/or accommodations. Carrier agents should refuse to honor incomplete or unsigned requests and must require the person presenting a request to establish his identity as the traveler or other party properly authorized to receive the ticket, exchange order, or other transportation document. In the absence of satisfactory identification, the request should not be honored.

§ 51.33 *The furnishing of services other than authorized.* The United States Government will not be responsible for any charges in excess of those applicable for transportation and/or accommodations of the type, class, or character specified in the request. Accordingly, if transportation and/or accommodations costing more than those officially authorized on the request are furnished, the additional cost must be collected in cash from the traveler at the time transportation and/or accommodations are obtained and not billed against the Government. When a transportation request is exchanged for transportation and/or accommodations of a type different from or a value lesser than that originally specified in the request, the traveler must be required to record in the space provided on the reverse of the form the actual services furnished and sign the statement. The notation by the traveler on the reverse of the request will serve to restrict the carrier billing to an amount consistant with the changed services or lesser cost factors and avoid subsequent accounting adjustments with the Government.

§ 51.34 *Erasures and alterations.* Transportation requests showing erasures or alterations not validated by the initials of the issuing officer should not be honored.

§ 51.35 *Transportation request identification on tickets.* Carriers shall stamp or endorse "U. S. Government" or otherwise indicate on each coupon of the ticket, exchange order, or other transportation document that it was issued in exchange for a transportation request and endorse thereon the serial number of the related request.

§ 51.36 *Honoring of transportation requests generally.* The transportation request should be drawn on the carrier which is expected to honor it for service. Under exceptional conditions or because of unforeseen circumstances, a request may be honored for service by another carrier; however, the honoring is subject to charges applicable to (a) class and type of transportation authorized on the transportation request or (b) a lower class or lesser amount of service, if such is actually furnished. In these situations, the honoring initial carrier shall require the traveler to place, sign, and date in the space on the reverse of the request an endorsement showing the name of the honoring carrier, the services actually received or covered by the ticket furnished, and the reason for the change. The traveler must make the same endorsement on the memorandum card copy of the transportation request if possible or, if not, promptly forward written notification of such change to his administrative office.

§ 51.37 *Joint issuances of rail and Pullman tickets.* When a single transportation request is presented for rail transportation and Pullman accommodations, both rail and Pullman tickets will be issued by ticket agents; however, the issuance will be subject to the exceptions and qualifications set forth in §§ 51.38 through 51.41.

§ 51.38 *Issuance and use of Pullman tickets when accommodations are not assigned.* When the ticket agent at the point where travel begins is unable to assign space because:

(a) Pullman accommodations are not to begin at the initial point of rail travel and advance reservations cannot be obtained;

(b) Pullman service is authorized from the initial point of rail travel, but the space assignment at such point has been exhausted; or

(c) Round-trip Pullman service is authorized and accommodations cannot be obtained in advance for the return trip;

he will issue a Pullman ticket (or tickets) endorsed to show the type and quantity of accommodations and the points between which accommodations are authorized in accordance with transportation request issuance. In these situations there is no guarantee that the authorized accommodations will be available; thus, it is incumbent upon travelers holding such tickets to immediately attempt to obtain actual space assignments upon arrival at points where the accommodations are to be furnished. When the accommodations or transportation services supplied are of a character different from or a value lesser than those authorized by the tickets, the traveler should endeavor to secure a written acknowledgment of that fact from the local ticket agent or conductor assigning the space and submit it promptly with a written report of the

facts and circumstances to the appropriate designated office of the administrative agency. Also, this report should identify the transportation request used to procure the transportation involved and should be accompanied by any unused tickets or transportation coupons in the traveler's possession. In this connection, attention is directed to the fact that SF 1173, report of change in Passenger Transportation Service, is available for use, if desired, in submitting reports to the administrative agency.

§ 51.39 *Use of Accommodation Authority form in lieu of Pullman ticket.* When ticket agents are supplied with railroad tickets but not supplied with Pullman tickets, traveler(s) will be issued rail tickets and furnished a uniform prenumbered "Accommodation Authority" form covering the accommodations authorized by the transportation request. This form will be honored by Pullman conductors and handled in the same manner as hereinafter outlined for parties of 15 or more.

§ 51.40 *Use of Accommodation Authority form for parties of 15 or more.* When parties of 15 or more are moving by rail, tickets will be issued for rail travel only and a uniform prenumbered "Accommodation Authority" form will be issued for Pullman accommodations. This form, which is supplied by the rail carriers, will be prepared by the carrier's agent at the point of origin to show in the spaces provided, in conformity with the authorization of the related transportation request, all the required information, i. e., the name of the origin railroad; the symbol or main number, if any; the name of the traveler or person in charge of a group; the number of other passengers; the number and kind of accommodations; the points between which accommodations are to be furnished; the transportation request number; the "Void After" date, which should coincide with the expiration date of the rail ticket; the name of the issuing station; the date on which the form is issued; and the impression of the ticket dater stamp. The original copy of the "Accommodation Authority" form will be given to the traveler or person in charge of a group, who will present it to the Pullman conductor (not the ticket agent) as authority for Pullman accommodations. The Pullman conductor will endorse on the back of the form over his signature the accommodations furnished; if such accommodations vary from the accommodations authorized, he will also state in writing the reason for such variations. After the "Accommodation Authority" form has also been signed by the traveler or person in charge of a group, the Pullman conductor will lift it and forward it to the Pullman auditor, who will promptly endorse thereon the correct billing data (including the amount) and send the form to the proper railroad auditor for billing.

§ 51.41 *Honoring of transportation request on train for rail and Pullman services.* When there is no ticket agent on duty, necessitating that rail and Pullman tickets be obtained at the nearest available point en route, rail and Pullman conductors will (a) honor the transportation request to the first station en route where rail and Pullman tickets can be obtained, (b) endorse on the back of the request over their signatures the points between which the request was honored without tickets, and (c) secure the signature of the traveler below the endorsement. The ticket agent at such en route station, in exchange for the transportation request, will issue rail and Pullman tickets from the initial points of service as authorized on the transportation request.

§ 51.42 *Honoring of transportation request on train for Pullman service only.* When a transportation request is presented on the train for Pullman accommodations only, the request will be honored by the Pullman conductor, who will remit it to the Pullman auditor for billing.

§ 51.43 *Honoring of transportation requests by bus drivers.* When requests are presented (a) directly to a bus driver, (b) at a bus station not supplied with the proper ticket forms, (c) at a nonagency station, or (d) at a station at which the ticket office is not open for the sale of tickets, the bus driver will honor the request to destination or arrange for its exchange for a ticket at some intermediate point. When the request is exchanged at an intermediate ticket office, it should be endorsed to show clearly that transportation was furnished from the point of origin of travel—not from the intermediate point at which the request was exchanged for a ticket.

"FOR CARRIERS USE ONLY" AREA ON THE UNITED STATES OF AMERICA TRANSPORTATION REQUEST

§ 51.44 *Portion of transportation request reserved for carrier's use.* In the area reserved "For Carriers Use Only" in the lower left-hand corner of the transportation request, carriers shall make specific entries in accordance with the following guides:

(a) In the "Form" and the "Numbers" space under the heading "Ticket," the ticket agent will record the forms and numbers of the respective tickets furnished in exchange for the document.

(b) In the "Transp." space under the heading "Agent's Value," the ticket agent will enter the cost of the transportation furnished. There should be included in this cost the charges for any supplementary services furnished in accordance with the authorization of the transportation request, such as parking, switching, extra fare, or excess baggage service. These additional charges should be listed separately in this column and not included in the amount covering the regular transportation charges. In no instance, though, are charges for sleeping accommodations, parlor car, or coach reserved seats, etc., to be included even though collectible by and payable to the rail or air carrier.

(c) In the "Accomod." space under the heading "Agent's Value," the ticket agent will enter the cost of accommodations furnished in accordance with the transportation request authorization, such as Pullman accommodations (berths, roomettes, etc.), parlor car seats (whether Pullman or railroad), coach reserved seats, or air berth accommodations. Ordinarily, entries will not be made in this space by the bus and water carriers (except when the stateroom charge is separate) since under their existing tariff structures there is no distinction between charges for transportation and charges for other related services.

(d) In the "Transp." and "Accomod." spaces under "Auditor's Value," entries by carriers' audit offices, with the exception of rail carriers, will cover the same charges as specified above for similarly designated spaces under "Agent's Value." Railroad audit offices, however, may enter under "Transp." all of the charges accruing to the railroads and under "Accomod." all of the charges accruing to the Pullman Company. In some instances this will result in identical items and amounts being included by the ticket agent under "Accomod." and by the auditor under "Transp."

UNUSED TRANSPORTATION OR ACCOMMODATIONS

§ 51.45 *Reporting of unfurnished or unused transportation or accommodations.* The traveler or person in charge of a group shall submit promptly a report to the appropriate office of the administrative agency in each instance in which (a) travel is finally terminated short of the destination to which a transportation request was drawn, (b) services actually furnished are of a value lesser than or a character different from those originally specified on a request which has not been so endorsed, or (c) the return portion of a round-trip ticket is not used. The report shall identify the pertinent transportation request and set forth the attendant facts and circumstances, and shall be accompanied by any unused tickets or coupons. When there are no unused tickets or coupons as evidence of the unfurnished transportation services, the traveler or person in charge of a group should endeavor to secure written acknowledgment of the situation from the carrier's representative for submission with the report to the administrative agency. Attention is directed to the fact that SF 1173, Report of Change in Passenger Transportation Service, is available for use, if desired, in submitting reports to the administrative agency. Upon receipt of these reports, Government agencies shall take prompt steps to effect adjustments with carriers by use of SF 1170 as outlined in §§ 51.47 to 51.53. In instances when transportation and/or accommodations are furnished for a lesser number of persons than called for on a party ticket, the traveler or person in charge of the group shall request the conductor or other ticket collector of the carrier to note on the pertinent ticket or coupon the number of persons actually transported and the number and type of accommodations actually furnished. Failure of travelers to comply with the foregoing and thus protect the interests of the United States may subject them to a demand for payment of any resulting losses.

§ 51.46 *Adjustments for unfurnished or unused services.* All adjustments in connection with United States Government transportation must be processed only to or through a department or agency of the Government. Travelers, issuing officers, or private individuals are not authorized to receive refunds or credits for unfurnished service or unused tickets or portions thereof issued in exchange for transportation requests. Any refunds or adjustments made by carriers to travelers, issuing officers, or individuals of monies or credits properly due the Government shall be made at the carrier's peril.

CANCELLATION OF RESERVATIONS

§ 51.47 *Cancellation of reservations.* When it is necessary to cancel reservations for transportation or accommodations secured in exchange for transportation requests, the cancellations should be made as soon as it is known that the reservations will not be used, since most carriers, including the Pullman Company, require that cancellations be made within restricted, specific time limits to preclude the assessment of cancellation charges. Government travelers should be informed to the fullest extent possible of such requirements in order to protect the interest of the United States.

UNUSED TRANSPORTATION REFUND PROCEDURES

§ 51.48 *Use of "redemption of unused tickets" form.* Unused tickets, exchange orders, etc., and portions thereof, shall be processed to carriers for refund by means of SF 1170, Redemption of Unused Tickets. A separate SF 1170 must be used for each transportation request, though more than one ticket or adjustment transaction may be listed on that form. In no case should more than one transportation request be covered on one SF 1170. When the refund request is based on the honoring of first-class rail tickets in coach service and unused Pullman or parlor car ticket(s) is involved, the SF 1170 being sent to the rail carrier should be annotated to show that a separate refund adjustment is being requested from the Pullman Company; the SF 1170 being sent to the Pullman Company also should be annotated to show that refund application has been made to the rail carrier. Refund requests involving unused Pullman tickets or accommodations shall be addressed to the General Office of the Pullman Company notwithstanding such accommodations were procured jointly with the related rail transportation on a single transportation request drawn on, billed by, and paid to a rail carrier.

§ 51.49 *Processing of "redemption of unused tickets" form by Government agencies.* SF 1170 shall be processed by the agencies of the Government as follows:

(a) All copies shall be properly and completely executed as to the required detail;

(b) The original and the duplicate copy shall be forwarded to the carrier together with unused tickets or portions thereof if such are involved, or, if not, then the essential facts on which the refund claim is based should be included on SF 1170; and

(c) The triplicate and quadruplicate copies shall be processed in the administrative office after receipt of the refund or pertinent advice from the carrier with respect to the request for refund.

§ 51.50 *Processing of "redemption of unused tickets" form by carriers.* The carrier shall insert on the original of the SF 1170, in the designated spaces, the amount being credited on each ticket as well as the total amount being refunded and return such original with the covering remittance. If no refund is due, the carrier should furnish an explanation on the returned original.

§ 51.51 *Processing of refunds by Government agencies.* Upon receipt in the administrative agency of the refund and the returned original SF 1170, agency records shall be annotated in conformity with its fiscal procedures and the original SF 1170 dispatched promptly to the Transportation Division, U. S. General Accounting Office, Washington 25, D. C. Voluntary refunds made by carriers to administrative agencies for a difference in class of service furnished to travelers or some unfurnished transportation service also should be reported to the General Accounting Office by the agency, which is to prepare and forward an original copy of a SF 1170 showing essential information in the designated spaces, including the amount of the refund.

§ 51.52 *Prohibiting of rebilling adjustments by carriers or Government agencies and reporting of failure to receive refund.* Carriers should make prompt refund of monies due in conection with items listed on SF 1170 even though the bill covering charges for the related transportation request has not been submitted or paid. Connectively, carrier bills for the related charges on transportation requests will not be subjected administratively to deduction, revision, or rebilling to adjust such items, except as provided in the next paragraph. However, should a carrier fail to make refund or to furnish satisfactory reasons why no refund is due, within 6 months from the time application is made, or refuse to make an adjustment for unused transportation, the Government agency involved shall refer the matter to the Transportation Division, U. S. General Accounting Office, Washington 25, D. C., for appropriate action, transmitting therewith a copy of the pertinent SF 1170 and all related correspondence.

§ 51.53 *Refund Procedures covering unused foreign transportation services and cancellation of reservations for such services.* Except for (a) Canadian and Mexican carriers and (b) foreign carriers maintaining billing offices in the United States, SF 1170 and the procedures with respect thereto shall not be utilized or considered applicable when foreign passenger transportation services are involved. In such situations, it shall be the responsibility of the Government agency concerned to institute effective procedures by which there may be recovered, by setoff or deduction from unpaid bills, the values of unused tickets or portions thereof, including any requests for adjustment when a journey is discontinued short of destination or when transportation services furnished are of a character different from or a value lesser than those specified in the pertinent transportation request. In this regard, attention is directed to the fact that many foreign carriers, particularly the railroads, specify unusual conditions, time limits, and procedures to be observed in connection with the cancellation of passenger accommodations and the right of claim any redemption on account of unused transportation services. Government agencies should advise travelers in foreign areas to become fully informed of these requirements in order that the interests of the Government will not be jeopardized.

§ 51.54 *Cross-referencing of deduction vouchers.* In situations in which the procedures prescribed for use in connection with SF 1170 are not for application and adjustments for unfurnished transportation are made by deduction or setoff, a full description of each unused ticket or portion thereof shall be noted on the deduction voucher. If the deduction is being effected on a voucher other than the one covering the billing of the transportation request, there shall be furnished also the number of the transportation request so involved and a complete citation to the disbursing officer's voucher covering payment thereof. The unused ticket or portion shall be forwarded by the administrative office to the carrier and a copy of the letter of transmittal shall be attached to the deduction voucher involved.

LOST OR STOLEN UNITED STATES OF AMERICA TRANSPORTATION REQUESTS

§ 51.55 *Report of lost transportation request to Administrative Office.* When a transportation request is lost or stolen, the employee accountable therefor shall transmit in writing to the appropriate administrative office prompt notification of such loss or theft and a complete statement of attendant facts.

§ 51.56 *Report of lost transportation request to carriers.* In addition, when a transportation request reported as lost or stolen is known to have been filled out to the extent of showing the carrier and services desired from a designated point of origin, the person accountable for such request shall furnish promptly to the named as well as other local initial carriers a description of the lost or stolen document and request that it not be honored. Such advice shall be confirmed in writing, and a copy promptly transmitted to the appropriate administrative office.

§ 51.57 *Disposition of recovered lost transportation request.* Under no circumstances shall transportation requests which have been reported as lost or stolen be subsequently used to obtain transportation or accommodations if such documents are found or recovered. Subsequently recovered transportation requests which were previously reported lost or stolen, whether blank or partially or completely filled out, shall be promptly transmitted to the issuing officer who

shall endorse the documents "Canceled" and then forward them through administrative channels for disposition as directed by General Services Administration.

§ 51.58 *Certificate in lieu of lost transportation request.* Carriers which have lost or misplaced transportation requests that have been honored for services may bill for such charges on SF 1171, Public Voucher for Transportation of Passengers. When the agency to which the bill should be rendered is unknown, the bill may be transmitted to the Transportation Division, U. S. General Accounting Office, Washington 25, D. C., for retransmittal to the agency involved. Each item so involved must be supported by (a) a Certificate in Lieu of Lost United States of America Transportation Request, SF 1172, and (b) a statement embodying a recital of any other pertinent facts and circumstances. Each such item should be billed separately and not be included on a billing that refers to any other transaction. When payment is effected, the file should contain for each involved SF 1172 an administrative certification that the services specified in the certificate were furnished as stated, that payment was not previously made thereon to the claimant or other carrier, and that the records have been annotated to prevent a duplicate payment if the transportation request or other instrument in lieu thereof is ever presented for payment.

§ 51.59 *Disposition of transportation request previously certified lost.* If an original transportation request which has been certified as lost is subsequently located by a carrier, it shall be forwarded promptly to the Transportation Division, U. S. General Accounting Office, Washington 25, D. C., together with a full explanation of the facts and circumstances and a citation to the carrier bill on which the SF 1172 was presented for payment.

BILLING AND PAYMENT OF PASSENGER TRANSPORTATION CHARGES

§ 51.60 *Carrier billing forms.* Carrier original bills for transportation services furnished under the regulations in this chapter for the account of the United States shall be prepared on SF 1171, Public Voucher for Transportation of Passengers, including one memorandum copy thereof, SF 1171a, and presented for payment as directed on the transportation request.

§ 51.61 *Single billing and payment for transportation and Pullman services.* When SF 1169 has been issued for the joint procurement of transportation and Pullman accommodations, the honoring rail carrier shall bill for both transportation and Pullman accommodations and payment shall be made by the issuance of but one check for the total amount payable.

§ 51.62 *Factual support of charges billed.* In all instances when information or facts additional to those shown on the transportation request are necessary to support or explain charges billed, the statement of such facts—including where required original signed certifications or affidavits, section 22 quotations, charter orders, air ferry mileage supports, excess baggage coupons or similar documentary evidence showing gross and net weights, bus deadhead mileage supports, "Accommodation Authority" forms, authorizations, etc.—shall be appropriately referenced as to the serial number of the pertinent transportation request and together therewith shall accompany at all times the SF 1171 covering the billing of such document.

§ 51.63 *Carrier machine punching on transportation requests.* Carriers using 80-column tabulating equipment may elect to punch certain information in the transportation requests. However, such punching is restricted to the information and card fields listed below. Any carrier electing to punch must punch all the applicable data as follows:

48–52, Carrier's Code No. (To be supplied upon request by the Transportation Division, U. S. General Accounting Office, Washington 25, D. C.).
53–57, Carrier's Bill No.
58–65, Total amount of transportation charges.
66–72, Total amount of accommodation and other charges.

§ 51.64 *Carrier notations on transportation requests.* Transportation requests should not be subjected to unnecessary notations during the carrier's audit since it is essential that the requests show only transactions between travelers and carrier agents. However, this should not be construed as prohibiting mechanized interpretation in the designated spaces in the upper right-hand corner of the request or other desirable informative notations.

§ 51.65 *Execution of carrier billing forms.* (a) SF 1171 shall show the complete serial number of each billed transportation request and opposite thereto the applicable charges; those for transportation in the column headed "Transportation" and those for accommodations, such as Pullman, air berth, or stateroom in the column headed "Accommodations." Entries in these respective columns should correspond with the totals shown under "Auditor's Value" in the "For Carriers Use Only" area on each listed SF 1169, with a separate total for each column and a grand total shown in the designated spaces. SF 1171 is designed to permit a machine tabular listing of transportation requests though such is not a requirement.

(b) In the preparation of SF 1171, the "Payee's Certificate" must be properly executed.

§ 51.66 *Additional billing procedure for travel agencies.* Travel agencies must support charges billed for each transportation request by a citation to the tariff or other authority relied upon to substantiate the billing. Also, if not clearly set forth on the transportation request, travel agencies must furnish information as to the names of the carriers involved in the routes of travel and the connecting or interchange points of the several carriers, if more than one carrier is concerned in such routes of travel. This showing may be on the face of the bill, SF 1171, if space permits; otherwise, on a separate attachment to SF 1171.

§ 51.67 *Transmission of carrier bills with supporting data.* Transportation requests, together with appropriately referenced supporting documentation, should be placed in one envelope and forwarded with the related SF 1171 for payment and audit.

§ 51.68 *Administrative regulations.* Departments and establishments of the United States Government are expected to issue, revise, or modify administrative regulations and procedures to conform to this part. As soon as issued, two copies of such regulations shall be forwarded to the Transportation Division of the General Accounting Office.

§ 51.69 *Adoption of procedures and forms by Government corporations.* All or any part of the procedures and forms prescribed herein may be adopted for use by Government corporations, provided notice of the extent thereof and of the effective date is transmitted in advance to the Director, Transportation Division, U. S. General Accounting Office, Washington 25, D. C.

§ 51.70 *Exceptions to regulations.* Exceptions to the regulations in this chapter may be made only after obtaining the written approval of the Comptroller General of the United States.

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PART 52—FREIGHT TRANSPORTATION SERVICES FURNISHED FOR THE ACCOUNT OF THE UNITED STATES

Sec.
52.1 Scope of part.

U. S. GOVERNMENT BILL OF LADING FORMS

52.2 Standard forms for all shipments except those accorded transit privileges.
52.3 Standard forms; temporary receipt and certificate in lieu of U. S. Government bill of lading.
52.4 Standard forms for shipments accorded transit privileges.
52.5 Overprinting.

ACCOUNTABILITY FOR U. S. GOVERNMENT BILLS OF LADING

52.6 Accountability and control.
52.7 Description and distribution.

PREPARATION OF U. S. GOVERNMENT BILL OF LADING FORMS

52.8 Procedures for preparing bill of lading forms.

DELIVERY OF PROPERTY TO CARRIER FOR SHIPMENT

52.9 Action of the carrier's agent and disposition of the U. S. Government bill of lading forms.

TEMPORARY RECEIPT IN LIEU OF U. S. GOVERNMENT BILL OF LADING

52.10 Procedures for use as a temporary record.

CERTIFICATE IN LIEU OF LOST U. S. GOVERNMENT BILL OF LADING

52.11 Circumstances requiring issuance.
52.12 Issuance by consignee.
52.13 Issuance by issuing officer.
52.14 Certificate to be signed by consignee or the issuing officer.
52.15 Temporary receipt replaced by certificate in lieu of lost bill of lading.
52.16 Records and controls to be maintained.

AUTHORITY: §§ 52.1 to 52.36 issued under sec. 311, 42 Stat. 25, as amended; 31 U. S. C. 52. Interpret or apply sec. 309, 42 Stat. 25; 31 U. S. C. 49.

§ 52.1 *Scope of part.* This part prescribes standard forms and regulations for the procurement of and billing for freight or express transportation services by rail, highway, water, or air, furnished for the account of the United States, and specifies certain information to be furnished in connection therewith.

U. S. GOVERNMENT BILL OF LADING FORMS

§ 52.2 *Standard forms for all shipments except those accorded transit privileges.* The following standard forms are prescribed to accomplish the shipment, transportation, and delivery of Government property by transportation companies and are published for general use throughout the U. S. Government service:

SF 1103, U. S. Government Bill of Lading—Original.
SF 1103a, U. S. Government Bill of Lading—Memorandum Copy.
SF 1104, U. S. Government Bill of Lading—Shipping Order.
SF 1105, U. S. Government Freight Waybill—Original.
SF 1106, U. S. Government Freight Waybill—Carrier's Copy.
SF 1109, U. S. Government Bill of Lading—Original, Continuation Sheet.
SF 1109a, U. S. Government Bill of Lading—Memorandum, Continuation Sheet.
SF 1110, U. S. Government Bill of Lading—Shipping Order, Continuation Sheet.
SF 1111, U. S. Government Freight Waybill—Original, Continuation Sheet.
SF 1112, U. S. Government Freight Waybill—Carrier's Copy, Continuation Sheet.

The size of the above-prescribed forms will be 8½ by 11 inches and the original bill of lading, the freight waybill—original, the freight waybill—carrier's copy, and the corresponding continuation sheets will be printed on white paper. The memorandum bill of lading and its continuation sheet will be printed on yellow paper, and the shipping order and its continuation sheet on salmon paper.

§ 52.3 *Standard forms; temporary receipt and certificate in lieu of U. S. Government bill of lading.* The following standard forms are prescribed for use in connection with the transportation and delivery of Government property and are published for general use throughout the U. S. Government service:

SF 1107, Temporary Receipt in Lieu of U. S. Government Bill of Lading.
SF 1108, Certificate in Lieu of Lost U. S. Government Bill of Lading—Original.
SF 1108a, Certificate in Lieu of Lost U. S. Government Bill of Lading—Memorandum.

The size of the above-prescribed forms will be 8½ by 11 inches. The temporary receipt and the original of the certificate in lieu of lost bill of lading will be printed on white paper, and the memorandum certificate in lieu of lost bill of lading will be printed on yellow paper.

§ 52.4 *Standard forms for shipments accorded transit privileges.* (a) The following standard forms covering the shipment, transportation, and delivery of Government property by transportation companies are prescribed and published for general use throughout the U. S. Government service in connection with Government shipments accorded transit reshipment privileges:

SF 1131, U. S. Government Transit Bill of Lading—Original.
SF 1131a, U. S. Government Transit Bill of Lading—Memorandum Copy.
SF 1132, U. S. Government Transit Bill of Lading—Shipping Order.
SF 1133, U. S. Government Transit Freight Waybill—Original.
SF 1134, U. S. Government Transit Freight Waybill—Carrier's Copy.

The size of the above-prescribed forms will be 8½ by 14 inches and the original transit bill of lading, the transit freight waybill—original, and the transit freight waybill—carrier's copy will be printed on white paper. The memorandum transit bill of lading will be printed on yellow paper, and the transit shipping order on salmon paper.

(b) The Temporary Receipt in Lieu of U. S. Government Bill of Lading, SF 1107, the Certificate in Lieu of Lost U. S. Government Bill of Lading—Original, SF 1108, and memorandum therefor, SF 1108a, and the continuation sheets prescribed for use with the basic set of U. S. Government Bill of Lading Forms, SF 1109, SF 1109a, SF 1110, SF 1111, and SF1112, will be used in connection or conjointly with the set of U. S. Government Transit Bill of Lading Forms, SF 1131, SF 1131a, SF 1132, SF 1133, and SF 1134, as required.

§ 52.5 *Overprinting.* No departure from the exact specifications of the standard bill of lading forms herein prescribed will be permitted, but this will not be construed to prevent a department or establishment from ordering printed on the forms used by it, when more economical and advantageous to do so, the name of the department or establishment, name of bureau or service, place of issue, title of issuing officer, and designation of appropriation or fund chargeable. Also, the departments and establishments may have a brief additional notation printed in the bill of lading forms headed "Important", provided that the need therefor is apparent and prior written approval of the Comptroller General of the United States is obtained.

ACCOUNTABILITY FOR U. S. GOVERNMENT BILLS OF LADING

§ 52.6 *Accountability and control.* Appropriate accountability records must be maintained by the departments and establishments of the United States Government for the purpose of controlling the stock of printed bills of lading on hand and for fixing accountability upon the employees responsible for their issuance and use. To facilitate such control, the bill of lading forms will be serially numbered, when printed, in the two places provided on the form; the numbers will be immediately preceded by symbol letters, approved in advance by the Comptroller General, for the purpose of aiding in identifying the Government agency using them. The approved letter symbol must always be included in any reference to a Government bill of lading number. The U. S. Government Transit Bill of Lading forms will be assigned a separate set of serial numbers beginning with number one (1), or a block of numbers within the current series, and "–T–" will be placed between the regular departmental letter symbol and the serial number.

BASIC SETS OF U. S. GOVERNMENT BILL OF LADING FORMS

§ 52.7 *Description and distribution.* (a) The set of U. S. Government Bill of Lading forms and the set of U. S. Government Transit Bill of Lading forms, all parts of which will be prepared simultaneously, will consist, respectively, in the exact order named, of:

(1) The original bill of lading, which contains the terms and conditions of the contract of transportation, the description of the articles comprising the shipment, and evidence of delivery, and which will, except as hereinafter provided, be used as supporting evidence for the voucher covering the transportation charges involved;

(2) The shipping order, which is to be retained by the carrier's agent at shipping point;

(3) The freight waybill—original, which is to accompany the shipment or to be otherwise conveyed to destination in accordance with instructions of the carrier;

(4) The freight waybill—carrier's copy, which is to be disposed of in accordance with instructions of the carrier; and

(5) The memorandum copy of the bill of lading, which is to be retained by the shipper for administrative purposes.

(b) As many additional copies of the memorandum bill of lading may be made as are required for administrative purposes; however, in the interest of economy, the number of such memorandum copies should be kept at a minimum.

PREPARATION OF U. S. GOVERNMENT BILL OF LADING FORMS

§ 52.8 *Procedures for preparing bill of lading forms.* In preparing the sets of Government bill of lading forms, careful attention should be given to all instructions and details in arrangements, especially to the boxed section headed "For use of Destination Carrier Only," which must not be covered by marks or writing since it is for the sole use of the accounting officer of the destination carrier who inserts therein the proper class, rates, and charges. This boxed section is not ruled on the memorandum copies of the bill of lading form and the space thereon should be used by the issuing officer for showing the estimated transportation charges and for such accounting classifications as may be administratively required. The issuing officer must, in every case, sign the "Certificate of Issuing Officer" regardless of whether the bill of lading is to be used by a contractor as shipper. Carbon impression signatures on the shipping order and other forms will be acceptable. When the bill of lading is to be used by a contractor as shipper, it is particularly important that the issuing officer fill in above his signature the contract or purchase order number, the date thereof, and the f. o. b. point named in such contract or purchase order, since in the absence of such data on bills of lading the carrier may refuse to accept the shipment from a contractor or shipper. The statement of pick-up service at origin must be initialed by the person having accurate knowledge of the facts.

DELIVERY OF PROPERTY TO CARRIER FOR SHIPMENT

§ 52.9 *Action of the carrier's agent and disposition of the U. S. Government bill of lading forms.* Upon delivery of Government property to a carrier for shipment, the agent of the initial carrier should insert the name of his company in the space provided therefor in the lower right-hand portion of the original bill of lading, together with his signature and the date the shipment was received, and he should verify that the statement made on the original bill of lading—that pick-up service at origin was or was not by the Government or its agent—is in accord with the facts and that such statement contained on the shipping order. The shipping order, the freight waybill—original, and the freight waybill—carrier's copy will be surrendered to the agent of the initial carrier at the time the shipment is accepted and the bill of lading is receipted by its agent, at which time the original bill of lading must be immediately forwarded by the shipper (issuing officer or contractor) to the consignee, in order that it will be in his possession upon arrival of the shipment at destination, when it will be promptly receipted and surrendered by him to the last carrier for billing. However, in those instances in which it is apparent to the shipper that the mailing of the original bill of lading to the consignee will result in arrival of the shipment prior to the arrival of the original bill of lading (as, for example, in cases of single-line rail hauls, when shipping by air or by railway express, and in many cases of shipment by highway, etc.), or in the case of all shipments of Government property, if it is administratively determined that some substantial interest of the Government will be subserved thereby, the original bill of lading may, by agreement with the carrier receiving such shipments, be surrendered to said carrier, or its agent, to accompany the shipment or, at the discretion of the carrier, to be transmitted to destination by such other means as the carrier may elect. Whenever the original bill of lading is surrendered to a carrier with the shipment, the certificate "Initial Carrier's Agent, by Signature Below, Certifies He Received the Original B/L" must be placed on the original and all copies in the bill of lading set, and the autographic signature of the initial carrier's agent thereon will constitute a proper execution of the prescribed certificate. In such cases one memorandum copy of the bill of lading will be retained by the shipper (issuing officer) as an office record, and one memorandum copy, so certified, must be immediately forwarded by him to the consignee. Whenever the bill of lading is used by a contractor as shipper, one memorandum copy thereof, so certified, will be retained by the contractor, and memorandum copies, each so certified, must be promptly forwarded by him to the issuing officer and to the consignee.

TEMPORARY RECEIPT IN LIEU OF U. S. GOVERNMENT BILL OF LADING

§ 52.10 *Procedures for use as a temporary record.* The use by the consignee of the Temporary Receipt in Lieu of U. S. Government Bill of Lading, SF 1107, should be restricted to instances in which the receipt or the original Government bill of lading is delayed and immediate delivery of the shipment is imperative. Under no circumstances will transportation charges be paid by a disbursing officer on a temporary receipt; therefore, and in order that payment may be made to the carrier without undue delay, the person responsible for issuing the temporary receipt(s) must maintain a record of the temporary receipt(s) and promptly replace each such receipt with the original Government bill of lading or a certificate in lieu of lost bill of lading.

CERTIFICATE IN LIEU OF LOST U. S. GOVERNMENT BILL OF LADING

§ 52.11 *Circumstances requiring issuance.* If the original Government bill of lading cannot be found after diligent effort has been made to locate it and it is evident that it has been lost or destroyed, the Certificate in Lieu of Lost U. S. Government Bill of Lading, SF 1108, and memorandum thereof, SF 1108a, are provided for use only by authorized Government employees as a basis for settlement of the charges for transportation of the property shipped on the lost original bill of lading.

§ 52.12 *Issuance by consignee.* When it has been ascertained that the original Government bill of lading has been either lost or destroyed, a certificate in lieu of lost bill of lading may be issued by the consignee, provided that the consignee is an agency of the Government, or an official thereof, having access to such forms and with office records which will permit the maintenance of a permanent record of the issuance of such certificates by means of the memorandum copies thereof; and that the consignee has in his possession a memorandum copy of the lost original bill of lading, SF 1103a or SF 1131a, or the carrier's freight waybill, SF 1105 or SF 1133, on which the shipment moved, thus enabling him to accomplish the certificate in lieu of lost bill of lading in every detail.

§ 52.13 *Issuance by issuing officer.* In any other circumstance, the matter of lost original Government bills of lading must be brought to the attention of the issuing officer. Such officer will then issue the necessary certificate in lieu of lost bill of lading from his memorandum copy of the lost original bill of lading, or from information on the shipping order (SF 1104 or SF 1132) which must be obtained from the initial carrier. This certificate in lieu of lost bill of lading will then be forwarded immediately to the consignee for execution of consignee's certificate of delivery and prompt surrender thereof to the destination carrier for accomplishment of its certificate and waiver and for billing.

§ 52.14 *Certificate to be signed by consignee or the issuing officer.* The following certificate, which has been incorporated in the Certificate of Issuing Officer and in the Certificate of Consignee printed on the face of the Certificate in Lieu of Lost U. S. Government Bill of Lading, SF 1108, must be executed by the consignee or the issuing officer who issues the certificate in lieu of lost bill of lading:

Issued In Exact Conformity With Standard Form No. _____ in My Possession.

§ 52.15 *Temporary receipt replaced by certificate in lieu of lost bill of lading.* If a temporary receipt was issued by the consignee for delivery of the property shipped, he should indorse such fact on the certificate in lieu of lost bill of lading; when such certificate is received by the carrier for accomplishment of its certificate and waiver, reference to such certificate in lieu of lost bill of lading should be made on the temporary receipt

and the certificate and the receipt should be securely attached together for billing.

§ 52.16 *Records and controls to be maintained.* A memorandum copy of every certificate in lieu of lost Government bill of lading issued by the consignee must be immediately forwarded by him to the issuing officer, who should note the issuance thereof, as well as all other certificates in lieu of lost bills of lading issued by himself, on the bill of lading accountability record and promptly forward the memorandum copies of such certificates to the administrative accounting office concerned, where a system of controls designed to avoid duplicate payment of the transportation charges involved must be maintained.

§ 52.17 *Original bill of lading located before settlement of bill; action to be taken.* It is to be understood that, if the original bill of lading is located by either the consignee or the carrier before settlement is made on the certificate in lieu of lost bill of lading, the original bill of lading will be substituted therefor and the certificate in lieu of lost bill of lading will be immediately marked with the notation:

Canceled—Original Bill of Lading Located and Delivered to the Destination Carrier.

The canceled certificate in lieu of lost bill of lading should then be returned to the office which originally issued it.

§ 52.18 *Original bill of lading located after settlement of bill; action to be taken.* If the original bill of lading is located after settlement is made on the certificate in lieu of lost bill of lading, it will be forwarded with appropriate advice to the administrative office concerned, there to be properly voided and inscribed with the name of the disbursing officer, the D. O. voucher number (or the General Accounting Office certificate of settlement number), and the date paid. The voided original bill of lading will then be transmitted to the General Accounting Office.

CONVERSION OF COMMERCIAL BILL OF LADING TO U. S. GOVERNMENT BILL OF LADING

§ 52.19 *Preliminary requirements for conversion.* Every precaution should be taken to guard against the shipment of Government property on a commercial bill of lading or commercial express receipt, since payment to the carrier of the transportation charges will not be made by the Government on such commercial document alone. If, however, Government property unavoidably moves on a commercial bill of lading or commercial express receipt, the words "To Be Converted to a Government Bill of Lading" must be placed on the original commercial document and on all copies thereof in a conspicuous manner. The original commercial document must be immediately forwarded by the shipper to the Government official who authorized the shipment or may, by agreement with the carrier receiving such shipment, be surrendered to the carrier, or its agent, to accompany the shipment or, at the discretion of the carrier, to be transmitted to destination by such other means as the carrier may elect.

§ 52.20 *Procedure.* The procedure to be followed by the shipper, by the Government official who authorized the shipment, and by the consignee in connection with the shipment of Government property which unavoidably moves on a commercial bill of lading or commercial express receipt is as follows:

(a) Whenever the original commercial bill of lading or commercial express receipt is forwarded by the shipper to the Government official who authorized the shipment, the latter should immediately prepare, or cause to be prepared, a Government bill of lading covering the shipment involved, which should be signed by him as the issuing officer. The commercial document on which the property was shipped should be securely attached to the Government bill of lading and both the Government bill of lading and the commercial document should be cross-referenced and forwarded to the consignee without delay for execution of consignee's certificate of delivery on the Government bill of lading delivery of the shipment.

(b) Whenever the original commercial bill of lading or commercial express receipt is surrendered to a carrier, the certificate "Initial Carrier's Agent, by Signature Below, Certifies That He Received the Original of This Document" must be placed on the original commercial document and on all copies thereof, and a memorandum copy of the original commercial document must be immediately forwarded by the shipper to the Government official who authorized the shipment. Upon receipt of the memorandum copy of the commercial document, said official should promptly prepare, or cause to be prepared, a Government bill of lading covering the property involved, sign it as issuing officer, and forward it to the consignee without delay, retaining the memorandum copy of the commercial document for his files. When the shipment and the orignal commercial document are delivered to the consignee by the carrier, the consignee should:

(1) Cross-reference the orignal commercial document and the Government bill of lading received from the Government official who authorized the shipment;

(2) Securely attach the commercial document to the Government bill of lading;

(3) Execute consignee's certificate of delivery on the Government bill of lading; and

(4) Promptly surrender such documents to the destination carrier for billing.

(c) In either of the cases mentioned in this section the signature of the agent of the initial carrier will not be required on the Government bill of lading as it will appear on the commercial document.

LOST COMMERCIAL BILLS OF LADING

§ 52.21 *Procedures for conversion to U. S. Government bill of lading.* If the commercial bill of lading or commercial express receipt on which Government property was unavoidably shipped becomes lost or destroyed, the following procedures will apply:

(a) When the consignee has in his possession the carrier's "Shipping Order," the carrier's "Freight Waybill" (A. A. R. Standard Form No. AD–129–Part 3), or the Railway Express Agency "Delivery Sheet," he may convert it to a Government bill of lading which he must obtain from the Government official who authorized the shipment provided that

(1) Procedure in the issuing office is designed to preclude the issuance of more than one Government bill of lading for the same shipment and

(2) A system of controls, designed to avoid duplicate payment of the transportation charges involved, is maintained by the administrative accounting office concerned.

(b) When the consignee does not have in his possession the carrier's "Shipping Order," the carrier's "Freight Waybill," or the Railway Express Agency "Delivery Sheet," he will be permitted, subject to the provisions of subparagraphs (1) and (2) of this paragraph

(1) To convert a photostat copy of the carrier's "Shipping Order" or the Railway Express Agency "Delivery Sheet" to a Government bill of lading which he must obtain from the Government official who authorized the shipment, provided that before photostating the commercial document the carrier will place thereon the notation "Photostat Copy of This Document Furnished Consignee on ---------- (Date) To Be Converted to a Government B/L"; or

(2) To convert a certified true copy of the commercial documents furnished by the carrier provided said certified true copy contains a carbon impression obtained by typing or otherwise placing on the carrier's "Shipping Order" or the Railway Express Agency "Delivery Sheet" the statement:

Certified True Copy of This Document Furnished Consignee on ---------- (Date) To Be Converted to a Government B/L.

§ 52.22 *Lost original commercial bills of lading subsequently recovered.* It is to be understood that, if the lost original commercial bill of lading or lost commercial express receipt is located subsequent to the conversion of the carrier's "Shipping Order," the carrier's "Freight Waybill" (A. A. R. Standard Form No. AD–129–Part 3), or the Railway Express Agency "Delivery Sheet" to a Government bill of lading, it will be forwarded with appropriate advice to the administrative office concerned. There, after payment has been effected on the Government bill of lading prepared from the commercial documents, the recovered original commercial bill of lading or commercial express receipt will be properly voided and inscribed with the name of the disbursing officer, the D. O. voucher number (or the General Accounting Office certificate of settlement number), and the date paid; it will then be transmitted to the General Accounting Office.

BILLING FOR FREIGHT OR EXPRESS TRANSPORTATION CHARGES

§ 52.23 *Standard forms for billing freight or express transportation charges.*

The following standard forms of public voucher for transportation charges are prescribed and published for general use throughout the Government service:

SF 1113, Public Voucher for Transportation Charges—Original.
SF 1113a, Public Voucher for Transportation Charges—Memorandum.

§ 52.24 *Size and color.* The original Public Voucher for Transportation Charges, SF 1113, should be printed on white paper and be 8½ by 11 inches in size with the addition of a perforated coupon, 8½ by 3 inches, at the bottom of the form, to be used in transmitting checks in payment of the voucher. The memorandum of the voucher, SF 1113a, should be printed on yellow paper in the same size as the original without the perforated coupon.

§ 52.25 *Use of public voucher for transportation charges.* Public Voucher for Transportation Charges, SF 1113, and memorandum copy, SF 1113a, will be used by carriers as the standard forms on which to bill their charges against all branches of the U. S. Government service for freight or express transportation furnished in accordance with official orders.

§ 52.26 *Preparation by carriers of public voucher for transportation charges.* (a) The arrangement of the voucher form requires the listing of the symbol and serial number and amount of each subvoucher (bill of lading, etc.); it does not provide for descriptive details of the service rendered. Except as provided in § 52.33 carriers are requested to make a special effort, when the charges are to be billed to the same office, to include as many subvouchers as possible on each voucher form; since such practice will materially reduce the number of forms used and the number of Government checks issued, and will expedite the payment and audit of transportation charges.

(b) In the preparation of SF 1113, the "Payee's Certificate" must be properly executed.

(c) In the interest of economy the carrier will furnish to the department or establishment billed only one memorandum copy, SF 1113a, with each voucher form unless specifically authorized in advance by the General Accounting Office to furnish extra copies.

§ 52.27 *Purchase or reproduction of public voucher for transportation charges.* In view of the furnishing of the U. S. Government Freight Waybill—Original, SF 1105, and U. S. Government Freight Waybill—Carrier's Copy, SF 1106, for use by the carriers, it is agreed that the carriers will bear the cost of the transportation voucher forms, SF 1113 and SF 1113a, with the understanding that the carriers may either purchase the said forms from the Superintendent of Documents, U. S. Government Printing Office, Washington 25, D. C., or print the forms themselves or have them printed by an association of carriers. It is understood, however, that, in reproducing the voucher forms outside the U. S. Government Printing Office, the exact size, wording, and arrangement approved by the Comptroller General of the United States must be adhered to and, while no minimum as to the grade of paper will be set, this Office will rely upon the carriers to provide a paper stock of reasonable grade and reserves the right to impose such a requirement. Inquiries with respect to the cost of the voucher forms should be addressed to the Superintendent of Documents, U. S. Government Printing Office, Washington 25, D. C.

FACTUAL SUPPORT OF CHARGES BILLED

§ 52.28 *Support for accessorial or special charges.* In connection with its audit activities the General Accounting Office has before it only what the carrier and the administrative agency have submitted as the record upon which the carrier was paid. There can be no knowledge of services furnished which vary from those ordered on the processing documents. In all instances where additional information or facts are necessary to support higher charges because of accessorial or special services ordered and furnished incident to the line-haul transportation, the U. S. Government Bill of Lading, SF 1103, shall be indorsed to show the name of the carrier upon which the request was made, the kind and scope of the special services ordered, and the fact that such services were rendered. This indorsement shall be signed by or for the person who ordered the special services. However, if such an indorsement is impractical, the same information may be set forth in a statement bearing the symbol and the number of the covering bill of lading which shall be signed by or for the person who ordered the special services, and, if possible, attached to the bill of lading. If the bill of lading is not available, the statement shall be surrendered to the carrier from which the services were ordered, for transmittal to the last line-haul carrier and presentation in connection with the bill for line-haul transportation charges.

PICK-UP AND DELIVERY SERVICES

§ 52.29 *Required indorsements for pick-up and delivery service furnished under tariff provision.* (a) The U. S. Government Bill of Lading, SF 1103, provides for showing whether "pick-up service at origin" and/or "delivery service at destination" was or was not performed by the Government or its agent.

(b) In certain instances tariffs covering pick-up or delivery service provide for the assessment of charges therefor in addition to line-haul charges. Accordingly, where such tariff provisions are in effect, and when pick-up or delivery service is not performed by the Government or its agent but is performed by the carrier at the request of the shipper or consignee in connection with a Less-Than-Carload, an Any Quantity, or a Trap Car shipment, the Government bill of lading and available copies should be indorsed to show that "Pick-up," "Delivery," or "Trap Car Service," as the case may be, "was requested of and furnished by the railroad." (This information is to be shown in addition to the information presently required by the U. S. Government Bill of Lading.) Such indorsements should be signed by or for the person who ordered such services at origin or destination, and whenever practicable the indorsements should be placed in any available space adjacent to the space presently provided for certification as to "pick-up service at origin" and/or "delivery service at destination."

(c) Inasmuch as the above is prescribed as a temporary procedure pending revision of the U. S. Government Bill of Lading, no objections will be raised if the above indorsements, when required, are imprinted on the bill of lading and available copies by means of rubber stamps.

§ 52.30 *Motor carrier or freight forwarder destination storage-in-transit of household goods for account of the Department of Defense; payment of transportation and accessorial charges*—(a) *Application.* The instructions in this section relate only to shipments of household goods for the Department of Defense.

(b) *Carrier defined.* The term "carrier" as used herein means "motor carrier" or "freight forwarder" which has been duly authorized, under certificate or permit, to operate as such in intrastate or interstate commerce.

(c) *Required certifications.* The payment of transportation charges from the point of shipment to the destination storage point or shipments of household goods forwarded for account of the Department of the Army, the Department of the Navy (including the Marine Corps), or the Department of the Air Force and stored in transit for account of the motor carrier and for ultimate delivery to the consignee or owner may be made upon completion of the transportation to the carrier's destination storage point and prior to ultimate delivery to the consignee: *Provided,* The carrier hauling the shipment to the destination storage point certifies on the covering Government bill of lading over the signature of its duly authorized representative:

(1) That the described household goods were placed in the Carrier's storage warehouse at _____
(Destination)
_____ on _____;
(Warehouse) (Date)

(2) That such household goods will be permitted to remain there for a period of _____ or such shorter period
(Number of days)
as may meet the consignee's of owner's demands; and

(3) That the carrier(s) hauling the shipment to the destination storage point assumes full carrier liability for the shipment during such storage and until delivery to the consignee or owner within the designated storage period.

If space on the Government bill of lading is not available, this certificate, with appropriate reference to the Government bill of lading number, may be made on plain paper and securely attached to the bill of lading.

(d) *Supplemental billing for accessorial charges.* When transportation charges have been paid as authorized in

the preceding paragraph, the payment of accessorial charges, if any, accruing against the shipment after delivery into storage may be made upon presentation by the motor carrier of a claim therefor on SF 1113, which should bear the same bill number as the carrier's original bill for transportation charges but carrying a letter suffix (example: No. 12345–A). The claims for accessorial charges must identify the bill of lading covering the transportation service, show the basis for the accessorial charges claimed, and be supported by a statement of the following information signed by the consignee, showing:

(1) Accessorial services ordered and furnished;

(2) Receipt of the shipment by the consignee or owner; and

(3) Loss or damage to the shipment, if any.

PROCEDURES PERTAINING TO SHIPMENTS ACCORDED TRANSIT PRIVILEGES

§ 52.31 *Transit records; section 22 quotation and tariff requirements.* (a) Quotations made under section 22 of the Interstate Commerce Act, as amended, 49 U. S. C. 22, generally require that all bills of lading for shipments recorded for transit be so annotated; that records of inbound shipments recorded for transit and outbound applications thereto and cancellations thereof be established and maintained at all Government installations; that copies of such records be supplied to the railroad accounting officers and the General Accounting Office; and that all outbound waybills from transit points carry all necessary references to the inbound shipments.

(b) Carrier's published tariffs also require the establishment and maintenance of transit records at Government installations. These records should receive the same distribution as that required in connection with section 22 quotations.

(c) In connection with the foregoing, the following should govern the furnishing of transit certificates (recording documents) to the General Accounting Office:

(1) One copy to be furnished at time of recording inbound tonnage;

(2) One copy to be furnished at time of each reshipment, partial reshipment, or cancellation.

§ 52.32 *Free or surrendered government bill of lading.* Where the transportation charges to the transit station equal or exceed the through transportation charges plus the transit charge, the outbound bill of lading properly accomplished should be listed on and surrendered with a Public Voucher for Transportation Charges, SF 1113, bearing carrier's bill number, to the administrative office for which the service was performed, accompanied by the carrier's check for the amount, if any, due the United States. At the same time, where a refund is involved, a notice of the refund and reference to the surrendered bill of lading and carrier's bill number should also be sent to the Transportation Division of the General Accounting Office to avoid unnecessary issuance of requests for overpayment.

§ 52.33 *Public voucher covering transit shipments.* Bills of lading covering transit shipments should not be included on the same public voucher with nontransit traffic. Separate vouchers should also be used for inbound and outbound transit shipments. That these vouchers cover transit traffic should be indicated by the typing of the word "Transit" under "Serial No., Including Symbol" on the Public Voucher for Transportation Charges, SF 1113. This procedure will enable the General Accounting Office to segregate the transit items and more expeditiously perform the audit.

CONTRACTS AND TENDERS

§ 52.34 *Contracts.* The original of each contract, negotiated or otherwise, for freight transportation rates or services—excluding contracts for local storage, drayage and hauling and contracts entered into by the Military Sea Transportation Service—shall be transmitted by administrative agencies, promptly upon execution, directly to the Transportation Division, U. S. General Accounting Office, Washington 25, D. C.

§ 52.35 *Tenders.* Quotations or tenders made by or on behalf of common contract carriers for freight transportation rates or services, including those made under section 22 of the Interstate Commerce Act, as amended 49 U. S. C. 22, shall be reduced to writing and promptly transmitted by administrative agencies directly to the Transportation Division, U. S. General Accounting Office, Washington 25, D. C.

§ 52.36 *Procurement and billing.* Any services ordered under such contracts or tenders shall be:

(a) Secured by the issuance of Government bills of lading, each of which shall bear reference to the pertinent contract or tender;

(b) Billed by the carrier on SF 1113, Public Voucher for Transportation Charges; and

(c) Paid in the same manner as freight transportation generally.

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PART 53—CLAIMS BY THE UNITED STATES RELATING TO TRANSPORTATION SERVICES

Sec.
53.1 Statement of overpayments.
53.2 Protests to stated overpayments.

AUTHORITY: §§ 53.1 and 53.2 issued under sec. 311, 42 Stat. 25, as amended; 31 U. S. C. 52. Interpret or apply sec. 4, 28 Stat. 206, as amended; 31 U. S. C. 93.

§ 53.1 *Statement of overpayments—*(a) *Examination of payments.* Carrier bills and supporting documents which represent payments made by Government disbursing officers for freight and passenger transportation services are forwarded to the General Accounting Office in Washington, D. C., for examination (1) of the document ordering the services furnished to determine the contractual basis upon which the rights of the Government and the carrier are based; (2) of the pertinent tariffs, special or reduced rate quotations, contracts, or agreements to determine the proper charge for the services rendered; (3) of decisions of the courts, regulatory bodies, and the Comptroller General which affect the rates, fares, and charges; and (4) of information furnished to the General Accounting Office by transportation officers, travelers, or agencies of the Government. It is the obligation of the General Accounting Office to honor a carrier bill to the extent to which the charges are properly due, but there exists a concurrent responsibility to question or disapprove that part of a payment to a carrier which is found to be unlawful or mathematically incorrect, or which is not accompanied by documentary support establishing a proper obligation of the United States.

(b) *Notices of overpayment.* If it is determined that a carrier billed and was paid a sum in excess of that deemed properly due for the services rendered, there is prepared a notice of overpayment, GAO Form 1003, setting forth in detail the basis of the difference established as to each bill of lading or transportation request found to have been overpaid and citing applicable tariff references and other data relied upon to support the statement of differences. Notices of overpayment are stated separately as to each carrier bill and are dispatched to the pertinent billing carrier. Upon receipt of the notices of overpayment, carriers are requested to refund the amounts due the United States within 60 days from the date such notices were issued. Checks should be made payable to the "U. S. General Accounting Office" and mailed directly to the U. S. General Accounting Office, Transportation Division, Washington 25, D. C.

§ 53.2 *Protests to stated overpayments.* While each notice of overpayment requests prompt refund of amounts determined to be due the United States, carriers may on occasion disagree in whole or in part with the amount claimed to be due. In such instances, a letter of protest may be submitted to the Transportation Division, U. S. General Accounting Office, Washington 25, D. C., accompanied by a check for the amount considered to be properly due the United States. It is not sufficient that a carrier merely protest in so many words; each protest should set forth fully the basis relied upon to support the carrier's position and there should be furnished originals or certified copies of any additional documents which are relied upon to further substantiate the protest. While prompt submission of a proper protest has the effect of deferring collection action, unsubstantiated protests or repetitious protests of the same item to which consideration has previously been accorded will be ineffective for that purpose. Upon receipt in the General Accounting Office, each letter of protest is acknowledged; when the matters involved have been fully considered, the carrier is advised of the action taken.

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PART 54—CLAIMS AGAINST THE UNITED STATES RELATING TO TRANSPORTATION SERVICES

Sec.
54.1 Scope of part.

CLAIMS FOR ADJUDICATION BY THE TRANSPORTATION DIVISION OF THE GENERAL ACCOUNTING OFFICE

Sec.
54.2 Definition.

PRESENTATION OF CLAIMS

54.3 Filing requirements for claimants.
54.4 Preparation of claims.
54.5 Evidentiary data required.
54.6 Where claims should be filed.

ACKNOWLEDGMENT OF CLAIMS AND INQUIRIES WITH RESPECT TO THEM

54.7 Acknowledgments.
54.8 Inquiries by claimants.

BASIS AND PROCESSING OF CLAIM SETTLEMENTS

54.9 Basis of claim settlements.
54.10 Processing claims certified for payment in full or in part.
54.11 Notice of claims wholly disallowed.

AUTHORITY: §§ 54.1 to 54.11 issued under sec. 311, 42 Stat. 25, as amended; 31 U. S. C. 52. Interpret or apply sec. 305, 42 Stat. 24; 31 U. S. C. 71.

§ 54.1 *Scope of part.* This part contains the general procedures applicable to the presentation, settlement, reconsideration, and review of claims against the United States relating to freight and passenger transportation services which are for adjudication in the General Accounting Office.

CLAIMS FOR ADJUDICATION BY THE TRANSPORTATION DIVISION OF THE GENERAL ACCOUNTING OFFICE

§ 54.2 *Definition.* The word "claims" as used in this part means those original or supplemental bills of carriers for freight and passenger transportation services furnished for the account of the United States which are for adjudication and settlement by the Transportation Division, General Accounting Office, and filed directly with it by carriers or referred to it by departments and agencies because there are involved:

(a) Doubtful questions of law or fact, including matters as to which the agency does not have documentary and fiscal records to permit final determination of the issues involved;

(b) Amounts previously collected by or for the General Accounting Office or by a department or agency (except claims involving loss and damage where it is determined that the administrative action taken was clearly in error and properly can be corrected by the agency);

(c) Amounts additional to those originally billed and paid for the services furnished (freight bills for accessorial services such as switching, demurrage, handling, icing, etc., and passenger bills for excess baggage, switching charges, pullman charges based on Accommodation Authority forms, etc., may be paid by departments and agencies when properly documented); and

(d) Amounts which are not administratively approved and paid within ten years from the date right to payment accrued. See 31 U. S. C. 71a.

PRESENTATION OF CLAIMS

§ 54.3 *Filing requirements for claimants.* Claims will not be considered unless presented in writing over the bona fide signature and address of the claimant or over the signature of the claimant's agent or attorney indicated to be such by a duly executed power of attorney or other documentary evidence of the agent's or attorney's right to act for the claimant.

§ 54.4 *Preparation of claims.* Claims for passenger charges should be prepared on SF 1171, Public Voucher for Transportation of Passengers, and claims for freight charges on SF 1113, Public Voucher for Transportation Charges, in the manner prescribed in Parts 51 and 52 of this subchapter. Claim for (a) an amount in addition to that originally paid the carrier for the same services or (b) an amount collected by the General Accounting Office or by a department or agency should be presented in the form of a supplemental bill, which should bear the same number as the original bill but be identified as a supplemental bill by use of an alphabetical suffix. Each supplemental bill should cover charges relating to bills of lading or transportation requests paid on one original bill and where possible only one supplemental bill should be presented for all such items. If additional supplemental bills are necessary, an alphabetical sequence of suffixes should be used.

§ 54.5 *Evidentiary data required.* Each claim should set forth all of the pertinent facts and details and be supported by such evidentiary data as will clearly establish the liability of the United States. Bare assertions or conclusions as to amounts due from the United States usually are not accorded formal consideration.

§ 54.6 *Where claims should be filed.* Action generally will be expedited if claimants file their claims with the administrative department or agency out of whose activities the claims arose. However, a claimant may file a claim direct with the Transportation Division, General Accounting Office, particularly if the statutory period of limitation is about to expire. Further, transportation claims arising out of collections effected as a result of action by the General Accounting Office should be forwarded directly to the Transportation Division, U. S. General Accounting Office, Washington 25, D. C.

ACKNOWLEDGMENT OF CLAIMS AND INQUIRIES WITH RESPECT TO THEM

§ 54.7 *Acknowledgments.* Claimants are advised of the claim number assigned to each claim received in the Transportation Division, General Accounting Office.

§ 54.8 *Inquiries by claimants.* Every effort is made to adjudicate claims as soon as practicable, and claimants are requested to withhold inquiries for at least six months after receipt of acknowledgments from the General Accounting Office.

BASIS AND PROCESSING OF CLAIM SETTLEMENTS

§ 54.9 *Basis of claim settlements.* Claims are settled on the basis of the contract of carriage as evidenced by the bill of lading, transportation request, or other contractual agreement; the payment record; reports as required from a Government department or agency; information available in the General Accounting Office; and the written and documentary record submitted by the claimant. Oral presentations are not acceptable to supplement the written record. The adjudication and settlement of claims is founded on the determination of the legal liability of the United States under the factual situation disclosed by the record. The burden is on a claimant to establish the clear liability of the United States and the claimant's right to payment.

§ 54.10 *Processing claims certified for payment in full or in part.* When it is determined that all or any part of a claim is proper for allowance, the amount allowed is certified in the Transportation Division, General Accounting Office, on a Certificate of Settlement, GAO Form 39, and a complete explanation is furnished on this form as to any amount disallowed. Such certificates are forwarded to the proper administrative agency or department for payment or processing through its records and for scheduling to the proper disbursing officer for prompt payment. An advance notice of settlement of a claim is forwarded by the Transportation Division, General Accounting Office, to the claimant at the time the certificate is forwarded to the administrative agency.

§ 54.11 *Notice of claims wholly disallowed.* When a claim is wholly disallowed, the claimant is advised by a Settlement Certificate, GAO Form 44, which furnishes a complete explanation of the reasons for the action taken.

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PART 55—RECONSIDERATION AND REVIEW OF GENERAL ACCOUNTING OFFICE TRANSPORTATION CLAIM SETTLEMENTS

Sec.
55.1 Protest to settlement action.
55.2 Review by the Comptroller General of the United States.

AUTHORITY: §§ 55.1 and 55.2 issued under sec. 311, 42 Stat. 24, as amended; 31 U. S. C. 52.

§ 55.1 *Protest to settlement action.* If a claimant disagrees with the action taken by the Transportation Division upon its claim, a letter may be addressed to the Director, Transportation Division, U. S. General Accounting Office, Washington 25, D. C., requesting reconsideration of such action. Such letters should set forth in detail the legal, technical, and factual data and furnish such additional information and documentation as is relied upon to raise substantive doubt as to the claim settlement action.

§ 55.2 *Review by the Comptroller General of the United States.* If the claimant desires a review of the final action taken by the Transportation Division upon settlement, he may request review by the Comptroller General. The request should be addressed to the Comptroller General of the United States, U. S. General Accounting Office, Washington 25, D. C., and should set forth in detail the legal, technical, and factual reasons urged as warranting revision of the action taken.

## SUBCHAPTER E—STANDARDIZED FISCAL PROCEDURES

### PART 75—CERTIFICATES AND APPROVALS OF BASIC VOUCHERS AND INVOICES

§ 75.1 *Contractors' and vendors' certificates.* (a) The General Accounting Office no longer requires that a certificate as to correctness and nonpayment be executed on the bills and invoices of contractors and vendors, with the exception that carriers, or other corporations, agencies, or persons furnishing transportation and accessorial services to the Government must continue to execute the certificates as provided in §§ 51.64 and 52.26 of this chapter. Pending the eventual elimination of the contractors' and vendors' certificates from all other standard voucher forms, the certificates on such other forms need no longer be executed. However, the elimination of this requirement does not dispense with the necessity for the specific certification of facts required by certain contracts.

(b) The omission of the certificate from bills or invoices submitted for payment to Government agencies does not in any manner lessen the responsibility of contractors and vendors in complying with all statutory requirements applicable to transactions with the Government, nor will it be construed as mitigating their liability for asserting false, fictitious, or fraudulent claims against the United States, penalties for which are set forth in 18 U. S. C. 287.

(Sec. 311, 42 Stat. 24, as amended; 31 U. S. C. 52. Interprets or applies sec. 309, 42 Stat. 25; 31 U. S. C. 49)

## SUBCHAPTER F—RECORDS

### PART 81—SAFEGUARDING RECORDS OF THE GENERAL ACCOUNTING OFFICE

Sec.



AUTHORITY: §§ 81.1 to 81.15 issued under sec. 311, 42 Stat. 25, as amended; 31 U. S. C. 52. Interpret or apply sec. 8, 28 Stat. 207, as amended, sec. 117, 64 Stat. 637; 31 U. S. C. 74, 67. Other statutory provisions interpreted or applied are cited to text in parentheses.

§ 81.1 *Preservation of records.* All documents and papers of whatever nature of the General Accounting Office, wherever they may be located, consisting of contracts, accounts current, statements of account, vouchers, schedules, and other documents supporting accounts of accountable officers, which are required by law to be rendered to the General Accounting Office, claims and documents supporting claims by or against the United States, and all other documents or papers forming a part of the records in its legal or physical custody or control shall be preserved by or for this Office in accordance with established retention standards.

§ 81.2 *Return of personal documents.* Personal documents, submitted in support of matters to be settled by the General Accounting Office, will be returned to persons submitting them immediately after the official need for them has been served.

§ 81.3 *Unlawful destruction or alienation of records.* Records of the General Accounting Office shall not be alienated; nor shall they be destroyed except in accordance with the provisions of the act of July 7, 1943, as amended, 44 U. S. C. 366–376 and 378–380, and then only upon the specific approval of the Administrative Officer or the Chief, Records Management and Services Branch, Office of Administrative Services, General Accounting Office.

(Sec. 2071, 62 Stat. 795, 18 U. S. C. 2071)

§ 81.4 *Access to records.* No persons other than officials and employees of the General Accounting Office and others authorized by law, in the regular discharge of their official duties, shall be allowed access to or furnished information from the files and records of the General Accounting Office, wherever such records may be located, except as hereinafter provided. In no case shall information be given that may be made the basis of a claim against the United States, except in the proper discharge of official duties.

§ 81.5 *Examination of records.* Where records are held for the General Accounting Office at the site for audit or in Federal Records Centers after audit, claimants and other persons having a direct and immediate interest in the transaction, or their duly authorized legal representatives, may be permitted to examine applicable records under proper supervision and upon a satisfactory showing of the reasons for the examination. Requests for examination of any records under the jurisdiction of the General Accounting Office wherever located should be addressed to:

Chief, Records Management and Services Branch, Office of Administrative Services, U. S. General Accounting Office, Washington 25, D. C.

§ 81.6 *Removal of original records.* Original records of the General Accounting Office shall not be removed from their designated locations for use outside the General Accounting Office when copies will serve the required purpose. When it is impracticable to furnish copies, original records will be made available for examination in the custody of a responsible employee of the General Accounting Office or may be loaned, when necessary, to proper officials of other Government agencies by the Administrative Officer or the Chief, Records Management and Services Branch. However, the Finance Centers of the Departments of the Air Force, Army, and Navy and the Disbursing Division, Headquarters, U. S. Marine Corps, may continue to have access to and use of original documents on file in the Air Force, Army, Navy, and Marine Corps Audit Branches and in the Debt Section of the Claims Division at Indianapolis, under existing procedures.

§ 81.7 *Prohibitions upon borrowers.* When original documents are loaned to other Government agencies, they will be transmitted by letter reciting the conditions and prohibitions imposed upon the borrower, a copy of which will be receipted and returned. The letters will include a description of the loaned documents in detail, an acknowledgment of accountability therefor, and the responsibility for their timely return to their designated locations.

§ 81.8 *Control of loaned original documents.* A photostatic copy of loaned original records will be placed in the file until the originals have been returned. When it is necessary to transmit loaned documents through the mails they will be sent by registered mail, a return receipt will be requested, and the documents will be returned by registered mail.

§ 81.9 *Marking or altering of loaned documents.* Original documents which are loaned to other Government agencies or presented for examination must not be marked or altered, or their value as evidence impaired, destroyed, or otherwise affected. Such documents will not be presented as evidence or otherwise used in any manner by reason of which they may lose their identity as official records of the General Accounting Office.

§ 81.10 *Certified copies of records.* Upon request, the Records Management and Services Branch, Office of Administrative Services, will furnish certified copies of documents where required, including those requested pursuant to section 3 of the Miller Act, 40 U. S. C. 270 (c), to proper parties in interest or their authorized attorneys or representatives.

§ 81.11 *Uncertified copies of records and information from records.* Requests for copies of books, records, papers, or documents, and transcripts of or information from the books and proceedings of the General Accounting Office for use outside the General Accounting Office by proper parties in interest or their authorized attorneys or representatives should be addressed to:

Chief, Records Management and Services Branch, Office of Administrative Services, U. S. General Accounting Office, Washington 25, D. C.

except as provided in paragraphs (a) and (b) of this section.

(a) In cases relating to records included in accounts which are assigned for audit by the Air Force Audit Branch, U. S. General Accounting Office, 3800 York Street, Denver 5, Colorado; the Army Audit Branch, U. S. General Accounting Office, Fort Benjamin Harrison, Indianapolis 49, Indiana; the Navy Audit Branch, U. S. General Accounting Office, 1901 East 13th Street, Cleveland 14, Ohio; and the Marine Corps Audit Branch, U. S. General Accounting Office, Building 213, Naval Gun Factory, Wash-

ington 25, D. C.; the requests will be forwarded to the pertinent Audit Branch.

(b) Requests relating to freight or passenger transportation records should be addressed to:

Transportation Division, U. S. General Accounting Office, Washington 25, D. C.

§ 81.12 *Court requests and subpoenas.* Whenever the originals of any documents of the General Accounting Office, wherever located, or copies or transcripts of records are desired by or on behalf of private parties to a suit in any court, they will be made available only to the court, and only in response to a subpoena or request from the court, which should be directed to the Comptroller General of the United States and served upon the Chief, Records Management and Services Branch, Office of Administrative Services, U. S. General Accounting Office, Washington 25, D. C.

§ 81.13 *Examination of original documents.* Original documents may be presented for examination but must not be presented as evidence or otherwise used in any manner by reason of which they may lose their identity as official records of the General Accounting Office. They must not be marked or altered, or their value as evidence impaired, destroyed, or otherwise affected.

§ 18.14 *Use of certified copies.* In lieu of the original records, certified copies will be presented for evidentiary purposes since they are considered as competent evidence equally with the originals (31 U. S. C. 46). Where copies of records are requested, certified copies will be furnished.

§ 81.15 *Schedule of rates.* (a) Charges for furnishing copies of official records or certifications of authenticity will be made in accordance with the following schedule of rates:

(1) 50 cents for each photostatic sheet of checks, contracts, bonds, vouchers, and other documents, except that for copies of contracts or other multiple sheet documents furnished the charge will be 50 cents for each of the first four sheets and 25 cents for each sheet furnished in addition thereto;

(2) $1.00 for each certification of authenticity of copies of records;

(3) $1.00 for each certification of the date of final settlement of a contract pursuant to section 3 of the Miller Act, 40 U. S. C. 270c;

(4) No charge will be made for copies of records or certifications of authenticity furnished for official use to any court or an officer of any branch of the United States Government.

(b) Letters in response to requests for copies of documents or certifications will include the statement of charges that have been assessed or refunds which may be due.

[SEAL] JOSEPH CAMPBELL,
*Comptroller General of the United States.*

[F. R. Doc. 57-10767; Filed, Dec. 27, 1957; 8:47 a. m.]

# TITLE 9—ANIMALS AND ANIMAL PRODUCTS

## Chapter I—Agricultural Research Service, Department of Agriculture

### Subchapter E—Viruses, Serums, Toxins, and Analogous Products; Organisms and Vectors

### PART 131—HANDLING OF ANTI-HOG-CHOLERA SERUM AND HOG-CHOLERA VIRUS

ORDER AMENDING ORDER, AS AMENDED

It is hereby ordered that on and after the effective date hereof, the handling of anti-hog-cholera serum and hog-cholera virus shall be in conformity to, and in compliance with, the terms and conditions of "Order Amending the Order, as Amended, Regulating the Handling of Anti-Hog-Cholera Serum and Hog-Cholera Virus" which was annexed to and made a part of the decision of the Assistant Secretary of Agriculture, issued September 20, 1957 (22 F. R. 7608), with respect to proposed amendments to the said marketing agreement and order, as amended. All of the findings, terms, and conditions of the aforesaid order, as amended, shall be and hereby are the findings, terms, and conditions of this order as if set forth in full herein.

The aforesaid findings are hereby supplemented by the addition of paragraph (b) of § 131.0.

The provisions of this amended order shall become effective 30 days after its publication in the FEDERAL REGISTER.

Done at Washington, D. C., this 23d day of December 1957.

[SEAL] E. L. PETERSON,
*Assistant Secretary of Agriculture.*

Sec.



AUTHORITY: §§ 131.0 to 131.113 issued under 49 Stat. 781–782; 7 U. S. C. 851–855.

§ 131.0 *Findings and determinations.* The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the anti-hog-cholera serum and hog-cholera virus marketing agreement act (7 U. S. C. 851 et seq.), and the rules of practice and procedure governing formulation of marketing agreements and marketing orders applicable to anti-hog-cholera serum and hog-cholera virus (Part 132 of this chapter) a public hearing was held at Kansas City, Missouri, on July 23, 1956, and April 15, 1957, upon a proposed marketing agreement and a proposed order regulating the handling of anti-hog-cholera serum and hog-cholera virus. Upon the basis of the

evidence adduced at the hearing and the record thereof, it is found that:

(1) The said marketing agreement, 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;

(2) The order, as amended, and as hereby proposed to be further amended, regulates the handling of anti-hog-cholera serum and hog-cholera virus in the same manner as, and contains only such terms and conditions as are contained in the said marketing agreement upon which a hearing has been held;

(3) All handling of anti-hog-cholera serum and hog-cholera virus is in the current of interstate or foreign commerce, or directly burdens, obstructs or affects such commerce.

(b) *Determinations.* It is hereby determined that the agreement, amending the marketing agreement, as amended, regulating the handling of anti-hog-cholera serum and hog-cholera virus upon which a public hearing has been held, has been signed by handlers who, during the marketing year 1956, handled not less than 75 per centum of the volume of anti-hog-cholera serum and hog-cholera virus which was handled in the current of interstate or foreign commerce, or so as directly to burden, obstruct, or affect interstate or foreign commerce.

*Order relative to handling.* It is therefore ordered that on and after the effective time hereof, the handling of anti-hog-cholera serum and hog-cholera virus shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended; and such terms and conditions are as follows:

DEFINITIONS

§ 131.1 *Secretary.* The Secretary of Agriculture of the United States.

§ 131.2 *Act.* Anti-hog-cholera Serum and Hog-cholera virus Marketing Agreement Act (49 Stat. 781; 7 U. S. C. 851 et seq.).

§ 131.3 *Person.* Individual, partnership, corporation, association, or any other business unit.

§ 131.4 *Serum and virus*—(a) *Serum.* Anti-hog-cholera serum manufactured in compliance with standards and regulations promulgated by the United States Department of Agriculture, or manufactured under license or authority of any State or otherwise.

(b) *Virus.* Virulent, modified, or inactivated hog-cholera virus, or any derivative or variation of hog-cholera virus, which is used alone or in connection with anti-hog-cholera serum to protect hogs against hog cholera, manufactured in compliance with regulations promulgated by the United States Department of Agriculture, or manufactured under license or authority of any State or otherwise.

§ 131.5 *Handler.* Any person who is engaged in the handling of anti-hog-cholera serum or hog-cholera virus.

§ 131.6 *To handle.* To sell, to ship, or in any way put serum or virus into the channels of trade.

§ 131.7 *To market.* To consign or to sell or in any other manner transfer or convey title to, or any interest in, serum or virus, or to enter into any contract or arrangement to do or have done any of the said acts.

§ 131.8 *Wholesaler.* That class of buyers comprising (a) persons or agencies who do not administer serum or virus but are regularly engaged in purchasing and maintaining stocks of serum or virus in sufficient quantities to supply dealer demand, who are properly located and equipped with proper storage and distributing facilities to supply dealer demand, who resell principally to dealers, and who shall have been found by the Control Agency on submitted evidence acceptable to said Control Agency to perform in good faith the usual functions of a wholesaler, including, but without limitation, the storing of serum or virus marketed, the absorbing of all expenses incidental to the advertising and selling of serum or virus, after receipt by them, to other trade groups, together with the providing of field or veterinary service necessary to determine whether the products sold have served their purpose in specific cases, and (b) any State or Federal Agency, or any farmer cooperative association who regularly purchases, for delivery within a definite period of time and pays for at sellers' posted prices at time of delivery, serum or virus in specified quantities adequate, in the opinion of the Control Agency, to justify such classification.

§ 131.9 *Dealer.* That class of buyers comprising veterinarians and other persons regularly engaged in administering serum or virus for service charges, drug stores, county farm bureaus, purchasers of serum for use in U. S. licensed stock yards vaccination, and agencies who maintain stocks of serum or virus in sufficient quantities under proper storage and distributive facilities for resale to ultimate consumers (owners of swine).

§ 131.10 *Manufacturer or producer.* Any person who manufactures or produces and is engaged in the handling or distribution of serum or virus.

§ 131.11 *Distributor.* Any person who does not manufacture serum or virus, but is engaged in the handling or distribution of serum or virus.

§ 131.12 *Control agency.* The agency established pursuant to §§ 131.21 to 131.33.

§ 131.13 *Books and records.* Any books, papers, records, copies of income tax reports, accounts, correspondence, contracts, documents, memoranda, or other data pertaining to the business of the person in question.

§ 131.14 *Subsidiary.* Any person, of or over whom or which a handler or an affiliate of a handler has, or several handlers collectively have, either directly or indirectly, actual or legal control, whether by stock ownership or in any other manner.

§ 131.15 *Affiliate.* Any person and/or subsidiary thereof, who or which has, either directly or indirectly, actual or legal control of or over a handler, whether by stock ownership or in any other manner.

§ 131.16 *Dollar volume.* The sum of money received from the total yearly sales of serum and virus less any credit allowed for returned serum and virus.

CONTROL AGENCY

§ 131.21 *Membership.* A control agency is hereby established consisting of 12 members, who shall hold office until their successors are selected and qualified.

§ 131.22 *Nominations.* The members and their respective alternates shall be selected by the Secretary annually at least 15 days prior to the termination of the term of office of their respective predecessors. Such selections shall be made by the Secretary from the respective nominees of groups hereinafter designated to make nominations. Nominations shall be made on December 1 of each year in the following manner: The handlers who are manufacturers marketing their products principally through veterinarians, as a group, may nominate by inscribing on a ballot the names of 20 individuals to represent such handlers as members and/or alternates. The handlers who are manufacturers marketing their products principally through other channels, as a group, may nominate by inscribing on a ballot the names of 20 individuals to represent such handlers as members and/or alternates. The handlers who are wholesalers marketing their products principally through veterinarians, as a group, may nominate by inscribing on a ballot the names of four individuals to represent such handlers as members and/or alternates. The handlers who are wholesalers marketing their products principally through other channels may nominate by inscribing on a ballot the names of four individuals to represent such handlers as members and/or alternates.

§ 131.23 *Selection.* Each of the 12 members of the control agency and their alternates shall be selected by the Secretary from the individuals in each of the four groups comprising the nominees for membership and/or alternates who receive the highest numbers, successively, of votes cast by handlers entitled to vote for nominees in each group. The Secretary may designate an individual to serve as an alternate for more than one member of the same group. No two individuals from the same partnership, corporation, association, or any other business unit, including agents, affiliates, subsidiaries, and/or representatives thereof, shall be selected for membership in or serve as members of the control agency at the same time. The nominees in each instance shall be nominated by a vote of the handlers who are entitled under the provisions of this subpart to vote for such nominees. At any election of nominees each handler shall be entitled to cast one vote on behalf of himself, agents, partners, affiliates, subsidiaries,

and/or representatives for each of the members of the control agency and their respective alternates for whom he is entitled to vote.

§ 131.24 *Term of office.* Members of the control agency and their respective alternates, shall be selected annually for a term of one year beginning the first day of January, and shall serve until their respective successors shall be selected and shall qualify. Any individual selected as a member of the control agency or an alternate shall qualify by filing a written acceptance of his appointment with the Secretary or his designated representative.

§ 131.25 *Vacancies.* To fill any vacancy occasioned by the removal, resignation, or disqualification of any member of the control agency or an alternate, a successor for his unexpired term shall be selected by the Secretary from nominees selected by the respective group of handlers in whose representation the vacancy has occurred, such nominees to be determined by the selection by the proper group as specified in § 131.22, two nominees for each vacancy to be filled, and selected in the manner specified in § 131.23. Such selection of nominees shall be made within 30 days after such vacancy occurs. If a nomination is not made within such 30 days, the Secretary may select an individual to fill such vacancy.

§ 131.26 *Election of officers.* The members of the control agency shall select a chairman from their membership, and all communications from the Secretary may be addressed to the chairman at such address as may from time to time be filed with the Secretary. The agency shall select such other officers and adopt such rules not inconsistent with the provisions of this subpart for the conduct of its business as it may deem advisable. The agency shall give to the Secretary or his designated agent the same notice of meetings of the control agency as is given to members of the agency and their alternates.

§ 131.27 *Compensation.* A reasonable compensation to be determined by the control agency, to be paid to the Secretary of the control agency, and the expenses of the members of the control agency while engaged in the business of the control agency, shall be necessary expenses to be incurred by the control agency for its maintenance and functioning under this subpart.

§ 131.28 *Powers.* The control agency shall have power:

(a) To administer, as hereinafter specifically provided, the terms and provisions of this subpart;

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

(c) To receive, investigate, and report to the Secretary complaints of violations of this subpart;

(d) To recommend to the Secretary amendments to this subpart; and

(e) The control agency, subject to the disapproval of the Secretary, may select an executive committee of not more than four members who shall be empowered to act for the control agency in the routine administration of this subpart, at such times as the control agency is not meeting and cannot be conveniently convened for the purpose. Any and all acts of the executive committee shall be subject to the approval of the control agency, which shall take action with respect to any act of the executive committee at the next meeting of the control agency held immediately following any action by the executive committee.

§ 131.29 *Duties.* It shall be the duty of the control agency:

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

(b) To keep minute books and records which will clearly reflect all of its acts and transactions, and such minute books and records shall, at any time, be subject to the examination of the Secretary;

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

(d) To appoint such employees as it may deem necessary, and to determine the salaries and define the duties of any such employees;

(e) To establish and/or foster any agency for the purpose of securing new or improved markets for the serum and virus industry through marketing research. The expenses of such expansion or improvement of markets through research shall be a necessary expense incurred by the control agency for its maintenance and functioning, and shall be defrayed by it from funds collected pursuant to §§ 131.41 through 131.45; and

(f) To make such disbursements as may be necessary to meet expenses necessarily incurred by the control agency for its maintenance and functioning under the provisions of this subpart.

§ 131.30 *Procedure.* (a) All decisions of the control agency except where otherwise specifically provided, shall be by a three-fourths (¾) vote of the members who have qualified by filing their written acceptance and who are eligible to vote.

(b) The control agency may provide for voting by its members by mail or telegraph upon due notice to all members, and when any proposition is submitted for voting by such method, one dissenting vote shall prevent its adoption until submitted to a meeting of the control agency.

(c) If a member of the control agency shall be a party in interest to any dispute or complaint, or a representative of such party in interest, he shall, for the purpose of the consideration of such dispute or complaint, be disqualified as a member of the control agency. Such disqualification, however, shall not be deemed to create a vacancy in the control agency.

(d) The alternate for each member of the control agency shall have the power to act in the place and stead of such member in his absence and/or in the event of his removal, resignation, or disqualification until a successor for such member's unexpired term has been selected.

§ 131.31 *Removal or suspension of members.* The members of the control agency (including alternates, successors, or other persons selected by the Secretary), and any agent or employee appointed or employed by the control agency shall be subject to removal or suspension by the Secretary at any time.

§ 131.32 *Disapproval of decisions by Secretary.* Each and every order, regulation, decision, determination, or other act of the control agency, shall be subject to the continuing right of the Secretary to disapprove of the same at any time, and upon such disapproval, shall be deemed null and void except as to acts done in reliance thereon or in compliance therewith.

§ 131.33 *Funds.* All funds received by the control agency, pursuant to any provision of this subpart, shall be used solely for the purpose specified and shall be accounted for in the following manner:

(a) The Secretary shall require the control agency and its members, or alternates acting as members, to account for all receipts and disbursements.

(b) Upon the removal or expiration of the term of office of any member of the control agency, or of an alternate acting as a member, such member or alternate shall account for all receipts and disbursements, and deliver all property and funds in his hands, together with all books and records in his possession, to his successor in office, and shall execute such assignments and other instruments as may be necessary or appropriate to vest in such successor full title to all of the property, funds, and/or claims vested in such member or alternate pursuant to this subpart.

(c) Any funds derived from assessments or any other source which have not been expended by the control agency at the end of a calendar year shall be carried over by the control agency, to be expended during the succeeding calendar year.

(d) Upon the termination or suspension of this subpart or of any provision thereof, the funds of the control agency shall be disposed of in the manner provided in § 131.113.

ASSESSMENTS

§ 131.41 *Handler assessment.* Each manufacturer and wholesaler handler shall pay the control agency, as provided in §§ 131.42 through 131.45, such handler's pro rata share, as may be approved by the Secretary, of such expenses as the Secretary may find will necessarily be incurred by the control agency during any period specified by the Secretary for the maintenance and functioning of the control agency, as set forth in this subpart.

§ 131.42 *Division of assessments.* (a) The pro rata share of the expenses of the control agency to be borne by handlers who are wholesalers shall be determined as follows: Multiply the number of wholesalers of record on December 31st of the preceding calendar year by 1/10 of one percent and then multiply the result thereof by the total expense of the control agency for the current year. The resulting sum shall be the pro rata share of the expenses of the control agency of handlers who are wholesalers, and shall be assessed as set forth in § 131.43: *Provided,* That the pro rata share so computed shall not exceed

thirty-three and one-third percent (33⅓ percent) of the total expense of the control agency. In the event the pro rata share so computed exceeds thirty-three and one-third percent (33⅓ percent), the pro rata share of such handlers shall be adjusted to thirty-three and one-third percent of the total expense of the control agency.

(b) The pro rata share of the expenses of the control agency to be borne by handlers who are manufacturers shall be the balance remaining after deducting the pro rata share of the wholesaler handlers from the total expense of the control agency, and shall be assessed as set forth in § 131.45.

(c) The assessments of all handlers may be adjusted from time to time by the control agency, with approval of the Secretary, in order to provide funds sufficient in amount to cover any later findings of the Secretary of estimated expenses or actual expenses of the control agency during the calendar year.

§ 131.43 *Method of wholesaler handler assessments.* (a) As his pro rata share of the expenses of the Control Agency to be borne by all wholesaler handlers, each wholesaler handler shall pay to the control agency a sum computed on the basis of the dollar volume of serum and virus marketed by such handler during the preceding calendar year at the following applicable rates:

(1) Ten thousand dollars, or less—$25.00;

(2) Over ten thousand dollars—at a rate per ten thousand dollars, or fraction thereof, to be fixed by the Secretary based upon the ratio between the dollar volume of marketings of each wholesaler handler whose marketings are in excess of ten thousand dollars and the total dollar volume of marketings of all wholesaler handlers whose marketings are in excess of ten thousand dollars.

(b) The pro rata share of all wholesaler handlers shall be obtained by assessing the first ten thousand dollars or less of the dollar volume of serum and virus marketed by each wholesaler handler, and if the sum obtained is not sufficient to cover the total amount of the pro rata share of all wholesaler handlers such additional amounts as are necessary to be assessed shall be assessed in the manner set forth in paragraph (a) (2) of this section. If the total sum obtained by assessing the first ten thousand dollars, or less, of the dollar volume of serum and virus marketed by each wholesaler is greater than the pro rata share of all wholesaler handlers, the rate of assessment for ten thousand dollars, or less, shall be adjusted by the Secretary to an amount that will return the sum necessary to cover the pro rata share of all wholesaler handlers. The amount of each wholesaler handler's pro rata share shall be computed by the disinterested agency selected under the provisions of § 131.48. Such pro rata share shall be subject to the approval of the Secretary. The pro rata share of each wholesaler handler shall be paid as follows: $25.00 on or before January 15, of each year and the remaining sum, if any, within fifteen (15) days after being billed therefor. Such payments shall be made to the disinterested agency which shall transmit the total amount received to the control agency without disclosing the amount paid by each handler. In the event the Secretary adjusts the pro rata share of each wholesaler handler to an amount less than $25.00, the excess paid shall be credited on such handler's pro rata share of the following year's assessment.

§ 131.44 *Fee to accompany application for classification.* Each application for classification as a wholesaler shall be accompanied by a fee of twenty-five dollars ($25.00). If the application is rejected such fee shall be refunded to the applicant. If the application is approved the fee shall be retained and used for the maintenance and functioning of the control agency as such applicant's pro rata share of expenses of such agency for the year in which the application is approved.

§ 131.45 *Method of manufacturer handler assessments.* The pro rata share of expenses to be paid by each manufacturer handler shall be based upon such handler's percentage of the total dollar volume of serum and virus marketed by all such handlers during the preceding calendar year. The amount of each manufacturer handler's pro rata share shall be computed by the disinterested agency selected under the provisions of § 131.48. The pro rata share of each manufacturer handler shall be paid as follows: An amount equal to one-half of the previous year's assessment shall be due and payable on or before February 1 of each year, and the remaining balance assessed shall be due and payable on or before July 1 of each year. Such payments shall be made to the disinterested agency which shall transmit the amount received to the control agency without disclosing the amount paid by each handler.

REPORTS AND RECORDS

§ 131.48 *Reports.* (a) On or before March 15 of each year, each manufacturer and wholesaler handler shall furnish the Secretary, through a disinterested agency to be selected by the control agency and approved by the Secretary, a report, which shall be sworn to, setting forth the dollar volume of serum and virus marketed in domestic and foreign commerce by such handler during the preceding calendar year. On or before June 15 of each year, each manufacturer handler shall file a report with the Secretary, which shall be sworn to, setting forth the cubic centimeter volume of completed serum such handler had on hand May 1 of such year, and setting forth the cubic centimeter volume of serum marketed in domestic and foreign commerce by such handler during the preceding calendar year. Each handler shall furnish such other information with respect to the production and marketing of serum or virus as the Secretary may request.

(b) The disinterested agency shall make reports to the Secretary with respect to the marketings of serum and virus and collections of assessments under this subpart upon request therefor by the Secretary, and shall promptly transmit to the control agency all sums of money received by it from handlers in payment of assessments. The Secretary shall inform the agency concerning the total amount of the pro rata share of manufacturer handlers and the total amount of the pro rata share of wholesaler handlers of the expenses of the control agency.

§ 131.49 *Records.* Each handler shall keep and maintain for a period of two years accounts and records showing, to the extent that he is concerned therewith, the manufacture, receipt, delivery, sale, prices, and disposition of serum and virus in sufficient detail as will enable the Secretary to ascertain and determine the extent to which such handler is complying with the terms and provisions of this subpart; and each handler shall, upon the request of a duly authorized representative of the Secretary, permit him at all reasonable times to have access to and copy such records. Any information furnished to or acquired by the Secretary or his representative pursuant to this paragraph shall be subject to the provisions of section 8 (d) (2) of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 608 (d) (2)).

FILING OF PRICES

§ 131.51 *Filing of price list.* Each manufacturer and wholesaler handler shall file with the Secretary and the control agency a separate list of his selling prices in the United States, including terms of sale and discounts, to each class of buyer defined in this subpart or under the provisions thereof, other than those specified in § 131.55. Each such handler's prices, discounts, and terms of sale shall be uniform for all buyers in each classification of the trade as defined by the control agency pursuant to this subpart.

§ 131.52 *Modification of price list.* The price list filed by a manufacturer or wholesaler handler may, subject to the limitations set forth in § 131.54, be modified at any time by such handler by filing a new or amended list of prices, including discounts and terms of sale, which shall only become effective when said new or amended list shall have been on file for three days in any office designated by the control agency: *Provided, however,* That in the event such list is mailed by registered letter or telegraphed to such office, it shall be deemed to have been filed either (a) at the time during usual business hours it is actually delivered in such office, or (b) at the time during usual business hours such communication would have been received, considering the usual time required for the means of communication used, in the absence of delays in transit, whichever time is earlier.

§ 131.53 *Notification of new or amended price lists.* The control agency shall immediately upon receipt of any such new or amended price list, give written notice thereof to each of the handlers and to the Secretary. All price lists shall be made immediately available to the daily and trade press and to the consuming public by employing a means of communication at least as rapid as that used to notify the handlers and the Secretary.

§ 131.54 *Offers, contracts, sales.* Each manufacturer and wholesaler handler shall make no sales unless he has an effective price list, including discounts and terms of sale, as set forth in § 131.51, filed with the control agency. No manufacturer or wholesaler handler shall make any bid, or offer to sell, or enter into an agreement or contract to sell serum or virus, or in any manner sell serum or virus at prices, discounts, or terms of sale different from those set forth in his filed price list which is effective at the time any such bid, offer, agreement, contract, sale, or delivery is made. No manufacturer or wholesaler handler shall file a new or amended price list until his most recently filed price list for any class of buyers becomes effective, and no such handler shall withdraw any filed price list prior to the effective date of such price list.

§ 131.55 *Filed prices not applicable to sales outside United States.* The provisions with respect to the filing of prices shall not apply to any sales made by any handler for delivery outside the United States.

§ 131.56 *Secretary may suspend and declare ineffective price lists.* If the Secretary has reason to believe, from economic data directly available to him or secured by him under the provisions of the act, that any price list, term of sale or discount, in whole or in part, is inequitable to consumers or handlers by reason of the fact that it may cause immediate injury by impeding the carrying out of this subpart or the effectuation of the declared policy of the act or by creating an abuse of the privilege of exemptions from the antitrust laws, he may suspend the effectiveness of such price list, term of sale or discount, in whole or in part, pending an investigation which shall be completed as soon as practicable, and he shall report such suspension to the control agency, who shall in turn immediately notify the handler whose price filing has been suspended. The Secretary may declare a filed price, discount, or term of sale, in whole or in part, to be ineffective if, after an investigation and an opportunity to be heard has been afforded the handler whose price filing is questioned, the Secretary finds from the facts presented during such investigation that such price list, term of sale, or discount, in whole or in part, is inequitable as measured by the standards set up in this section.

UNFAIR PRACTICES

§ 131.71 *Unfair methods of competition and unfair trade practices.* The following are unfair methods of competition and unfair trade practices, and are prohibited:

(a) The payment or allowance of rebates, refunds, commissions or unearned discounts, either in the form of money or otherwise, or extending to certain purchasers special services or privileges not extended to all purchasers under like conditions;

(b) Selling serum or virus at less than reasonable market value;

(c) The giving away or selling other products at less than reasonable market value to a purchaser or user of serum or virus, for the purpose or with the effect of influencing the sale of serum or virus;

(d) Maliciously enticing away the employees of competitors;

(e) Defamation of competitors by falsely imputing to them dishonorable conduct, inability to perform contracts, questionable credit standing, or by any other false representation of character or conduct or of the serum or virus handled by them;

(f) The sale or offering for sale of any serum or virus by any false means or device;

(g) Shipping of serum or virus on consignment;

(h) Withholding from or inserting in an invoice information which makes the invoice, in whole or in part, a false record of the transaction covered by the invoice;

(i) The making, causing, or permitting to be made, or publishing of any false, untrue, misleading, or deceptive statement by means of advertisement or otherwise, concerning the grade, quality, quantity, character, nature, origin, preparation, or use of serum or virus.

§ 131.72 *Distributor handlers advertising as manufacturers.* The use by handlers who are distributors of the words "Serum Company", "Serum Laboratories" or other equivalent words on letterheads, signs, advertising matter, and otherwise where such practice tends to mislead and deceive purchasers and consumers into belief that such distributor is a manufacturer, where in fact he is not, is prohibited.

SERUM RESERVE

§ 131.79 *Emergency reserve.* Each manufacturer who is a handler shall have available on May 1 of each year a supply of completed serum equivalent to not less than 40 percent of his previous year's sales.

MISCELLANEOUS PROVISIONS

§ 131.81 *Classes of buyers.* The control agency, subject to the disapproval of the Secretary, shall upon the basis of a written request supported by economic data sufficiently adequate to warrant a conclusion that such definition is neither unreasonable nor discriminatory, define all classes of buyers not defined in this subpart, and shall, subject to the disapproval of the Secretary, determine in specific cases whether any person who is a handler or who is about to become a handler comes within any class of buyers herein or hereafter defined, and shall compile, subject to the disapproval of the Secretary, lists of persons comprising each class of buyers, such lists and additions thereto to be filed immediately with the Secretary and distributed to the manufacturer and wholesaler handlers.

§ 131.82 *Uniform sales invoices.* The control agency, subject to the disapproval of the Secretary, may formulate and adopt uniform sales invoices for manufacturer and wholesaler handlers. After the adoption of such uniform sales invoices, all sales of serum or virus by such handlers to all classes of buyers shall be made in accordance with the terms of such invoices, and prices and terms of sale therein shall conform to the seller's filed prices and terms of sale, effective at the time of making sales covered by such invoices.

§ 131.83 *Agents and distributional outlets.* The control agency is authorized to require that each manufacturer and wholesaler handler file with such agency a list of his agents and distributional outlets for the marketing of serum or virus. Whenever the control agency by regulation requires that manufacturer and wholesaler handlers list with the control agency such handlers' agents and distributional outlets, any movement or transfer of serum or virus by a manufacturer or wholesaler handler to any person not listed with the control agency as such handler's agent or distributional outlet shall, for the purpose of this subpart, be considered to be a sale of serum or virus to such person.

§ 131.84 *Compliance.* No person shall handle serum or virus except in conformity with the provisions of this subpart and the rules and regulations issued pursuant thereto.

§ 131.85 *Duration of benefits, privileges, and immunities.* The benefits, privileges, and immunities conferred by virtue of this subpart shall not extend or be construed to extend further than is necessary for the purpose of carrying out the provisions of this subpart and shall cease upon its termination except with respect to acts done under and during the existence of this subpart, and benefits, privileges, and immunities conferred by this subpart upon any party subject hereto shall cease upon its termination as to such party, except with respect to acts done under and during the existence of this subpart.

§ 131.86 *Agents; Secretary may designate.* The Secretary may by designation in writing name any person (not subject to this subpart), including any officer or employee of the Government or of the Department of Agriculture, to act as his agent or representative in connection with any of the provisions of this subpart.

§ 131.87 *Committees; Secretary may select.* The Secretary may select such committees to meet with or advise the control agency as he deems necessary for the proper functioning of the control agency under the provisions of this subpart. One such committee or its representative shall represent the interests of consumers. The expenses for the maintenance and functioning of the advisory committees may be included within the budget submitted to the Secretary for approval, pursuant to § 131.41, and may be met by the control agency from funds paid to it for the maintenance and functioning of the control agency.

§ 131.88 *No derogation or modification of rights of Secretary or of the United States.* Nothing contained in this subpart is or shall be construed to be in derogation or in modification of the rights of the Secretary or of the United States (a) to exercise any powers granted by the act or otherwise, and/or (b) in accordance with such powers, to act in the premises whenever such action is deemed advisable.

§ 131.89 *Liability of members and employees of control agency.* No member of the control agency nor any employee thereof shall be held responsible individual in any way whatsoever to any handler subject to this subpart or any other person for errors in judgment, mistakes, or other acts either of commission or omission as such member or employee, except for acts of dishonesty. The contractual obligations of the handlers under this subpart are several and not joint, and no handler shall be liable for the default of any other handler.

§ 131.90 *Separability of provisions.* If any provision of this part is declared invalid, or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder of this subpart, and/or the applicability thereof to any other person, circumstance, or thing shall not be affected thereby.

AMENDMENTS

§ 131.101 *Who may propose.* Amendments to this part may, from time to time, be proposed by handlers subject hereto or by the control agency.

§ 131.102 *Notice and hearing.* After due notice and opportunity for hearing and upon determination by the Secretary that the proposed amendment has been incorporated in the marketing agreement for handlers of anti-hog-cholera serum and hog-cholera virus, executed by the Secretary on the 2d day of December 1936, the Secretary shall amend this subpart in conformance with such amendment to the said marketing agreement, and such amendment shall become effective at such time as the Secretary may designate.

EFFECTIVE TIME AND TERMINATION

§ 131.111 *Effective time.* This subpart shall become effective at such time as the Secretary may determine the marketing agreement for handlers of anti-hog-cholera serum and hog-cholera virus, executed by him on the 2d day of December 1936, has been executed by all the handlers of seventy-five (75) percent of the volume of serum and virus handled during the preceding marketing year and may declare above his signature attached hereto, and shall continue in force until terminated in one of the ways specified.

§ 131.112 *Termination; how accomplished and when effective.* (a) The Secretary may at any time terminate this subpart as to all parties subject thereto by giving at least seven days' notice by means of a press release or in any other manner which the Secretary may determine.

(b) The Secretary shall terminate this subpart at the end of the then current marketing period (December 31) whenever he finds that such termination is favored by all the handlers of not less than seventy-five (75) percent of the volume of serum and virus handled during the preceding marketing period.

(c) This subpart shall in any event terminate whenever the provisions of the act authorizing it cease to be in effect.

§ 131.113 *Liquidation.* Upon the termination or suspension of this subpart or of any provisions thereof, the members of the control agency then functioning, or such other persons as the Secretary may from time to time designate, shall, if so ordered by the Secretary, liquidate the business of the control agency under this subpart, and dispose of all funds and property then in the possession or under the control of the control agency, together with claims for any funds which are unpaid or property not delivered at the time of such termination. The control agency or such other persons as the Secretary may designate (a) shall continue in such capacity until discharged by the Secretary (b) shall, from time to time, account for all receipts and disbursements and/or deliver all funds and property on hand, together with the books and records of the control agency, to such person or persons as the Secretary shall direct, and (c) shall, upon the request of the Secretary, execute such assignments, or other instruments necessary or appropriate to vest in such person or persons full title to all the funds, property, and/or claims vested in the control agency pursuant to this subpart. Any funds collected for expenses, pursuant to the provisions of this subpart, and held by the control agency or such person or persons, over and above the amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the control agency or such person or persons, shall be returned to the contributing handlers in proportion to the contributions of each handler, or shall be expended by the control agency for a purpose not inconsistent with the provisions of this subpart and in a manner which the handlers shall determine by a three-fourths vote of such handlers. The control agency or such person or persons shall observe the procedure governing the actions of the control agency as established under the provisions of § 131.30. Any person to whom funds, property, and/or claims have been delivered by the control agency or its members upon direction of the Secretary, as provided in this section, shall be subject to the same obligations and duties with respect to said funds, property, and/or claims as are imposed upon the members of the control agency.

[F. R. Doc. 57-10746; Filed, Dec. 27, 1957; 8:48 a. m.]

# TITLE 14—CIVIL AVIATION

## Chapter I—Civil Aeronautics Board

[Civil Air Regs., Amdt. 45-1]

### PART 45—COMMERCIAL OPERATOR CERTIFICATION AND OPERATION RULES

CERTIFICATE REQUIRED

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 23d day of December 1957.

Section 45.2 requires persons subject to Part 45, as provided in § 45.1, to obtain a certificate from the Administrator before they operate, in air commerce, aircraft of more than 12,500 pounds maximum certificated take-off weight (large aircraft). Holders of air carrier operating certificates are relieved from this requirement, and made ineligible for such additional certification, for the reason that their air carrier operating certificate is deemed to authorize operations also outside of air transportation, with an exception relating to Part 42 operators and frequent intrastate operation. It has been brought to the Board's attention that Section 45.2 in its present form may be read as preventing the issuance of a certificate for operation of large aircraft to air taxi operators although their air carrier operating certificate authorizes operation of small aircraft only, thus preventing them from operating large aircraft outside the air taxi business, unless they fall within the exception relating to frequent intrastate operations.

Such a result was not intended by the Board. The proviso is intended to relate only to holders of air carrier operating certificates which authorize the operation of large aircraft. In view of the foregoing, the Board is amending the proviso to clarify its meaning.

Since this amendment only clarifies the existing rule and grants relief to a certain category of persons, and delay in extending such relief would impose an unnecessary hardship, the Board for good cause finds that notice and public procedure hereon would be contrary to the public interest and may be omitted.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends Part 45 of the Civil Air Regulations (14 CFR Part 45, as amended), effective January 27, 1958 by inserting in the proviso to § 45.2 the words "authorizing him to operate such aircraft", so that the proviso will read: *"Provided,* That no person holding an air-carrier operating certificate authorizing him to operate such aircraft shall be required."

(Sec. 205, 52 Stat. 984; 49 U. S. C. 425. Interprets or applies secs. 601, 604, 607, 610, 52 Stat. 1007, 1010, 1011, 1012, as amended; 49 U. S. C. 551, 554, 557, 560)

Effective: January 27, 1958.

Adopted: December 23, 1957.

By the Civil Aeronautics Board.

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

[F. R. Doc. 57-10788; Filed, Dec. 27, 1957; 8:51 a. m.]

## Chapter II—Civil Aeronautics Administration, Department of Commerce

[Amdt. 1]

### 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 Pro-

cedure Act would be impracticable and contrary to public interest and therefore is not required.

Part 600 is amended as follows:

1. Section 600.13 is amended by changing the caption to read: "*Green civil airway No. 3 (Oakland, Calif., to New York, N. Y.)*" and by changing all before "Sacramento, Calif., radio range station;" to read: "From the Oakland, Calif., radio range station via the Sacramento, Calif., radio range station;".

2. Section 600.16 is amended by changing the caption to read: "*Green civil airway No. 6 (Alice, Tex., to Norfolk, Va.)*", by changing all before "Corpus Christi, Tex., radio range station;" to read: "From the Alice, Tex., radio range station via the Corpus Christi, Tex., radio range station;" and by changing the name of the facility "Lake Charles, La., radio range station;" to read: "Lake Charles, La., nondirectional radio beacon;".

3. Section 600.108 *Amber civil airway No. 8 (Los Angeles, Calif., to Ellensburg, Wash.)* is amended by changing the portion which reads: "From the intersection of the northwest course of the San Francisco, Calif., radio range and the southwest course of the Travis AFB, Calif., radio range via" to read: "From the intersection of the southwest course of the Travis AFB, Fairfield, Calif., radio range and a line bearing 309° True from the San Francisco Gap, Calif., nondirectional radio beacon via".

4. Section 600.215 *Red civil airway No. 15 (Reno, Nev., to Phoenix, Ariz.)* is amended by deleting the portion which reads: "From the Las Vegas, Nev., radio range to the intersection of the southeast course of the Las Vegas, Nev., radio range and the west course of the Prescott, Ariz., radio range."

5. Section 600.296 *Red civil airway No. 96 (Palacios, Tex., to Baton Rouge, La.)* is amended by changing the name of the facility "Lake Charles, La., radio range station;" to read: "Lake Charles, La., nondirectional radio beacon;".

6. Section 600.654 is amended to read:

§ 600.654 *Blue civil airway No. 54 (Richmond, Calif., to Hamilton AFB, San Rafael, Calif.)*. From the intersection of the northwest course of the Oakland, Calif., radio range and the southwest course of the Travis AFB, Fairfield, Calif., radio range to a point at latitude 38°02'45", longitude 122°31'40".

7. Section 600.667 is amended to read:

§ 600.667 *Blue civil airway No. 67 (Yuma, Ariz., to Las Vegas, Nev.)*. From the Yuma, Ariz., radio range station via the Blythe, Calif., radio range station; Needles, Calif., radio range station; the intersection of the north course of the Needles, Calif., radio range and the southeast course of the Las Vegas, Nev., radio range to the Las Vegas, Nev., radio range station.

8. Section 600.6003 *VOR civil airway No. 3 (Key West, Fla., to Presque Isle, Maine)* is amended by changing the portion which reads: "Vero Beach, Fla., omnirange station, including an east alternate from the West Palm Beach omnirange station to the Vero Beach omnirange station;" to read: "Vero Beach, Fla., omnirange station, including an east alternate via the intersection of the West Palm Beach omnirange 358° True and the Vero Beach omnirange 143° True radials;".

9. Section 600.6007 *VOR civil airway No. 7 (Miami, Fla., to Green Bay, Wis.)* is amended by changing the portion which reads: "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 and also an east alternate from the Lakeland omnirange station to the Cross City omnirange station via the Gainesville, Fla., omnirange station;" to read: "Cross City, Fla., omnirange station;" and by changing the portion which reads: "Graham, Tenn., omnirange station, including an east alternate from the Birmingham omnirange station to the Graham omnirange station via the point of intersection of the Huntsville, Ala., omnirange 264° True and the Graham omnirange 158° True radials; Nashville, Tenn., omnirange station;" to read: "Graham, Tenn., omnirange station, including an east alternate from the Birmingham omnirange station to the Graham omnirange station via the point of intersection of the Huntsville, Ala., omnirange 264° True and the Graham omnirange 158° True radials; intersection of the Graham omnirange 069° True and the Nashville omnirange 254° True radials; Nashville, Tenn., omnirange station;".

10. Section 600.6016 *VOR civil airway No. 16 (Los Angeles, Calif., to Boston, Mass.)* is amended by changing the portion which reads: "Tucson, Ariz., omnirange station;" to read: "Tucson, Ariz., omnirange station, including a south alternate from the Phoenix omnirange station to the Tucson omnirange station via the Casa Grande, Ariz., omnirange station and the intersection of the Casa Grande omnirange 158° and the Tucson omnirange 273° radials;" and by changing the portion which reads: "Graham, Tenn., omnirange station, including a south alternate from the Memphis omnirange station to the Graham omnirange station via the intersection of the Memphis omnirange 081° True and the Graham omnirange 238° True radials; Nashville, Tenn., omnirange station; Crossville, Tenn., omnirange station, including a south alternate from the Graham omnirange station to the Crossville omnirange station via the Graham omnirange 099° True and the Crossville omnirange 257° True radials;" to read: "Graham, Tenn., omnirange station, including a south alternate from the Memphis omnirange station to the Graham omnirange station via the intersection of the Memphis omnirange 081° and the Graham omnirange 238° radials; intersection of the Graham omnirange 069° and the Nashville omnirange 254° radials; Nashville, Tenn., omnirange station; intersection of the Nashville omnirange 133° and the Crossville omnirange 275° radials; Crossville, Tenn., omnirange station, including a south alternate from the Graham omnirange station to the Crossville omnirange station via the intersection of the Graham 099° and the Crossville omnirange 257° radials, and also a north alternate from the Nashville omnirange station to the Crossville omnirange station via the intersection of the Nashville omnirange 059° and the Crossville omnirange 291° radials;".

11. Section 600.6017. *VOR civil airway No. 17 (Laredo, Tex., to Goodland, Kans.)* is amended by changing the portion which reads: "Gage, Okla., omnirange station;" to read: "Gage, Okla., omnirange station, including a west alternate via the intersection of the Oklahoma City omnirange 282° and the Gage omnirange 133° radials;".

12. Section 600.6018 *VOR civil airway No. 18 (Dallas, Tex., to Charleston, S. C.)* is amended by changing the portion which reads: "intersection of the Augusta omnirange 090° True and the Charleston omnirange 301° True radials; to the Charleston, S. C., omnirange station." to read: "intersection of the Augusta omnirange 157° and the Allendale omnirange 261° radials; Allendale, S. C., omnirange station; to the Charleston, S. C., omnirange station."

13. Section 600.6020 *VOR civil airway No. 20 (Laredo, Tex., to Richmond, Va.)* is amended by changing the portion which reads: "intersection of the New Orleans omnirange 066° True and the Mobile omnirange 242° True radials;" to read: "Gulfport, Miss., omnirange station;".

14. Section 600.6035 *VOR civil airway No. 35 (Miami, Fla., to Syracuse, N. Y.)* is amended by changing the portion which reads: "Fort Myers, Fla., omnirange station; Tampa, Fla., omnirange station; Tallahassee, Fla., omnirange station;" to read: "Fort Myers, Fla., omnirange station; Tampa, Fla., omnirange station; Cross City, Fla., omnirange station, including an east alternate from the point of intersection of the Tampa omnirange 153° True radial and the Tampa International Airport ILS localizer south course to the Cross City omnirange station via the Tampa International Airport ILS localizer, the intersection of the Tampa International Airport ILS localizer north course and the Gainesville omnirange 190° True radial, and the Gainesville, Fla., omnirange station; Tallahassee, Fla., omnirange station;".

15. Section 600.6066 *VOR civil airway No. 66 (San Diego, Calif., to Charlotte, N. C.)* is amended by changing the portion which reads: "intersection of the Culberson omnirange 090° True and the Midland omnirange 242° True radials;" to read: "intersection of the Culberson omnirange 090° True and the Midland omnirange 243° True radials;".

16. Section 600.6076 *VOR civil airway No. 76 (Lubbock, Tex., to Galveston, Tex.)* is amended by changing the portion which reads: "Austin, Tex., omnirange station;" to read: "Austin, Tex., omnirange station, including a north alternate via the Lometa, Tex., omnirange station;".

17. Section 600.6097 *VOR civil airway No. 97 (Miami, Fla., to Minneapolis, 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 Cross City, Fla., omnirange station;" to read: "Tallahassee, Fla., omnirange station;".

18. Section 600.6114 *VOR civil airway No. 114 (Amarillo, Tex., to New Orleans, La.)* is amended by changing the portion which reads: "From the Amarillo, Tex., omnirange station via the Childress, Tex., omnirange station, including a south alternate; Wichita Falls, Tex., omnirange station;" to read: "From the Amarillo, Tex., omnirange station via the Childress, Tex., omnirange station, including a north and a south alternate; Wichita Falls, Tex., omnirange station, including a south alternate via the intersection of the Childress omnirange 120° and the Wichita Falls omnirange 262° radials;".

19. Section 600.6140 *VOR civil airway No. 140 (Amarillo, Tex., to New York, N. Y.)* is amended by changing the portion which reads: "Nashville, Tenn., omnirange station, including a south alternate from the Dyersburg omnirange station via the intersection of the Dyersburg omnirange 104° True and the Graham omnirange 269° True radials, and the Graham, Tenn., omnirange station;" to read: "Nashville, Tenn., omnirange station, including a south alternate from the Dyersburg omnirange station to the Nashville omnirange station via the intersection of the Dyersburg omnirange 104° and the Graham omnirange 269° radials, the Graham, Tenn., omnirange station, and the intersection of the Graham omnirange 069° and the Nashville omnirange 254° radials;".

20. Section 600.6157 *VOR civil airway No. 157 (Miami, Fla., to Richmond, Va.)* is amended by changing the portion which reads: "to the Gainesville, Fla., omnirange station." to read: "Gainesville, Fla., omnirange station; to the point of intersection of the Gainesville omnirange 354° True and the Jacksonville, Fla., omnirange 273° True radials."

21. Section 600.6159 *VOR civil airway No. 159 (Miami, Fla., to Albany, Ga.)* is amended by changing the portion which reads: "Orlando, Fla., omnirange station;" to read: "Orlando, Fla., omnirange station, including an east alternate from the Vero Beach omnirange station to the Orlando omnirange station via the intersection of the Vero Beach omnirange 339° True and the Orlando omnirange 123° True radials and also a west alternate from the West Palm Beach omnirange station to the Orlando omnirange station via the intersection of the West Palm Beach omnirange 311° True and the Orlando omnirange 164° True radials;".

22. Section 600.6163 *VOR civil airway No. 163 (Brownsville, Tex., to Oklahoma City, Okla.)* is amended by changing the portion which reads: "San Antonio, Tex., omnirange station;" to read: "San Antonio, Tex., omnirange station, including a west alternate via the intersection of the Alice omnirange 334° and the San Antonio omnirange 183° radials;" and by changing the portion which reads: "Ardmore, Okla., omnirange station; intersection of the Ardmore omnirange 350° True and the Oklahoma City omnirange 137° True radials; to the Oklahoma City omnirange station, including a west alternate from the Ardmore omnirange station to the Oklahoma City omnirange station via the intersection of the Ardmore omnirange 331° True and the Oklahoma City omnirange 180° True radials and also an east alternate from the Ardmore omnirange station to the Oklahoma City omnirange station via the point of intersection of the Oklahoma City omnirange 107° True and the Tulsa, Okla., omnirange 228° True radials." to read: "Ardmore, Okla., omnirange station; intersection of the Ardmore omnirange 342° and the Oklahoma City omnirange 154° radials; to the Oklahoma City, Okla., omnirange station, including a west alternate via the intersection of the Ardmore omnirange 327° and the Oklahoma City omnirange 180° radials and also an east alternate via the point of intersection of the Oklahoma City omnirange 107° and the Tulsa, Okla., omnirange 228° radials."

23. Section 600.6216 is amended to read:

§ 600.6216 *VOR civil airway No. 216 (Lamoni, Iowa, to Saginaw, Mich.).* From the Lamoni, Iowa, omnirange station via the Ottumwa, Iowa, omnirange station; to the Iowa City, Iowa, omnirange station. From the Janesville, Wis., omnirange station via the Muskegon, Mich., omnirange station; to the Sagninaw, Mich., omnirange station.

24. Section 600.6272 is amended to read:

§ 600.6272 *VOR civil airway No. 272 (Sayre, Okla., to Oklahoma City, Okla.).* From the Sayre, Okla., omnirange station to the Oklahoma City, Okla., omnirange station, including a north alternate and also a south alternate via the intersection of the Sayre omnirange 101° and the Oklahoma City omnirange 242° radials.

25. Section 600.6292 is added to read:

§ 600.6292 *VOR civil airway No. 292.* [Unassigned.]

26. Section 600.6293 is added to read:

§ 600.6293 *VOR civil airway No. 293 (West Palm Beach, Fla., to Tampa, Fla.).* From the West Palm Beach, Fla., omnirange station via the intersection of the West Palm Beach omnirange 270° True and the La Belle omnirange 107° True radials; La Belle, Fla., omnirange station; to the Tampa, Fla., omnirange station.

27. Section 600.6294 is added to read:

§ 600.6294 *VOR civil airway No. 294.* [Unassigned.]

28. Section 600.6295 is added to read:

§ 600.6295 *VOR civil airway No. 295 (Vero Beach, Fla., to Cross City, Fla.).* From the Vero Beach, Fla., omnirange station via the intersection of the Vero Beach omnirange 296° True and the Orlando omnirange 164° True radials; Orlando, Fla., omnirange station; intersection of the Orlando omnirange 284° True and the Cross City omnirange 150° True radials; to the Cross City, Fla., omnirange station.

29. Section 600.6620 *VOR civil airway No. 1520 (Los Angeles, Calif., to Washington, D. C.)* is amended by changing the portion which reads: "From the Little Rock, Ark., omnirange station via the Memphis, Tenn., omnirange station;" to read: "From the Texico, N. Mex., omnirange station via the Childress, Tex., omnirange station; Wichita Falls, Tex., omnirange station; McAlester, Okla., omnirange station; Little Rock, Ark., omnirange station; Memphis, Tenn., omnirange station;".

(Sec. 205, 52 Stat. 984, as 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., January 16, 1958.

[SEAL] JAMES T. PYLE,
*Administrator of Civil Aeronautics.*

DECEMBER 20, 1957.

[F. R. Doc. 57-10764; Filed, Dec. 27, 1957; 8:47 a. m.]

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[Amdt. 1]

## PART 601—DESIGNATION OF THE CONTINENTAL CONTROL AREA, 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 601.13 is amended by changing the caption to read: *"Green civil airway No. 3 control areas (Oakland, Calif., to New York, N. Y.)."*

2. Section 601.16 is amended by changing the caption to read: *"Green civil airway No. 6 control areas (Alice, Tex., to Norfolk, Va.)."*

3. Section 601.654 is amended to read:

§ 601.654 *Blue civil airway No. 54 control areas (Richmond, Calif., to Hamilton AFB, San Rafael, Calif.).* All of Blue civil airway No. 54.

4. Section 601.1006 *Control area extension (Lake Charles, La.)* is amended by adding the following portion to present control area extension: "and within 5 miles either side of the 058° True radial of the omnirange extending from the omnirange station to a point 42 miles northeast."

5. Section 601.1072 is amended to read:

§ 601.1072 *Control area extension (Sumter, S. C.).* The airspace north of Shaw Air Force Base bounded on the west by VOR civil airway No. 37, on the north by the Greenville, S. C., control

area extension (601.1014), on the northeast by a line extending through points at latitude 34°48'10", longitude 80°10'30" and latitude 34°31'00", longitude 79°42'30", on the east by Amber civil airway No. 7 and on the south by Red civil airway No. 16, excluding the portion below 26,000 feet MSL which overlaps restricted area (R–114).

6. Section 601.1113 is amended to read:

§ 601.1113 *Control area extension (San Francisco, Calif.).* All of the airspace in the San Francisco area bounded on the northeast by VOR civil airway No. 107, on the south by a line 5 miles southeast of and parallel to the southwest and northeast courses of the Moffett NAS, Calif., radio range, on the west by a line 3 nautical miles off-shore extending to the southern boundary of the San Francisco control area extension 601.1173, thence east along this boundary to latitude 37°14'00", longitude 122°24'55", thence north to latitude 38°08'30", longitude 122°54'00", thence northeast to the point of intersection of the western edge of VOR civil airway No. 107 with latitude 38°15' 00".

7. Section 601.1155 is amended to read:

§ 601.1155 *Control area extension (Omaha, Nebr.).* All of the airspace within a 25 mile radius of the Omaha radio range station including the airspace southwest of Omaha bounded on the north by VOR civil airway Nos. 8–S and 6–S, on the east by VOR civil airway No. 15, on the south by latitude 40°00'00" to a point at latitude 40°00'00", longitude 96°55'00", on the west by longitude 96°55'00" to a point at latitude 40°30'00", longitude 96°55'00" thence on the south by latitude 40°30'00" to a point at latitude 40°30'00", longitude 97°20'00" thence on the west by longitude 97°20'00" to VOR civil airway Nos. 8–S and 6–S; the airspace southeast of Omaha within a 25 mile radius of the Omaha omnirange station bounded on the north by VOR civil airway Nos. 6 and 8 and on the west by VOR civil airway No. 15.

8. Section 601.1165 is amended to read:

§ 601.1165 *Control area extension (Oakland, Calif.).* The airspace southeast of Oakland bounded on the southwest by Blue civil airway No. 10, on the southeast by Blue civil airway No. 60 and on the north by Red civil airway No. 60: the airspace northeast of Oakland bounded on the northwest by Green civil airway No. 3, on the east by Blue civil airway No. 7 and on the south by Red civil airway No. 60.

9. Section 601.1200 is amended to read:

§ 601.1200 *Control area extension (Columbia, S. C.).* All of the airspace south of the Columbia omnirange station bounded on the north by VOR civil airway No. 56, on the northeast by VOR civil airway No. 53, on the south by VOR civil airway No. 18 and on the west by VOR civil airway No. 185, excluding the portion which overlaps Prohibited Area (P–378); the airspace southeast of Columbia bounded on the north by VOR civil airway No. 56, on the east by VOR civil airway No 3 and on the southwest by VOR civil airway No. 53, excluding the portion below 26,000 feet MSL between sunrise and sunset which overlaps restricted area (R–384).

10. Section 601.1205 *Control area extension (Albuquerque, N. Mex.)* is amended by changing the words which read: "excluding the portion which conflicts with restricted area R–313." to read: "excluding the portion below 30,000 feet MSL which overlaps restricted area (R–313)."

11. Section 601.1247 *Control area extension (Las Vegas, Nev.)* is amended by changing the words which read: "on the northeast by Red civil airway No. 15 and on the east by Blue civil airway No. 67," to read: "on the northeast and east by Blue civil airway No. 67,".

12. Section 601.1260 is amended to read:

§ 601.1260 *Control area extension (Altus, Okla.).* All of the airspace bounded on the north by VOR civil airway No. 140 between the Amarillo, Tex., and the Sayre, Okla., omnirange stations and by VOR civil airway No. 272 between Sayre and Oklahoma City, Okla., omnirange stations, thence on the east by VOR civil airway No. 77 to Wichita Falls, Tex., omnirange station, thence on the south and southwest by VOR civil airway No. 114 to Amarillo, Tex., omnirange station, excluding the portion which overlaps the Fort Sill restricted area (R–208); the airspace north of Altus Air Force Base bounded on the west by longitude 99°38'00", on the northeast by VOR civil airway No. 17 and on the south by VOR civil airway No. 272.

13. Section 601.1277 is amended to read:

§ 601.1277 *Control area extension (Denver, Colo.).* That airspace southwest of Denver lying within a 34-mile radius of the Denver omnirange station bounded on the north by VOR civil airway 8 and on the east by Amber civil airway No. 3 including the airspace within 5 miles either side of a line bearing 174° True extending from the Aurora nondirectional radio beacon to a point 25 miles south; that airspace northeast of Denver bounded on the east and northeast by VOR civil airway No. 19, on the southeast by VOR civil airway No. 160, and on the west by VOR civil airway No. 89; that airspace southeast of Denver bounded on the northeast by VOR civil airway No. 4, on the east by VOR civil airway No. 19, on the southwest by the Colorado Springs, Colo., control area extension and on the west by Amber civil airway No. 3. The portion of this control area below 22,000 feet MSL which lies within restricted area (R–195) (Published in 608.15 of this chapter) shall be used only after obtaining prior approval from Civil Aeronautics Administration Air Traffic Control.

14. Section 601.1340 is amended to read:

§ 601.1340 *Control area extension (Miles City, Mont.).* The airspace within a 20-mile radius of the Miles City, Mont., omnirange station.

15. Section 601.1446 is added to read:

§ 601.1446 *Control area extension (Pendleton, Oreg.).* The airspace east of Pendleton bounded on the north by Red civil airway No. 53, on the southwest by Green civil airway No. 10, and on the southeast by a line drawn 5 miles southeast of and parallel to the southwest course of the Walla Walla, Wash., radio range extending from Red 53 to Green 10.

16. Section 601.1447 is added to read:

§ 601.1447 *Control area extension (New Orleans, La.).* The airspace bounded by lines beginning at a point at latitude 29°15'00", longitude 90°40'00", thence extending southwest to latitude 28°15'00", longitude 91°25'00", thence west to latitude 28°15'00", longitude 92°05'00"; thence northeast to latitude 29°15'00", longitude 91°05'00", thence east to point of beginning at latitude 29°15'00", longitude 90°40'00", excluding the portion below 2500 feet MSL between the United States shoreline and the New Orleans Oceanic Control Area.

17. Section 601.1448 is added to read:

§ 601.1448 *Control area extension (Vero Beach, Fla.).* The airspace within 5 miles either side of the Vero Beach, Fla., omnirange 023° True radial extending from the Vero Beach omnirange station to its intersection with the Orlando, Fla., omnirange 071° True radial, excluding the airspace below 10,000 feet MSL which lies outside the continental limits of the United States and excluding the airspace below 14,000 feet MSL which overlaps Warning Area W–158.

18. Section 601.2187 is amended to read:

§ 601.2187 *San Francisco, Calif., control zone.* Within a 5-mile radius of the San Francisco International Airport, within 2 miles on the southwest side of the 309° True radial of the San Francisco terminal omnirange extending from the terminal omnirange station to a point 6½ miles northwest, within 6½ miles on the northwest side and 11 miles on the southeast side of the 038° True radial of the San Francisco terminal omnirange extending from the terminal omnirange station to a point 9 miles northeast, and within 2 miles on the southwest side of the 125° true radial of the San Francisco terminal omnirange extending from the terminal omnirange station to a point 8¼ miles southeast. The portions of the control zone which overlap the Oakland, Calif., control zone are excluded.

19. Section 601.2331 is amended to read:

§ 601.2331 *Lake Charles, La., control zone.* Within a 5-mile radius of the Lake Charles Air Force Base, within 2 miles either side of a 180° True bearing extending from the Lake Charles nondirectional radio beacon (LCH) to a point 10 miles south, and within 2 miles either side of the 334° and 154° True radials of the Lake Charles omnirange extending to a point 10 miles southeast of the omnirange station and to a point 10 miles

northwest of the Lake Charles AFB nondirectional radio beacon (LKC).

20. Section 601.2377 is amended to read:

§ 601.2377 *Shreveport, La., control zone.* Within a 5-mile radius of Greater Shreveport Municipal Airport and within 2 miles either side of the Greater Shreveport ILS localizer front and back courses extending from the localizer to a point 15 miles southeast of the localizer and to a point 5 miles northwest of the ILS outer marker compass locater.

21. Section 601.4013 is amended by changing the caption to read: *"Green civil airway No. 3 (Oakland, Calif., to New York, N. Y.)"*, and by deleting the following reporting point: "San Francisco, Calif., radio range station;".

22. Section 601.4016 is amended by changing the caption to read: *"Green civil airway No. 6 (Alice, Tex., to Norfolk, Va.)"*, by deleting the following reporting point: "Laredo, Tex., radio range station;", and by changing the name of the facility "Lake Charles, La., radio range station" to read: "Lake Charles, La., nondirectional radio beacon;".

23. Section 601.4108 *Amber civil airway No. 8 (Los Angeles, Calif., to Ellensburg, Wash.)* is amended by changing the reporting point which reads: "the intersection of the northwest course of the San Francisco, Calif., radio range and the southwest course of the Travis AFB, Calif., radio range;", to read: "the intersection of the southwest course of the Travis AFB, Calif., radio range and a line bearing 309° True from the San Francisco Gap, Calif., nondirectional radio beacon;".

24. Section 601.4215 is amended to read:

§ 601.4215 *Red civil airway No. 15 (Reno, Nev., to Phoenix, Ariz.).* No reporting point designation.

25. Section 601.4654 is amended to read:

§ 601.4654 *Blue civil airway No. 54 (Richmond, Calif., to Hamilton AFB, San Rafael, Calif.).* No reporting point designation.

26. Section 601.4667 is amended to read:

§ 601.4667 *Blue civil airway No. 67 (Yuma, Ariz., to Las Vegas, Nev.).* The intersection of the north course of the Needles, Calif., radio range and the southeast course of the Las Vegas, Nev radio range.

27. Section 601.4232 is amended to read:

§ 601.4232 *Red civil airway No. 32 (Laredo, Tex., to Houston, Tex.).* Laredo, Tex., radio range station; Kelly, Tex., radio range station; Smithville, Tex., nondirectional radio beacon; Richmond, Tex., radio range station.

28. Section 601.6035 *VOR civil airway No. 35 control areas (Miami, Fla. to Syracuse, N. Y.)* is amended by adding a new last sentence to read: "The airspace between the main airway and its east alternate between the point of intersection of the Tampa, Fla., omnirange 153° True radial with the Tampa International Airport ILS localizer south course and the Cross City, Fla., omnirange station is excluded."

29. Section 601.6076 is amended to read:

§ 601.6076 *VOR civil airway No. 76 control areas (Lubbock, Tex., to Galveston, Tex.).* All of VOR civil airway No. 76 including a north alternate, but excluding the airspace between the main airway and its north alternate between the San Angelo, Tex., omnirange station and the Austin, Tex., omnirange station.

30. Section 601.6097 is amended to read:

§ 601.6097 *VOR civil airway No. 97 control areas (Miami, Fla., to Minneapolis, Minn.).* All of VOR civil airway No. 97 including east and west alternates, but excluding all of the airspace below 2000 feet above mean sea level which lies beyond the continental limits of the United States.

31. Section 601.6114 is amended to read as follows:

§ 601.6114 *VOR civil airway No. 114 control areas (Amarillo, Tex., to New Orleans, La.).* All of VOR civil airway No. 114 including north and south alternates.

32. Section 601.6159 is amended to read:

§ 601.6159 *VOR civil airway No. 159 control areas (Miami, Fla., to Albany, Ga.).* All of VOR civil airway No. 159 including an east alternate and west alternate, but excluding the airspace between the main airway and its west alternate from the West Palm Beach, Fla., omnirange station to the Orlando, Fla., omnirange station.

33. Section 601.6216 is amended to read:

§ 601.6216 *VOR civil airway No. 216 control areas (Lamoni, Iowa, to Saginaw, Mich.).* All of VOR civil airway No. 216.

34. Section 601.6272 is amended to read:

§ 601.6272 *VOR civil airway No. 272 control areas (Sayre, Okla., to Oklahoma City, Okla.).* All of VOR civil airway No. 272 including a north and a south alternate.

35. Section 601.6292 is added to read:

§ 601.6292 *VOR civil airway No. 292 control areas.* [Unassigned.]

36. Section 601.6293 is added to read:

§ 601.6293 *VOR civil airway No. 293 control areas (West Palm Beach, Fla., to Tampa, Fla.).* All of VOR civil airway No. 293.

37. Section 601.6294 is added to read:

§ 601.6294 *VOR civil airway No. 294 control areas.* [Unassigned.]

38. Section 601.6295 is added to read:

§ 601.6295 *VOR civil airway No. 295 control areas (Vero Beach, Fla., to Cross City, Fla.).* All of VOR civil airway No. 295.

39. Section 601.7001 *VOR domestic reporting points* is amended by adding the following reporting point:

Gainesville, Fla., omnirange station.

and by revoking the following reporting points:

Los Banos Intersection: The intersection of the Modesto, Calif., omnirange 176° True and the Fresno, Calif., omnirange 287° True radials.

Half Moon Bay Intersection: The intersection of the Oakland, Calif., omnirange 217° True, the Salinas, Calif., omnirange 319° True and the San Francisco, Calif., omnirange 281° True radials.

San Bruno Intersection: The intersection of the San Francisco, Calif., omnirange 305° True and the Oakland, Calif., omnirange 218° True radials.

(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., January 16, 1958.

[SEAL] JAMES T. PYLE,
*Administrator of Civil Aeronautics.*

DECEMBER 20, 1957.

[F. R. Doc. 57-10765; Filed, Dec. 27, 1957; 8:47 a. m.]

# TITLE 22—FOREIGN RELATIONS

## Chapter I—Department of State

[Dept. Reg. 108-353]

### PART 40—VISAS: DIPLOMATIC VISAS UNDER THE IMMIGRATION AND NATIONALITY ACT

### EQUIVALENT OF DIPLOMATIC PASSPORT

Paragraph (e) of § 40.1 *Definitions*, is amended to read as follows:

(e) "Equivalent of a diplomatic passport" means a national passport, other than a specifically described diplomatic passport, which is issued by a foreign government to which the bearer owes allegiance and which indicates the career diplomatic or consular status of the bearer, the issuing government being one which does not issue diplomatic passports to its career diplomatic and consular officers.

The regulation contained in this order shall become effective upon publication in the FEDERAL REGISTER. The provisions of section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U. S. C. 1003) relative to notice of proposed rule making and delayed effective date are inapplicable to this order because the regulation contained therein involves foreign affairs functions of the United States.

(Sec. 104, 66 Stat. 174; 8 U. S. C. 1104)

Dated: December 18, 1957.

RODERIC L. O'CONNOR,
*Administrator, Bureau of Security and Consular Affairs, Department of State.*

[F. R. Doc. 57-10695; Filed, Dec. 27, 1957; 8:45 a. m.]

[Dept. Reg. 108.352]

PART 41—VISAS: DOCUMENTATION OF NONIMMIGRANT ALIENS UNDER THE IMMIGRATION AND NATIONALITY ACT

BORDER CROSSING IDENTIFICATION CARDS

Part 41, Chapter I, Title 22 of the Code of Federal Regulations, is amended in the following respect:

Section 41.20 *Nonresident aliens' border crossing identification cards,* is amended to read as follows:

§ 41.20 *Nonresident aliens' border crossing identification cards*—(a) *Aliens eligible to apply.* Under the conditions prescribed in this section, a consular officer may issue a border crossing identification card, as that term is defined in section 101 (a) (6) of the act, to a nonimmigrant alien who, upon application therefor, satisfactorily establishes that: (1) He is a citizen and resident of Canada or a British subject having his residence in Canada, or (2) he is a citizen and resident of Mexico; and (3) he is a bona fide nonimmigrant, and, if applying for a nonimmigrant visa, he would be eligible to receive such visa under the provisions of section 212 of the act; (4) he cannot reasonably be expected to make application to the Immigration and Naturalization Service for such card because of his remote residence from the border or some other exceptional reason; and (5) he desires to enter the continental United States for a period or periods of not more than seventy-two hours each.

(b) *Nonresident alien's Mexican border crossing identification card.* A Mexican citizen who is eligible to apply for a nonresident alien border crossing identification card under the provisions of paragraph (a) of this section shall make application therefor on Form I–190 (revised July 30, 1956) at a United States consular office in Mexico. The applicant shall appear in person, execute the application form in triplicate under oath or by affirmation before a consular officer, and shall, except in the cases of children under the age of fourteen years, be fingerprinted on Form FD–258. Four identical photographs of the alien one and one-half inches square shall be submitted with the application. If the applicant is found to be a bona fide nonimmigrant and to be eligible in other respects to receive a border crossing identification card, the consular officer shall prepare Form I–186. Except in the cases of students, a child under the age of fourteen years who is named in his parent's or guardian's passport or other document issued in lieu thereof may, in the discretion of the consular officer, be exempted from filing a separate application for a nonresident alien's border crossing identification card and from furnishing photographs if the name of such child is included in the Form I–186 which is issued to his parent or guardian. The original and duplicate of the executed Form I–190, together with Form I–186 and Form FD–258, shall be enclosed with three unattached photographs in a sealed envelope of appropriate size so as to eliminate folding of any of the forms, and handed to the applicant for delivery to an immigration officer at one of the following immigration offices: Nogales, Arizona, Calexico or San Ysidro, California; El Paso, Eagle Pass, Laredo, Hidalgo, or Brownsville, Texas. The Immigration and Naturalization Service will subsequently laminate the border crossing identification card and effect delivery to the applicant. The laminated card will have an indefinite period of validity.

(c) *Nonresident alien's Canadian border crossing identification card.* A Canadian citizen or British subject having his residence in Canada who is eligible to apply for a nonresident alien's border crossing identification card under the provisions of paragraph (a) of this section shall make application therefor at a United States consular office in Canada on Form I-175 or on such other form as may be authorized by the Department. Four identical photographs of the alien one and one-half inches square shall be submitted with the application. The photograph requirement may, in the discretion of the consular officer be waived in the case of an alien under fourteen years of age at the time of issuance of the card. One photograph shall be attached to each copy of the application forms and to the identification card if issued to the applicant. If the applicant is found to be a bona fide nonimmigrant and to be eligible in other respects to receive a border crossing identification card, the consular officer shall issue such card to the applicant on Form I–185, or on such other form as may be authorized by the Department, attaching thereto the original of the application form, duly executed, for delivery to an immigration officer at the time of the alien's application for admission into the United States.

(d) *Supporting documents.* Every alien applying for a border crossing identification card shall furnish to the consular officer, with his application, certified copies of such documents pertaining to him as may be required under the provisions of § 41.10.

(e) *Invalidation of nonresident alien's border crossing identification card.* A nonresident alien's border crossing identification card issued by a consular officer shall be invalidated if the consular officer knows or has reason to believe that (1) it was procured by fraud, a willfully false or misleading representation, the willful concealment of a material fact, or by other unlawful means; (2) it is found in the possession of an alien other than the rightful holder; (3) improper use is being made of the card; (4) a ground of ineligibility to receive a nonresident alien's border crossing card is established; or (5) an immigrant visa is issued to the bearer of such a card. The bearer of a border crossing identification card shall, for purposes of invalidation, surrender such card upon request of a consular officer who shall, in the case of an invalidated Canadian border crossing identification card, submit a report of the reasons for his action to the Department. In the case of an invalidated Mexican border crossing identification card, the consular officer shall transmit a Form I–190 showing the reasons for his action to the immigration office at which the alien originally received his laminated border crossing identification card.

The regulation contained in this order shall become effective upon publication in the FEDERAL REGISTER. The provisions of section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U. S. C. 1003) relative to notice of proposed rule making and delayed effective date are inapplicable to this order because the regulation contained therein involves foreign affairs functions of the United States.

(Sec. 104; 66 Stat. 174; 8 U. S. C. 1104)

Dated: December 18, 1957.

RODERIC L. O'CONNOR,
*Administrator, Bureau of Security and Consular Affairs, Department of State.*

[F. R. Doc. 57–10694; Filed, Dec. 27, 1957; 8:45 a. m.]

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[Dept. Reg. 108.351]

PART 41—VISAS: DOCUMENTATION OF NONIMMIGRANT ALIENS UNDER THE IMMIGRATION AND NATIONALITY ACT

PART 42—VISAS: DOCUMENTATION OF IMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT

MISCELLANEOUS AMENDMENTS

Parts 41 and 42, Chapter I, Title 22 of the Code of Federal Regulations, are hereby amended in the following respects:

1. Subparagraph (1) of paragraph (g) *Disposition of supporting documents* of § 41.10 *Documents required in connection with application for nonimmigrant visa; medical examination; police certificates,* is amended to read as follows:

(1) When issuing a nonimmigrant visa to any alien, the consular officer shall return to the alien for presentation to the immigration authorities at the port of entry the original of all supporting documents furnished by the alien with his application, except police and medical certificates which shall be disposed of as provided in paragraph (e) of this section. The duplicate of each such document shall be retained at the consular office for at least two years and filed with Form 257 during such period.

2. Paragraph (b) *Form of nonimmigrant visa stamp* of § 41.12 *Procedure in issuing nonimmigrant visa,* is amended to read as follows:

(b) *Form of nonimmigrant visa stamp.* The nonimmigrant visa stamp shall be in the following form or in such other form as may be prescribed by the Department:

(Title of office)
[Seal]
(Location)
NONIMMIGRANT VISA ( )
No. _____ Date _____
To: _____
_____
_____
_____
Valid for _____ applications for entry into the United States if presented before _____.
_____
Consul

3. Paragraph (c) *Notation on visa* of § 41.12 *Procedure in issuing nonimmigrant visa*, is amended to read as follows:

(c) *Insertion of name in visa* The name of the alien to whom a nonimmigrant visa is issued shall be inserted in the space provided therefor in the visa stamp. If the visa is being issued upon the basis of a petition filed with and approved by the Attorney General, in the case of a nonimmigrant who is classifiable under the provisions of section 101 (a) (15) (H) of the act, the number and approval date of the petition shall be noted in the visa stamp, and the period for which the alien's admission has been authorized shall be noted immediately below the visa stamp.

4. Section 41.13 *More than one person included in nonimmigrant visa*, is amended to read as follows:

§ 41.13 *More than one person included in nonimmigrant visa.* A single nonimmigrant visa may be issued to include more than one eligible alien if each alien to be included in the visa executes a separate application. When several members of a family are to be included in the same visa, the name of each such member, in addition to the principal applicant, shall be written in the space provided therefor in the visa stamp. The visa fee to be collected in such a case shall be equal to the total of the fees prescribed by the Secretary of State in accordance with the provisions of section 281 of the act and § 41.14 for each alien so included in the visa.

5. Paragraph (a) of § 41.16 *Revalidation of nonimmigrant visa*, is amended to read as follows:

(a) A nonimmigrant visa issued to a nonimmigrant under the provisions of section 101 (a) (15) of the act may be revalidated in the same classification at the original visa-issuing office or other consular office: *Provided*, That (1) such visa was originally issued for less than the maximum period of validity of forty-eight months or for less than multiple applications for admission or both; (2) such visa is about to expire, or has expired, or has become invalid by reason of having been used for the number of applications for admission specified therein; and (3) the consular officer is satisfied that the alien is a bona fide nonimmigrant and is otherwise eligible to receive such a nonimmigrant visa, including the possession of a valid passport, if required.

6. Paragraph (c) of § 41.16 *Revalidation of nonimmigrant visa*, is amended to read as follows:

(c) In revalidating a nonimmigrant visa, the consular officer shall follow the procedure prescribed in § 41.12, except that a new Form 257 need not be executed. The visa stamp shall be impressed in the alien's passport and all pertinent data contained in the original visa shall be transferred to the revalidated visa. The word "Revalidated" shall be inserted above the words "Nonimmigrant Visa" in the visa stamp or inserted diagonally across the face of the visa. Following the revalidation of a nonimmigrant visa, an appropriate notation thereof, regardless of where the revalidation occurs, shall be made on the pertinent index card on file at the original visa-issuing office.

7. Paragraph (a) of § 41.21 *Transfer of visa to new passport*, is amended to read as follows:

(a) A valid nonimmigrant visa, including pertinent data contained therein, may be transferred from a passport which has expired or is about to expire to a new passport where (1) the alien is required to surrender the visaed passport to the foreign-issuing authority in exchange for a new passport, or (2) the alien is permitted to retain the expired or expiring passport containing a valid nonimmigrant visa but, nevertheless, requests a consular officer to transfer such visa to a new valid passport, and (3) the alien is found otherwise eligible to receive such a nonimmigrant visa.

8. Paragraph (a) *First preference class* of § 42.11 *Classes of quota immigrants*, is amended to read as follows:

(a) *First preference class.* The first preference class of quota immigrants shall consist of the selected immigrants referred to in section 203 (a) (1) of the act, including the spouses and children of such immigrants accompanying or following to join them, who shall be entitled to preferential consideration under the first half of the quota to which they are chargeable and within any other portion of such quota not required for the issuance of visas to immigrants primarily entitled thereto.

9. Paragraph (a) of § 42.13 *Determination of quota to which an immigrant is chargeable*, is amended to read as follows:

(a) An immigrant born in a quota area shall be chargeable to the quota of such quota area unless (1) he is classifiable as a nonquota immigrant under section 101 (a) (27) of the act, (2) he is classifiable as a nonquota immigrant under section 4, 9, 12, or 15 of the Act of September 11, 1957 (Public Law 85–316, 71 Stat. 639), (3) his case falls within one of the exceptions to the general rule of quota chargeability as provided in section 202 of the Immigration and Nationality Act, or (4) he is a Chinese person who is chargeable to the quota for Chinese persons as provided in § 42.15.

10. Paragraph (d) of § 42.23 *Removal of names of registrants from quota waiting list*, is amended to read as follows:

(d) The registrant abandons his intention to immigrate to the United States. An alien who for any reason fails to apply formally or informally for a visa within sixty days after being duly notified that his name has been reached on the waiting list shall be considered to have abandoned his intention to immigrate: *Provided*, That any such alien who can establish to the satisfaction of the consular officer that his failure to apply formally or informally for a visa was for reasons beyond his control and for which he was not responsible may make an application for a visa under his original priority on the waiting list when the circumstances which prevented him from applying formally or informally for a visa cease to exist, or within sixty days thereafter: *Provided further*, That an alien who is the beneficiary of a valid first, second, third, or fourth preference petition shall in any event be entitled to a registration priority as of the filing date of the petition.

11. Paragraph (e) of § 42.41 *Procedure in issuing immigrant visa*, is amended to read as follows:

(e) *Passport of unrecognized government.* No seal, stamp, or notation of any kind shall be placed in a passport or other travel document issued by a government not recognized de jure by the United States.

12. Paragraph (e) of § 42.47 *Validity of immigrant visa*, is amended to read as follows:

(a) The period of validity of an immigrant visa, quota or nonquota, shall not exceed four months, beginning with the date of issuance, except that any visa issued to an eligible orphan under section 4 of the act of September 11, 1957, or under any other immigration law to a child lawfully adopted by a United States citizen and spouse while such citizen is serving abroad in the United States Armed Forces, or is employed abroad by the United States Government, or is temporarily abroad on business, shall be valid until such time, for a period not to exceed three years, as the adoptive citizen parent returns to the United States in due course of his service, employment, or business.

The regulations contained in this order shall become effective upon publication in the FEDERAL REGISTER. The provisions of section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U. S. C. 1003) relative to notice of proposed rule making and delayed effective date are inapplicable to this order because the regulations contained therein involve foreign affairs functions of the United States.

(Sec. 104, 66 Stat. 174; 8 U. S. C. 1104)

Dated: December 18, 1957.

RODERIC L. O'CONNOR,
*Administrator, Bureau of Security and Consular Affairs, Department of State.*

[F. R. Doc. 57–10693; Filed, Dec. 27, 1957; 8:45 a. m.]

# TITLE 32—NATIONAL DEFENSE

## Chapter V—Department of the Army

### Subchapter G—Procurement

PART 590—GENERAL PROVISIONS

PART 591—PROCUREMENT BY FORMAL ADVERTISING

PART 592—PROCUREMENT BY NEGOTIATION

PART 606—SUPPLEMENTAL PROVISIONS

MISCELLANEOUS AMENDMENTS

1. Sections 590.306 through 590.306–52 are added as follows:

§ 590.306 *Transportation costs.*

§ 590.306–1 *General.* Proper consideration of the transportation aspects of procurement is necessary in the placement of contracts to insure that procurement is on the basis most advantageous to the Government, all factors considered, and that supplies arrive at the proper destination at the time required and in proper condition. Disregard of the transportation aspects of a procurement may lead to improper award of contracts, waste of time and money, and failure to have items available when and where needed.

§ 590.306–2 *Place of delivery.* See Subchapter A, Chapter I of this title.

§ 590.306–3 *Quantity analysis.* See Subchapter A, Chapter I of this title.

§ 590.306–4 *Commodity description.* See Subchapter A, Chapter I of this title.

§ 590.306–5 *Delivery terms.* See Subchapter A, Chapter I of this title.

§ 590.306–6 *Consignment and marking instructions.* See Subchapter A, Chapter I of this title.

§ 590.306–7 *Scheduling of deliveries to permit consolidation of shipments.* See Subchapter A, Chapter I of this title.

§ 590.306–8 *Transit arrangements.* See Subchapter A, Chapter I of this title.

§ 590.306–9 *Rates.* See Subchapter A, Chapter I of this title.

§ 590.306–10 *Volume shipments.* See Subchapter A, Chapter I of this title.

§ 590.306–11 *Unusually large or heavy shipments.* See Subchapter A, Chapter I of this title.

§ 590.306–12 *Mode of transportation.* See Subchapter A, Chapter I of this title.

§ 590.306–50 *General responsibilities*—(a) *Contracting Officers and Contract Administrators.* (1) To afford, during the procurement cycle, proper analysis and consideration of transportation factors affecting both domestic and export purchases.

(2) To seek advice, assistance, or traffic information from appropriate sources as indicated in § 590.306–51.

(3) To incorporate the soundest available transportation provisions in contracts and to see that transportation requirements are met during the performance of contracts.

(4) To bring to the attention of appropriate authorities any practicable improvements in procedures, practices, contract clauses, the terms or quantities of requirements, or similar methods by which transportation factors and other procurement elements may be better coordinated to the advantage of the Government.

(5) At the earliest possible phase in the procurement cycle, to provide, through installation transportation officers, information of prospective procurements or movements so as to facilitate rate negotiation or other traffic management actions.

(b) *Transportation Officers.* (1) To analyze and determine the effect of transportation factors on purchases.

(2) To advise contracting officers of transportation costs, methods of shipment, and other transportation information for the evaluation of bids and award of contracts in a manner most advantageous to the Government.

§ 590.306–51 *Sources of transportation assistance.* (a) The primary sources of transportation assistance are:

(1) *The Chief of Transportation.* For freight rate quoting service and general transportation assistance for contracting officers located in Military District of Washington, U. S. Army.

(2) *Regional Director, Military Traffic Management Agency.* For freight rate quoting service and general transportation assistance for contracting officers within their respective transportation zone boundaries.

(3) *Army Transportation Officers.* For general transportation assistance for contracting officers within their respective Army areas.

(4) *Installation Transportation Officers.* For general transportation assistance for contracting officers located on or adjacent to their respective installations. This particularly includes transportation officers in procuring installations.

(b) The procedure for obtaining freight rate quoting service is set forth in SR 55–155–30 (Special Regulations pertaining to freight rate quoting service).

(c) Transportation officers will furnish the best rates available for appropriate means of shipment and any other transportation information which would assist the contracting officer in evaluating the bids and awarding the contract in a manner most advantageous to the Government. The best rates available may be rates in effect or to become effective at a later date. The use of freight rates to become effective at a later date for evaluation of bids will be limited to those rates or rate changes on file in the rate furnishing office prior to the date of opening bids. Whenever a rate request to a rate-furnishing office does not specify a date, rates furnished will be those on file in that office at the time the files are examined.

§ 590.306–52 *Transportation considerations in the procurement cycle.* Transportation considerations that should be made by contracting officers during the procurement cycle, when transportation is involved, are set forth below:

(a) *Preliminary phase.* This phase covers the period from receipt of the procurement directive or other notice to effect procurement, to the preparation of invitations for bids or requests for proposals.

(1) From the destination data provided in the procurement directive, the contracting officer should determine whether origin or f. o. b. destination procurement is required, or whether bids or proposals should be solicited on both bases (§ 1.306 of this title). When items are to be procured for destination outside the United States, the specific port(s), or point(s) of exit, to be used as the basis for evaluation of Government cost of transportation will be determined by appropriate coordination between the contracting officer and the Department of the Army transportation contacts. The transportation cost factors which are to be included in the invitation for bids or the request for proposals will be determined during this phase.

(2) A review of the delivery schedule should be made to insure that shipments are made as economically as possible under the circumstances. A shipment made in less-than-carload (LCL), or less-than-truckload (LTL) lots is unnecessarily costly when consolidation into carload (CL), or truckload (TL) lots can be effected.

(3) The physical characteristics of shipments should be considered. For example, shipments of items separately or setup when they could be shipped nested or knocked down is one cause of excess transportation costs.

(4) Unusually large or heavy items may not be susceptible to being shipped by regular modes of transportation. In such cases special arrangements will have to be made for their shipment. This should be determined prior to and reflected in the issuance of the invitation for bids or requests for proposals.

(5) Whenever requirements or specifications admit of discretion in the selection of methods of packing and packaging of supplies, contracting officers should select that method which will provide low transportation costs consistent with physical protection and overall economy.

(6) Every reasonable effort should be made to determine precise or general destinations of supplies, including oversea area for which delivery is intended.

(b) *Solicitation phase.* This phase covers the preparation and issuance of invitations for bids or requests for proposals.

(1) Invitations for bids and proposals should set forth as clearly as possible those transportation responsibilities of the bidder or offeror in order that he can bid correctly and the Government can benefit by the inclusion of economical transportation charges in the bid or proposal.

(2) If destination of shipment is unknown, the invitation or request should specify that bids or proposals will be submitted f. o. b. origin, and shipment will be made on Government bill of lading and, if appropriate, in CL or TL lots.

(3) Invitations for bids or requests for proposals to be solicited on an f. o. b. origin basis will include the following information:

(i) The evaluation of bids or proposals will be made on the basis of bid price plus transportation cost to the Government from point of origin to destination(s) named.

(ii) The best available freight rates in effect or to become effective at a later date, for the selected method of shipment, will be used for the evaluation.

(iii) The use of freight rates to become effective at a future date for evaluation, will be limited to those rates or rate changes on file in the rate-furnishing office prior to the opening date.

(iv) Bidders and offerors will be informed, to the extent possible and practicable, when any of the following factors apply to shipments:

(*a*) Method of shipment such as rail, water, air, or truck.

(*b*) Minimum quantities or lots such as LCL, LTL, CL, or TL.

(*c*) Actual or designated destinations for evaluation purposes.

(*d*) Packing, crating, and other preparations.

(*e*) Use of transit arrangements (§ 1.306–52 (c) (4) of this title).

(*f*) Special arrangements for shipment such as the movement of unusually large or heavy items.

(v) When items to be procured are for destinations outside the United States, transportation cost factors (other than inland) will be included in the invitation for bids or request for proposals, and the specific port(s) or point(s) of exit to be used as a basis for evaluation of the transportation cost to destination(s) will be named. When only one such port or point of exit is involved, transportation cost factors need not be shown in the invitation for bids or request for proposals, unless weight and cube of the items to be procured vary with the different bidders or offerors. Ports or points of exit specified will be consistent with Transportation Corps publications and guidance. In the event a contracting officer has reason to believe utilization of port(s) and point(s) of exit, other than those set forth in Transportation Corps publications, would be advantageous to the Government he will submit a request to the Department of the Army transportation contact for approval prior to the issuing of the invitation for bids or request for proposals.

(4) The invitation or request should specify, whenever possible, the exact origin or destination of a shipment as appropriate; for example, f. o. b. receiving dock, _____ General Depot, _____ State.

(5) As appropriate, each invitation or request should specify who is to be responsible for the following:

(i) Loading, unloading, and handling costs.

(ii) Processing required to prepare for shipment.

(iii) Drayage costs.

(iv) Transportation marking requirements.

(v) Transportation penalties.

(vi) Transportation taxes.

(vii) Supply of dunnage and lashing materials.

(viii) Transportation claims.

(6) Whenever f. o. b. destination procurement may be involved, the invitation or request should inform prospective suppliers of any destination transportation factors which may affect the suppliers' transportation costs.

(7) For certain types of procurement, the invitation or request should elicit information of the minimum size of shipments which the prospective supplier will make, so that freight evaluation may be on a realistic basis (carload, truckload, less-carload, less truckload). The supplier should be cautioned also that if he ships in lesser quantities he may be charged with any excess costs resulting, unless the Government caused the deviation.

(8) When it is considered necessary in the interest of safe transportation to prescribe particular carloading methods, the required methods shall be specified in adequate detail in the invitations for bids or requests for proposals, or in related transportation instructions or packaging specifications. However, no provision shall require carloading methods which will prevent contractors from employing commercial methods in general use which provide protection equivalent to or better than the recommended methods contained in the Association of American Railroads carloading pamphlets. Carloading methods prescribed by the Association of American Railroads for loading shipments in or upon open topped cars are considered to be mandatory. However, if a contractor desires to use carloading methods other than those prescribed in the invitations for bids or request for proposals or related instructions, the contractor shall be required to provide sufficient evidence to satisfy the interested transportation officer who will advise the contracting officer that such proposed substitute methods are adequate. This subparagraph applies only to transportation of freight by railroads within the United States.

(c) *Evaluation and award phase.* (1) In evaluating bids or proposals submitted on an f. o. b. origin basis when destinations or distribution patterns are known, the cost of transportation must be added to the bid or proposal in establishing the actual cost to the Government. Accurate weights and cubage, current transportation rates, and use of proper modes of transportation are essential in this process. When a destination outside the United States is known and more than one United States port or point of exit is appropriate for use in the evaluation, the differences in transportation costs (ocean, port handling, and inland transportation costs) will be considered, so that the award will reflect the most advantageous basis of cost of the supplies landed at the oversea port. Only ports or points of exit specified in the invitations for bids or request for proposals shall be used for purposes of evaluating competitive bids or proposals. Information pertaining to ocean transportation costs, port handling costs, and inland transportation costs can be obtained from the Department of the Army transportation contact.

(2) Contracting officers will consider transportation costs, methods of shipment, and other transportation factors in the evaluation of f. o. b. origin bids or proposals and in the award of contracts. The best available freight rates in effect or to become effective at a later date should be used. The use of rates to become effective at a later date will be limited to those on file in the rate-furnishing office prior to the opening date.

(3) In determining, by pre-award survey or otherwise, the capabilities of a bidder or offeror to carry out a contract, definite consideration should be given to the adequacy of transportation facilities at the bidder's plant, including his ability to accumulate and ship in carload or truckload lots.

(4) Consideration should be given to the possibility of obtaining benefit for the Government through the use of transit arrangements. Such arrangements permit the forwarding of a shipment in the same direction after it has been halted in transit (sometimes for as much as 2 years), for storage, processing, fabrication, or other purpose as specified by the carriers; all at the through rate (as contrasted with the combination of rates in and out of the transit point) plus nominal surcharges. Transit arrangements are not universal and are varied; traffic management personnel can furnish necessary information and analysis of situations where transit may be beneficial.

(5) When comparing the unreserved portion of a procurement and the "Set-aside" portion in conjunction with "Set-asides" under Defense Manpower Policy No. 4 (§§ 1.302–4, 2.205 and 3.219 of this title) or partial Small Business Set-asides, the transportation aspects involved in each portion must be considered to insure correct comparison.

(6) Whenever it appears to the contracting officer that award for shipment to the designated destination will plainly result in cross-hauling or back-hauling to the disadvantage of the Government, considering subsequent moves of the supplies, the matter will be brought to the attention of the requiring agency or appropriate distribution authorities.

(7) If information for possible rate negotiation purposes has not been furnished earlier, or if adjustment in such information is required, appropriate advice will be furnished the Chief of Transportation, through the local transportation officer, immediately upon execution of a contract indicating firm shipment plans.

(8) Contracts, when executed, must be specific with respect to all transportation responsibilities.

(d) *Contract administration phase.* This phase covers the period from contract award through completion or termination of contract.

(1) During this phase numerous factors must be kept under control to assure the best results for the Government in transportation costs and service. Among these are:

(i) Ordering out.

(ii) Routing; release for port shipment; coordination of routing with basis of evaluation.

(iii) Policing of delivery schedules; shipment of carload and truckload lots whenever practicable; meeting minimum weights attached to such rates; adjustment of payments as appropriate.

(iv) Documenting; showing f. o. b. point properly; distribution and validation of documents.

(v) Contract changes affecting transportation.

(vi) Special shipping arrangements, as for oversize and overweight shipments.

(vii) Reporting information for special rate or rating adjustments when opportunities are newly discovered.

(viii) Control of irregularities in packing, loading, loss and damage causes, sealing vehicles, tallies, ordering cars, description of articles, documented weights, and export requirements.

(ix) Small shipments problems; parcel post.

(x) State tax problems.

(xi) Use of transit arrangements.

(xii) Effect of inspection, acceptance, or rejection on transportation.

(xiii) Safety for dangerous shipments. The foregoing and other questions must frequently be the subject of collaboration between the local transportation officer and the contract administrator.

(2) It is important to insure that the transportation factor is considered in the termination of contracts.

2. In § 591.201, revise paragraph (j) to read as follows:

§ 591.201 *Preparation of forms.* * * *

(j) *Availability, identification, and review of specifications.* Each invitation for bids shall list for each item included therein the applicable specifications as authorized for procurement in § 590.305 (a), or will contain a description as provided in § 590.305 (c). Such reference to specifications shall include the title and symbols, with any revision letters, and dates, including any amendments identified by numbers and dates. Prior to issuance of invitations for bids the proposed specifications shall be reviewed in accordance with procedures prescribed by heads of procuring activities: (1) To insure compliance with the provisions of § 590.305, and (2) to eliminate subsequent procurement actions which would be prejudicial to the Government and to potential bidders. Such review is intended to eliminate or correct unduly restrictive specifications and to prevent, insofar as practicable, the necessity for amendment of invitations after issuance, and the cancellation of invitations after opening, with consequent disclosure of bids where no award is to be made.

3. Section 592.201–2 is added and § 592.201–50 is revised, as follows:

§ 592.201–2 *Application.* (a) 10 U. S. C. 2304 (a) (1) may be used and recorded only with respect to the following:

(1) Labor surplus and disaster area programs.

(2) Small business programs.

(3) Nonperishable subsistence.

(4) Research and development contracts and each amendment thereof, for experimental, developmental, or research work, or for the manufacture or furnishing of supplies for experimentation, development, research, or test, when the estimated cost of either is $100,000 or less (§ 3.201–2 of this title). Except, that this authority shall not be used to negotiate a contract or an amendment thereof, regardless of amount, for experimental, developmental, or research work, or for the manufacture or furnishing of supplies for experimentation, development, research, or test, where the contract is entered into with an educational institution (§§ 592.205–2 (a) and 592.211).

(5) Modifications authorized by terms of definitive contracts previously negotiated under 10 U. S. C. 2304 (a) (1).

(i) The term "modifications authorized by the terms of definitive contracts" as used in this subparagraph includes:

(*a*) Increase or decrease of funds obligated on letter contracts and cost-reimbursement type contracts; provided, however, such increase or decrease is not the result of a change in the scope of work or quantities to be delivered.

(*b*) Change orders, supplemental agreements, or contract amendments issued pursuant to contractual provisions relating to changes, changed conditions, price escalation, price redetermination, incentive, termination for convenience, default, taxes, and variation in quantity caused by conditions of loading, shipping, or packing, or allowances in manufacturing processes.

(ii) Except in connection with contracts which have been or will be negotiated pursuant to subparagraphs (1), (2), (3), (4), and (6) of this paragraph 10 U. S. C. 2304 (a) (1) will not be used for:

(*a*) Increase or decrease of funds obligated on contract amendments issued pursuant to provisioning procedures incorporated in the contract for concurrent spare parts or other accessorial equipment specified to be delivered under contract.

(*b*) Supplemental agreements or contract amendments issued pursuant to contractual provisions relating to increase-decrease quantity options or extras.

(*c*) Supplemental agreements or contract amendments for concurrent spare parts or other accessorial equipment not originally provided for in the contract.

(*d*) Orders (which obligate funds) against contracts or amendments upon which funds were not obligated.

(6) Contracts in excess of $1,000 but not exceeding $2,500.

(i) The extension of the authority of 10 U. S. C. 2304 (a) (1) to cover small purchases in excess of $1,000 but not exceeding $2,500 will be used to supplement the authority currently available under 10 U. S. C. 2304 (a) (3). Pending revision of § 3.600 of this title and § 592.600 of this chapter authority to utilize small purchase procedures is not authorized except as indicated below:

(*a*) Authority is granted to deviate from § 16.303 of this title on an interim basis, to extend the use of DD Form 1155 as a purchase order for purchases in excess of $1,000 but not to exceed $2,500. In such cases there shall be attached thereto the following clauses, pending availability, from Adjutant General publications centers, of DD Form 1155s, "Additional General Provisions and Acceptance".

(*1*) Changes (§ 7.103–2 of this title).

(*2*) Responsibility for Supplies. (§ 7.103–6 of this title).

(*3*) Default (§ 7.103–11 of this title).

(*4*) Renegotiation (§ 7.103–13 of this title).

(*5*) Examination of Records (§7.104–15 of this title); and

(*6*) Termination for Convenience of the Government.

The performance of work (supplies or services) under this contract may be terminated, in whole or in part, whenever the Contracting Officer shall determine that such action is in the best interest of the Government. Any such termination shall be effected by delivery to the contractor of a Notice of Termination specifying the extent to which performance of work under this contract is terminated, and the date upon which such termination becomes effective. If this contract is for supplies and is so terminated, fair compensation within the meaning of, and as provided by section VIII of the Armed Services Procurement Regulation, as in effect on the date of this contract, will be paid to the Contractor, and any termination inventory will be disposed of in accordance with said section VIII. If this contract is for services and is so terminated, the Government shall be liable only for payment in accordance with the payment provisions of this contract for services rendered prior to the effective date of termination.

(*b*) DD Form 1155 shall not be used in the increased amount ($1,000–$2,500) as a public voucher, but in lieu thereof Standard Form 1034 shall be used. Funds involved shall be obligated only as prescribed in paragraph 2, AR 37–21 (Administrative Regulations of the Army, 18 Mar 57), as to paragraph 4.D. (1) and (2) of Department of Defense Directive 7220.6 (Apr. 28, 1955) quoted therein.

(*c*) In order to reduce the processing of numerous public vouchers in this small dollar area the purchase order may limit the numbers of payments to one, under the Payments clause, as provided in § 592.650–7. If contractors are reluctant to wait until final delivery and multiple payments are to be authorized as prescribed in § 592.650–7, DD Form 1155 will be numbered as required by § 606.203–3 (c) of this subchapter.

(ii) Procurement actions taken under this authority shall be reported on DA Form 377 (Monthly Summary of Procurement Actions) on Line 12c. (§ 606.305–3 (d) (1) of this subchapter.)

§ 592.201–50 *Limitations.* (a) See §§ 592.211–3 (a) and 592.211–3 (b).

(b) This authority will be used only to the extent authorized in § 3.201–2 of this title and § 592.201–2.

4. In § 606.207–2, paragraph (a) is revised to read as follows:

§ 606.207–2 *Fixed price contracts*—(a) *General.* (1) Audit is an aid to pricing and should therefore be used by contracting officers to the fullest extent appropriate. The determination as to the necessity of an audit for pricing purposes is the responsibility of the contracting officer; however, in fulfilling this responsibility contracting officers are expected to work closely with auditors so that determinations as to whether or not an audit is to be performed will reflect agreement between the contracting officer and auditor concerned. The contracting officer is responsible for requesting an audit in instances where the Regional Director, U. S. Army Audit Agency considers that an audit should be performed for pricing purposes because doubt exists as to the reliability of the contractor's cost submission. The doubt as to the reliability of the cost submission may result from:

(i) Prior audit experience which indicated that the contractor's cost submission did not present fairly the cost of performing the contract, or

(ii) Lack of prior or recent experience in auditing the contractor's records.

(2) Time is a critical element in price redetermination. Contracting officers and auditors must be keenly aware of the importance of the time element and of the duties, responsibilities, and problems of each other. (§ 592.403–50 (b) (3) of this subchapter).

(3) It is not considered sound policy to arbitrarily exempt from audit any contract or group of contracts in which pricing or payment is based on cost information furnished by the contractor. However, where there is adequate knowledge of the contractor's accounting policies and cost systems and previous favorable experience, both the contracting officer and the Regional Director, U. S. Army Audit Agency, should consider the propriety of conducting repricing negotiations on the basis of the contractor's cost submission, without recourse to audit, after a satisfactory review and analysis by qualified personnel in either or both offices. This procedure is particularly adaptable to contracts of limited amounts. On the other hand, previous unfavorable experience, or lack of any previous experience, may indicate the advisability of initiating an audit immediately after receipt by the U. S. Army Audit Agency of a contract containing progress payment or price redetermination clauses. Such an audit ordinarily will be performed concurrently as work under the contract progresses. The U. S. Army Audit Agency shall notify the contracting officer within 5 days after a decision to make a concurrent audit has been reached.

(4) Should situations arise wherein contracting officers and auditors, after consideration of all factors concerned, cannot agree upon the necessity for an audit of a contractor's records, each will promptly prepare a statement of reasons why the audit should or should not be performed, exchange statements and independently submit a copy of both statements on a priority basis in the manner prescribed in paragraph (c) (2) of this section with request that the matter be resolved.

5. In Part 606, Subpart J is revoked and Subpart K is revised, as follows:

**Subpart K—Indefinite Delivery Type Contracts**

Sec.
606.1101 Purpose.
606.1102 General.
606.1103 Policy.
606.1104 Payment of higher unit prices.
606.1105 Review of procurement directives.

AUTHORITY: §§ 606.1101 to 606.1105 issued under sec. 3012, 70A Stat. 157; 10 U. S. C. 3012. Interpret or apply 70A Stat. 127; 10 U. S. C. 2301–2314.

§ 606.1101 *Purpose.* This subpart sets forth the policy on utilization of indefinite delivery type contracts.

§ 606.1102 *General*—(a) *Definite quantity contract.* A definite quantity contract is an indefinite delivery type contract calling for a stated quantity of certain supplies or services to be delivered pursuant to delivery orders furnished during a designated period of time. Funds are obligated for the total amount upon execution of the contract. It normally specifies the individuals or activities authorized to issue orders for delivery on behalf of the Government and in most cases provides for the direct shipment of the supplies involved from the vendor's establishment to the using agency, thereby minimizing expense of Government handling. Although this type of contract is used primarily for commercial type items readily available, or which will be available after a short lead time, it may also be used for noncommercial items.

(b) *Requirements contract.* A requirements contract is an indefinite delivery type contract under which the Government agrees that designated activities are obligated to order all of their purchase requirements for specified supplies or services and the contractor agrees to furnish the specified supplies or services during a designated period of time upon receipt of a delivery order from the Government. Under such an arrangement, funds are obligated for individual purchases each time a delivery order is issued except where the terms of the contract require an acceptance of the order by the contractor. When the contract requires such acceptance, funds are obligated when the contractor has accepted the delivery order. When the contract provides no limitation as to the maximum quantity which may be ordered at one time, the contracting officer should not issue delivery orders for what, under the circumstances, may be unreasonable quantities. Generally, the function, purpose, and use of a requirements contract are similar to those of the definite quantity contract.

(c) *Indefinite quantity contract.* An indefinite quantity contract is a combination of a definite quantity contract and a requirements contract, in that the Government is obligated to order a stated minimum quantity of supplies or services, during a specified period and has the option to order quantities in excess of the minimum. Under this arrangement the contractor is obligated to furnish such stated minimum and any additional quantities ordered by the Government under the option. The optional provision of the contract shall state a maximum quantity. In the determination of such maximum, the contracting officer should not establish a quantity greater than may be reasonably expected to be ordered from, or furnished by, the contractor. Up to the stated minimum the contract is in effect a definite quantity contract and funds are obligated upon execution of the contract. If and when the Government exercises its option of ordering quantities in excess of the minimum, with respect to such quantities, the contract, is, in effect, a requirements contract, and funds are obligated on the issuance of the delivery order.

§ 606.1103 *Policy.* (a) Contracting officers at all procurement levels shall execute indefinite delivery type contracts to fill current requirements whenever:

(1) Net benefits to the Government are evident, and

(2) Requirements cannot be obtained from an existing mandatory source of supply.

(b) Indefinite delivery type contracts to fill requirements that are nationwide in scope or at least cover a large geographic area shall be executed by contracting officers of major procurement activities.

(c) Contracting officers at depot or station level shall execute indefinite delivery type contracts to fill requirements of the depot or station as appropriate, when the requirements are not obtainable from an existing indefinite delivery type contract which is available for mandatory or optional use. An example of a requirements type contract executed by a station is one executed for manufacture of wooden boxes, towel service or refilling of Government owned gas cylinders.

§ 606.1104 *Payment of higher unit prices.* When appropriate and necessary, contracting officers may pay higher unit prices for commercial type items for direct delivery from manufacturers, distributors or regular dealers to using installations or ports than would be obtainable by delivery of bulk shipments to Army depots. This authorization is based on the eventual savings accruing to the Government due to the elimination of or reductions in Department of the Army procurement and distribution costs, viz, purchasing actions, transportation, multiple handling, warehousing, packaging and stock control activities.

§ 606.1105 *Review of procurement directives.* In order to insure maximum utilization of indefinite delivery type contracts for commercial type nonmilitary items of supply, heads of procuring activities or their designated representatives shall, when no mandatory source of supply exists:

(a) Review each procurement directive containing commercial type nonmilitary line items or groups of commercial repair parts (particularly those applicable to a single end item of equipment) having an estimated value of $10,000 or more in order to determine the feasibility of executing indefinite delivery type contracts to provide such items or groups of parts.

(b) Insert in each procurement directive for each of the items or groups of parts contained therein a signed statement which will either:

(1) Direct the contracting officer to execute an indefinite delivery type contract for the item or group of parts, or

(2) Set forth sound reasons why an indefinite delivery type contract should not be executed.

(c) Include in each contract file resulting from the procurement directive a copy of the procurement directive containing the statement in paragraph (b) of this section. When indefinite delivery type contracting has been specified but cannot or should not be accomplished, the contracting officer will include in the contract file a signed statement setting forth in reasonable detail the causes therefor. When the procurement directive results in two or more contracts, include the copy of the procurement directive in one contract file and cross reference it in the other contract files.

(d) Refer to the Deputy Chief of Staff for Logistics, Department of the Army, ATTN: Chief, Contracts Branch any case where a doubt exists as to whether the execution of an indefinite delivery type contract is in the best interest of the Government because of price factors.

[APP. Nov. 1957] (Sec. 3012, 70A Stat. 157; 10 U. S. C. 3012. Interpret or apply 70A Stat. 127; 10 U. S. C. 2301–2314)

[SEAL] HERBERT M. JONES,
*Major General, U. S. Army,*
*The Adjutant General.*

[F. R. Doc. 57–10763; Filed, Dec. 27, 1957; 8:46 a. m.]

# TITLE 7—AGRICULTURE

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

### Subchapter A—Commodity Standards and Standard Container Regulations

PART 27—COTTON CLASSIFICATION UNDER COTTON FUTURES LEGISLATION

PART 28—COTTON STANDARDS

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

PART 61—COTTONSEED SOLD OR OFFERED FOR SALE FOR CRUSHING PURPOSES (INSPECTION, SAMPLING, AND CERTIFICATION)

COTTON AND COTTONSEED STANDARDS AND REGULATIONS

On November 15, 1957, there appeared in the FEDERAL REGISTER (22 F. R. 9110) a notice of rule making concerning certain amendments of the provisions in 7 CFR Parts 27, 28, and 61, as amended. After consideration of all relevant matters presented with respect to the amendments and pursuant to the authority contained in the cotton futures provisions of the Internal Revenue Code of 1954 (26 U. S. C. 4851 et seq.), the United States Cotton Standards Act, as amended (7 U. S. C. 51 et seq.), the Cotton Statistics and Estimates Act, as amended (7 U. S. C. 471 et seq.) and the Agricultural Marketing Act of 1946, as amended (7 U. S. C. 1621 et seq.), the provisions of said Parts 27, 28, and 61 are hereby amended and published to read as set forth in the document annexed hereto and made a part hereof. Parts 27, 28, and 61 as set forth in said document incorporate the changes specifically proposed in the notice of rule making, as well as changes relating to agency management or editorial, clarifying, or supplementary changes of a nonsubstantive nature, with respect to which it is therefore found upon good cause under section 4 of the Administrative Procedure Act (5 U. S. C. 1003) that public rulemaking procedure is impracticable and unnecessary.

This order and the provisions of 7 CFR Parts 27, 28, and 61 as issued hereby shall become effective 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D. C., this 24th day of December 1957.

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

## PART 27—COTTON CLASSIFICATION UNDER COTTON FUTURES LEGISLATION

### Subpart A—Regulations

DEFINITIONS



GENERAL



ADMINISTRATION



CLASSIFICATION REQUESTS



INSPECTION AND SAMPLES



CLASSIFICATION AND MICRONAIRE DETERMINATIONS



COTTON CLASS CERTIFICATES



DELAYED CERTIFICATION



POSTPONED CLASSIFICATION



CLASSIFICATION REVIEWS, AND MICRONAIRE DETERMINATIONS



TRANSFERS OF COTTON



COSTS OF CLASSIFICATION AND MICRONAIRE

## SUBPART A—REGULATIONS

AUTHORITY: §§ 27.1 to 27.102 issued under secs. 4862, 4863, 68A Stat. 581, 582; 26 U. S. C. 4862, 4863.

### DEFINITIONS

§ 27.1 *Meaning of words.* Words used in this subpart in the singular form shall be deemed to import the plural, and vice versa, as the case may demand.

§ 27.2 *Terms defined.* As used throughout this subpart, unless the context otherwise requires, the following terms shall be construed, respectively, to mean:

(a) *The act.* The provisions of the Internal Revenue Code of 1954 (68A Stat. 580–586; 26 U. S. C. 4851–4877) derived from the United States Cotton Futures Act (39 Stat. 476) as amended and the Internal Revenue Code of 1939 (53 Stat. 210; 26 U. S. C. 1920–1935).

(b) *Department.* The United States Department of Agriculture.

(c) *Service.* The Agricultural Marketing Service of the Department.

(d) *Administrator.* The Administrator of the Service, or any officer or employee of the Service, to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

(e) *Cotton Division.* The Cotton Division of the Service.

(f) *Director.* The Director of the Cotton Division, or any officer or employee of the Division to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated to act in his stead.

(g) *Board of cotton examiners.* A board of cotton examiners established under the act at any point.

(h) *Appeal Board of Review Examiners.* The Appeal Board of Review Examiners at Memphis, Tennessee.

(i) *Exchange.* Exchange, board of trade, or similar institution or place of business, at, on, or in which a section 4863 contract may be made.

(j) *Exchange inspection agency.* The inspection agency of the New York Cotton Exchange, the New Orleans Cotton Exchange, the Board of Trade of the city of Chicago, or of any other exchange which may have an organized inspection agency recognized as such by the Director, as the case may be.

(k) *Section 4863 contract.* Contract of sale of cotton for future delivery mentioned in the act, made at, on, or in any exchange in compliance with section 4863 of the act.

(l) *Person.* Individual, association, partnership, or corporation.

(m) *Owner.* Person who owns, controls, or has the disposition of any cotton.

(n) *Classification.* The determination of the grade and staple length of cotton by a cotton examiner.

(o) *Micronaire determination.* The measure of the fiber fineness and maturity of cotton, in combination, as determined by an authorized employee of the Department using the Micronaire instrument.

### GENERAL

§ 27.3 *Requirements of section 4863 of the act.* The inspection, sampling, classification, and Micronaire determination of cotton pursuant to section 4863 of the act shall be performed as prescribed in this subpart. All tenders of cotton and settlements therefor under section 4863 contracts shall be made subject to the regulations in this subpart. No contract shall for the purposes of this subpart be deemed to comply with section 4863 of the act if it contain or incorporate therein, by reference or otherwise, any provision or any bylaw, rule, or custom of an exchange which is inconsistent or in conflict with any requirement of said section 4863, nor if the parties enter into any collateral or additional agreement or understanding, either verbal or written, respecting the subject matter of such contract which is inconsistent or in conflict with any requirement of said section 4863.

§ 27.4 *Obligations and rights under act; not affected by regulations.* Nothing in this subpart shall be construed as relieving any party to a section 4863 contract of any obligation imposed upon him, or as depriving him of any right to which he might be entitled, under any provision of the contract or exchange rule made a part thereof which shall not be inconsistent with the act or the regulations made under the act.

§ 27.5 *Effect of amendments.* Any amendment to this subpart, unless otherwise stated therein, shall apply to all tenders of cotton and settlements therefor made on and after the effective date of such amendment, under section 4863 contracts entered into prior, as well as subsequent, to such effective date.

§ 27.7 *Effect of regulations.* As far as applicable, the regulations in this subpart shall have the same force and effect for the purposes of section 4864 as for the purposes of section 4863 of the act.

### ADMINISTRATION

§ 27.8 *Director.* The Director shall perform for and under the supervision of the Administrator, such duties as the Administrator may require in enforcing the provisions of the act and this subpart.

§ 27.9 *Boards of cotton examiners; Appeal Board; Micronaire examiners.* Boards of cotton examiners shall be maintained at points designated for the purpose by the Administrator. The members of such boards and the chairman of each such board shall be designated by the Director. The Appeal Board of Review Examiners established at Memphis, Tennessee, and committees of such board authorized to serve at other points shall review the classification of any cotton in accordance with §§ 27.61 to 27.72. A Board of Supervising Cotton Examiners shall perform duties as assigned. Authorized employees of the Cotton Division shall make Micronaire determinations when such service is requested in accordance with this subpart.

§ 27.10 *Supervisor of cotton inspection.* The Director or the chairman of a board of cotton examiners may when necessary designate an official or employee of the Department 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.

§ 27.11 *Chairman, board of cotton examiners; responsibility.* Subject to this subpart and the instructions of the Director, the chairman of each board of cotton examiners shall be responsible for the proper performance of the duties imposed on such board and on the persons connected therewith.

### CLASSIFICATION REQUESTS

§ 27.12 *Classification request for each lot of cotton.* For each lot or mark of cotton of which the applicant desires separate classification and certification he shall make a separate written request in a form prescribed or supplied by the Cotton Division for that purpose.

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

§ 27.14 *Filing of classification and Micronaire determination requests.* Requests for classification shall be filed with the chairman of the board of cotton examiners through the exchange inspection agency at the point where the cotton is sampled and shall be transmitted to the chairman by the exchange inspection agency in accordance with procedure approved by the Director. If there is no board of cotton examiners at the point where the cotton is sampled, requests shall be filed through a supervisor of cotton inspection or the exchange inspection agency at such point, or at some

other place designated in particular cases by the Director. Requests for classification shall be filed within 30 days after sampling and before classification of the samples. The applicant may file a request for a review of classification as part of the request for classification. The applicant may file a request for Micronaire determination as part of the request for classification or may file a request for such determination, in a form prescribed by the Cotton Division within 7 business days following the date of the first certification of the cotton involved, provided this service has not been previously performed on such cotton, and the request is made prior to delivery of the cotton on a section 4863 contract. Requests for Micronaire determinations may also be filed as provided in §§ 27.62 and 27.63.

§ 27.15 *Withdrawal or rejection of classification or Micronaire determination requests.* Any request for classification or for Micronaire determination may be withdrawn by the applicant at any time before the classification or Micronaire determination of the cotton covered thereby, subject to the payment of such fees, if any, as may be prescribed under §§ 27.80 to 27.92. Any request for classification or for Micronaire determination may be rejected for noncompliance with the act or this subpart.

INSPECTION AND SAMPLES

§ 27.16 *Inspection; sampling; preparation.* The inspection and sampling and the preparation of samples of cotton of which classification is desired shall be by or under the direction of an exchange inspection agency and subject to the supervision and in accordance with the instructions of a supervisor of cotton inspection or a cotton examiner whose duties include such supervision.

§ 27.17 *Cotton to be made available for classification.* The owner of the cotton shall cause it to be made available to such supervisor or cotton examiner for such examination as may be necessary for the purposes of its classification, and shall take such steps as may be necessary to secure its proper inspection and sampling and the proper preparation and delivery of representative samples thereof at the place designated therefor, in accordance with this subpart, without expense to the Department.

§ 27.18 *Persons not to be employed for inspection or sampling.* No person shall, after notice to the interested parties, be employed in any way in connection with any phase of the inspection and sampling of cotton, or the preparation of the samples thereof, for the purposes of classification under this subpart, who for good cause is disapproved by the Director.

§ 27.19 *Rejection of cotton for classification.* No cotton covered by a classification request filed as provided in this subpart shall be rejected by any person other than a cotton examiner, on account of grade or staple or otherwise, unless the request for the classification of the cotton so rejected shall be withdrawn by the person by whom it was made.



§ 27.20 *Drawing of samples of cotton.* One sample shall be drawn from the top side of each bale and one from the bottom side. Each such sample shall weigh not less than 5 ounces, the two samples from each bale to weigh together not less than 10 ounces. The head of the bale shall be properly inspected, and any conditions not fully indicated by the samples shall be specified by the inspector or the sampler of the cotton in a written memorandum, which shall accompany the samples to the board of cotton examiners.

§ 27.21 *Preparation of samples of cotton.* The samples from each bale shall be prepared as specified in this section. The sample from the top side and the sample from the bottom side shall each be broken into two parts. One part of the sample from the top side shall be placed with a part of the sample from the bottom side, making two sets of samples from each bale. One of such sets shall weigh as nearly as possible 6 ounces, equally divided between the two parts thereof representing the two sides of the bale. There shall be placed in each such set of samples between the two sides thereof a coupon showing the number of the tag attached to the bale from which such samples were drawn. The 6-ounce set of samples from each bale shall be called the original and the other set the duplicate.

§ 27.22 *Wrapping and marking of samples of cotton.* The original sets of samples of the bales constituting a lot or mark to be classified separately shall be inclosed in one or more wrappers or containers, as the case may require. The wrappers or containers of original samples shall be so labeled or marked, or both, as to show that they contain original samples, together with the lot number, if any, the marks, and the number of bales, and such other information as may be necessary in accordance with the instructions of the chairman of the board to which the samples are to be delivered.

§ 27.23 *Duplicate sets of samples of cotton.* The duplicate sets of samples shall be inclosed in wrappers or containers separate and apart from the original sets in the manner prescribed for original samples in the foregoing section, except that the wrappers or containers shall be labeled or marked, or both, so as to show that they contain duplicate samples and shall be delivered to the person requesting the classification of the cotton.

§ 27.24 *Delivery of samples of cotton.* The original sample from each bale to be classified shall be delivered to the board of cotton examiners with which the classification request was filed, at its classification room. If there is no board of cotton examiners at the point where the cotton is sampled, the samples shall be delivered to a supervisor of cotton inspection or to the exchange inspection agency at such point, for forwarding to the proper board. No samples covered by pending classification requests which are ready for delivery as provided for herein shall be withheld from such delivery except as authorized in writing by the chairman of the board of cotton examiners or the Director.

§ 27.25 *Additional samples of cotton; drawing.* In addition to the samples hereinbefore prescribed, separate samples, if desired, may be drawn and furnished to the owner of the cotton.

§ 27.26 *Handling of samples of cotton.* All persons in any way connected with the inspection and sampling and handling of samples of cotton for the purpose of classification pursuant to this subpart shall carefully handle them in such manner as not to cause loss of sand therefrom or any change otherwise in their representative character.

§ 27.27 *Rejection of sample; resampling.* Any sample or set of samples which does not meet the requirements of the regulations in this subpart or which does not correctly represent the bale or bales from which drawn may be rejected by a supervisor of cotton inspection or a cotton examiner whose duties include the supervision or examination of such cotton. Whenever the supervisor of cotton inspection or the chairman of the board shall find it necessary in order to determine the true classification of any bale, such bale shall be reinspected and, if necessary, resampled, and the new samples shall be delivered at the place designated therefor in accordance with this subpart.

§ 27.28 *Disposition of samples.* Samples representing bales for classification or Micronaire determination, which come into the custody of the Department on or after April 1, 1957, shall become the property of the Department after classification or Micronaire determination and shall be disposed of in accordance with the property regulations of the Department. Samples in the custody of the Department on March 31, 1957, representing bales which are covered by outstanding cotton class certificates issued pursuant to this subpart, will be retained by the Department until the certificates are surrendered for cancellation and will then be made available to the persons who surrender the certificates for cancellation.

CLASSIFICATION AND MICRONAIRE DETERMINATIONS

§ 27.31 *Classification of cotton and Micronaire determinations; by whom made.* For the purposes of section 4863 of the act the classification of any cotton shall be determined only by cotton examiners designated as such by the Director. Official Micronaire determinations, when requested, shall be made only by authorized employees of the Cotton Division.

§ 27.32 *Order of classification.* All cotton for which classifications requests shall be pending shall be classified as far as practicable in the order in which proper samples thereof, ready for such classification, shall have been delivered to the board of cotton examiners whose duties include the examination thereof, except as otherwise provided in this subpart or when the chairman of the board or the Director shall find that an emergency exists and shall order otherwise.

§ 27.33 *Exposing of samples for classification.* Classification shall not proceed until the samples, after being delivered to the board, shall have been exposed for such length of time as in the judgment of the chairman shall be sufficient to put them in proper condition for the purpose.

§ 27.34 *Classification procedure.* Classification shall proceed as rapidly as possible, but not when light or other conditions make uncertain the accuracy of the results to be obtained.

§ 27.35 *Lower class of two samples to prevail.* In case a sample drawn from one portion of a bale is lower in class than one drawn from another portion of such bale, except as otherwise provided in this subpart, the classification of the bale shall be that of the sample showing the lower class.

§ 27.36 *Classification and Micronaire determinations based on official standards.* All cotton shall be classified for grade and staple length on the basis of the official cotton standards of the United States for grade and staple length in effect at the time of such classification. Micronaire determinations for cotton, upon request under § 27.14, § 27.62, or § 27.63 shall be made according to the official cotton standards of the United States for fiber fineness and maturity in effect at the time of such determinations.

§ 27.37 *Reduction in value of cotton; determination.* If cotton be reduced in value, by reason of the presence of extraneous matter of any character or irregularities or defects, below its grade or below its apparent length of staple according to the official cotton standards of the United States, the grade or length of staple from which it is so reduced, and the grade or length of staple to which it is so reduced, and the quality or condition which so reduces its value, shall be determined and stated.

§ 27.38 *Terms defined for purposes of classification.* For the purposes of classification the following terms shall be construed, respectively, to mean:

(a) *Cotton of perished staple.* Cotton that has the strength of fiber as ordinarily found in cotton destroyed or unduly reduced through exposure to the weather either before picking or after baling, or through heating by fire, or on account of water packing, or by other causes.

(b) *Cotton of immature staple.* Cotton that has been picked and baled before the fiber has reached a normal state of maturity, resulting in a weakened staple of inferior value.

(c) *Gin cut cotton.* Cotton that shows damage in ginning, through cutting by the saws, to an extent that reduces its value more than two grades.

(d) *Reginned cotton.* Cotton that has passed through the ginning process more than once, and cotton that, after having been ginned, has been subjected to a cleaning process and then baled.

(e) *Repacked cotton.* Cotton that is composed of factors', brokers', or other samples, or of loose or miscellaneous lots collected and rebaled, or cotton in a bale which is composed of cotton from two or more smaller bales or parts of bales.

(f) *False packed cotton.* Cotton in a bale (1) containing substances entirely foreign to cotton, (2) containing damaged cotton in the interior with or without any indication of such damage upon the exterior, (3) composed of good cotton upon the exterior and decidedly inferior cotton in the interior, in such manner as not to be detected by customary examination, or (4) containing pickings or linters worked into the bale.

(g) *Mixed packed cotton.* Cotton in a bale which, in the samples drawn therefrom, shows (1) a difference of three or more grades, or (2) a difference of three or more color gradations, or (3) a difference of two or more grades and two or more color gradations, or (4) a difference in length of staple of one-eighth inch or more.

(h) *Water packed cotton.* Cotton in a bale that has been penetrated by water during the baling process, causing damage to the fiber, or a bale that through exposure to the weather or by other means, while apparently dry on the exterior, has been damaged by water in the interior.

COTTON CLASS CERTIFICATES

§ 27.39 *Issuance of certificates.* Except as otherwise provided in this section as soon as practicable after the classification of cotton has been completed by a board of cotton examiners the board shall issue a cotton class certificate showing the results of such classification. Each certificate shall bear the date of its issuance and the name of the chairman of the board that classified the cotton. The certificate shall show the identification of the cotton according to the information in the possession of the board, the classification of the cotton according to its grade and length of staple and such other facts as the Director may require. As soon as practicable after the Micronaire determination of cotton has been completed by an authorized employee of the Cotton Division, upon request under this subpart, the results of such determination will be certified by the board of cotton examiners or by the Appeal Board of Review Examiners on the classification certificate for the cotton, with the date of issuance of the Micronaire determination, the name of the certifying officer, and such other facts as the Director may require. When a request is made for a review of classification and a Micronaire determination, at the same time as the request for initial classification, the board of cotton examiners shall notify the Appeal Board of Review Examiners of the results of the classification and the latter will review the classification and make the Micronaire determination, and notify the board of cotton examiners of the results. The latter will issue a cotton class certificate over the signature of the chairman of the Appeal Board of Review Examiners, showing the results of the review classification (but not the initial classification), the Micronaire determination, the date of issuance of the certificate, and such other facts as the Director may require. The certificate of classification and Micronaire determination may be placed directly upon the warehouse receipt covering the cotton involved. The board of cotton examiners or the Appeal Board of Review Examiners may authorize an officer of the Service located at another point to certify the results of any classification or Micronaire determination upon the basis of information furnished by such board, notwithstanding any other provisions of this section.

§ 27.40 *New certificates; conditions of issuance.* For the business convenience of a holder of a cotton class certificate issued under this subpart a new certificate may be issued at the request of the holder, to take the place of the former certificate without the reclassification of the cotton and without a new Micronaire determination for the cotton. In any case where a new certificate is issued in accordance with this section, the former certificate shall be surrendered for cancellation, and such new certificate shall bear a new number, the date of its issuance, and the date of original certification, and shall otherwise comply with this subpart.

§ 27.41 *Lost certificate; duplicate.* Upon the written request of the last holder of a valid cotton class certificate and a showing to the satisfaction of the chairman of the board of cotton examiners which issued such certificate, that it has been lost or destroyed, and, if lost, that diligent effort has been made to find it without success, a new certificate shall be issued without the reclassification of the cotton and without a new Micronaire determination for the cotton. Such new certificate shall bear the same number and date of issuance as the lost or destroyed certificate, and shall include a statement to the effect that it is a duplicate issued in lieu of the lost or destroyed original, as the case may be.

§ 27.42 *Surrender of certificate.* For good cause any certificate issued under this subpart shall be surrendered to a board of cotton examiners for correction or cancelation. If such certificate be not surrendered upon request it shall nevertheless be invalid under section 4863 of the act and this subpart.

§ 27.43 *Validity of cotton class certificates.* Each cotton class certificate for cotton classified as tenderable shall be valid for use in the tender of such cotton on a section 4863 contract made in accordance with the act and this subpart and the rules of an exchange not inconsistent therewith.

§ 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 restored under the supervision of an exchange inspection agency.

§ 27.45 *No storage of cotton for classification at disapproved place.* No cotton submitted for classification under section 4863 of the act shall be located or

stored at a place disapproved for the purpose by the chairman of board of cotton examiners or the Director on account of being unsuitable for the safekeeping or proper storage of such cotton, or on account of the failure or refusal of the custodian thereof to comply or to permit compliance with the requirements of this subpart so far as he may be involved therein. Notice of such disapproval shall be given in such manner as the Director may direct. Thereafter every cotton class certificate, if any, previously issued for cotton located or stored at such place shall be invalid for the delivery of such cotton on a section 4863 contract, unless the cotton shall be removed under the supervision of the exchange inspection agency, or a representative of the Department designated for the purpose by the chairman of the board of cotton examiners or the Director, to a place which shall be suitable for the purpose. Upon such removal and the request of the holder of the cotton class certificate for such cotton a new certificate in lieu thereof, as provided elsewhere in this subpart, shall be issued to him.

§ 27.46 *Cotton withdrawn from storage.* The exchange inspection agency under the supervision or control of which any cotton classified pursuant to this subpart shall be held or stored shall furnish to the board of cotton examiners which classified such cotton, on the first business day of each week, a written statement of all cotton withdrawn from storage, or the lot number or other identification of which has been changed, or which has otherwise been removed from the supervision or control of such exchange inspection agency during the next preceding week. Such statement shall show each lot number, and, if changed, the new lot number, and in case of the withdrawal or removal of a portion only of the lot, the tag numbers of the bales so withdrawn or removed. If such removal shall be to a different place of storage under the supervision or control of the exchange inspection agency, the statement shall show the new location.

§ 27.47 *Tender or delivery of cotton; conditions.* Subject to the provisions of §§ 27.52–27.56, 27.65, no cotton shall be tendered or delivered on a section 4863 contract unless on or prior to the date fixed for delivery under such contract, and in advance of final settlement of the contract, the person making the tender shall furnish to the person receiving the same a valid outstanding cotton class certificate complying with the regulations in this subpart, showing such cotton to be tenderable on a section 4863 contract.

DELAYED CERTIFICATION

§ 27.52 *Delivery without certification.* If upon the date fixed for delivery in accordance with section 4863 of the act cotton class certificates shall not have been issued by a board of cotton examiners for cotton to be delivered pursuant to such notice, samples of which cotton shall have been in the custody of the board for the time hereinafter prescribed, the delivery of such cotton may be made upon compliance with and subject to the conditions specified in §§ 27.52–27.56. Sections 27.52–27.56 shall not apply to cotton upon which a board of cotton examiners has already issued cotton class certificates pursuant to this subpart.

§ 27.53 *Notice for delayed certification; requirements.* On the date of giving the transferable notice of the delivery in accordance with section 4863 of the act the person issuing such notice or the person on whose behalf it was issued shall also give written notice to the board or officer with whom the classification request was required to be filed, specifying the date of delivery and the number of bales so to be delivered which have not been certified. In such notice, or later in writing before the delivery of the samples to the board, he shall specify the lot numbers of the cotton so to be delivered.

§ 27.54 *Inspection and sampling for delayed certification.* Such cotton must have been duly inspected and sampled, and the original samples thereof properly prepared in accordance with this subpart must be delivered to the board not later than the date of the issuance of the transferable notice, except when the delivery day fixed by such transferable notice is the last delivery day in the month of delivery. In such case the cotton must have been duly inspected and sampled, and the original samples thereof properly prepared in accordance with this subpart must have been delivered to the board in accordance with all regulations applicable and in readiness for classification not later than 8 p. m. of the second business day preceding such last delivery day.

§ 27.55 *Requirements in lieu of cotton class certificates on delivery day.* If on the morning of the delivery day specified in the transferable notice the cotton class certificates covering the cotton involved are not ready for delivery when called for, the tenderer of the cotton shall present to the chairman of the board of cotton examiners, or to his representative authorized for the purpose, a written notice stating to the best of his knowledge and belief the true grade of each individual bale to be delivered, properly identifying each bale with its grade. If the foregoing requirements of §§ 27.52–27.56 shall have been complied with, the chairman of the board, or his duly authorized representative, shall cause to be written or stamped on such notice a statement validating it for use in the tender only on such delivery day of the cotton covered thereby pending the issuance of cotton class certificates in accordance with this subpart. The tenderer shall on such delivery day deliver such notice to the receiver of the cotton, together with the warehouse receipts and such other papers as may be necessary to the delivery of the cotton on such day.

§ 27.56 *Obligations of person making tender.* The person making the tender shall deliver the cotton class certificates therefor to the receiver of the cotton before the close of business hours on the date of the issuance thereof, if delivered to such tenderer before 11 a. m. on that day. If the cotton class certificates be delivered to him after 11 a. m. on that day, the tenderer shall in turn deliver them to the receiver before 11 a. m. on the next following business day. There shall be no right of replacement of bales shown by such certificates to be untenderable.

POSTPONED CLASSIFICATION

§ 27.57 *Request for postponement.* If the applicant desires the postponement of the classification of any cotton covered by a classification request filed pursuant to the regulations in this subpart until later notice, the original classification request must so state, or the applicant must so advise the board in writing before the classification has been entered upon. Such request must show cause and that it is not made merely for dilatory reasons.

§ 27.58 *Postponed classification; must be within 30 days.* If thereafter the classification of the cotton be desired, notice thereof shall be filed not later than the expiration of 30 days after the date upon which the samples were drawn from the cotton, and the original samples must have remained continuously in the possession of the board or under its control.

§ 27.59 *Postponed classification; interference.* Classification pursuant to such suspended request shall not be allowed to interfere with or delay the classification of other samples previously made ready for classification or which are otherwise entitled to priority.

§ 27.60 *When original request deemed withdrawn.* If the period of 30 days specified in § 27.58 shall expire without the filing of the notice of desire for classification the applicant shall be deemed to have withdrawn the original request for the classification of such cotton.

CLASSIFICATION REVIEWS AND MICRONAIRE DETERMINATIONS

§ 27.61 *One review of classification.* One review only of the classification of the cotton covered by any cotton class certificate may be obtained as provided in §§ 27.62 to 27.72, such review to be performed by the Appeal Board of Review Examiners. Micronaire determinations are not subject to review.

§ 27.62 *Conditions for review of classification and for incidental Micronaire determination for original applicant.* The person for whom the classification of cotton has been or is to be performed under this subpart may have a review of such classification by filing a written application therefor before the delivery of such cotton on a section 4863 contract and not later than the expiration of the seventh business day following the date of the first certification of the cotton involved. Such written application may be made at the same time as the request for initial classification. The written application may also include a request for Micronaire determination of the cotton if this service has not been previously performed.

§ 27.63 *Conditions for review of classification and for Micronaire determination for receiver.* Any receiver of cotton

upon a section 4863 contract who has not re-delivered such cotton on a section 4863 contract may have a review of the classification of any cotton of which the classification has not been previously reviewed, by filing a written application within 7 business days following the date of the delivery of cotton class certificates to him in accordance with this subpart. When more than 5,000 bales of cotton shall have been delivered to the same receiver on the same date of delivery, he may, upon proper showing of the facts, be allowed 5 additional business days for filing his application for the review of the classification of any such cotton, provided written request for such extension is filed within 7 business days following the date of such delivery. In the event of the reissue of certificates to replace any certificates delivered to him, the receiver may have a review of the classification of the cotton covered by such reissued certificates, provided such review is requested within the time herein prescribed, calculated from the date of delivery of such reissued certificates. Any such receiver may also have a Micronaire determination, with or without review of classification, under these same conditions on cotton on which this service has not been previously performed under this subpart.

§ 27.64 *Application for review of classification and for Micronaire determination; filing.* (a) Every application for review of classification or for Micronaire determination under § 27.62 or § 27.63 shall be filed with the board of cotton examiners or in the absence of a board, with the supervisor of inspection at the point where the cotton was or may be delivered in settlement of a contract under the act and this subpart. The application shall in each case be in the hands of such board or supervisor within the time specified in § 27.62 or § 27.63 for applying for review: *Provided*, That any board of cotton examiners may designate any officer of the Cotton Division located at another point to receive applications, and in such cases the applications shall be in the hands of the officer so designated within the time so specified. Any person making such application shall, upon call of the person with whom such application was filed under this section, surrender the cotton class certificate or certificates covering the cotton involved.

(b) Such applications shall be made on a form furnished or approved by the Cotton Division and shall contain (1) the name and address of the party, if any, from whom the cotton was received on a section 4863 contract; (2) the lot numbers of the cotton; and (3) the warehouse bale numbers.

§ 27.65 *Completion of review of classification.* In any case where an application for review of classification or an application for Micronaire determination has been filed with respect to cotton previously designated as tenderable, such review or determination may be completed notwithstanding the subsequent tender of such cotton on a section 4863 contract.

§ 27.66 *Dismissal of application for review.* Any application for review may be dismissed whenever it shall be found by the chairman of the board or the Director that it was filed without good cause or for dilatory purposes.

§ 27.67 *Use of new samples in reviews and Micronaire determinations.* Unless the use of new samples shall be necessary in the judgment of the chairman of the board of cotton examiners, a review classification pursuant to §§ 27.61 to 27.72, or a Micronaire determination pursuant to § 27.14, § 27.62, or § 27.63, shall be made by reference to the samples, if any, of the cotton involved in the possession of the board; but if the use of new samples is deemed necessary by the chairman of said board, or if there are no samples of the cotton in the possession of the board, or if the samples of the cotton have been in the possession of the board for more than one year, the person requesting the review classification or Micronaire determination shall cause new samples to be drawn for the purpose and submitted to the board in accordance with this subpart.

§ 27.69 *Classification review; notations on certifcate.* When a review of classification is made after the issuance of a cotton class certificate, the results of the review classification, the date of issuance of the review classification results, and the signature of the chairman of the Appeal Board of Review Examiners shall be entered on the cotton class certificate. Thereupon the certificate shall be returned to the person who requested the review.

§ 27.72 *Withdrawal of application for review.* Any application for review may be withdrawn by the applicant at any time before the review classification of the cotton covered thereby has been completed, subject to the payment of such fees, if any, as may be assessed pursuant to §§ 27.80–27.92.

TRANSFERS OF COTTON

§ 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 Director. 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 Cotton Division, 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.

COSTS OF CLASSIFICATION AND MICRONAIRE

§ 27.80 *Fees; classification and Micronaire determination.* For the initial classification, review of classification, Micronaire determination, and certification of cotton pursuant to this subpart, whether such cotton be tenderable or not, the person requesting these services shall pay fees as follows: (a) If the same request covers initial classification, review of classification, and Micronaire determination, and only the review of classification and Micronaire determination results are to be certified on cotton class certificates covering the cotton involved, the entire fee shall be 60 cents per bale; or (b) under all other conditions the fee for initial classification and certification shall be 25 cents per bale, the fee for review of classification and certification shall be 50 cents per bale, and the fee for Micronaire determination and certification shall be 25 cents per bale.

§ 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 incident thereto.

§ 27.83 *No fees for certain certificates.* No fee shall be collected for a new cotton class certificate issued in lieu of a prior certificate solely for the purpose of correcting clerical errors therein or for the purpose of substituting a new form

applicable to outstanding certificates, or without an application therefor.

§ 27.85 *Fees; withdrawn requests or applications.* When the request for classification, or the application for review of classification, of any cotton or the request for Micronaire determination for any cotton shall be withdrawn after the service requested has been started pursuant to such request or application, the person making such request or application shall pay the fee prescribed by § 27.80 as to any service completed prior to such withdrawal.

§ 27.87 *Fees; classification and Micronaire determination information.* Whenever the person who requests the classification of, or Micronaire determination for, any cotton, or the person on whose behalf such request is made, also requests the transmission by telegraph or telephone of information concerning such classification or Micronaire determination, the person making the request for such classification or determination shall pay, in addition to the applicable costs prescribed in this subpart, the cost of tolls incurred in such transmission.

§ 27.88 *Travel expense.* When the inspection and sampling or the supervision of the transfer of any cotton shall be performed at a place other than that where a board of cotton examiners or supervisor of cotton inspection is regularly located, the person making the request for the classification or the supervision of the transfer of the cotton shall pay, in accordance with the fiscal regulations of the Department, in addition to the costs hereinbefore prescribed, the necessary traveling expenses and subsistence, or per diem in lieu of subsistence, incurred on account of such request, by the persons employed by the Department to supervise such inspection and sampling or transfer.

§ 27.89 *Expenses: inspection; sampling.* The expense of inspection and sampling, the preparation of the samples, and the delivery of such samples in accordance with § 27.24, shall be borne by the party requesting the classification of the cotton involved. When a review of classification or a Micronaire determination is requested and samples of the cotton involved are not in possession of a board of cotton examiners, the expense of inspection, sampling, preparation of samples, and delivery of the samples to the board of cotton examiners shall be borne by the party requesting the service.

§ 27.90 *Bills for payment of fees and expenses.* The Cotton Division shall deliver bills to all persons from whom payment for fees or expenses on account of services under this subpart shall be due. Such bills shall be rendered as soon as practicable after the last day of each month for the amounts due and unpaid on such day. When necessary, in the discretion of the chairman of the board or the Director, any bill may be rendered at an earlier date for any fees and expenses then due by the person to whom such bill shall be rendered. Payment of any such bill shall be made as soon as possible after the rendition thereof, but in any event not later than 2 weeks after such rendition.

§ 27.91 *Advance deposit may be required.* If requested by the chairman of the board of cotton examiners with which the classification request is required to be filed or by the Director, the person from whom any payment under this subpart may become due shall make an advance deposit to cover such payment in such amount as may be necessary in the judgment of the official requesting the same.

§ 27.92 *Method of payment; advance deposit.* Any payment or advance deposit under this subpart shall be by check, draft, or money order, payable to the order of "Agricultural Marketing Service, USDA," and may not be made in cash except in cases where the total payment or deposit does not exceed $1.

SPOT MARKETS

§ 27.93 *Bona fide spot markets.* The following markets have been determined, after investigation, and are hereby designated to be bona fide spot markets within the meaning of the act:

| | |
|---|---|
| Atlanta, Ga. | Greenwood, Miss. |
| Augusta, Ga. | Houston, Tex. |
| Charleston, S. C. | Little Rock, Ark. |
| Dallas, Tex. | Lubbock, Tex. |
| Fresno, Calif. | Memphis, Tenn. |
| Galveston, Tex. | Montgomery, Ala. |
| Greenville, S. C. | New Orleans, La. |

§ 27.94 *Spot markets (for certain determinations only).* The following are designated as spot markets for the purpose of determining, as provided in paragraph 4863 (c) of the act, the differences above or below the contract price which the receiver shall pay for grades other than the basis grade tendered or delivered in settlement of a section 4863 contract:

(a) For cotton delivered in settlement of any such contract at delivery points on or near the Gulf of Mexico:

| | |
|---|---|
| Dallas, Tex. | Memphis, Tenn. |
| Galveston, Tex. | New Orleans, La. |
| Houston, Tex. | |

(b) For cotton delivered in settlement of any such contract at delivery points on the Atlantic coast:

| | |
|---|---|
| Atlanta, Ga. | Memphis, Tenn. |
| Augusta, Ga. | Montgomery, Ala. |
| Charleston, S. C. | |

PRICE QUOTATIONS AND DIFFERENCES

§ 27.95 *Spot markets to conform to act and regulations.* Every bona fide spot market shall, as a condition of its designation and of the retention thereof for the purposes of the act, conform to section 4862 and paragraph 4863 (c) of the act and the requirements of §§ 27.96–27.102.

§ 27.96 *Basis of prices in bona fide spot markets.* The prices or values of Middling cotton and the differences between the prices or values of Middling cotton and of other grades of cotton in each bona fide spot market shall be based solely upon the grades of the official cotton standards of the United States and shall be the actual commercial prices or values and differences established by the sale of spot cotton in such bona fide spot market. Such prices or values and differences shall be determined as provided in said sections of the act and §§ 27.96–27.102.

§ 27.97 *Quotation committees; establishing.* There shall be established and maintained in each bona fide spot market a competent quotation committee. The organization of such committee and its personnel shall be subject to the approval of the Director, and any member of such committee who for good cause is disapproved by the Director shall, after due notice, be replaced by another person acceptable for the purpose to the Director. Such committee shall impartially and carefully ascertain and publish on each business day the value of Middling cotton and the differences between the prices or values of Middling cotton and of other grades of cotton represented by the official cotton standards of the United States. The committee shall disregard any transactions which it finds were not bona fide, or were made for the purpose of influencing its action improperly, or for other good reasons do not represent truly the commercial values of spot cotton in its market. The time or times of ascertaining and publishing such prices or values and differences shall be uniform in all the bona fide spot markets and shall be fixed subject to the approval of the Director so as to carry out the purposes of section 4863 of the act. The committee shall cause its action to be communicated at once to each futures exchange and to the Cotton Division.

§ 27.98 *Duties of quotation committees.* Each such quotation committee shall provide itself with, or have ready access to, a full valid set of the practical forms of the official cotton standards of the United States for grade of upland cotton. Such committee, or a person authorized to act for it, shall obtain complete and satisfactory information not later than the close of business on each business day as to all sales of spot cotton since the close of the next preceding business day, including the grades, the prices or price basis, and other terms of sale in sufficient detail to enable the committee to perform its duties accurately. Such committee shall also have access to the samples representing the cotton involved in such sales. Any record of such information shall be subject to examination at any reasonable time by a duly authorized representative of the Department, and the samples of the cotton as long as they remain in the possession of any party to the transaction in such market shall also be available for such examination.

§ 27.99 *Value of grade where no sale; determination.* Whenever no sale of a particular grade of cotton shall have been made on a given day in a particular bona fide spot market, the value of such grade in that market on that day, which shall be used in calculating the commercial differences to be applied, pursuant to paragraph 4863 (c) of the act, in the settlement of a section 4863 contract,

shall be determined in accordance with § 27.100.

§ 27.100 *Values of grades.* (a) If on such given day there shall have been in such market both a sale of any higher grade and a sale of any lower grade, the average of the declines, or advances, or decline and advance, as the case may be, of the next higher grade and the next lower grade so sold shall be deducted from, or added to, as the case may be, the value, on the last preceding business day, of the grade the value of which on such given day is sought to be ascertained.

(b) If on such given day there shall have been in such market a sale of either a higher or a lower grade, but not sales of both, the decline or advance of the next higher or the next lower grade so sold shall be deducted from, or added to, as the case may be, the value on the last preceding business day of the grade the value of which on such given day is sought to be ascertained.

(c) If on such given day there shall have been in such market no sale of spot cotton of any grade, the value of each grade shall be deemed to be the same as its value therein on the last preceding business day, unless in the meantime there shall have been bona fide bids and offers, or sales of hedged cotton, or other sales of cotton, or changes in prices of futures contracts made subject to the act, which in the usual course of business would clearly establish a rise or fall in the value of spot cotton in such market, in which case such rise or fall may be calculated and added to or deducted from the value on the preceding business day of cotton of all grades affected thereby.

§ 27.101 *Values; expression.* For the purpose of this subpart values shall be expressed in terms of cents and hundredths of a cent. A fraction of a hundredth, when equal to, or greater than, the half thereof, shall be treated as a hundredth, and when less than a half of a hundredth shall be disregarded.

§ 27.102 *Administration.* The details of the method of carrying out the provisions of this subpart in each bona fide spot market shall be subject to the approval of the Director or shall be prescribed by him.

### SUBPART B—OFFICIAL COTTON STANDARDS OF THE UNITED STATES FOR FIBER FINENESS AND MATURITY

AUTHORITY: §§ 27.210 to 27.213 issued under sec. 4854, 68A Stat. 580; 26 U. S. C. 4854.

§ 27.210 *Standards for fiber fineness and maturity of American upland cotton.* The official cotton standards of the United States for fiber fineness and maturity of American upland cotton, for the purposes of the cotton futures legislation in the Internal Revenue Code of 1954, shall be the measure of such qualities, in combination, provided by the use of the Micronaire instrument, model 60600 (or other model used by the Department of Agriculture giving the same results) in accordance with the procedure specified in § 27.212 (subject to any changes in such procedure made by amendments of § 27.212 which do not perceptibly affect the results obtained).

§ 27.211 *Terms of designation.* The fiber fineness and maturity of any American upland cotton shall be designated by the scale reading shown on the Micronaire instrument for the specimen of the cotton, as determined under § 27.212, e. g., 4.1, 4.2, 4.3, or 4.4.

§ 27.212 *Procedure for use of Micronaire instrument.* In determining in terms of Micronaire scale units, the fiber fineness and maturity, in combination, of American upland cotton, the following procedure shall apply:

(a) Facilities and equipment shall include:

(1) Laboratory controlled atmospheric conditions of 65 percent relative humidity ±2 and a temperature of 70° F. ±2.

(2) Micronaire instrument used by the Department of Agriculture, complete with accessories, including:

(i) Calibrating pressure manometer or similar device used by the Department of Agriculture.

(ii) Two calibrating orifices (one fine and one coarse).

(iii) Special scale for indicating the float position in the instrument flow tube. (Curvilinear scale for American upland cotton adopted September 1950 by the Department of Agriculture, or its equivalent.)

(iv) A continuous supply of compressed air with a minimum line pressure of 65 pounds per square inch.

(3) Scales suitable for accurately weighing 50.0 grain specimens.

(b) Calibration of the Micronaire instrument shall be performed as described in this paragraph. The instrument, which shall be set up in accordance with the manufacturer's instructions and connected to a continuous supply of compressed air with a minimum line pressure of 65 pounds per square inch, shall be checked each day before being operated, as follows:

(1) The air shall be allowed to flow through the instrument for a period of 5 minutes before calibration.

(2) The regulating valve or valves shall be adjusted to obtain proper pressures in accordance with the manufacturer's instructions.

(3) The calibration screws on the instrument shall be adjusted until the fine and coarse calibration orifices produce readings on the instrument which coinside with the lower and upper calibration lines, respectively, on the scale and at the same time maintain the proper pressure.

(c) An untreated specimen from the sample of cotton shall be tested. The specimen shall be taken from the center of both sides of each sample to be tested. The specimen shall weigh 50.0 grains, except that if the Micronaire testing is conducted under conditions other than those specified in paragraph (a) (1) of this section, the specimen shall be the equivalent in weight to a specimen weighing 50.0 grains under the conditions specified in said paragraph.

(d) Testing of the cotton specimen shall be performed as follows:

(1) The weighed specimen shall be tested in a properly calibrated instrument. (See paragraph (b) of this section on calibration.)

(2) The specimen shall be inserted into the specimen holder of the instrument so that the mass of fibers is well distributed across the area of the specimen holder.

(3) The plunger shall be pushed down on the specimen until the flange of the plunger rests against the shoulder of the specimen holder and remains in contact.

(4) The air shall then be allowed to flow through the specimen in accordance with the method of operation of the instrument.

(5) The scale reading shall be determined at the uppermost edge of the float in the flow tube when the float becomes stable.

§ 27.213 *Applicability of standards for fiber fineness and maturity of American upland cotton.* The standards provided for in § 27.210 for the fiber fineness and maturity of American upland cotton shall be official cotton standards of the United States for purposes of the cotton futures legislation in the Internal Revenue Code of 1954, but not for the purposes of the United States Cotton Standards Act, as amended (7 U. S. C. 51, 52–65).

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## PART 28—COTTON CLASSING, TESTING, AND STANDARDS

### Subpart A—Regulations Under the United States Cotton Standards Act

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DEFINITIONS



ADMINISTRATION



FIBER AND PROCESSING TESTS



## SUBPART A—REGULATIONS UNDER THE UNITED STATES COTTON STANDARDS ACT

AUTHORITY: §§ 28.1 to 28.165 issued under sec. 10, 42 Stat. 1519; 7 U. S. C. 61.

DEFINITIONS

§ 28.1 *Meaning of words.* Words used in this part in the singular form shall be deemed to import the plural, and vice versa, as the case may demand.

§ 28.2 *Terms defined.* As used throughout this subpart, unless the context otherwise requires, the following terms shall be construed, respectively, to mean:

(a) *The act.* The United States Cotton Standards Act, approved March 4, 1923 (42 Stat. 1517; 7 U. S. C. 51 et seq.) with such amendments as may be made from time to time.

(b) *Regulations.* Regulations mean the provisions in this subpart.

(c) *Department.* The United States Department of Agriculture.

(d) *Secretary.* The Secretary of Agriculture of the United States, or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

(e) *Service.* The Agricultural Marketing Service of the United States Department of Agriculture.

(f) *Administrator.* The Administrator of the Agricultural Marketing Service, or any officer or employee of the Service, to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

(g) *Division.* The Cotton Division of the Agricultural Marketing Service.

(h) *Director.* The Director of the Cotton Division, or any officer or employee of the Division to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

(i) *Board.* Board of cotton examiners.

(j) *Cotton examiner.* An officer of the Department so designated by the Director.

(k) *License.* A license issued under the act by the Secretary.

(l) *Licensed classer.* A person licensed under the act by the Secretary to classify cotton according to the official cotton standards of the United States and to certificate the classification of the same.

(m) *Cotton.* The word "cotton" as used in the act means cotton of any variety produced within the continental United States, including linters. In this subpart, for administrative convenience, the word "cotton" is used to signify vegetable hair removed from cottonseed in the usual process of ginning, and the word "linters" as defined in paragraph (n) of this section.

(n) *Linters.* Vegetable hair removed from cottonseed subsequent to the usual process of ginning.

(o) *Upland cotton.* All cotton grown anywhere within the continental United States including the growths sometimes referred to as Upland, Gulf, and Texas cotton, but excluding the Sea Island and American Egyptian growths.

(p) *Official cotton standards.* Official cotton standards of the United States for the grade of American upland cotton, American Egyptian cotton, and Sea Island cotton, and for length of staple, adopted by or established pursuant to the act, or any change or replacement thereof.

(q) *Universal standards.* The offical cotton standards of the United States for the grade of American upland cotton.

(r) *Person.* Individual, association, partnership, or corporation, or two or more individuals having a joint or common interest.

(s) *Owner.* Person who through financial interest, owns, controls, or has the disposition either of cotton or of samples.

(t) *Custodian.* Person who has possession or control of cotton or of samples, as agent, controller, broker, or factor, as the case may be.

(u) *State.* A State, Territory, or district of the United States.

ADMINISTRATIVE AND GENERAL

§ 28.3 *Director.* The Director shall perform for and under the supervision of the Secretary and the Administrator, such duties as the Secretary or the Administrator may require in enforcing the provisions of the act and the regulations issued thereunder.

§ 28.4 *Boards of cotton examiners.* Boards of cotton examiners shall be maintained at points designated for the purpose by the Administrator. A board of supervising cotton examiners shall be constituted for duty as assigned; and an Appeal Board of Review Examiners shall be constituted to which may be referred requests for the review of the classification and/or comparison of cotton performed by other boards appointed in accordance with this section. The Appeal Board of Review Examiners shall be located at Memphis, Tennessee, except when the Director shall require that committees of the board meet to perform its functions elsewhere. The members of all boards and the chairman of each shall be designated for the purpose by the Director.

§ 28.5 *Secretary, board of cotton examiners.* The Director shall designate a secretary for each board. It shall be the duty of the secretary of the board to receive all correspondence relating to the classification of cotton under the act and to see that all samples are prepared for classification and/or comparison in such manner that the name of the owner and/or the custodian shall be unknown to the members of the board, who are detailed to classify or compare the cotton, until after the samples are classified.

§ 28.6 *Acting secretary of board.* In the event of the absence or incapacity of the secretary of the board the chairman of the board shall designate temporarily an acting secretary of the board in his stead. Any person thus designated shall be thereby disqualified to act as a member of the board in the classification of cotton during the term of such temporary appointment.

§ 28.7 *Chairman of board; responsibility.* Subject to this subpart and the instructions of the Director, the chairman of each board shall be responsible for the proper performance of the duties imposed on such board and on the persons connected therewith.

§ 28.8 *Classification of cotton; determination.* For the purposes of the act, the classification and comparison of any cotton, samples, or types submitted to the Department shall be determined or made only by cotton examiners properly qualified and designated as such by the Director, and the certificate of a board of cotton examiners with respect to any cotton shall be deemed to be the certificate of the Department.

§ 28.9 *Inspection; sampling; classification.* The inspection, sampling, and classification of cotton and cotton linters in the United States pursuant to the act shall be performed as prescribed in this subpart. Subject in general to the provisions of this subpart the Director may issue from time to time instructions for the sampling, classification, and issuance of classification memoranda for cotton or cotton linters classed for special programs and other Government agencies, including the review of any classification performed pursuant to §§ 28.901 through 28.919.

REQUESTS FOR CLASSIFICATION AND COMPARISON

§ 28.15 *Classification and comparison; requests.* All requests for classification and comparison shall be in writing on a form supplied by the Division and shall contain such information as the Director may require. For each lot or mark of cotton which the applicant desires classified or compared separately he shall specify which of the following forms of service is desired:

(a) *Form A determination.* The classification or comparison of samples freshly drawn and submitted to a board of cotton examiners direct from a public warehouse, at the request of the owner

of the cotton or his agent. Such classification or comparison shall be evidenced by a Form A memorandum which shall be subject to review as provided in § 28.66.

(b) *Form C determination.* The classification of bales of cotton inspected and sampled under the supervision of an employee of the Division. The classification in such cases shall be evidenced by a Form C certificate which shall be subject to review as provided in § 28.66.

(c) *Form D determination.* The classification or comparison of samples submitted by the owner of the cotton or his agent. Such classification or comparison shall be evidenced by a Form D memorandum which shall be subject to review as provided in § 28.66.

§ 28.16 *Request for return of samples.* Any applicant desiring return of the samples after classification or comparison is completed, at his expense, shall indicate this service on the form used for requesting such classification or comparison.

§ 28.17 *Filing of requests for classification or comparison.* All requests for classification or comparison leading to Form A memoranda and Form C certificates shall be filed with the secretary of the board which serves the territory in which the cotton is located. All requests for classification or comparison leading to Form D memoranda shall be filed with the secretary of the board which serves the territory in which the samples are located. Samples which are submitted to any board for classification or comparison may be referred by such board to another board for classification or comparison.

§ 28.18 *One request only for classification.* Not more than one request each for a Form A determination, or a Form C determination, or a Form D determination of the same cotton, except a request for a review determination, shall be filed by the same owner within any 30-day period. Any subsequent request shall be accompanied by redrawn samples and the chairman of the board may require that any Form A or Form D memoranda, Form C certificates, or other classification data previously issued by a board with respect to samples purporting to represent the same cotton shall be returned before such redrawn samples are classed.

§ 28.19 *Withdrawal or rejection of classification request.* Any classification request may be withdrawn by the applicant at any time before the classification of the cotton covered thereby, subject to the payment of such fees, if any, as may be prescribed in these regulations. Any classification request may be rejected by the chairman of the board or the Director for noncompliance with the act or this subpart.

DRAWING, SUBMISSION AND DISPOSITION OF SAMPLES FOR FORM A, FORM C, AND FORM D DETERMINATIONS

§ 28.25 *Drawing of samples.* (a) Each sample to be submitted for Form A, C, or D determination shall be approximately 6 ounces in weight, not less than 3 ounces of which are to be drawn from each side of the bale. Each sample must be representative of the bale from which drawn. Samples shall not be dressed or trimmed and shall be carefully handled in such manner as not to cause loss of leaf, sand, or other material, or otherwise change their representative character. Any sample or set of samples which does not meet these requirements may be rejected by the chairman of a board.

(b) Samples to be submitted for Form A determination shall be drawn under the supervision of a public warehouseman and shall be delivered immediately to the secretary of the board by such warehouseman. The samples shall not be handled by any person other than the sampling agent prior to shipment or delivery to the secretary of the board.

(c) Samples to be submitted for Form C determination shall be drawn under the supervision of a Division employee who shall retain custody or control of the samples until they are shipped or delivered to the secretary of the board.

§ 28.26 *Submission of samples.* Samples of cotton submitted to a board of cotton examiners for classification and/or comparison shall be delivered to the secretary of the board with which the request was filed, as soon as possible after the filing of such request. All transportation charges incident to the submission of samples for Form A, Form C, and Form D determinations shall be prepaid by the person making the request or his agent.

§ 28.27 *Preparation of samples.* For each sample to be submitted for classification a tag or coupon showing the bale number from which the sample was drawn shall be inserted between the two halves of the sample. The samples shall be enclosed in one or more wrappers, which shall be labeled or marked, or both, in such manner as to show the name and address of the owner, the lot number or marks, if any, the number of bales represented by the samples contained in each wrapper, and such other information as may be necessary in accordance with the instructions of the chairman of the board or of the Director. Each sample of sandy or dusty cotton shall be enclosed in a separate wrapper.

§ 28.28 *Lost or damaged samples.* If any samples are lost, damaged, or mutilated, or are received in packages arriving in a condition which may be considered to alter the representative character of the sample, the secretary of the board shall note all the facts, including the number of missing samples and the tag numbers identifying the samples received, and shall so inform the person who made the request.

§ 28.29 *Return of samples.* When so stipulated in the classification request for a Form A, C, or D determination, the samples submitted shall be returned to the person making the request, at his expense, at the time the memorandum is issued or when the request for classification is withdrawn or rejected.

§ 28.30 *Samples not removed, property of Department.* Samples not removed in accordance with this subpart and loose cotton separated from samples in the handling and classification thereof shall become the property of the Government and shall be disposed of in accordance with law and applicable regulations.

CLASSIFICATION

§ 28.35 *Method of classification.* All cotton samples shall be classified on the basis of the official cotton standards of the United States in effect at the time of classification.

§ 28.36 *Order of classification.* All samples for which classification requests are pending shall be classified, as far as practicable, in the order in which the samples are delivered for classification. When in the opinion of the chairman of the board an emergency exists, he shall designate which samples will be given priority in classification.

§ 28.37 *Exposing of samples for classification.* Classification shall not proceed until the samples, after being delivered to the board, shall have been exposed for such length of time as in the judgement of the chairman shall be sufficient to put them in proper condition for the purpose.

§ 28.38 *Lower grade (of two samples) to determine classification.* If a sample drawn from one portion of a bale is lower in grade or shorter in length than one drawn from another portion of such bale, except as otherwise provided in this subpart, the classification of the bale shall be that of the sample showing the lower grade or shorter length.

§ 28.39 *Cotton reduced in value; effect.* If cotton be reduced in value, by reason of the presence of extraneous matter of any character or irregularities or defects below its grade or below its apparent length of staple according to the official cotton standards of the United States, the grade or length of staple from which it is so reduced, and the grade or length of staple to which it is so reduced, and the quality or condition which so reduces its value shall be determined and stated.

§ 28.40 *Terms defined; cotton classification.* For the purposes of classification of any cotton or of its comparison with a type or other samples, the following terms shall be construed, respectively, to mean:

(a) *Cotton of perished staple.* Cotton that has had the strength of fiber, as ordinarily found in cotton, destroyed or unduly reduced through exposure to the weather either before picking or after baling, or through heating by fire, or on account of water packing, or by other causes.

(b) *Cotton of immature staple.* Cotton that has been picked and baled before the fiber has reached a normal state of maturity, resulting in a weakened staple of inferior value.

(c) *Gin-cut cotton.* Cotton that shows damage in ginning through cutting by the saws, to an extent that reduces its value more than two grades.

(d) *Reginned cotton.* Cotton that has passed through the ginning process more than once, and cotton that, after having been ginned, has been subjected to a cleaning process and then baled.

(e) *Repacked cotton.* Cotton that is composed of factors', brokers', or other samples, or of loose or miscellaneous lots collected and rebaled, or cotton in a bale which is composed of cotton from two or more smaller bales or parts of bales.

(f) *False packed cotton.* Cotton in a bale (1) containing substances entirely foreign to cotton; (2) containing damaged cotton in the interior with or without any indication of such damage upon the exterior; (3) composed of good cotton upon the exterior and decidedly inferior cotton in the interior, in such manner as not to be detected by customary examination; or (4) containing pickings or linters worked into the bale.

(g) *Mixed packed cotton.* Cotton in a bale which, in the samples drawn therefrom, shows (1) a difference of three or more grades, or (2) a difference of three or more color gradations, or (3) a difference of two or more grades and two or more color gradations, or (4) a difference in length of staple of one-eighth inch or more.

(h) *Water-packed cotton.* Cotton in a bale that has been penetrated by water during the baling process, causing damage to the fiber, or a bale that through exposure to the weather or by other means, while apparently dry on the exterior, has been damaged by water in the interior.

SAMPLE OR TYPE COMPARISON

§ 28.45 *Scope of comparison; requests.* A comparison of cotton samples with a type may be requested with respect to grade, or to staple, including any of the component qualities embodied in the grade, or to all these factors. The classification of the type and the samples in accordance with the official cotton standards of the United States may also be requested. The applicant must specify in his written request the scope of service he desires.

§ 28.46 *Method of submitting samples and types.* The method of submitting samples and types for comparison shall be the same as that prescribed in this subpart for submitting samples for classification.

§ 28.47 *Statement of finding of board in comparisons.* For each quality factor (grade, staple, etc.) of the samples that the applicant has requested to be compared to the type, the board shall state in its findings whether such quality factor for each sample is "better," "equal," or "deficient" in comparison with the type. When appropriate, the findings of the board may also show the amount of difference in grade and in length between the sample and the type as measured by the official cotton standards of the United States, and other explanatory notations as needed.

CERTIFICATES AND MEMORANDA

§ 28.55 *Issuance of memoranda and certificates.* As soon as practicable after the classification of cotton has been completed by a board of cotton examiners, there shall be issued a cotton class memorandum or certificate of the appropriate kind showing the results of such classification. Upon request from an applicant, classification results may be issued in preliminary form on record sheets.

§ 28.56 *Form A and Form D memoranda.* (a) When a classification and/or comparison has been made of any samples submitted to a board of cotton examiners direct from a public warehouse, the results of such classification and/or comparison may be stated in a Form A memorandum.

(b) When a classification and/or comparison has been made of any samples submitted by the owner of the cotton or his agent, the results of such classification and/or comparison may be stated in a Form D memorandum.

(c) Form A and Form D memoranda shall not be deemed to be final certificates within the meaning of section 4 of the act (42 Stat. 1517; 7 U. S. C. 54).

§ 28.57 *Form C certificate.* When classification has been made of cotton inspected and sampled under supervision of a Division employee there shall be issued a cotton class certificate known as a Form C certificate. Each Form C certificate shall show the true classification of the cotton in the respects specified in the request. Such certificate, when it has been once reviewed in accordance with § 28.66, shall be deemed to be a final certificate as to the classification shown, within the meaning of section 4 of the act (42 Stat. 1517; 7 U. S. C. 54), in all cases except when superseded by a certificate or award made as provided in § 28.161.

§ 28.58 *New memorandum or certificate; issuance.* Upon the written request of a holder of a cotton class memorandum or certificate issued under this subpart, a new memorandum or certificate shall be issued, without the reclassification of the cotton, to take the place of the former memorandum or certificate for any cotton covered thereby, when necessary on account of the breaking or splitting of a lot or otherwise for the business convenience of such holder. In any case where a new memorandum or certificate is requested in accordance with this section the former memorandum or certificate shall be surrendered for cancellation, and such new memorandum or certificate shall bear a new number and the date of its issuance and the date of original classification and shall otherwise comply with this subpart.

§ 28.59 *Lost memorandum or certificate may be replaced by duplicate.* Upon the written request of the last holder of a valid Form A or Form D memorandum, or Form C certificate and a showing to the satisfaction of the chairman of the board which issued such memorandum or certificate that it has been lost or destroyed and, if lost, that diligent effort has been made to find it without success, a new memorandum or certificate shall be issued without the reclassification of the cotton. Such new memorandum or certificate shall bear the same number and date of issuance as the lost or destroyed memorandum or certificate and shall include a statement to the effect that it is a duplicate issued in lieu of the lost or destroyed original, as the case may be.

§ 28.60 *Surrender of memoranda or certificates.* For good cause any memorandum or certificate issued under this subpart shall be surrendered to the chairman of the board which issued it, upon his request or upon the request of the Director. A new memorandum or certificate complying with this subpart may be issued in substitution therefor. If such memorandum or certificate be not surrendered upon such request, it shall nevertheless be invalid for the purposes of the act and this subpart.

REVIEWS

§ 28.65 *Provisions for reviews.* Reviews of classifications or comparisons represented by Form A or D memoranda or Form C certificates shall be governed by § 28.66.

§ 28.66 *Review procedure.* A review of any Form A, C, or D determination may be requested by the owner or custodian of the cotton from which the sample was drawn within 30 days after the issuance of the original memorandum. Such review shall cover all of the quality factors for which the original determination was made. Requests for reviews of Form A or D determinations may be filed with, and the review made by, the board which issued such memorandum or the Appeal Board of Review Examiners. Requests for reviews of Form C determinations shall be filed with, and the reviews made by, the Appeal Board of Review Examiners. Redrawn samples shall be required for reviews of Form A and Form C determinations except in cases where the original samples have remained, identity preserved, in the custody of the Division. When redrawn samples are necessary, they shall be drawn and submitted as prescribed in this subpart. As evidence of a review determination, a Form A or D memorandum or Form C certificate appropriately marked to indicate that it represents a review determination shall be issued to the applicant requesting the review. The applicant may be required by the board or Appeal Board issuing such review determination to surrender the original classification memorandum or certificate. In any event the review determination shall supersede and invalidate the original determination.

§ 28.67 *Review of licensed classer's certificate.* In case a review is desired of the classification of any cotton represented in a certificate issued by a licensed classer, the procedure shall be as provided in § 28.98.

§ 28.68 *Withdrawal of application for review.* Any application for review may be withdrawn by the applicant at any time before the review classification of the cotton covered thereby has been completed, subject to the payment of such fees, if any, as may be prescribed in this subpart.

LICENSED CLASSERS

§ 28.80 *Applications for licenses to classify cotton.* (a) Applications for licenses to classify cotton under section 3 of the act (42 Stat. 1517; 7 U. S. C. 53) shall be made to the Director on forms furnished by the Division.

(b) Each such application shall be in English, shall be signed by the applicant, and shall contain or be accompanied by (1) satisfactory evidence that he has passed his 21st birthday and that he is an actual resident of the continental United States, (2) satisfactory evidence of his training and experience in the actual classification of cotton, (3) a statement of the standards for cotton for the classification of which a license is desired, (4) a statement by the applicant that he agrees to comply with and abide by the terms of the act and this subpart so far as they may relate to him, and (5) such other information as may be required.

(c) The applicant shall furnish with his application a statement of the reasons he desires and needs a license.

§ 28.81 *Examination of applicant.* Each applicant for a license as a classer and each licensed classer shall, when requested by the Director submit to an examination or test to show his ability to classify cotton, and each applicant who already holds a license under the act shall make available for inspection copies of the standards for classification used or to be used by him. An applicant who fails in an examination may be denied immediate reexamination.

§ 28.82 *Examination; scope of "limited license."* Examinations of applicants for licenses shall cover the classification of cotton in accordance with any or all of the standards listed below:

(a) The official cotton standards of the United States for grades and for all lengths of staple of American upland cotton.

(b) The official cotton standards of the United States for the grades of American upland cotton and for staple lengths not exceeding 1⅛ inches.

(c) The official cotton standards of the United States for grades and staple lengths of American Egyptian cotton.

(d) The official cotton standards of the United States for grades and staple lengths of Sea Island cotton.

Each license under the act and each identification card shall specify the standards with respect to which it is issued. Any license which merely authorizes the licensee to determine the grade of American upland cotton and staple lengths not exceeding 1⅛ inches shall be conspicuously marked "Limited License."

§ 28.83 *Examination of licensees.* Examination of licensees, when required, shall cover the classification of cotton with respect to any or all of the standards specified in their licenses. In addition any licensee who makes the necessary application and pays the fee specified in this subpart may be examined and licensed with respect to the classification of cotton according to any of the foregoing standards for which he does not already hold a license.

§ 28.84 *Period of license.* The period for which a license may be issued shall be from the first day of August until and including the thirty-first day of July following. Renewals shall be for not more than 1 year beginning with the first day of August of each year: *Provided,* That licenses issued on and after June 1 of each year shall be for the period ending on July 31 of the following year.

§ 28.85 *Conditions as to licensing of classer.* (a) It shall be a condition of the licensing of any cotton classer under this subpart and of the retention by him of a license, that he shall be actively engaged in the classification of cotton; that all cotton classified by him shall be graded and stapled in accordance with the official cotton standards of the United States; that his sample and type comparisons, if any, shall be truly and accurately made; that he shall not use his license or allow the same to be used for any improper purpose; and that he shall comply with the act and with the regulations in this subpart.

(b) It shall be a condition of the renewal of the license of any licensed cotton classer who has not issued any licensed classer's certificates in the three years immediately preceding his application for renewal that he take and satisfactorily pass the practical classing examination required for initial issuance of a license. When such re-examination is required, the applicant for renewal shall be required to pay the fee prescribed in this subpart for examination and issuance of a license.

§ 28.86 *Fee for classifying cotton.* Whenever any classer licensed under the act in accordance with this subpart shall classify and/or certificate any cotton or samples in consideration of a stated fee, the fee charged shall be reasonable.

§ 28.87 *Copies of class certificates; retention period; other requirements.* Each licensed classer shall keep for 1 year after date of issuance in a place accessible to interested persons a copy of each certificate issued by him as a licensed classer under this subpart. The Director may require that a copy of each such certificate be forwarded to a supervising office of the Division designated by him immediately after issuance of the certificate. Each licensed cotton classer who places his certificate of classification directly on warehouse receipts, weight certificates, or on other documents approved by the Director for showing such certificate of classification shall keep for 1 year after date of classification a record listing each individual bale or sample classified by him in his capacity as a licensed classer. Such record shall show the bale number, grade, length of staple, or other class of each bale or sample, and date classed. A copy of the record shall be mailed weekly to the supervising office of the Service designated by the Director.

§ 28.88 *Supervisory samples and reports.* The Director may require each licensed classer to submit supervisory samples to a supervising office of the Division in accordance with instructions furnished to licensed classers from time to time. Any such samples submitted to the Division shall become the property of the Government and be disposed of in accordance with law and applicable regulations unless the licensee requests return of the samples at his expense. The Director may also require each licensed classer to make reports on forms furnished by the Division, or otherwise, bearing upon his activities as such licensed classer.

§ 28.89 *Information of violations.* Every person licensed under the act shall immediately furnish the Director any information which comes to the knowledge of such person tending to show that any provision of the act or this subpart has been violated.

§ 28.90 *Suspension of license.* Pending investigation the Secretary or an authorized official of the Department may, whenever he deems necessary, suspend the license of a licensed classer temporarily without hearing. Whenever a licensed classer shall voluntarily surrender his license for suspension or cancellation the same may be suspended or canceled by the Secretary or an authorized official of the Department without a hearing. The Secretary, or an authorized official of the Department may, after opportunity for hearing has been afforded in the manner prescribed in this section, suspend or cancel a license issued to a licensed classer when such licensed classer (a) has ceased to perform services as such classer, (b) has knowingly or carelessly classified cotton improperly, (c) has violated or evaded any provisions of the act or the regulations thereunder so far as the same may relate to him, (d) has used his license or allowed it to be used for any improper purposes, or (e) has in any manner become incompetent or incapacitated to perform the duties of such licensed classer. Before the license of any licensed classer is finally suspended or revoked pursuant to section 3 of the act (42 Stat. 1517; 7 U. S. C. 53), such licensed classer shall be furnished by the Secretary, or by an authorized official of the Department, a written statement specifying the charges and shall be allowed a reasonable time within which he may answer the same in writing and apply for a hearing, an opportunity for which shall be accorded if requested in accordance with § 28.92.

§ 28.91 *Suspended license to be returned to Division.* If a license issued to a licensed classer is suspended, revoked, or canceled, such license shall be returned to the Division. At the expiration of any period of suspension of such license, unless in the meantime it be revoked or canceled, the dates of the beginning and termination of the suspension shall be indorsed thereon, and it shall be returned to the licensed classer to whom it was originally issued.

§ 28.92 *Hearings granted licensees.* For the purpose of a hearing under the act or this subpart, the licensee involved shall be allowed a reasonable time, fixed by the Secretary or by an authorized official of the Department, within which affidavits and other proper evidence may be submitted. If requested by the licensee within such time, an oral hearing, of which reasonable notice shall be given, shall be held before and at the time and place fixed by the Secretary or an authorized official of the Department. The testimony of the witnesses at such oral hearing shall be upon oath or af-

firmation administered by the official before whom the hearing is held when required by him. Such oral hearing may be adjourned by him from time to time. After reasonable notice to all parties concerned, the deposition of any witness may be taken at a designated time and place and before an authorized official of the Department. Every written entry in the records of the Department made by an officer or employee thereof in the course of his official duty, which is relevant to the issue involved in a hearing, shall be admissible as prima facie evidence of the facts stated therein without the production of such officer or employee. Copies of all papers and all the evidence submitted or considered in such hearing shall be made a part of the records of the Department. Such records, and when there has been an oral hearing the recommendation of the official holding such oral hearing, shall be transmitted to the Secretary or an authorized official of the Department for his consideration. Each party shall pay all expenses contracted by him in connection with any hearing under this section.

§ 28.93 *Lost license may be duplicated.* Upon satisfactory proof of the loss or destruction of a license issued to a licensed classer, a duplicate thereof may be issued under the same or a new number, in the discretion of the Director.

§ 28.94 *Classer; misrepresentation.* No person shall in any way represent himself to be a classer licensed under the act unless he holds an unsuspended, unrevoked, unexpired, and uncanceled license issued under the act.

§ 28.95 *Class certificate; form.* Each class certificate issued under the act by a licensed classer shall be in a form approved for the purpose by the Director and shall embody within its written or printed terms:

(a) The caption "Licensed Cotton Classer's Certificate."

(b) The serial number assigned to it.

(c) The date and place of issuance.

(d) That the certificate is issued by a classer licensed under the United States Cotton Standards Act and this subpart.

(e) A list of the standards with respect to which the classer is licensed.

(f) The exact location of the cotton at the time of classification.

(g) A statement in accordance with the facts in each case, either (1) that the classer has drawn or supervised the drawing of the samples upon which his classification is based, or (2) that the samples were submitted to the classer by another person, in which case the name and address of such person shall be stated.

(h) The identification of each bale of cotton by the tag number or mark by which the bale was identified at the time the sample was taken.

(i) The grade, length of staple, or other class of each bale or sample of cotton covered thereby.

(j) The signature of the licensed classer.

§ 28.96 *Certificate by licensed classer not final.* A certificate issued by a licensed classer shall in no case be deemed a final certificate within the meaning of section 4 of the act (42 Stat. 1517; 7 U. S. C. 54). The certificate or memorandum of a board of cotton examiners covering any cotton represented in a licensed cotton classer's certificate shall at once invalidate and supersede a licensed classer's certificate as to such classification.

§ 28.98 *Review of classification.* In case a review is desired of the classification of any cotton represented in a valid certificate issued by a licensed classer as provided in this subpart, the holder of such certificate shall surrender the same, together with samples of the cotton, to a board and receive in its stead a certificate signed by the chairman of such board. The certificate of the board issued in lieu of the licensed classer's certificate in accordance with this section shall be subject to review by the Appeal Board of Review Examiners, provided a review would have been granted if the classification had been performed originally by a board.

PRACTICAL FORMS OF COTTON STANDARDS

§ 28.105 *Practical forms of cotton standards.* (a) Practical forms of the cotton standards of the United States prepared in physical form, each certified under the seal of the United States Department of Agriculture and under the signature of the Secretary, thereto affixed by himself or by some other official or employee of the Department duly authorized by him, and in the case of the standards for grade accompanied by photographs representing the cotton in such practical forms on the date of certification, are available for sale to any person requesting the same, subject to the other conditions of this section.

(b) Each application for practical forms of the cotton standards shall be upon an application form furnished by the Division, shall be signed by the applicant, and shall incorporate the following conditions:

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

(2) That said practical forms and the photographs accompanying them shall be subject to inspection on any business day, between the hours of 9 a. m. and 4 p. m., by the Secretary or by an officer or agent of the Department authorized by him for the purpose.

(3) That the signature of the Secretary certifying to any practical form, or any photograph of said practical form accompanying the same, or both, may be cancelled if it be found, upon such inspection, either that any of said forms for any reason misrepresents the cotton standards or that any such photograph has been altered or mutilated.

§ 28.106 *Universal cotton standards.* Whenever any of the official cotton standards shall have been adopted as universal standards by an association or exchange located in a country other than the United States, the name of such association or exchange may be shown on the outside of the box or container.

§ 28.107 *Containers of "original" cotton standards; where kept; reserve sets.* (a) The containers of the original universal standards and other official cotton standards of the United States currently adopted, whenever such official standards are represented by practical forms, shall be marked as prescribed in the order or orders of their establishment, wrapped, and sealed with wax seals. When so marked, wrapped, and sealed they shall be deposited in a suitable vault or in a steel safe or safes, which safe or safes shall be kept sealed with an imprinted seal. Such containers shall remain in the custody of the Director until the original standards contained therein are superseded by new or revised standards. The dies used to seal the first reserve set of the universal standards shall be deposited in the Treasury of the United States subject to the order of the Secretary of Agriculture; those used to seal the other official cotton standards of the United States shall remain in the custody of the Director. Such safes shall be sealed in the presence of the General Counsel of the Department and the Director, or of persons temporarily acting in their stead, and shall thereafter be opened only in the presence of the same.

(b) At each Universal Cotton Standards Conference held for approving key copies of the universal standards there shall be prepared two full sets of practical forms of copies of the universal standards for grades of American upland cotton, which shall be known as "reserve sets" and which, upon the certification and recommendation of qualified experts, shall be certified by such experts as true copies of the currently adopted standards as and when established. Such reserve sets shall be enclosed in metal-lined cases, likewise sealed in the presence of the General Counsel of the Department and the Director, or of persons temporarily acting in their stead. One such set, to be known as the "first reserve set," shall then be delivered to agents of the Treasury Department of the United States to be deposited in the United States Treasury, and the other, to be known as the "second reserve set," shall be deposited in the vaults of the Division in the immediate control and custody of the Director. Such reserve sets shall remain so deposited until such time as they shall be required for examination, reproduction, and use, as set forth in paragraph (c) of this section. When so required they shall be withdrawn only upon the order of the Secretary or of the person temporarily acting in his stead. The seals upon the cases and containers of the practical forms shall be broken only in the presence of the Gen-

eral Counsel and the Director, or persons temporarily acting in their stead, and experts qualified in the classification of American upland cotton authorized to be present.

(c) As soon as practicable after the opening, as provided in paragraph (b) of this section, of the first reserve set, two new reserve sets shall be prepared by comparison with the first reserve set, which shall be taken to represent so far as possible the currently adopted standards as and when established, and which shall, in turn, be numbered, incased, sealed, and stored in the manner prescribed in paragraph (b) of this section. The first reserve set of the preceding 3-year period shall then be again sealed and shall remain in the custody of the Director. If, upon the opening and examination of the first reserve set as herein provided, it shall appear that such set has undergone any substantial change, the second reserve set shall, for the purposes of this paragraph, be used in its stead. The first and second reserve sets of each 3-year period shall be retained by the Division until the currently adopted standards which they represent have been superseded by new or revised standards.

FEES AND COSTS

§ 28.115 *Fees and costs; payment.* All charges for practical forms of cotton standards and all fees and expenses for services of inspection of bales and supervision of sampling, classification, comparison, or review by a board of examiners shall be paid at the time of filing the request for the service desired, except that in the discretion of the Director bills may be delivered to persons from whom payment for charges or fees may become due. Such bills shall be rendered as soon as practicable after the last day of each month for amounts due and unpaid on such dates. When necessary, in the discretion of the chairman of the board, any bill may be rendered at an earlier date for any charges or fees then due from the person to whom such bill may be rendered. Payment of any such bill shall be made as soon as possible after the rendition thereof, but in any event not later than the expiration of 2 weeks thereafter.

§ 28.116 *Amounts of fees for classification; exemption.* (a) For the classification and certification of any cotton or samples or for the review of a licensed cotton classer's certificate, the person requesting the classification or review shall pay a fee, as follows, subject to the minimum fee provided in paragraph (d) of this section:

(1) If the classification is with respect to grade only, at the rate of 25 cents a sample.

(2) If the classification is with respect to staple only, at the rate of 25 cents a sample.

(3) If the classification is with respect to any other single quality, at the rate of 25 cents a sample.

(4) In other cases where the classification is with respect to two or more of the qualities specified in subparagraphs (1), (2), or (3) of this paragraph at the rate of 25 cents a sample.

(b) When a comparison is requested of any samples with a type or with other samples, the fees prescribed in paragraph (a) of this section shall apply to every sample involved, including each of the samples of which the type is composed.

(c) For any review of the classification or comparison of any cotton, the fee shall be 25 cents per sample, regardless of the number of quality factors involved in the review.

(d) A minimum fee of $3.00 shall be assessed for services described in paragraphs (a), (b), and (c) of this section for each lot or mark of cotton reported or handled separately, unless the request for service is so worded that the samples become Government property immediately after classification.

(e) The fees provided for in paragraphs (a) and (b) of this section may be waived in whole or in part, as to the classification and comparison and the review, if any, of any cotton (1) for any governmental agency; (2) to facilitate a cotton program of any governmental agency, and (3) for a charitable or philanthropic organization if such cotton will be used in accordance with an act of Congress or a congressional resolution for the relief of distress or will be exchanged for goods to be so used. The samples accumulated in the classification or certification of cotton for a governmental agency or to facilitate a cotton program of any governmental agency shall be disposed of as required by such agency.

§ 28.117 *Fee for new memorandum or certificate.* For each new memorandum or certificate issued in substitution for a prior memorandum or certificate at the request of the holder thereof, on account of the breaking or splitting of the lot of cotton covered thereby or otherwise for his business convenience, the person requesting such substitution shall pay a fee of 25 cents when the number of bales covered by the new memorandum or certificate is 10 or less, or a fee of 50 cents per sheet when the number of bales covered by such memorandum or certificate is more than 10.

§ 28.118 *When no fee collected for new certificate or memorandum.* No fee shall be collected for a new cotton class certificate or memorandum issued in lieu of a prior certificate or memorandum solely for the purpose of correcting clerical errors therein, or for the purpose of substituting a new form applicable to outstanding certificates or memorandums, or without an application therefor.

§ 28.119 *Fee when request for classification is withdrawn.* When the request for the classification or comparison of any cotton or an application for review shall be withdrawn after the classification of such cotton has been started pursuant thereto, the person filing the same shall pay the prescribed fee as to any such cotton already classified.

§ 28.120 *Expenses to be borne by party requesting classification.* For any samples submitted for Form A or Form D determinations, the expense of inspection and sampling, the preparation of the samples, and the delivery of such samples to the classification room of the board or other place specifically designated for the purpose by the Director or by the chairman of such board, shall be borne by the party requesting the classification. For samples submitted for Form C determination, the party requesting the classification shall pay the fees prescribed in this subpart and, in addition, a fee of $3 per hour, or each portion thereof, plus the necessary traveling expenses and subsistence, or per diem in lieu of subsistence, incurred on account of such request, in accordance with the fiscal regulations of the Department applicable to the Division employee supervising the sampling.

§ 28.121 *Advance deposits.* Upon request, the person from whom any payment under this subpart may become due shall make an advance deposit to cover such payment in such amount as may be necessary in the judgment of the official of the Division requesting the same.

§ 28.122 *Fee for examination of applicant for license; renewals.* For the practical classing examination of an applicant for a license to classify cotton in accordance with this subpart, the fee shall be $50.00, but no additional charge shall be made for the issuance of a license to an applicant found to be properly qualified. For each renewal of a classer's license the fee shall be $25.00. The fee for the practical classing examination for persons not desiring a license shall be $40.00. Any such person who passes the examination may be issued a certificate indicating this accomplishment.

§ 28.123 *Costs of practical forms of cotton standards.* The cost of practical forms of the cotton standards of the United States shall be as follows:

| | Domestic shipments f. o. b. Washington | Shipments delivered outside the Continental United States |
|---|---|---|
| *Grade Standards* | | |
| American Upland: | *Dollars each box* | *Dollars each box* |
| 12—sample official boxes (Universal Standards) | 10.00 | 12.00 |
| 6—sample guide boxes | 5.00 | 6.50 |
| American Egyptian: 6—sample official boxes | 10.00 | 12.00 |
| Sea Island: 12—sample official boxes | 10.00 | 12.00 |
| *Tentative Standards for Preparation of American Upland Long-Staple Cotton* | | |
| 6—sample boxes | 5.00 | 6.50 |
| *Standards for Length of Staple* | *Dollars each length* | *Dollars each length* |
| American Upland (prepared in one pound rolls for each length) | 2.00 | 2.50 |
| American Egyptian (prepared in one pound rolls for each length) | 2.00 | 2.50 |
| Sea Island (prepared in one pound rolls for each length) | 2.00 | 2.50 |

§ 28.124 *Payments; procedure.* Any payment or advance deposit under §§ 28.115 through 28.123 shall be by check, draft, or money order, payable to the order of the "Agricultural Marketing Service, USDA", and may not be made in cash except in cases where the total payment or deposit does not exceed $1.

§ 28.125 *No voiding or modifying claims for payment.* Nothing in this subpart shall be construed to void or modify any claim which a person or party requesting and paying for a service may have against any other person or party for the payment of part or all of such costs.

§ 28.126 *Loaning of forms and exhibits.* In the discretion of the Director, limited numbers of copies of the practical forms of any of the official standards, or specially prepared exhibits illustrating any of such standards or cotton samples, may be loaned to governmental agencies for official purposes or to educational and other institutions or organizations for demonstration purposes.

UNITED STATES COTTON LINTERS

§ 28.136 *Applicability of other sections of regulations.* Insofar as applicable, and not inconsistent with §§ 28.136 through 28.151, the provisions of this subpart relating to cotton shall likewise apply to cotton linters.

§ 28.137 *Boards of cotton linters examiners.* There shall be located at Washington, D. C., and, when necessary in the opinion of the Administrator, at any other point that he shall designate for the purpose, a board of cotton linters examiners. The members of all such boards and the chairman of each shall be designated by the Director.

§ 28.138 *Classification and comparison; requests, memorandums and certificates.* For each lot or mark of linters which the applicant desires classified or compared separately he shall make a separate written request specifying which of the following forms of service is desired. Only one request within a 30-day period shall be made by the same owner for the classification or comparison of the same linters, except a request for a review determination. If the applicant desires that the samples be returned to him, at his expense, he must indicate this in the request for classification or comparison. If the return of samples is not requested they shall become the property of the Government and shall be disposed of in accordance with law and applicable regulations.

(a) *Form A determination.* The classification or comparison of samples of linters that have been freshly drawn by a licensed linters classer and submitted direct to a Board of Cotton Linters Examiners without classification or further handling by such classer. Such classification or comparison shall be evidenced by a Form A memorandum which shall be subject to review as provided in § 28.146. Composite samples composed of portions of linters drawn from more than one bale are not eligible for Form A determinations.

(b) *Form C determination.* The classification of bales of linters sampled under the supervision of an employee of the Department. The classification in such cases shall be evidenced by a Form C certificate which shall be subject to review as provided in § 28.146. Such certificate when it has been reviewed in accordance with § 28.146 shall be deemed to be a final certificate as to the classification shown, within the meaning of section 4 of the act (42 Stat. 1517; 7 U. S. C. 54).

(c) *Form D determination.* The classification or comparison of samples submitted for other than Form A or Form C determinations. Such classification or comparison shall be evidenced by a Form D memorandum which shall not be subject to review.

§ 28.139 *Filing of requests.* All requests for classification or comparison leading to Form A memoranda, Form D memoranda, or Form C certificates shall be filed with the secretary of the Board of Cotton Linters Examiners at Washington, D. C., unless otherwise directed by the Director.

§ 28.140 *Samples; weight; drawing.* Each sample submitted to a Board of Cotton Linters Examiners shall weigh not less than 8 ounces; shall be wrapped separately; shall contain a coupon or tag showing the bale number or identity of bale from which drawn; and shall be drawn in the following manner:

(a) *Condenser system linters.* Separate portions shall be drawn from three different places in either head of the bale so as to provide as representative sample as possible, each portion to be approximately 6 by 8 inches in size. All portions of the bale sample shall be placed in a single paper sack or wrapper together with an identifying tag stub or other identification. The portions together shall constitute the sample representing one bale.

(b) *Flue and beater system linters.* A sample of not less than 8 ounces, consisting of equal portions drawn from two sides of a bale, or from two shoulders of a bale, shall be drawn.

§ 28.141 *Inspection of bales for special conditions.* A licensed linters classer drawing samples for submission to a Board of Cotton Linters Examiners for Form A classification or comparison shall inspect each bale and shall specify on his sampler's certificate accompanying the samples any conditions not fully indicated by the samples.

§ 28.142 *Submission of samples.* All samples submitted to a Board of Cotton Linters Examiners for classification or comparison under this subpart shall be delivered or sent to the secretary of the board with all transportation charges incident thereto prepaid. All samples submitted by a licensed linters classer for Form A classification must have been freshly drawn by such classer, must be submitted direct to the board without classification or further handling, and must be accompanied by a sampler's certificate. Such certificate shall be on a form furnished by the Division for this purpose.

§ 28.143 *Method of classification.* The classification of all cotton linters samples shall be in accordance with the official cotton linters standards of the United States and §§ 28.143 through 28.145. The grade, staple, and character of each sample shall be determined and designated separately, together with any special conditions of the sample or bale.

§ 28.144 *Samples falling between grades or staples.* In classification, a sample which is determined to be between two adjacent grades or between two adjacent staples shall be assigned the lower of the two grades or two staples.

§ 28.145 *Terms defined; linters classification.* For the purposes of classification of any cotton linters or comparison with a type or other samples, the following terms shall be construed, respectively, to mean:

(a) *Grade.* The term grade means the color and trash in cotton linters.

(b) *Staple.* The staples of cotton linters as defined in the official cotton linters standards of the United States for staple, §§ 28.215 through 28.222.

(c) *Character.* The term character means the relative harshness of linters. In linters classification, character shall be described as follows: Soft (symbol S); Average (symbol A); Harsh (symbol H); or Extra Harsh (symbol EH).

(d) *Prime linters.* Prime linters are cotton linters which are equivalent in grade to the official grade standards and do not show evidence of excess trash, physical deterioration, the presence of objectionable odors, or other characteristics which prohibit its description in terms of the official grade standards.

(e) *Off grade linters.* Cotton linters which show evidence of physical deterioration, the presence of objectionable odors, or other characteristics which prohibit its description in terms of the official grade standards shall be designated as "Off Grade," and no specific grade assigned.

(f) *Excess trash.* Cotton linters that contain more trash than is represented in the grades described in §§ 28.201 through 28.208 shall be assigned that grade to which it is equal in color and further described by the term "Excess Trash." Such linters shall not be considered as prime linters.

(g) *Compound grades.* Cotton linters which in grade show a variation equal to that shown in any 2 or 3 adjacent grades of those described in §§ 28.201 through 28.208 shall be designated by the compound name of such grades.

(h) *Compound staples.* Cotton linters which in staple show a variation equal to that shown in any 2 or 3 adjacent staples of those listed in §§ 28.215 through 28.222 shall be designated by the compound name of such staples.

(i) *Mixed packed grades.* Cotton linters which in grade show a variation greater than that shown in any 3 adjacent grades of those described in §§ 28.201 through 28.208 shall be designated as "Mixed Packed" for grade on classification certificates and memoranda and the grades constituting the mixture shown.

(j) *Mixed packed staples.* Cotton linters which in staple show a variation greater than that shown in any 3 adjacent staples of those listed in §§ 28.215 through 28.222 shall be designated as "Mixed Packed" for staple on classification certificates and memoranda and the staples constituting the mixture shown.

(k) *Weak staple.* Cotton linters in which the strength of staple is below

that normally found in linters of otherwise comparable staple shall be designated by the term "Weak" and no specific staple assigned.

(l) *False packed linters.* Linters in a bale (1) containing substances entirely foreign to linters; (2) containing damaged linters in the interior with or without any indication of such damage upon the exterior; (3) composed of good linters upon the exterior and decidedly inferior linters in the interior, in such manner as not to be detected by customary examination; or (4) containing motes, sweepings, or hull fiber worked into the bale.

(m) *Repacked linters.* Linters that are composed of factors', brokers', or other samples, or of loose or miscellaneous lots collected and rebaled, or linters in a bale which is composed of linters from two or more smaller bales or parts of bales.

(n) *Water-packed linters.* Linters in a bale that has been penetrated by water during the baling process, causing damage to the fiber, or a bale that through exposure to the weather or by other means, while apparently dry on the exterior, has been damaged by water in the interior.

§ 28.146 *Reviews.* A review of any Form A or Form C determination may be requested by the owner of the linters from which the sample was drawn, or his agent, within 30 days after the issuance of the original memorandum or certificate. Such request shall be filed with the secretary of the Board of Cotton Linters Examiners at Washington, D. C., and shall be accompanied by the original classification memorandum or certificate if it is in the possession of the applicant. The application shall state the reason for failure to submit such document. Form D determinations are not subject to review.

(a) *Form A and Form C Reviews.* Redrawn samples will be required except in cases where the original samples have remained in the custody of the Board of Cotton Linters Examiners. When redrawn samples are necessary, they shall be drawn and submitted in accordance with the applicable provisions of §§ 28.138, 28.140, 28.141, and 28.142. A Form A memorandum or Form C certificate, as applicable, appropriately marked to indicate that it represents a review determination shall be issued to the applicant requesting the review. The review classification memorandum shall supersede the original classification memorandum.

(b) *Review of licensed classer's certificate.* In case a review is desired of the classification of any linters represented in a valid certificate issued by a licensed linters classer, the holder of such certificate shall surrender the same, together with samples of the linters involved, to the Board of Cotton Linters Examiners and receive in its stead a Form D memorandum signed by the chairman of such board. Such Form D memorandum shall be appropriately marked to show it represents a review of a licensed classer's certificate. The Form D memorandum issued in lieu of the licensed classer's certificate shall not be subject to further review. The provisions of this paragraph do not prohibit the drawing of new samples and filing of a request with the Board of Cotton Linters Examiners leading to a Form A or Form D memorandum or a Form C certificate.

§ 28.147 *Licensed classers.* Subject to the applicable terms and conditions of §§ 28.80 through 28.99, any person may, upon presentation of evidence of competency, be licensed to grade or classify linters, and to certificate the grade or class thereof in accordance with the official cotton linters standards of the United States.

(a) *Class certificates; form; mailing to board.* Each class certificate issued by a licensed linters classer under this subpart shall be on a form furnished by the Division. A copy of each certificate shall be mailed to the Board of Cotton Linters Examiners at Washington, D. C., within 3 days after issuance.

(b) *Supervisory samples.* Some samples from each lot or mark of samples on which a licensed linters classer issues a certificate under this subpart shall be sent to the Board of Cotton Linters Examiners for supervisory purposes. Such supervisory samples shall be submitted to the board in accordance with instructions furnished licensees by the Director from time to time.

§ 28.148 *Fees and costs; classification; reviews; other.* The fee for the classification, comparison, or review of linters with respect to grade, staple, and character, or any of these qualities, shall be at the rate of 20 cents for each bale or sample involved. The provisions of §§ 28.115 through 28.126 relating to other fees and costs shall, so far as applicable, apply to services performed with respect to linters.

§ 28.149 *Fees and costs; Form C determinations.* For samples submitted for Form C determination, the party requesting the classification shall pay the fees prescribed in this subpart and, in addition, a fee of $3 per hour, or each portion thereof, plus the necessary traveling expenses and subsistence, or per diem in lieu of subsistence, incurred on account of such request, in accordance with the fiscal regulations of the Department applicable to the Division employee supervising the sampling.

§ 28.150 *Fee; licenses; renewals.* The fee for the examination of an applicant for a license to classify linters shall be $10. No additional charge shall be made for the issuance of a license to an applicant found to be properly qualified. The fee for each renewal of such license shall be $5.

§ 28.151 *Cost of practical forms; period effective.* Practical forms of the official cotton linters standards of the United States will be furnished to any person subject to the applicable terms and conditions specified in § 28.105: *Provided,* That no practical form of any of the official cotton linters standards of the United States for grade shall be considered as representing any of said standards after the date of its cancellation in accordance with this subpart, or, in any event, after the expiration of 12 months following the date of its certification. The cost of the official standards for grade shall be at the rate of $5.00 each, f. o. b., Washington, D. C., for shipments within the continental United States, and $6.50 each, delivered to destination, for shipments outside the United States. The cost of the official standards for staple shall be at the rate of $1.00 each, f. o. b., Washington, D. C., for shipments within the continental United States, and $1.50 each, delivered to destination, for shipments outside the continental United States.

ADJUSTMENT OF CONTRACT DISPUTES

§ 28.160 *Cotton examiners on foreign exchanges.* Whenever any association or exchange in any country other than the United States shall adopt the universal standards and establish them as the basis of all transactions and contracts for American upland cotton, made and executed according to its rules, the Director may appoint certain members or officials of such exchanges as cotton examiners. Insofar as the administration of the act applies to cotton involved in contracts made in accordance with the rules of such exchange, the administration shall be as prescribed in §§ 28.161 through 28.162.

§ 28.161 *Disputes involving contracts for shipment of cotton from United States.* When an association or exchange located in a country other than the United States shall adopt any of the official cotton standards of the United States and when the members of the committee of such association or exchange having final jurisdiction in the matter of appeals have been designated as cotton examiners by the Director, such committee may be constituted for the purposes of this act a Board of the Department and authorized to act as follows:

(a) Insofar as the exchange has adopted the universal standards the committee may pass upon the classification of cotton involved in a dispute between a party in the United States and a party without the United States to a contract made under the rules of the association or exchange.

(b) The submission of samples of cotton involved in such a dispute to such association or exchange or such committee in accordance with the rules of the association or exchange shall be deemed to be a submission to the Department.

(c) Determinations of classification made by the boards so constituted shall be final. When so provided in the articles, rules, or bylaws of the association or exchange, such determinations may be evidenced by awards. If an award is made which does not state the classification, such board will, upon request of the owner or custodian of the cotton and the payment of a reasonable additional fee, issue a certificate showing in detail the true classification for grade and color of such cotton, based upon a comparison of the samples with the universal standards or with a type or other samples on which the cotton has been sold, as the case may be.

§ 28.162 *Procedure.* The manner of procedure in submitting and handling samples, in classification and in instituting and conducting arbitrations and appeals shall be as prescribed in the articles, bylaws, and rules of the association or exchange.

PUBLICATIONS

§ 28.165 *Publication media.* Publications under the act and this subpart may be made in service and regulatory announcements and by such other means as the Director shall from time to time designate for the purpose.

SUBPART B—CLASSIFICATION FOR FOREIGN GROWTH COTTON AND COTTON LINTERS

AUTHORITY: §§ 28.175 to 28.184 issued under sec. 205, 60 Stat. 1090; 7 U. S. C. 1624.

§ 28.175 *Administrative and general.* Insofar as applicable, and not inconsistent with this subpart, the provisions of Subpart A of this part shall likewise apply to the classification and comparison of cotton and cotton linters produced outside the continental United States.

§ 28.176 *Designation of official certificates, memoranda, marks, other identifications, and devices for purpose of the Agricultural Marketing Act.* Subsection 203 (h) of the Agricultural Marketing Act of 1946, as amended by Public Law 272, 84th Congress, provides criminal penalties for various specified offenses relating to official certificates, memoranda, marks or other identifications, and devices for making such marks or identifications, issued or authorized under section 203 of said act, and certain misrepresentations concerning the inspection or grading of agricultural products under said section. For the purposes of said subsection and the provisions in this subpart, the terms listed below shall have the respective meanings specified:

(a) "Official certificate" means any form of certification, either written or printed, used under this subpart to certify with respect to the inspection, sampling, class, grade, quality, quantity, or conditions of products (including the compliance of products with applicable specifications).

(b) "Official memorandum" means any initial record of findings made by an authorized person in the process of grading, inspecting, or sampling, pursuant to this subpart, any processing or plant-operation report made by an authorized person in connection with grading, inspecting, or sampling under this subpart, and any report made by an authorized person of services performed pursuant to this subpart.

(c) "Official mark" means the grade mark, inspection mark, and any other mark, approved by the Administrator and authorized to be affixed to any product, or affixed to or printed on the packaging material of any product, stating that the product was graded or inspected or both, or indicating the appropriate U. S. Grade or condition of the product, or for the purpose of maintaining the identity of products graded or inspected or both under this subpart.

(d) "Official identification" means any United States (U. S.) standard designation of class, grade, quality, quantity, or condition specified in this subpart or any symbol, stamp, label, or seal indicating that the product has been officially graded or inspected and/or indicating the class, grade, quality, quantity, or condition of the product, approved by the Administrator and authorized to be affixed to any product, or affixed to or printed on the packaging material of any product.

(e) "Official device" means a stamping appliance, branding device, stencil, printed label, or any other mechanically or manually operated tool that is approved by the Administrator for the purpose of applying any official mark or other identification to any product or the packaging material thereof.

§ 28.177 *Requests for classification and comparison of cotton.* The applicant shall make a separate written request, on a form supplied by the Division, for each lot or mark of cotton which he desires classified or compared separately. The same applicant shall not file more than one request for the classification or comparison of the same cotton within any 30-day period except for a review classification or comparison as provided in § 28.181. All requests for classification or comparison in the United States shall be filed with the Board of Cotton Examiners which serves the territory in which the samples are located. If the cotton is stored outside the United States the request shall be filed with the board designated by the Director. The chairman of any board may refer any request and the samples submitted to another board or to the Appeal Board of Review Examiners for classification or comparison.

§ 28.178 *Submission of cotton samples.* Samples of cotton submitted to a board of cotton examiners for classification and/or comparison shall be drawn from both sides of the bale and shall be delivered to the secretary of the board with which the request was filed, as soon as possible after the filing of such request. All such samples shall be inclosed in one or more wrappers, which shall be labeled or marked, or both, in such manner as to show the name and address of the owner, the lot number or marks, if any, the number of bales represented by the samples in each wrapper, and such other information as may be necessary in accordance with the instructions of the chairman of the board. All transportation charges incident to the submission of samples shall be prepaid by the party making the request or his agent.

§ 28.179 *Methods of cotton classification and comparison.* The classification of samples from cotton produced outside the continental United States shall be on the basis of the official cotton standards of the United States in effect at the time of classification. When a comparison of such cotton samples with other actual samples or with a type is requested, the procedure and methods shall be as outlined in §§ 28.45 through 28.47.

§ 28.180 *Issuance of cotton classification memoranda.* As soon as practicable after the classification or comparison of cotton has been completed by a board of cotton examiners, there shall be issued a cotton classification memorandum which shall embody within its written or printed terms:

(a) The results of the classification or comparison.

(b) The name of the country in which the cotton was produced.

(c) The source from which the samples were received for classification.

(d) A statement that any classification made has been on the basis of the official cotton standards of the United States in effect at the time of such classification.

(e) The signature of the chairman of the board, the location of the board, and the date of issuance of the memorandum.

§ 28.181 *Review of cotton classification.* A review of any classification or comparison made pursuant to this subpart may be requested by the owner or custodian of the cotton from which the sample was drawn within 30 days after the issuance of the original memorandum. Such request, accompanied by the original memorandum, may be filed with either the board which issued the original memorandum or the Appeal Board of Review Examiners. Redrawn samples shall be required except in cases where the original samples have remained, identity preserved, in the custody of the board which issued the original memorandum. As evidence of any review determination, a classification memorandum marked to indicate that it represents a review determination shall be issued to the applicant requesting the review.

§ 28.182 *Surrender of memoranda.* For good cause any memorandum issued under this subpart shall be surrendered to the chairman of the board which issued it, upon his request or upon the request of the Director, and a new memorandum complying with this subpart issued in substitution therefor. If the memorandum be not surrendered upon such request, it shall nevertheless be invalid for the purposes of this subpart.

§ 28.183 *Fees and costs; payment.* The provisions of §§ 28.115 through 28.126 relating to fees, costs, and method of payment shall apply to services performed with respect to cotton produced outside the continental United States.

§ 28.184 *Cotton linters; general.* Requests for the classification or comparison of cotton linters pursuant to this subpart and the samples involved shall be submitted to the Board of Cotton Linters Examiners at Washington, D. C. All samples classed shall be on the basis of the official cotton linters standards of the United States. The fee for classification or comparison and the issuance of a memorandum showing the results of such classification or comparison shall be 20 cents per sample.

SUBPART C—STANDARDS

OFFICIAL COTTON LINTERS STANDARDS OF THE UNITED STATES FOR GRADE

AUTHORITY: §§ 28.201 to 28.208 issued under sec. 10, 42 Stat. 1519; 7 U. S. C. 61.

Interpret or apply sec. 6, 42 Stat. 1518, as amended; 7 U. S. C. 56.

§ 28.201 *Grade 1.* Grade 1 shall be United States cotton linters which in grade is within the range represented by a set of samples in the custody of the United States Department of Agriculture in a container marked "Original Official Cotton Linters Standard of the United States, Grade 1, effective July 1, 1956."

§ 28.202 *Grade 2.* Grade 2 shall be United States cotton linters which in grade is within the range represented by a set of samples in the custody of the United States Department of Agriculture in a container marked "Original Official Cotton Linters Standard of the United States, Grade 2, effective July 1, 1956."

§ 28.203 *Grade 3.* Grade 3 shall be United States cotton linters which in grade is within the range represented by a set of samples in the custody of the United States Department of Agriculture in a container marked "Original Official Cotton Linters Standard of the United States, Grade 3, effective July 1, 1956."

§ 28.204 *Grade 4.* Grade 4 shall be United States cotton linters which in grade is within the range represented by a set of samples in the custody of the United States Department of Agriculture in a container marked "Original Official Cotton Linters Standard of the United States, Grade 4, effective July 1, 1956."

§ 28.205 *Grade 5.* Grade 5 shall be United States cotton linters which in grade is within the range represented by a set of samples in the custody of the United States Department of Agriculture in a container marked "Original Official Cotton Linters Standard of the United States, Grade 5, effective July 1, 1956."

§ 28.206 *Grade 6.* Grade 6 shall be United States cotton linters which in grade is within the range represented by a set of samples in the custody of the United States Department of Agriculture in a container marked "Original Official Cotton Linters Standard of the United States, Grade 6, effective July 1, 1956."

§ 28.207 *Grade 7.* Grade 7 shall be United States cotton linters which in grade is within the range represented by a set of samples in the custody of the United States Department of Agriculture in a container marked "Original Official Cotton Linters Standard of the United States, Grade 7, effective July 1, 1956."

§ 28.208 *Chemical Grade.* United States cotton linters which in grade are below Grade 7 shall be designated as "Chemical Grade."

OFFICIAL COTTON LINTERS STANDARDS OF UNITED STATES FOR STAPLE

AUTHORITY: §§ 28.215 to 28.222 issued under sec. 10, 42 Stat. 1519; 7 U. S. C. 61. Interpret or apply sec. 6, 42 Stat. 1518, as amended; 7 U. S. C. 56.

§ 28.215 *Staple 1.* Staple 1 shall be United States cotton linters which in staple is within the range represented by a quantity of cotton linters in the custody of the United States Department of Agriculture marked "Original Official Cotton Linters Standard of the United States, Staple 1, effective July 1, 1957."

§ 28.216 *Staple 2.* Staple 2 shall be United States cotton linters which in staple is within the range represented by a quantity of cotton linters in the custody of the United States Department of Agriculture marked "Original Official Cotton Linters Standard of the United States, Staple 2, effective July 1, 1957."

§ 28.217 *Staple 3.* Staple 3 shall be United States cotton linters which in staple is within the range represented by a quantity of cotton linters in the custody of the United States Department of Agriculture marked "Original Official Cotton Linters Standard of the United States, Staple 3, effective July 1, 1957."

§ 28.218 *Staple 4.* Staple 4 shall be United States cotton linters which in staple is within the range represented by a quantity of cotton linters in the custody of the United States Department of Agriculture marked "Original Official Cotton Linters Standard of the United States, Staple 4, effective July 1, 1957."

§ 28.219 *Staple 5.* Staple 5 shall be United States cotton linters which in staple is within the range represented by a quantity of cotton linters in the custody of the United States Department of Agriculture marked "Original Official Cotton Linters Standard of the United States, Staple 5, effective July 1, 1957."

§ 28.220 *Staple 6.* Staple 6 shall be United States cotton linters which in staple is within the range represented by a quantity of cotton linters in the custody of the United States Department of Agriculture marked "Original Official Cotton Linters Standard of the United States, Staple 6, effective July 1, 1957."

§ 28.221 *Staple 7.* Staple 7 shall be United States cotton linters which in staple is within the range represented by a quantity of cotton linters in the custody of the United States Department of Agriculture marked "Original Official Cotton Linters Standard of the United States, Staple 7, effective July 1, 1957."

§ 28.222 *Below 7 Staple.* Cotton linters which in staple is below staple 7 will be designated as "Below 7" staple.

OFFICIAL COTTON STANDARDS OF THE UNITED STATES FOR LENGTH OF STAPLE

AUTHORITY: §§ 28.301 to 28.305 issued under 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.

§ 28.301 *Measurement; humidity; temperature.* The length of staple of any cotton shall be the normal length by measurement, without regard to quality or value, of a typical portion of its fibers under a relative humidity of the atmosphere of 65 percent and a temperature of 70° F.

§ 28.302 *Terms of designation.* The length of staple of any cotton shall be designated by that one of the following terms which expresses its measurement in inches and fractions of an inch in accordance with § 28.301:

"Below 13/16; 13/16; 7/8; 29/32; 15/16; 31/32; 1; 1 1/32; 1 1/16; 1 3/32; 1 1/8; 1 5/32; 1 3/16; 1 7/32; 1 1/4; 1 9/32; 1 5/16; 1 11/32; 1 3/8; 1 13/32; 1 7/16; 1 15/32; 1 1/2; 1 17/32; 1 9/16; 1 19/32; 1 5/8; 1 21/32; 1 11/16; 1 23/32; 1 3/4; and upward in like manner in gradations of thirty-seconds, disregarding any fraction less than a thirty-second."

§ 28.303 *Original representations of staple lengths.* The lengths of staple designated as 7/8, 15/16, 1, 1 1/32, 1 1/16, 1 3/32, 1 1/8, 1 5/32, 1 3/16, 1 7/32, 1 1/4, 1 5/16, and 1 3/8 inches, respectively, are each represented by a quantity of American upland cotton suitably contained and marked "Original Representation of official cotton standards of the United States (American Upland) Length of Staple", followed in each instance by the appropriate designation of staple length and the effective date, August 1, 1929; each of the lengths of staple designated as 13/16, 29/32, and 31/32 inches by a quantity of American Upland cotton similarly marked and followed in each instance by the appropriate designation of staple length and the effective date, August 1, 1933; each of the lengths of staple designated as 1 1/2, 1 9/16, 1 5/8, and 1 3/4 inches by a quantity of American Egyptian cotton suitably contained and marked "Original Representation of official cotton standards of the United States (American Egyptian) Length of Staple", followed in each instance by the appropriate designation of staple length and the effective date, August 1, 1929; each of the lengths of staple designated as 1 3/8 and 1 7/16 inches by a quantity of American Egyptian cotton suitably contained and marked "Original Representation of official cotton standards of the United States (American Egyptian) Length of Staple", followed in each instance by the appropriate designation of staple length and the effective date, August 10, 1943; and each of the lengths of staple designated as 1 1/2, 1 9/16, 1 5/8 and 1 3/4 inches by a quantity of Sea Island cotton suitably contained and marked "Original Representation of official cotton standards of the United States (Sea Island) Length of Staple", followed in each instance by the appropriate designation of staple length and the effective date, August 10, 1939. Said quantities of cotton are to be kept in the custody of the United States Department of Agriculture.

§ 28.304 *Over 13/16 inch staple.* Cotton which is more than thirteen-sixteenths of an inch in length of staple, but is not exactly one of the measurements specified in § 28.302, shall be designated by that one of such measurements which comes nearest under its true measurement.

§ 28.305 *Bale of different staple lengths.* Whenever the length of staple of cotton taken from one part of a bale is different from that taken from another part of the same bale, the length of staple of the cotton in such bale shall be that of the part which is the shorter.

OFFICIAL COTTON STANDARDS OF THE UNITED STATES FOR THE GRADE OF AMERICAN UPLAND COTTON

AUTHORITY: §§ 28.401 to 28.427 issued under 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.

*White Cotton*

§ 28.401 *Strict Good Middling.* Strict Good Middling shall be American upland cotton which in color, leaf, and preparation is better than Good Middling. This standard is effective on and after August 1, 1957.

§ 28.402 *Good Middling.* Good Middling shall be American upland cotton which in color, leaf, and preparation 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 Upland, Good Middling, effective August 1, 1954."

§ 28.403 *Strict Middling.* Strict Middling shall be American upland cotton which in color, leaf, and preparation 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 Upland, Strict Middling, effective August 15, 1953."

§ 28.404 *Middling.* Middling shall be American upland cotton which in color, leaf, and preparation 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 Upland, Middling, effective August 15, 1953."

§ 28.405 *Strict Low Middling.* Strict Low Middling shall be American upland cotton which in color, leaf, and preparation 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 Upland, Strict Low Middling, effective August 15, 1953."

§ 28.406 *Low Middling.* Low Middling shall be American upland cotton which in color, leaf, and preparation 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 Upland, Low Middling, effective August 15, 1953."

§ 28.407 *Strict Good Ordinary.* Strict Good Ordinary shall be American upland cotton which in color, leaf, and preparation 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 Upland, Strict Good Ordinary, effective August 15, 1953."

§ 28.408 *Good Ordinary.* Good Ordinary shall be American upland cotton which in color, leaf, and preparation 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 Upland, Good Ordinary, effective August 15, 1953."

*Spotted Cotton*

§ 28.409 *Good Middling Spotted.* Good Middling Spotted shall be American upland cotton which in leaf and preparation is Good Middling, but which in spot or color or both is between Good Middling and Good Middling Tinged.

§ 28.410 *Strict Middling Spotted.* Strict Middling Spotted shall be American upland cotton which in leaf and preparation is Strict Middling, but which in spot or color or both is between Strict Middling and Strict Middling Tinged.

§ 28.411 *Middling Spotted.* Middling Spotted shall be American upland cotton which in leaf and preparation is Middling, but which in spot or color or both is between Middling and Middling Tinged.

§ 28.412 *Strict Low Middling Spotted.* Strict Low Middling Spotted shall be American upland cotton which in leaf and preparation is Strict Low Middling, but which in spot or color or both is between Strict Low Middling and Strict Low Middling Tinged.

§ 28.413 *Low Middling Spotted.* Low Middling Spotted shall be American upland cotton which in leaf and preparation is Low Middling, but which in spot or color or both is between Low Middling and Low Middling Tinged.

*Tinged Cotton*

§ 28.414 *Good Middling Tinged.* Good Middling Tinged shall be American upland cotton which in color, leaf, and preparation is better than Strict Middling Tinged.

§ 28.415 *Strict Middling Tinged.* Strict Middling Tinged shall be American upland cotton which in color, leaf, and preparation 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 Upland, Strict Middling Tinged, effective August 15, 1953."

§ 28.416 *Middling Tinged.* Middling Tinged shall be American upland cotton which in color, leaf, and preparation 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 Upland, Middling Tinged, effective August 15, 1953."

§ 28.417 *Strict Low Middling Tinged.* Strict Low Middling Tinged shall be American upland cotton which in color, leaf, and preparation 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 Upland, Strict Low Middling Tinged, effective August 15, 1953."

§ 28.418 *Low Middling Tinged.* Low Middling Tinged shall be American upland cotton which in color, leaf, and preparation 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 Upland, Low Middling Tinged, effective August 15, 1953."

*Yellow Stained Cotton*

§ 28.419 *Good Middling Yellow Stained.* Good Middling Yellow Stained shall be American upland cotton which in leaf and preparation is Good Middling Tinged, but which in color is deeper than Good Middling Tinged.

§ 28.420 *Strict Middling Yellow Stained.* Strict Middling Yellow Stained shall be American upland cotton which in leaf and preparation is Strict Middling Tinged, but which in color is deeper than Strict Middling Tinged.

§ 28.421 *Middling Yellow Stained.* Middling Yellow Stained shall be American upland cotton which in leaf and preparation is Middling Tinged, but which in color is deeper than Middling Tinged.

*Gray Cotton*

§ 28.422 *Good Middling Gray.* Good Middling Gray shall be American upland cotton which in leaf and preparation is Good Middling, but which is more gray in color than Good Middling and no darker in color than the dullest bale in Strict Low Middling.

§ 28.423 *Strict Middling Gray.* Strict Middling Gray shall be American upland cotton which in leaf and preparation is Strict Middling, but which is more gray in color than Strict Middling and no darker in color than the dullest bale in Low Middling.

§ 28.424 *Middling Gray.* Middling Gray shall be American upland cotton which in leaf and preparation is Middling, but which is more gray in color than Middling and no darker in color than the dullest bale in Strict Good Ordinary.

§ 28.425 *Strict Low Middling Gray.* Strict Low Middling Gray shall be American upland cotton which in leaf and preparation is Strict Low Middling, but which is more gray in color than Strict Low Middling and no darker in color than the dullest bale in Good Ordinary.

*General*

§ 28.426 *General.* American upland cotton which in color, leaf, and preparation is within the range of the standards established by this subpart, but which contains a combination of color, leaf, and preparation not within any one of the standards set out in this subpart, shall be designated according to the standard which is equivalent to, or if there be no exact equivalent is next be-

low, the average of all the factors that determine the grade of the cotton: *Provided*, That in no event shall the grade assigned to any cotton or sample be more than one grade higher than the grade classification of the color or leaf contained therein.

§ 28.427 *Alternate title for standards.* Since these standards have been agreed upon and accepted by the leading European cotton associations and exchanges, they may also be termed and referred to as the "Universal Standards for American Cotton."

OFFICIAL COTTON STANDARDS OF THE UNITED STATES FOR THE GRADE OF AMERICAN EGYPTIAN COTTON

AUTHORITY: §§ 28.501 to 28.510 issued under 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.

§ 28.501 *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."

§ 28.502 *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."

§ 28.503 *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."

§ 28.504 *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."

§ 28.505 *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."

§ 28.506 *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."

§ 28.507 *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 Standards of the United States, American Egyptian, Grade No. 7, effective August 1, 1957."

§ 28.508 *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."

§ 28.509 *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."

§ 28.510 *Grade No. 10.* American Egyptian cotton which in grade is inferior to grade No. 9 shall be designated as "American Egyptian Grade No. 10."

OFFICIAL STANDARDS OF THE UNITED STATES FOR THE GRADES OF SEA ISLAND COTTON

AUTHORITY: §§ 28.551 to 28.560 issued under 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.

§ 28.551 *Grade 1.* Grade No. 1 shall be Sea Island 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, Sea Island, Grade No. 1, effective August 10, 1939."

§ 28.552 *Grade 2.* Grade No. 2 shall be Sea Island 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, Sea Island, Grade No. 2, effective August 10, 1939."

§ 28.553 *Grade 3.* Grade No. 3 shall be Sea Island 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, Sea Island, Grade No. 3, effective August 10, 1939."

§ 28.554 *Grade 4.* Grade No. 4 shall be Sea Island 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, Sea Island, Grade No. 4, effective August 10, 1939."

§ 28.555 *Grade 5.* Grade No. 5 shall be Sea Island 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, Sea Island, Grade No. 5, effective August 10, 1939."

§ 28.556 *Grade 6.* Grade No. 6 shall be Sea Island 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, Sea Island, Grade No. 6, effective August 10, 1939."

§ 28.557 *Intermediate grades.* Sea Island cotton which in grade is between any two adjoining grades shall be designated by the word "Grade" and the grade number of the higher of such two grades, followed by the fraction "½."

§ 28.558 *Below Grade 6.* Sea Island cotton which in grade is inferior to Grade No. 6 shall be designated "Below Grade No. 6."

§ 28.559 *Extraneous matter.* The grade assigned to Sea Island cotton which contains appreciable quantities of seed, seed kernels, or sand shall be that which most nearly approximates its grade value in terms of the respective grades herein defined.

§ 28.560 *Permissive use.* Until their effective date, August 10, 1939, the foregoing standards may be used as permissive standards in the purchase and sale of Sea Island cotton.

TENTATIVE STANDARDS FOR THE PREPARATION OF LONG-STAPLE COTTON

AUTHORITY: §§ 28.591 to 28.594 issued under 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.

§ 28.591 *Set of samples; Grade No. 4.* The tentative standards for preparation of American upland long-staple cotton of the Grade No. 4 or Strict Middling shall be the preparation of a set of samples in the custody of the United States Department of Agriculture, in the city of Washington, in containers marked, respectively:

(a) Original Tentative Standards of the United States for A Preparation of Long-Staple American Upland cotton of the Grade No. 4 or Strict Middling (otherwise designated as Preparation Type A for Strict Middling) as announced May 20, 1929.

(b) Original Tentative Standard of the United States for B Preparation of Long-Staple American Upland cotton of the Grade No. 5 or Middling (otherwise designated as Preparation Type B for Middling) as announced May 20, 1929.

(c) Original Tentative Standard of the United States for C Preparation of

Long-Staple American Upland cotton of the Grade No. 4 or Strict Middling (otherwise designated as Preparation Type C for Strict Middling) as announced May 20, 1929.

§ 28.592 *Set of samples; Grade No. 5.* The tentative standards for preparation of American upland long-staple cotton of the Grade No. 5 or Middling shall be the preparation of a set of samples in the custody of the United States Department of Agriculture, in the city of Washington, in containers marked, respectively:

(a) Original Tentative Standard of the United States for A Preparation of Long-Staple American Upland cotton of the Grade No. 5 or Middling (otherwise designated as Preparation Type A for Middling) as announced May 20, 1929.

(b) Original Tentative Standard of the United States for B Preparation of Long-Staple American Upland cotton of the Grade No. 5 or Middling (otherwise designated as Preparation Type B for Middling) as announced May 20, 1929.

(c) Original Tentative Standard of the United States for C Preparation of Long-Staple American Upland cotton of the Grade No. 5 or Middling (otherwise designated as Preparation Type C for Middling) as announced May 20, 1929.

§ 28.593 *Set of samples; Grade No. 6.* The tentative standard for preparation of American upland long-staple cotton of the Grade No. 6 or Strict Low Middling shall be the preparation of a set of samples in the custody of the United States Department of Agriculture, in the city of Washington, in containers marked, respectively:

(a) Original Tentative Standard of the United States for A Preparation of Long-Staple American Upland cotton of the Grade No. 6 or Strict Low Middling (otherwise designated as Preparation Type A for Strict Low Middling) as announced May 20, 1929.

(b) Original Tentative Standard of the United States for B Preparation of Long-Staple American Upland cotton of the Grade No. 6 or Strict Low Middling (otherwise designated as Preparation Type B for Strict Low Middling) as announced May 20, 1929.

(c) Original Tentative Standard of the United States for C Preparation of Long-Staple American Upland cotton of the Grade No. 6 or Strict Low Middling (otherwise designated as Preparation Type C for Strict Low Middling) as announced May 20, 1929.

§ 28.594 *Long-staple cotton; definition.* The term long-staple cotton, as used in this subpart, shall, until further notice, be construed to mean cotton which is 1⅛ inches and above in length of staple.

## SUBPART D—COTTON CLASSIFICATION AND MARKET NEWS SERVICES FOR ORGANIZED GROUPS OF PRODUCERS

AUTHORITY: §§ 28.901 to 28.919 issued under sec. 10, 42 Stat. 1519, sec. 3c, 50 stat. 62; 7 U. S. C. 61, 473c.

### DEFINITIONS

§ 28.901 *Definitions.* When used in the regulations in this subpart:

(a) "Act" means the applicable provisions of the act of Congress of March 3, 1927 (44 Stat. 1372), as amended by the act of Congress of April 13, 1937 (50 Stat. 62) (7 U. S. C. 471–476), and the United States Cotton Standards Act, as amended (42 Stat. 1517; 7 U. S. C. 51 et seq.).

(b) "Service" means the Agricultural Marketing Service of the United States Department of Agriculture.

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

(d) "Division" means the Cotton Division of the Agricultural Marketing Service.

(e) "Director" means the Director of the Cotton Division, or any officer or employee of the Division to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

### ADMINISTRATION

§ 28.902 *Director.* The Director shall perform for and under the supervision of the Administrator, such duties as the Administrator may require in enforcing the regulations in this subpart.

### CLASSIFICATION AND MARKET NEWS SERVICES

§ 28.903 *Classification of samples.* The Director, or his authorized representatives, upon request in writing from any group of producers organized to promote the improvement of cotton who comply with the regulations in this subpart shall, as hereinafter provided, furnish to such producers without charge the classification in accordance with the official cotton standards of the United States of samples representing the cotton produced by them. It appearing that funds appropriated for the administration of the act may at times be insufficient to provide for the classification of all of the cotton grown by members of such groups, the Director may, when necessary, direct that only samples representing that portion of members' cotton produced from seed of an adopted variety, or from seed replanted on land first planted during any growing season to seed of such adopted variety, shall be eligible for classification under the regulations in this subpart; and, in any event, such classification may be limited to samples representing cotton produced by members whose cotton acreage for any growing season is first planted in whole or in part to seed of an adopted variety.

§ 28.904 *Market news.* The Director shall cause to be distributed to groups of producers organized to promote the improvement of cotton who comply with the regulations in this subpart, and to others on request, for posting at gins, in post offices, or other public or conspicuous places in cotton growing communities, timely information on prices for various grades and staple lengths of cotton.

### ORGANIZED GROUPS

§ 28.905 *Organized groups.* Groups of producers organized to promote the improvement of cotton may be recognized as such within the meaning of the act if they meet the following requirements:

(a) Such an organization may be an unincorporated association or it may be incorporated.

(b) The cotton fields of members of an organized group shall be located within the area generally recognized by the group as its community and any fields of members in which planting seed of the adopted variety and strain is produced shall be so located as to prevent or minimize cross pollination with other varieties or strains. The seed planted pursuant to the crop improvement program of any group shall be of such variety and seed stock of proven merit as shall have been agreed upon by the group, and the cotton produced shall be ginned in such a manner as to prevent the mixing of the seed or lint of an adopted variety with the seed or lint of other varieties or strains. Provision shall be made by the group for the procurement, production, and economical distribution of approved planting seed of the adopted variety and strain for use by members of the group.

(c) Each organized group shall assume responsibility for obtaining, identifying, and shipping samples to be classified and for posting market information furnished to it in accordance with the regulations in this subpart; shall see that samples are drawn, handled, and shipped in accordance with instructions furnished from time to time by representatives of the Director; and shall designate a responsible representative and an alternate representative to act for members of the group in matters pertaining to compliance with the regulations in this subpart. Such representative or alternate representative need not be a producer or a member of the group.

### SAMPLING

§ 28.906 *Approval and bonding of samplers.* The cotton of members of organized groups may be sampled at a cotton gin, or at a warehouse which issues negotiable warehouse receipts. Sampling agents at these sampling locations are subject to the approval of the Director or his representatives. Each sampling agent, other than an approved warehouse sampler or an employee of the Department of Agriculture, serving one or more cotton gins shall, as a condition for approval, execute and file with the Division a good and sufficient bond to the United States to secure the faithful performance of his duties as a sampler under the terms of the act and this subpart. Said bond shall be in such form and amount and shall have such surety or sureties as shall be approved by the Service: *Provided,* That said bond shall be in an amount not less than $1,000 for each gin serviced less than five, and not less than $5,000 for five or more gins serviced: *Provided further,* That such surety or sureties shall be subject to service of process in suits on the bond within the State, district, or territory in which such sampler shall perform services under the act and this subpart.

§ 28.907 *Responsibilities of sampling agents.* Each sampling agent shall be primarily responsible for drawing, iden-

tifying, handling, and shipping samples of cotton in accordance with this subpart and with instructions furnished by the Director or his representatives from time to time.

§ 28.908 *Samples*—(a) *Only one sample to be submitted.* Only one sample from each bale of eligible cotton shall be submitted for classification under this subpart. This does not prohibit the submission of an additional sample from a bale for review classification on a fee basis if the producer so desires.

(b) *Drawing of samples manually.* Each cut sample shall be drawn from the bale after it is tied out following the ginning process, and shall be approximately 6 ounces in weight, not less than 3 ounces of which are to be drawn from each side of the bale.

(c) *Mechanical sampling.* Samples may be drawn at gins equipped with mechanical samplers approved by the Division. Such samples shall be not less than 6 ounces in weight.

(d) *Samples must be representative.* Each sample must be representative of the bale from which drawn.

(e) *Handling samples.* Samples shall not be dressed or trimmed and shall be carefully handled in such manner as not to cause loss of leaf, sand, or other material, or otherwise change their representative character. Samples shall not be handled by any person other than the sampling agent prior to shipment or delivery to the cotton classing office of the Division.

(f) *Identifying and shipping samples.* Each sample shall be identified with a tag, supplied or approved by the Division, bearing the gin or warehouse number of the bale from which the sample was drawn and the name and address of the producer of the bale. The tag shall be placed between the two halves of the sample, the sample tightly rolled and enclosed in a package or bag for shipment. Each package or bag shall be labeled or marked with the name and address of the sampling agent for the organized group. The packages shall be shipped or delivered direct to the cotton classing office serving the territory in which the cotton is ginned.

§ 28.909 *Costs.* Costs incident to sampling, tagging, and identification of samples and transporting samples to points of shipment shall be without expense to the Government, but tags and containers for the shipment of samples may be furnished and shipping charges by common carriers paid by the Service. After classification the samples shall become the property of the Government.

CLASSIFICATION

§ 28.910 *Classification of samples.* The samples submitted as provided in this subpart shall be classified by employees of the Division and a classification memorandum showing the grade and staple length of each sample according to the official cotton standards of the United States will be mailed or made available to the producer whose name appears on the tag accompanying the sample, or to a representative designated by the producer or the organized group to receive the classification memorandum.

APPLICATIONS

§ 28.911 *Application forms.* Applications shall be made on forms furnished or approved by the Division.

§ 28.912 *Contents of application.* Each such application shall include (a) the date; (b) the name and location of the organized group; (c) the name and address of each member of the group and the name of the variety adopted by the group; (d) a statement that the designated variety adopted by the group has been agreed upon by a majority of the members; (e) a statement that the group is organized for the purpose of promoting the improvement of cotton; (f) copies of the organization papers of the group, such as articles of association and bylaws, and copies of ginners' agreements and other documents relating to cotton improvement by members of the group; (g) the names, titles, and post office addresses of the representative and alternate representative designated to act for the group; (h) a statement as to the estimated total number of acres of the adopted variety and the estimated total acreage of other varieties to be grown during the year; (i) a statement with regard to the arrangements that have been made for posting market information; (j) a statement with regard to the arrangements for procuring and distributing planting seed; (k) other information that may be required by the Director; (l) a statement that the group agrees to comply with the act and the regulations in this subpart; and (m) the signature of an authorized official or leader of the group. It shall be further required that each application be accompanied by a recommendation for approval or disapproval from (n) the cooperating state extension service or other state agency, or (o) from a committee designated for the purpose. In making each such recommendation, consideration should be given, among other things, to the status of the organization of the group; the extent of isolation of the group members' fields on which seed stocks are produced; the adaptability of the variety and the quality of the seed stocks; the completeness of the arrangements for the ginning of the cotton so as to promote cotton improvement; and the adequacy of the arrangements for the procurement and distribution of planting seed. In arriving at a decision with respect to the final approval or disapproval of any application, approving officers of the Division shall give due consideration to the recommendation of the Extension Service, other state agency or designated committee.

§ 28.913 *Time limitation.* Application shall be filed with an authorized representative of the Division or mailed to such representative within a period of time to be announced by the Division for the receipt of applications for services during the year to which such application relates. To receive consideration, any such application submitted by mail shall have been postmarked before midnight of the last day of such announced period.

§ 28.914 *Rejection.* Applications may be rejected for noncompliance with the act or the regulations in this subpart, or when funds or facilities are not available to provide the services requested.

§ 28.915 *Authority.* Proof of authority of any person to make application on behalf of an organized group may be required.

§ 28.916 *Withdrawal.* An organized group may withdraw its application at any time.

§ 28.917 *Renewal.* Applications shall be subject to renewal from year to year in accordance with a procedure to be prescribed by the Director or his authorized representatives.

§ 28.918 *Expenses.* Any expense involved in the preparation and filing of applications and requests for renewal shall be paid by the applicants.

LIMITATION OF SERVICES

§ 28.919 *Limitation of services.* The Director, or his authorized representatives, may suspend, terminate, or withhold cotton classing and market news services to any organized group upon its request, or upon its failure to comply with the act or these regulations, or when funds or facilities are insufficient to provide or continue such services.

## SUBPART E—COTTON FIBER AND PROCESSING TESTS

AUTHORITY: §§ 28.950 to 28.961 issued under 55 Stat. 131; 7 U. S. C. 473d.

DEFINITIONS

§ 28.950 *Terms defined.* As used throughout this subpart, unless the context otherwise requires, the following terms shall be construed, respectively, to mean:

(a) *Regulations.* Regulations mean the provisions in this subpart.

(b) *Service.* The Agricultural Marketing Service of the United States Department of Agriculture.

(c) *Administrator.* The Administrator of the Agricultural Marketing Service, or any officer or employee of the Service, to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

(d) *Division.* The Cotton Division of the Agricultural Marketing Service.

(e) *Director.* The Director of the Cotton Division, or any officer or employee of the Division to whom authority has heretofore been delegated, or to whom authority may hereafter be delgated, to act in his stead.

(f) *Laboratories.* Laboratories of the Cotton Division that perform the fiber and processing tests described in this subpart.

ADMINISTRATION

§ 28.951 *Director.* The Director shall perform for and under the supervision of the Administrator, such duties as the Administrator may require in enforcing the regulations in this subpart.

FIBER AND PROCESSING TESTS

§ 28.952 *Testing of samples.* The director or his authorized representatives, upon written requests, shall make

fiber and processing tests of the properties of cotton samples and report the results thereof to the persons from whom such requests are received, subject to compliance by such persons with the regulations in this subpart and to the payment by them of fees as prescribed herein.

§ 28.953 *Requirements as to samples.* Each sample of ginned cotton lint submitted for fiber and processing tests shall weigh approximately as shown below unless otherwise specified in the particular test item as prescribed herein:

1 ounce or more for fiber tests.
6 pounds or more for carded yarn spinning tests.
8 pounds or more for combed yarn spinning tests.
10 pounds or more for carded and combed yarn spinning tests.

Each individual sample submitted for testing shall contain a tag or coupon bearing a number or other identification symbol. Individually labelled samples may be sent in one or more parcels, each of which shall bear on the outside thereof the name and address of the person submitting it. Persons who submit samples to laboratories for testing shall comply with any Federal or State quarantine requirements applicable to counties from which such samples are shipped.

§ 28.954 *Costs of submitting samples.* The transportation of samples to a laboratory for testing shall be without expense to the Government.

§ 28.955 *Disposition of samples.* The remnants of samples and the other materials accumulated in the making of tests under the regulations in this subpart shall be the property of the Government. Portions of such samples and materials, however, may be used for illustrative purposes in connection with laboratory reports submitted to persons applying for such tests or may be returned to such persons as prescribed herein for specific test items.

§ 28.956 *Prescribed fees.* Fees for fiber and processing tests shall be assessed in accordance with items 1 to 35, inclusive, as listed below:

| *Item No.* | KIND OF TEST | *Fee per test* |
|---|---|---|
| 1. | Truncated fiber length array of cotton samples (reporting the percentage of fibers ½-inch and longer and the mean length and uniformity of length of such fibers as based on 3 specimens from a blended sample): | |
| | a. Ginned cotton lint, per sample | $9.00 |
| | b. Comber noils, per sample | 14.00 |
| | c. Other cotton waste, per sample | 19.00 |
| 2. | Fiber length array of cotton samples (reporting the average length and the average length variability as based on 3 specimens from a blended sample): | |
| | a. Ginned cotton lint, per sample | 10.00 |
| | b. Cotton comber noils, per sample | 15.00 |
| | c. Other cotton wastes, per sample | 20.00 |
| 2.1. | Fiber length array of cotton samples (reporting the average percentage of fibers by weight in each ⅛-inch group, the average length, and the average length variability as based on 3 specimens from a blended sample): | |
| | a. Ginned cotton lint, per sample | $12.50 |
| | b. Cotton comber noils, per sample | 17.50 |
| | c. Other cotton wastes, per sample | 22.50 |
| 2.2. | Fiber array of cotton samples including purified or absorbent cotton (reporting the average percentage of fibers ½-inch and longer by weight, the average of fibers shorter than ½-inch by weight, the average length, and the average length variability as based on 3 specimens from each sample), per sample | 12.50 |
| 3. | Fiber length of ginned cotton lint by Fibrograph method (reporting the average length and the average length uniformity as based on 4 specimens from a blended sample), per sample | 1.50 |
| | Minimum fee unless performed in connection with other tests requiring a blended specimen | 3.00 |
| 3.1. | Fiber length of ginned cotton lint by Fibrograph method (reporting the length of each sub-sample and the average length and the average length uniformity for each group of replicate sub-samples as based on 2 specimens from each of 3 or more replicate unblended sub-samples), per sub-sample | .75 |
| | Minimum fee | 3.00 |
| 4. | Foreign matter content in unginned seed cotton (reporting the percentage of foreign matter as based on a fractionation test on a 300-gram specimen), per sample | 1.00 |
| | Minimum fee | 3.00 |
| 5. | Fiber strength of ginned cotton lint by flat bundle method (reporting the average strength as based on 4 or more specimens from a blended sample), per sample | 1.50 |
| | Minimum fee unless performed in connection with other tests requiring a blended specimen | 3.00 |
| 5.1. | Fiber strength of ginned cotton lint by flat bundle method (reporting the strength of each sub-sample and the average strength for each group of replicate sub-samples as based on 2 specimens for each of 3 or more replicate unblended sub-samples), per sub-sample | .75 |
| | Minimum fee | 3.00 |
| 6. | Fiber maturity and fineness of ginned cotton lint by the Causticaire method (reporting the average maturity and fineness as based on 2 specimens from a blended sample), per sample | 1.50 |
| | Minimum fee | 6.00 |
| 6.1. | Micronaire tests on ginned cotton lint (reporting the average Micronaire reading as based on 2 specimens from a blended sample), per sample | .75 |
| | Minimum fee unless performed in connection with other tests requiring a blended specimen | 3.00 |
| 6.2. | Micronaire tests on ginned cotton lint (reporting the Micronaire reading for each sub-sample and the average Micronaire reading for each group of replicate sub-samples as based on 1 specimen from each of 2 or more replicate unblended sub-samples), per sub-sample | .25 |
| | Minimum fee | 3.00 |
| 6.3. | Fiber fineness and maturity of ginned cotton lint by array method (reporting the weighted average according to the distribution of the fibers in the arrays for both weight-per-inch and percentage of mature fibers as based on 2 determinations on the fibers in each ⅛-inch group from a composite of 2 length arrays): | |
| | a. From raw stock, per sample | $15.00 |
| | b. From arrayed specimens prepared in connection with items 2, 2.1, or 2.2, per sample | 7.50 |
| 7. | Neps content of ginned cotton lint (reporting the neps per 100 square inches as based on the web prepared from a 3-gram specimen by using accessory equipment with the mechanical fiber blender), per sample | 2.00 |
| | Minimum fee unless performed in connection with other tests requiring a blended specimen | 6.00 |
| 8. | Furnishing American cotton for laboratory check test (including data for length by both array and Fibrograph methods, strength by flat bundle method ⅛-inch gauge, maturity and fineness by the Causticaire method): | |
| | a. Short staple, per 1-pound sample | 7.50 |
| | b. Medium staple, per 1-pound sample | 7.50 |
| | c. Long staple, per 1-pound sample | 7.50 |
| | d. Extra long staple, per 1-pound sample | 7.50 |
| 9. | Blending samples of ginned cotton lint (including the blending of a 10-gram sample on the mechanical fiber blender and returning the blended sample to the applicant), per sample | 1.00 |
| 10. | Moisture content of ginned cotton lint, cotton stock at various stages of processing, and cotton lint waste of various types (reporting the percentage of moisture content by the oven-drying method as based on a 20-gram specimen), per sample | .75 |
| | Minimum fee | 3.00 |
| 10.1. | Moisture content of unginned seed cotton (reporting the percentage of moisture content by the oven-drying method as based on a 50-gram specimen), per sample | 1.25 |
| | Minimum fee | 5.00 |
| 10.2. | Moisture regain of ginned cotton lint at 92 percent relative humidity (reporting the average percentage of moisture regain as based on the bone-dry weight of two ½-gram specimens), per sample | 1.25 |
| | Minimum fee | 5.00 |
| 11. | Cotton carded yarn spinning test (reporting data on the wastes extracted, the neps in card web, the yarn skein strength, the yarn appearance, and classification and fiber length as specified in items 28 and 3 as well as comments summarizing any unusual observations as based on the processing of 5 pounds of cotton in accordance with standard laboratory procedures at one of the standard rates of carding of 6½, 9½, or 12½ pounds-per-hour into two of the standard carded yarn numbers of 8s, 14s, 22s, 36s, 44s, 50s, or 60s, employing a standard twist multiplier unless otherwise specified), per sample | 30.00 |
| | Minimum fee | 60.00 |

| Item No. | KIND OF TEST | Fee per test |
|---|---|---|
| 12. | Cotton combed yarn spinning test (reporting data on the wastes extracted, the neps in card web, the yarn skein strength, the yarn appearance, and classification and fiber length as specified in items 28 and 3 as well as comments summarizing any unusual observations as based on the processing of 7 pounds of cotton in accordance with standard procedures at one of the standard rates of carding of 4½, 6½, or 9½ pounds-per-hour into two of the standard combed yarn numbers of 22s, 36s, 44s, 50s, 60s, 80s, or 100s employing a standard twist multiplier unless otherwise specified), per sample | $40.00 |
| | Minimum fee | 80.00 |
| 13. | Cotton carded and combed yarn spinning test (reporting the results specified in item numbers 11 and 12 in combination as based on the processing of 9 pounds of cotton into two of the standard carded and two of the standard combed yarn numbers employing the same carding rate and the same yarn numbers for both the carded and the combed yarns), per sample | 50.00 |
| | Minimum fee | 100.00 |
| 14. | Cotton carded and combed yarn spinning test (reporting the results specified in item numbers 11 and 12 in combination as based on the processing of 9 pounds of cotton into two of the standard carded and two of the standard combed yarn numbers employing different carding rates and/or yarn numbers for the carded and combed yarns), per sample | 60.00 |
| | Minimum fee | 120.00 |
| 15. | Two-pound cotton carded yarn spinning test (available to cotton breeders only reporting data on the neps in card web, the yarn skein strength, the yarn appearance and the classification and the fiber length of the cotton as specified in item numbers 28 and 3 as well as comments on any unusual processing performance as based on the processing of 2 pounds of cotton in accordance with standard procedures into 22s and 36s carded yarns employing a standard twist multiplier), per sample | 20.00 |
| | Minimum fee | 40.00 |
| 16. | Processing and testing of additional yarn (any carded or combed yarn number processed in connection with spinning tests as specified in item numbers 11 through 14 including either additional yarn numbers or additional twist multipliers employed on the same yarn numbers): | |
| | a. Single yarn reporting data on skein strength and appearance, per additional lot of yarn | 5.00 |
| | b. 2- or 3-ply yarn reporting data on skein strength only, per lot of yarn | 10.00 |
| 16.1. | Processing and furnishing of additional yarn (any yarn number processed in connection with spinning tests as specified in items 11 through 14): | |
| | a. Approximately 300 yards on each of 16 paper tubes for testing by the applicant, per additional lot of yarn | $10.00 |
| | In the following quantities wound on paper tubes: | |

| Yarn number | Per pound | Minimum fee |
|---|---|---|
| b. Carded 60s or coarser | $10.00 | $12.50 |
| c. Combed 60s or coarser | 12.50 | 15.00 |
| d. Combed 61s to 80s | 15.00 | 17.50 |
| e. Combed 81s to 100s | 17.50 | 20.00 |

| Item No. | KIND OF TEST | Fee per test |
|---|---|---|
| 17. | Spinning twist test (reporting data on the skein strength of any yarn number processed from ginned lint or stock in process employing 6 different spinning twist multipliers as specified by the applicant for determining the optimum twist) processed as follows: | |
| | a. From ginned lint or picker lap, per sample | 40.00 |
| | b. From sliver, per sample | 35.00 |
| | c. From roving, per sample | 30.00 |
| 17.1. | Additional spinning twist test (from the same material and in connection with a spinning test or a spinning twist test as specified in item numbers 11 through 14 and 17 reporting data on yarn skein strength for an additional yarn number or additional twists on the same yarn number), per 6 lots of yarn | 25.00 |
| 18. | Skein strength of yarn (reporting data on the strength and the yarn numbers based on 25 skeins from yarn furnished by the applicant), per sample | 2.50 |
| 18.1. | Single strand strength of yarn (reporting data on the strength as based on a minimum of 10 breaks on yarn from each of 7 bobbins employing an automatic testing machine), per sample | 3.00 |
| | Minimum fee | 6.00 |
| | a. Furnishing copy of chart record, per test | 1.00 |
| 18.2. | Single strand strength of ply yarn or cord (reporting data on the strength as based on 25 breaks employing a pendulum type testing machine), per sample | 2.50 |
| 18.3. | Appearance grade of yarn on bobbins furnished by applicant (reporting the appearance grade in accordance with ASTM standards as based on yarn wound from one bobbin), per bobbin | 1.00 |
| | a. Furnishing yarn wound on boards in connection with yarn appearance tests as specified in item numbers 11 through 15 and 18.3, per yarn number | 1.00 |
| 19. | Processing, weaving, and testing of fabric (reporting data on the warp and the filling strength by the grab method for any standard cotton fabric for which the laboratories are equipped to produce which are processed in accordance with standard laboratory procedures): | |
| | a. Processed in connection with spinning tests as specified in item numbers 11 through 14, per lot of fabric | $70.00 |
| | b. Processed from yarns furnished by the applicant, per lot of fabric | 60.00 |
| 20. | Strength of cotton fabric (reporting the average warp and filling strength by the grab method as based on 5 breaks for both warp and filling of fabric furnished by the applicant), per lot of fabric | 2.50 |
| 20.1. | Cotton Fabric Analysis (reporting data on the number of warp and filling threads per inch and the weight per yard of fabric as based on at least three (3) 6 x 6-inch specimens of fabric which was processed as specified in item number 19, or furnished by the applicant), per lot of fabric | 5.00 |
| | Minimum fee | 10.00 |
| 20.2. | Sizing content of cotton fabric or yarn (reporting data on sizing content as based on the desizing of a 20 to 40 gram specimen of sized and, if available, unsized fabric or yarn which was processed as specified in item number 19 or furnished by the applicant), per lot of fabric or yarn | 5.00 |
| | Minimum fee | 20.00 |
| 20.3. | Air-permeability of cotton fabric (reporting the average cubic feet of air per minute per square foot of fabric at a pressure drop of 0.5 inches of water across the fabric as based on five 10 x 10-inch specimens), per lot of fabric | 2.50 |
| | Minimum fee | 5.00 |
| 21. | Neps and waste test (reporting data on neps in card web and wastes extracted in the processing of a 5-pound specimen of ginned cotton lint through the picking and carding processes in accordance with standard procedures as specified in item number 11), per sample | 7.50 |
| 21.1. | Determination of neps in card web of cotton (reporting the average number of neps per 100 square inches of web in specimens furnished by the applicant on boards covered with black velvet not to exceed 10 specimens or a total of 360 square inches), per test | 1.50 |
| 22. | Sugar content and acid-alkalinity of ginned cotton lint (reporting data on the percentage of soluble reducing sugar content and the acid-alkalinity in pH units as based on chemical-colorimetric and electronic meter tests on water extracts), per sample | 1.00 |
| | Minimum fee | 5.00 |

| Item No. | KIND OF TEST | Fee per test |
|---|---|---|
| 22.1. | Sugar content only, per sample | $0.75 |
| | Minimum fee | 3.75 |
| 22.2. | Acid-alkalinity only, per sample | .75 |
| | Minimum fee | 3.75 |
| 23. | Color of ginned cotton lint (reporting data on the reflectance in terms of $R_d$ values and the degree of yellowness in terms of b values as based on color tests employing the Nickerson-Hunter colorimeter on samples which have a uniform surface measuring 5 x 6½ inches and weighing approximately 50 grams in order to provide specimens which are sufficiently thick to be opaque), per sample | .25 |
| | Minimum fee | 2.00 |
| 23.1. | Furnishing color diagrams of official grade standards (reporting color values plotted on a diagram as based on tests employing the Nickerson-Hunter colorimeter for standards purchased by the applicant), per set or portion of set | 15.00 |
| 23.2. | Furnishing color standards (including a set of standards and a master diagram for use in calibrating Nickerson-Hunter cotton colorimeters), per set | 25.00 |
| 24. | Furnishing copies of test data work sheets (includes individual observations and calculations which are not routinely furnished to the applicant), per sheet | 1.00 |
| 25. | Foreign matter content of cotton samples (reporting data on the non-lint content as based on the Shirley Analyzer separation of lint and foreign matter): | |
| | a. For samples of ginned lint or comber noils, per 100-gram specimen | 2.00 |
| | Minimum fee | 4.00 |
| | b. For samples of ginning and processing wastes other than comber noils, per 100-gram specimen | 5.00 |
| | Minimum fee | 10.00 |
| 26. | Furnishing identified cotton samples (includes samples of ginned lint, stock at any stage of processing or testing, waste of any type, yarn or fabric selected and identified in connection with fiber and/or spinning tests), per identified sample | .75 |
| 27. | Furnishing additional copies of test reports (includes extra copies in addition to the 2 copies routinely furnished in connection with each test item), per additional sheet | .50 |
| 27.1. | Furnishing a certified relisting of test results (includes samples selected from any previous tests except sub-sample tests as specified in item numbers 3.1, 5.1 and 6.2 which may not be relisted unless all replicate sub-samples in a group are included), per sheet | 2.50 |
| 28. | Classification of ginned cotton lint in connection with fiber and/or processing tests (includes grade and staple classification of 4-ounce samples in accordance with the applicable American standards for the cotton submitted), per sample | .25 |
| 29. | Combination fiber test including test item numbers 3, 5, and 6, per sample | 3.75 |
| | a. When tested in connection with spinning test item numbers 11, 12, 13, 14 and 15, per sample | 2.50 |
| 29.1. | Combination fiber test including test items 3, 5 and 6.1, per sample | $3.00 |
| | a. When tested in connection with spinning test item numbers 11, 12, 13, 14 and 15, per sample | 1.75 |
| 29.2. | Combination fiber test including test items 3.1, 5.1 and 6.2 (on 3 or more replicate sub-samples), per sub-sample | 1.50 |
| | Minimum fee | 4.50 |
| 30. | Mercerizing and testing of cotton yarn (reporting data on the luster of two 120-yard skeins and strength of the yarn as based on twenty-five 120-yard skeins mercerized in accordance with standard laboratory procedures): | |
| | a. Including the processing of the extra yarn in connection with spinning test item numbers 11 through 14, per lot of yarn | 12.50 |
| | Minimum fee | 50.00 |
| | b. For yarn furnished by the applicant (27 skeins of 120 yards each required), per lot of yarn | 10.00 |
| | Minimum fee | 40.00 |
| 31. | Bleaching and testing of cotton yarn (reporting data on the color of the yarn in terms of $R_d$ reflectance values and plus b degree of yellowness values as based on the measurement of two 120-yard skeins either processed in connection with spinning test item numbers 11 through 14 or furnished by the applicant and bleached in accordance with standard laboratory procedures), per lot of yarn | 6.00 |
| | Minimum fee | 90.00 |
| 32. | Bleaching, dyeing and testing of cotton yarn (reporting data on the color of the dyed yarn in terms of $R_d$ reflectance values and minus b degree of blueness values as based on the measurement of two 120-yard skeins either processed in connection with spinning test item numbers 11 through 14 or furnished by the applicant and bleached then dyed in accordance with standard laboratory procedures), per lot of yarn | 10.00 |
| | Minimum fee | 150.00 |
| 33. | Dyeing and testing of grey cotton yarn (reporting data on the color of the dyed yarn in terms of $R_d$ reflectance values and minus b degree of blueness values as based on the measurement of two 120-yard skeins either processed in connection with spinning test item numbers 11 through 14 or furnished by the applicant and dyed in accordance with standard laboratory procedures), per lot of yarn | 6.00 |
| | Minimum fee | 90.00 |
| 34. | Luster of cotton yarn (reporting data on the percent luster of grey or mercerized yarn either processed in connection with spinning test item numbers 11 through 14 or furnished by the applicant as based on the measurement of two 120-yard skeins), per lot of yarn | 1.00 |
| | Minimum fee | 3.00 |
| 35. | Color of cotton yarn (reporting data on the color of grey, bleached, dyed or bleached and dyed yarn either processed in connection with spinning test items 11 through 14 or furnished by the applicant as based on the measurement of two 120-yard skeins), per lot of yarn | 1.00 |
| | Minimum fee | 3.00 |

§ 28.957 *Fees for special tests.* In the discretion of the Director, special tests not listed in § 28.956 may be made to the extent that available facilities will permit, subject to the payment of fees as determined by him.

§ 28.958 *Payment of fees.* As soon as practicable after the last day of each calendar month, bills shall be rendered by officers in charge of testing laboratories to all persons from whom payment of fees and costs under the regulations in this subpart shall become due, provided that when desirable any bill may be rendered at an earlier date. Payment shall be by check or by draft or post office or express money order, payable to the order of "Agricultural Marketing Service, USDA."

§ 28.959 *Limitation of testing services.* If at any time funds available for services under the regulations in this subpart may be insufficient to provide for the testing of all samples that may be submitted for the purpose, the Director may place reasonable limitations upon the quantities of samples to be submitted by individuals during any one fiscal year or any one calendar month, and may direct that samples received from cotton breeders shall take precedence over those received from other persons.

§ 28.960 *Confidential information.* No information concerning individual tests under the regulations in this subpart shall be published or communicated in such a way as to disclose to others the identity of the owners of cotton represented by samples submitted for testing, except with the written permission of such owners.

§ 28.961 *False and misleading information.* The publication or communication by any person of false or misleading information concerning the results of tests as reported by laboratories under the regulations in this subpart shall be deemed sufficient cause for denial of testing services to such persons.

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## PART 61—COTTONSEED SOLD OR OFFERED FOR SALE FOR CRUSHING PURPOSES (INSPECTION, SAMPLING, AND CERTIFICATION)

### Subpart A—Regulations

#### DEFINITIONS

Sec.

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## SUBPART A—REGULATIONS

AUTHORITY: §§ 61.1 to 61.46 issued under sec. 205, 60 Stat. 1090; 7 U. S. C. 1624.

### DEFINITIONS

§ 61.1 *Words in singular form.* Words used in the regulations in this subpart in the singular form shall be deemed to import the plural, and vice-versa, as the case may demand.

§ 61.2 *Terms defined.* As used throughout the regulations in this part, unless the context otherwise requires, the following terms shall be construed, respectively to mean:

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

(b) *Regulations.* Regulations mean the provisions in this subpart.

(c) *Department.* The United States Department of Agriculture.

(d) *Secretary.* The Secretary of Agriculture of the United States, or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

(e) *Service.* The Agricultural Marketing Service of the United States Department of Agriculture.

(f) *Administrator.* The Administrator of the Agricultural Marketing Service, or any officer or employee of the Service, to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

(g) *Division.* The Cotton Division of the Agricultural Marketing Service.

(h) *Director.* The Director of the Cotton Division, or any officer or employee of the Division to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

(i) *Custodian.* Person who has possession or control of cottonseed or of samples of cottonseed as agent, controller, broker, or factor, as the case may be.

(j) *Owner.* Person who through financial interest owns or controls, or has the disposition of either cottonseed or of samples of cottonseed.

(k) *Official cottonseed standards.* The official standards of the United States for the grading, sampling, and analyzing of cottonseed sold or offered for sale for crushing purposes.

(l) *Supervisor of cottonseed inspection.* An officer of the Division designated as such by the Director.

(m) *License.* A license issued under the act by the Secretary.

(n) *Licensed cottonseed chemist.* A person licensed under the act by the Secretary to make quantitative and qualitative chemical analyses of samples of cottonseed according to the methods prescribed by the Director and to certificate the grade according to the official cottonseed standards of the United States.

(o) *Licensed cottonseed sampler.* A person licensed by the Secretary to draw and to certificate the authenticity of samples of cottonseed in accordance with the regulations in this subpart.

(p) *Dispute.* A disagreement as to the true grade of a sample of cottonseed analyzed and graded by a licensed chemist.

(q) *Party.* A party to a dispute.

(r) *Commercial laboratory.* A chemical laboratory operated by an individual, firm, or corporation in which one or more persons are engaged in the chemical analysis of materials for the public.

(s) *Cottonseed.* The word "cottonseed" as used in this part means the seed, after having been put through the usual and customary process known as cotton ginning, of any cotton produced within the continental United States.

(t) *Lot.* That parcel or quantity of cottonseed offered for sale or tendered for delivery or delivered on a sale or contract of sale, in freight cars, trucks, wagons, or otherwise in the quantities and within the time limits prescribed from time to time by the Director for the drawing and preparation of official samples by licensed cottonseed samplers.

(u) *Official sample.* A specimen of cottonseed drawn and prepared by a licensed cottonseed sampler and certified by him as representative of a certain identified lot, in accordance with the regulations in this subpart.

§ 61.2a *Designation of official certificates, memoranda, marks, other identifications, and devices for purpose of the Agricultural Marketing Act.* Subsection 203 (h) of the Agricultural Marketing Act of 1946, as amended by Public Law 272, 84th Congress, provides criminal penalties for various specified offenses relating to official certificates, memoranda, marks, or other identifications, and devices for making such marks or identifications, issued or authorized under section 203 of said act, and certain misrepresentations concerning the inspection or grading of agricultural products under said section. For the purposes of said subsection and the provisions in this part, the terms listed below shall have the respective meanings specified:

(a) "Official certificate" means any form of certification, either written or printed, used under this part to certify with respect to the inspection, sampling, class, grade, quality, quantity, or condition of products (including the compliance of products with applicable specifications).

(b) "Official memorandum" means any initial record of findings made by an authorized person in the process of grading, inspecting, or sampling, pursuant to this part, any processing or plant-operation report made by an authorized person in connection with grading, inspecting, or sampling under this part, and any report made by an authorized person of services performed pursuant to this part.

(c) "Official mark" means the grade mark, inspection mark, and any other mark, approved by the Administrator and authorized to be affixed to any product, or affixed to or printed on the packaging material of any product, stating that the product was graded or inspected or both, or indicating the appropriate U. S. grade or condition of the product, or for the purpose of maintaining the identity of products graded or inspected or both under this part.

(d) "Official identification" means any United States (U. S.) standard designation of class, grade, quality, quantity, or condition specified in this part, or any symbol, stamp, label, or seal indicating that the product has been officially graded or inspected and/or indicating the class, grade, quality, quantity, or condition of the product, approved by the Administrator and authorized to be affixed to any product, or affixed to or printed on the packaging material of any product.

(e) "Official device" means a stamping appliance, branding device, stencil, printed label, or any other mechanically or manually operated tool that is approved by the Administrator for the purpose of applying any official mark or other identification to any product or the packaging material thereof.

ADMINISTRATIVE AND GENERAL

§ 61.3 *Director.* The Director shall perform for and under the supervision of the Secretary and the Administrator, such duties as the Secretary or the Administrator may require in enforcing the provisions of the act and the regulations.

§ 61.4 *Supervisor of cottonseed inspection.* The Director, whenever he deems necessary, may designate an officer of the Division as supervisor of cottonseed inspection who shall supervise the inspection and sampling of cottonseed and perform such other duties as may be required of him in administering the act and the regulations.

§ 61.5 *Regulations to govern.* The inspection, sampling, analyzing, and grading of cottonseed in the United States pursuant to the act shall be performed as prescribed in methods approved from time to time by the Director.

§ 61.6 *Denial of further services.* Any person, partnership, or corporation that shall have undertaken to utilize the services of licensed cottonseed samplers and licensed cottonseed chemists under these regulations who shall not make available for official sampling and analysis each lot of cottonseed purchased or sold on grade and received by such person or partnership or corporation, may be denied further services under the act and these regulations: *Provided,* That in cases of persons, partnerships, or corporations operating two or more cottonseed crushing units under separate local managements, such penalty shall apply only to the offending unit, unless it shall be shown that the actions of such unit were at the direction or with the knowledge, approval, or acquiescence of the general management.

§ 61.7 *Misrepresentation.* Any wilful misrepresentation or any deceptive or fraudulent practice made or committed by an applicant for a cottonseed sampler's certificate or for a cottonseed chemist's certificate or for an appeal grade certificate in connection with the sampling or grading of cottonseed by persons licensed under the act and the regulations or the issuance or use of a certificate not issued by a person licensed under the regulations in imitation of or that might mislead anyone to believe that such certificate was in fact issued by a person licensed under the act, or that might be otherwise false, misleading, or deceptive, may be deemed sufficient cause for debarring such applicant from any further benefits of the act.

§ 61.8 *Application for review.* In case of dispute in which a review is desired of the grading of any sample of cottonseed covered by a valid certificate issued by a licensed cottonseed chemist, application therefor shall be filed with or mailed to a supervisor of cottonseed inspection within ten days after the date of the original certificate, whereupon the licensed chemist issuing the certificate shall immediately surrender to such supervisor the retained portion of the original sample, together with such records as may be required, for the determination of the true grade. The supervisor shall assign to such retained portion an identification number, shall divide such retained portion into two parts and submit the parts to two other licensed cottonseed chemists for reanalysis. Should the supervisor determine that such reanalyses indicate a grade differing from the original by not more than plus or minus one full grade, the original grade shall be considered the true grade. Should he find that such reanalyses indicate a grade differing more than plus or minus one full grade from the original, he shall determine the true grade. In any case, the supervisor shall issue over his name an appeal cottonseed grade certificate showing the true grade as determined in accordance with this section, which shall supersede the licensed chemists' certificates relating to the grade of such seed. Where due solely to errors in calculation or clerical error a grade certificated by a licensed cottonseed chemist is not the true grade, the supervisor shall direct the licensee to cancel the original and to issue a correct certificate. Should such error be found after an application for review has been filed, the supervisor shall nevertheless issue an appeal cottonseed grade certificate showing the true grade of the cottonseed involved.

§ 61.9 *Cost of review.* In cases of review of the grade of any official sample of cottonseed, payment covering the costs of re-analysis shall accompany the application.

LICENSED COTTONSEED CHEMISTS

§ 61.10 *Application for license as cottonseed chemist; form.* (a) Application for licenses to analyze and grade cottonseed shall be made to the Director on forms furnished for the purpose by the Division.

(b) Each such application shall be in English, shall be signed by the applicant, and shall contain or be accompanied by satisfactory evidence (1) that he has passed his twenty-fifth birthday and that he is an actual resident of the continental United States; (2) that he holds a degree in chemistry or chemical engineering from a recognized college or university and has had not less than three years' practical experience in laboratory work in which he shall have analyzed quantitatively and qualitatively samples of cottonseed; or in the absence of a degree from a recognized college or university, that he has had at least five years' practical laboratory experience, three years of which shall have been devoted chiefly to the analysis of samples of cottonseed; (3) that he will have no financial interest in any cottonseed oil mill or cotton ginning establishment; (4) that he agrees to comply with and abide by the terms of the act and these regulations so far as they may relate to him; (5) that he is an independent analytical chemist or an employee of a commercial analytical laboratory; (6) that he owns or will have the use of all of the apparatus specified in the methods established hereunder for the analysis and grading of cottonseed; and (7) such other information as the Director may deem necessary.

(c) Every chemist licensed hereunder to analyze cottonseed and to certificate the grade thereof shall follow precisely the methods of analysis approved from time to time by the Director.

(d) The applicant shall furnish such additional information as the Director shall at any time find to be necessary to the consideration of his application.

§ 61.11 *Examination of applicant.* Each applicant for a license as a chemist and each licensed chemist shall when requested submit to an examination or test to show his ability to analyze and grade cottonseed. His failure to pass such test may be considered sufficient ground for withholding the issuance to him of a license or of a renewal of a license.

§ 61.12 *Period of license; renewals.* The period for which a license may be issued shall be from the first day of August until and including the 31st day of July following. Renewals shall be for not more than 1 year beginning with the first day of August of each year, provided that licenses issued on and after June 1 of any year shall be for the period ending on July 31 of the following year.

§ 61.13 *Conditions in licensing.* It shall be a condition of the licensing of any person, and of the retention by him of a license, that during the active cotton season each year he shall be engaged in or in connection with the grading of cottonseed; that all cottonseed offered for grading shall be analyzed and graded in accordance with the official cottonseed standards of the United States; that each sample of cottonseed received for analysis and grading shall be handled in the order of its receipt at his place of business; and that such license shall not be used or be allowed to be used for any improper purpose.

§ 61.14 *Fees for grading and certification.* Whenever any licensed chemist shall grade and/or certificate any cottonseed or samples in consideration of a fee, the fee charged shall be reasonable, unconditional, non-discriminatory, and shall be in accordance with a schedule previously submitted to and approved by the Division. The schedule shall include the certificate fee provided for in § 61.45.

§ 61.15 *Records of analyses; inspection of records.* Each licensed chemist, shall keep, or shall cause to be kept for him, for a period of at least 1 year after date of analysis, a record of the analysis of each individual sample of cottonseed graded by him. Each licensed chemist shall permit any authorized officer or agent of the Department to inspect or examine, on any business day during the usual hours of business, his books and records relating to analyses of cottonseed samples and issuance of cottonseed grade certificates under the act and the regulations in this subpart.

§ 61.16 *Official and unofficial samples; analyses; certificate.* (a) Each licensed cottonseed chemist shall assign a laboratory number to each sample of cottonseed received by him and shall analyze and certificate over his signature the grade of each sample or lot of cottonseed in the order in which the sample is received.

(b) Each such sample which is in proper condition for analysis under these regulations and which is accompanied by the certificate of a licensed cottonseed sampler certifying it to be an official sample representing an identified lot of cottonseed shall be considered an official sample. In any case where the original sample is lost or destroyed before analysis, the duplicate thereof retained by the licensed cottonseed sampler as provided in § 61.34 shall become the official sample. Each licensed chemist shall retain for at least two weeks a portion of each official sample first analyzed; and in any case where a review is requested under § 61.8 such retained portion shall be considered an official sample for purposes of review analysis.

(c) Each such sample which is (1) not in proper condition for analysis as an official sample under these regulations, or (2) not accompanied by a certificate of a licensed cottonseed sampler, or (3) known to be a duplicate of an official sample (except duplicates of lost or destroyed official samples) shall be considered an unofficial sample and the licensed cottonseed chemist's certificate of the grade thereof shall be plainly marked: "Sample not official; grade applies to sample only." This paragraph shall not apply to mill control or crush samples.

§ 61.17 *Grade certificate; form.* Each grade certificate issued under the act by a licensed chemist shall be in a form approved for the purpose by the Director and shall embody within its written or printed terms:

(a) The caption "Cottonseed Grade Certificate."

(b) The serial number assigned to it.

(c) The date and place of issuance.

(d) A statement certifying that the analysis of the cottonseed sample was made according to the methods approved by the Director of the Cotton Division and that the grade given is according to the official standards of the United States.

(e) A statement of the condition of the lot of cottonseed as reported by the sampler, and in cases where the sample was submitted by a licensed sampler, the name and license number of the sampler.

(f) The identification of each lot of cottonseed by the marks and notations by which the seed was identified at the time the sample was taken, and the origin of the cottonseed by county and state.

(g) All analytical data required by the Director.

(h) The signature of the licensed chemist.

In addition, the grade certificate may include any other matter not inconsistent with the act or the regulations in this part. Two copies of the grade certificate form shall be submitted to and approved by the Division before use by a licensed chemist. A copy of each certificate shall be mailed to a designated office of the Division within 36 hours after its issuance.

§ 61.18 *Reports of licensed chemists.* Each licensed chemist shall from time to time when requested by the Director, make reports on forms furnished for the purpose by the Division bearing upon his activities as such licensed chemist.

§ 61.19 *Information of violations.* Every person licensed under the act shall immediately furnish the Director any information which comes to the knowledge of such person tending to show that any provision of the act or the regulations has been violated.

§ 61.20 *Licensed chemists; suspension of license.* The Director may, without a hearing, suspend or revoke the license issued to a licensed chemist upon written request and a satisfactory statement of reasons therefor submitted by such licensed chemist. Pending final action by the Secretary, the Director may, whenever he deems such action necessary, suspend the license of any licensed chemist when such licensed chemist (a) has ceased to perform services as such chemist, (b) has knowingly or carelessly analyzed cottonseed improperly, (c) has violated or evaded any provision of the act or the regulations thereunder so far as the same may relate to him, (d) has used his license or allowed it to be used for any fraudulent or improper purposes, or (e) has in any manner become incompetent or incapacitated to perform the duties of a licensed chemist. In such cases the Director shall give notice of the suspension to the licensed chemist, accompanied by a statement of the reasons therefor. Within 10 days after the receipt of the aforesaid notice and statement of reasons by such licensee, he may file an appeal, in writing, with the Secretary, supported by any argument or evidence that he may wish to offer as to why his license should not be suspended or revoked. After the expiration of the aforesaid 10-day period and consideration of such argument and evidence, the Secretary will take such action as he deems appropriate with respect to such suspension or revocation. When no appeal is filed within the prescribed 10 days, the license shall be automatically revoked.

§ 61.21 *Suspended license to be returned to Division.* If a license issued to a licensed chemist is suspended, revoked, or canceled, such license shall be returned to the Division. At the expiration of any period of suspension of such license, unless in the meantime it be revoked or canceled, the dates of the beginning and termination of the suspension shall be indorsed thereon, and it shall be returned to the licensed chemist to whom it was originally issued.

§ 61.22 *Duplicate license.* Upon satisfactory proof of the loss or destruction of a license issued to a licensed chemist, a duplicate thereof may be issued under the same or a new number.

§ 61.23 *Unlicensed persons must not represent themselves as licensed.* No person shall in any way represent himself to be a chemist licensed under the act unless he holds an unsuspended, unrevoked, and uncanceled license issued under the act.

§ 61.24 *Information on grading to be kept confidential.* Every person licensed under the act as a licensed chemist shall keep confidential all information secured by him relative to cottonseed analyzed and graded by him. He shall not disclose such information to any person except to the owner or custodian of the seed in question, or to an authorized agent of the Department.

LICENSED COTTONSEED SAMPLERS

§ 61.25 *Application for license as sampler; form.* (a) Applications for licenses to sample cottonseed shall be made to the Director on forms furnished for the purpose by him.

(b) Each such application shall be in English, shall be signed by the applicant, and shall contain or be accompanied by (1) satisfactory evidence that he is an actual resident of the United States, (2) satisfactory evidence of his experience in the handling and sampling of cottonseed, (3) a statement by the applicant that he agrees to comply with and abide by the terms of the act and these regulations so far as they relate to him, and with instructions issued from time to time governing the sampling of cottonseed, and (4) such other information as may be required.

§ 61.26 *Bonds of licensed samplers.* (a) Each applicant for a license to sample cottonseed shall, as a condition to the granting thereof, execute and file with the Director a good and sufficient bond to the United States to secure the faithful performance of his duties as a licensed sampler under the terms of the act and the regulations in this part. Said bond shall be in such form and amount, not less than $1,000, and shall have such surety or sureties as shall be approved by the Department, subject to service of process in suits on the bond within the State, district, or territory, in which such licensee shall perform services as a licensed cottonseed sampler. Any person injured by the breach of any obligation to secure which a bond is given under this paragraph shall be entitled to sue on the bond in his own name in any court of competent jurisdiction to recover the damages he may have sustained by such breach.

(b) If the Director finds that conditions warrant such action, there shall be added to the amount previously required under paragraph (a) of this section such additional amount as he shall deem necessary.

§ 61.27 *Period of license; renewals.* The period for which a license may be issued under the regulations in §§ 61.25 through 61.42 shall be from the first day of August until and including the 31st day of July following. Renewals shall be for 1 year, beginning with the first day of August of each year: *Provided,* That licenses or renewals issued on and after June 1 of any year shall be for the period ending July 31 of the following year.

§ 61.28 *Renewal of license; bond.* It shall be a condition of the renewal of any license hereunder that the licensed sampler shall file a new bond in the required amount with, and that such bond shall be approved by, the Director or his authorized representative: *Provided,* That in the discretion of the Director or his authorized representative a properly executed instrument in form approved by

him amending, extending, or continuing in force and effect the obligations of a valid bond previously filed by the licensed sampler and otherwise complying with the regulations in §§ 61.25 through 61.42 may be filed in lieu of a new bond.

§ 61.29 *Approval of bond.* No bond, amendment, or continuation thereof shall be deemed accepted for the purpose of the regulations in §§ 61.25 through 61.42 until it has been approved by the Director or his authorized representative.

§ 61.30 *Examination of sampler.* Each applicant for a license as a sampler and each licensed sampler whenever requested by an authorized representative of the Director, shall submit to an examination or test to show his ability properly to perform the duties for which he is applying for a license or for which he has been licensed, and each such applicant or licensee shall furnish the Division any information requested at any time in regard to his sampling of cottonseed.

§ 61.31 *License must be posted.* Each licensed sampler shall keep his license conspicuously posted at the place where he functions as a sampler or in such other place as may be approved by the Director.

§ 61.32 *No discrimination in sampling.* Each licensed sampler, when requested, shall without discrimination, as soon as practicable and upon reasonable terms, sample any cottonseed if the same be made available to him at his place of business, under conditions that will permit proper sampling. Each such licensee shall give preference to those who request his services as such over persons who request his services in any other capacity.

§ 61.33 *Equipment of sampler; contents of certificate.* Each licensed sampler shall have available suitable triers or sampling tools, sample containers, scales, seed cleaners, seed mixers, and air-tight containers for enclosing and forwarding the official samples to licensed chemist, and with tags and samplers' certificates approved or furnished by the Director or his representative for identifying the samples of cottonseed and for certificating the condition of the cottonseed represented by such samples. There shall be clearly written or printed on the face of such certificate (a) a suitable caption; (b) the location of the cottonseed involved and its point of origin; (c) the identification of the lot from which the sample was drawn; (d) the date on which the sample was drawn; (e) the gross weight of the original sample, and the net weight of the cleaned sample; (f) a statement indicating that the sample was drawn in accordance with sampling methods prescribed by the Director of the Cotton Division; and (g) the signature of the licensed sampler as such. The use of such tags and certificates shall be in conformity with instructions issued from time to time by the Division.

§ 61.34 *Drawing and preparation of sample.* Each licensed cottonseed sampler shall draw, prepare, and identify one official sample of cottonseed and a duplicate thereof from each lot made available to him in such manner as may be required by the Director, and shall promptly prepare it for forwarding to a licensed cottonseed chemist for analysis and grading. The duplicate shall be sealed and retained by the sampler until the original official sample shall have been analyzed by a licensed chemist. If the original official sample shall become lost or destroyed before having been analyzed the duplicate shall become the official sample; otherwise the licensed sampler shall immediately remove the identification marks from the duplicate and discard it. In no case shall the duplicate be offered for analysis unless the original shall have been lost or destroyed before analysis.

§ 61.35 *Inspection of records of sampler.* Each licensed sampler shall permit any authorized representative of the Department to inspect at any time his books and records relating to the performance of his duties under §§ 61.25 through 61.42.

§ 61.36 *Cause for suspension or revocation.* The failure or refusal of any cottonseed sampler, duly licensed as such under the regulations in this subpart, to draw, prepare, identify, and to forward an official sample of every lot of cottonseed made available to him for the purpose, in accordance with these regulations, shall be cause for the suspension or revocation of his license. A sampler's license may also be suspended when the sampler (a) has ceased to perform services as a licensed cottonseed sampler, (b) has knowingly or carelessly sampled cottonseed improperly, (c) has violated or evaded any provision of the act, these regulations, or the sampling methods prescribed by the Director, (d) has used his license or allowed it to be used for any fraudulent or improper purposes, or (e) has in any manner become incompetent or incapacitated to perform the duties of a licensed sampler.

§ 61.37 *License may be suspended.* The Director may, without a hearing, suspend or revoke the license issued to a licensed sampler upon written request and a satisfactory statement of reasons therefor submitted by such licensed sampler. Pending final action by the Secretary, the Director may, whenever he deems such action necessary, suspend the license of any licensed sampler by giving notice of such suspension to the licensee, accompanied by a statement of the reasons therefor. Within 10 days after the receipt of the aforesaid notice and statement of reasons by such licensee, he may file an appeal, in writing, with the Secretary, supported by any argument or evidence that he may wish to offer as to why his license should not be suspended or revoked. After the expiration of the aforesaid 10-day period and consideration of such argument and evidence, the Secretary will take such action as he deems appropriate with respect to such suspension or revocation. When no appeal is filed within the prescribed 10 days, the license shall be automatically revoked.

§ 61.38 *Suspended license to be returned to Division.* In case a license issued to a sampler is suspended or revoked such license shall be returned to the Division. At the expiration of any period of suspension of such license, unless in the meantime it be revoked, the dates of beginning and termination of such suspension shall be endorsed thereon, it shall be returned to the person to whom it was originally issued, and it shall be posted as prescribed in § 61.31.

§ 61.39 *Duplicate license.* Upon satisfactory proof of the loss or destruction of a license issued to a sampler hereunder, a new license may be issued under the same or a new number.

§ 61.40 *Reports of licensed samplers.* Each licensed sampler, when requested, shall make reports on forms furnished for the purpose by the Division bearing upon his activity as such licensee.

§ 61.41 *Unlicensed persons must not represent themselves as licensed samplers.* No person shall in any way represent himself to be a sampler licensed under the act unless he holds an unsuspended and unrevoked license issued thereunder.

§ 61.42 *Information on sampling to be kept confidential.* Every person licensed under the act as a sampler of cottonseed shall keep confidential all information secured by him relative to shipments of cottonseed sampled by him. He shall not disclose such information to any person except an authorized representative of the Department.

FEES AND COSTS

§ 61.43 *Fees and costs.* For the examination of an applicant for a license to sample and certificate official samples of cottonseed the fee shall be $5.00, but no additional charge shall be made for the issuance of a license. For each renewal of a sampler's license the fee shall be $3.00.

§ 61.44 *Fees for examination for license as chemist.* For the examination of an applicant for a license as a chemist to analyze and certificate the grade of cottonseed the fee shall be $50.00, but no additional charge shall be made for the issuance of a license. For each renewal of a chemist's license the fee shall be $30.00.

§ 61.45 *Fees for certificates to be paid by licensee to Service.* To cover in part the cost of administering the regulations in this part each licensed cottonseed chemist shall pay to the Service 25 cents for each certificate of the grade of cottonseed issued by him. Upon receipt of a statement from the Service each month showing the number of certificates issued by the licensee, such licensee will forward the appropriate remittance in the form of a check, draft, or money order payable to the "Agricultural Marketing Service, USDA."

§ 61.46 *Fees for review of grading of cottonseed.* For the review of the grading of any lot of cottonseed, the fee shall be $9.00. Remittance to cover such fee, in the form of a check, draft, or money order payable to the "Agricultural Mar-

keting Service, USDA," shall accompany each application for review. Of each such fee collected, $1.00 shall be covered into the Treasury and $4.00 disbursed to each of the two licensed chemists designated to make reanalyses of such seed.

SUBPART B—STANDARDS FOR GRADES OF COTTONSEED SOLD OR OFFERED FOR SALE FOR CRUSHING PURPOSES WITHIN THE UNITED STATES

AUTHORITY: §§ 61.101 to 61.104 issued under sec. 205, 60 Stat. 1090; 7 U. S. C. 1624. Interpret or apply sec. 203, 60 Stat. 1087; 7 U. S. C. 1622.

§ 61.101 *Determination of grade.* The grade of cottonseed shall be determined from the analysis of samples, and it shall be the result, stated in the nearest whole or half numbers, obtained by multiplying a quantity index by a quality index and dividing the result by 100. The quantity index and the quality index shall be determined as hereinafter provided.

(a) The basis grade of cottonseed shall be grade 100.

(b) High grades of cottonseed shall be those grades above 100.

(c) Low grades of cottonseed shall be those grades below 100.

§ 61.102 *Determination of quantity index.* The quantity index of cottonseed shall be determined as follows:

(a) For cottonseed that by analysis contain 16.5 percent or more of oil, the quantity index shall equal the result of 4 times (percentage of oil), plus 6 times (percentage of ammonia), plus the applicable linters premium or discount shown in paragraph (c) of this section, plus 5.

(b) For cottonseed that by analysis contain less than 16.5 percent of oil, the quantity index shall equal the result of 6 times (percentage of oil), plus 6 times (percentage of ammonia), plus the applicable linters premium or discount shown in paragraph (c) of this section, minus 28.

(c) The premium or discount for total linters content of cottonseed to be used in paragraphs (a) and (b) of this section will be according to the following table:

| Total linters content of cottonseed (percent): [1] | *Premium or discount (quantity index units)* [2] |
|---|---|
| 20.0 | +8.5 |
| 19.0 | +7.5 |
| 18.0 | +6.5 |
| 17.0 | +5.5 |
| 16.0 | +4.5 |
| 15.0 | +3.5 |
| 14.0 | +2.5 |
| 13.0 | +1.5 |
| 12.0 | +0.5 |
| 11.5 | 0 |
| 11.0 | −0.5 |
| 10.0 | −1.5 |
| 9.0 | −3.5 |
| 8.0 | −5.5 |
| 7.0 | −7.5 |
| 6.0 | −9.5 |
| 5.0 | −11.5 |
| 4.0 | −14.0 |
| 3.0 | −16.5 |
| 2.0 | −19.0 |
| 1.0 | −21.5 |

[1] Total linters content to the nearest 0.1 percent will be used in calculating premiums and discounts.

[2] Premiums and discounts are calculated on the basis of the following formulas:

| Percent linters on cottonseed: | *Premium or discount factor* |
|---|---|
| 11.6 and over | Premium = (percent linters minus 11.5) × 1.0. |
| 11.5 | None. |
| 11.4–10.0 | Discount = (11.5 minus percent linters) × 1.0. |
| 9.9–5.0 | Discount = (10.0 minus percent linters) × 2.0 + 1.5. |
| 4.9–0 | Discount = (5.0 minus percent linters) × 2.5 + 11.5. |

§ 61.103 *Determination of quality index.* The quality index of cottonseed shall be an index of purity and soundness, and shall be determined as follows:

(a) *Prime quality cottonseed.* Cottonseed that by analysis contains not more than 1.0 percent of foreign matter, not more than 12.0 percent of moisture, and not more than 1.8 percent of free fatty acids in the oil in the seed, shall be known as prime quality cottonseed and shall have a quality index of 100.

(b) *Below prime quality cottonseed.* The quality index of cottonseed that, by analysis, contain foreign matter, moisture, or free fatty acids in the oil in the seed, in excess of the percentages prescribed in paragraph (a) of this section shall be found by reducing the quality index of prime quality cottonseed as follows:

(1) Four-tenths of a unit for each 0.1 percent of free fatty acids in the oil in the seed in excess of 1.8 percent.

(2) One-tenth of a unit for each 0.1 percent of foreign matter in excess of 1.0 percent.

(3) One-tenth of a unit for each 0.1 percent of moisture in excess of 12.0 percent.

(c) *Off quality cottonseed.* Cottonseed that has been treated by either mechanical or chemical process other than the usual cleaning, drying, and ginning (except sterilization required by the United States Department of Agriculture for quarantine purposes) or that are fermented or hot, or that upon analysis are found to contain 12.5 percent or more of free fatty acids in the oil in the seed, or more than 10.0 percent of foreign matter, or more than 20.0 percent of moisture, or more than 25.0 percent of moisture and foreign matter combined, shall be designated as "off quality cottonseed."

(d) *Below grade cottonseed.* Cottonseed the grade of which when calculated according to § 61.101 is below grade 40.0 shall be designated as "below grade cottonseed," and a numerical grade shall not be indicated.

§ 61.104 *Sampling, analysis, and certification of samples and grades.* The drawing, preparation, and certification of samples of cottonseed, and the analysis and certification of grades of cottonseed shall be performed in accordance with methods approved from time to time for the purposes by the Director, or his representatives.

[F. R. Doc. 57-10760; Filed, Dec. 27, 1957; 8:46 a. m.]

## PART 55—GRADING AND INSPECTION OF EGG PRODUCTS

### MISCELLANEOUS AMENDMENTS

Notice of a proposed amendment to the regulations governing the grading and inspection of egg products (7 CFR Part 55) was published in the FEDERAL REGISTER on December 3, 1957 (22 F. R. 9666). The amendment hereinafter promulgated is pursuant to authority contained in the Agricultural Marketing Act of 1946 (60 Stat. 1087; 7 U. S. C. 1621 et seq.)

The amendment increases the charges on basic salaries of resident Federal graders from 8 percent to 15 percent to applicants for grading and inspection of egg products performed on a resident grading basis. The increase results from a decision that resident Federal graders should properly be covered under the Federal Leave System which increases benefits to the resident Federal graders and correspondingly increases costs of the more liberal annual and sick leave benefits. A charge, therefore, included in the basic salary cost, equal to 15 percent of the base salary is necessary to cover these increased costs including an amount equal to the cost to AMS for the Employer's tax for Old Age and Survivor's Benefits under the Social Security System and for insurance as provided in the Federal Employees' Group Life Insurance Act of 1954.

After consideration of all relevant material presented, the amendment hereinafter set forth is promulgated to become effective January 1, 1958.

It is hereby found that good cause exists for making this amendment effective January 1, 1958, for the reasons that: (1) Legislation provides that the fees charged shall be reasonable and shall as nearly as possible cover the cost of the service; the cost of the service is peculiarly within the knowledge of the Department and the fees set forth herein are necessary to cover such costs; (2) cost of performing the services have been increased by a recent decision that resident Federal graders should properly be covered under the Federal Leave System which increases benefits to the resident Federal graders, therefore, it is necessary that the charges for the services be increased as soon as practicable, which is January 1, 1958; and (3) additional time is not required in order for the industry to make preparation for compliance with this amendment.

The amendment is as follows:

1. Change paragraph (a) (4) of § 55.68 *On a resident inspection basis,* to read as follows:

(4) A charge equal to the salary cost paid to each grader assigned to the applicant's plant by AMS: *Provided,* That, no charge, is to be made for salary cost of any assigned grader or inspector of the designated plant while temporarily reassigned by AMS to perform grading service for other than the applicant, except when the assigned grader is performing inspections for the Department of Defense on products accepted for delivery by the applicant to the Department of Defense, in which case the applicant will be given credit for the service rendered, based on a formula

concurred in jointly by the Departments of Defense and Agriculture.

2. Change paragraph (a) (8) of § 55.68 *On a resident inspection basis*, to read as follows:

(8) A charge, included in salary cost, equal to fifteen (15) percent of the base salary to cover an amount equal to the cost to AMS for the Employer's tax imposed under the United States Internal Revenue Code (26 U. S. C.) for Old Age and Survivor's Benefits under the Social Security System and for insurance as provided in the Federal Employees' Group Life Insurance Act of 1954, sick leave, annual leave, and related servicing costs.

3. Delete subparagraph (3) in paragraph (b) of § 55.68 *On a resident inspection basis* and renumber subparagraphs (4) and (5) in paragraph (b) to read (3) and (4) respectively.

(Sec. 205, 60 Stat. 1090, as amended; 7 U. S. C. 1624)

Issued at Washington, D. C., this 24th day of December 1957.

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

[F. R. Doc. 57-10758; Filed, Dec. 27, 1957; 8:45 a. m.]

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

MISCELLANEOUS AMENDMENTS

Notice of a proposed amendment to the regulations governing the grading and inspection of shell eggs and United States standards, grades, and weight classes for shell eggs (7 CFR, Part 56) was published in the FEDERAL REGISTER on December 3, 1957 (22 F. R. 9666). The amendment hereinafter promulgated is pursuant to authority contained in the Agricultural Marketing Act of 1946 (60 Stat. 1087; 7 U. S. C. 1621 et seq.).

The amendment increases the charges on basic salaries of resident Federal graders from 8 percent to 15 percent to applicants for shell egg grading service performed on a resident grading basis. The increase results from a decision that resident Federal graders should properly be covered under the Federal Leave System which increases benefits to the resident Federal graders and correspondingly increase costs of the more liberal annual and sick leave benefits. A charge, therefore, included in the basic salary cost, equal to 15 percent of the base salary is necessary to cover these increased costs, including an amount equal to the cost to AMS for the Employer's tax for Old Age and Survivor's Benefits under the Social Security System and for insurance as provided in the Federal Employees' Group Life Insurance Act of 1954. In addition, the amendment provides for a charge of $25 per month when service is furnished exclusively by a licensed grader who is not a Federal or State employee to cover the additional costs of required supervision when service is furnished by other than a civil servant employee.

After consideration of all relevant material presented, the amendment hereinafter set forth is promulgated to become effective January 1, 1958.

It is hereby found that good cause exists for making this amendment effective January 1, 1958, for the reasons that: (1) Legislation provides that the fees charged shall be reasonable and shall as nearly as possible cover the cost of the service; the cost of the service is peculiarly within the knowledge of the Department and the fees set forth herein are necessary to cover such costs; (2) cost of performing the services have been increased by a recent decision that resident Federal graders should properly be covered under the Federal Leave System which increases benefits to the resident Federal graders; therefore, it is necessary that the charges for the services be increased as soon as practicable, which is January 1, 1958; and (3) additional time is not required in order for the industry to make preparation for compliance with this amendment.

The amendment is as follows:

1. Delete the last sentence to paragraph (b) of § 56.46 *On a fee basis*, which reads as follows: "The minimum time charged for grading any lot in excess of 10 cases shall be one-half hour, except when grading multiple lots for contract deliveries as provided for in § 56.50."

2. Change paragraph (a) (4) of § 56.52 *On a resident grading basis*, to read as follows:

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

3. Change paragraph (a) (8) of § 56.52 *On a resident grading basis*, to read as follows:

(8) A charge, included in salary cost, equal to 15 percent of the base salary to cover an amount equal to the cost to AMS for the Employer's tax imposed under the United States Internal Revenue Code (26 U. S. C.) for Old Age and Survivor's Benefits under the Social Security System and for insurance as provided in the Federal Employees' Group Life Insurance Act of 1954, sick leave, annual leave, and related servicing costs;

4. Insert a new subparagraph (13) to paragraph (a) of § 56.52 *On a resident grading basis*, to read as follows:

(13) A charge, in addition to that provided in subparagraph (9) of this paragraph, of $25 per month when service is furnished exclusively by a licensed grader who is not a Federal or State employee.

(Sec. 205, 60 Stat. 1090, as amended; 7 U. S. C. 1624)

Issued at Washington, D. C., this 24th day of December 1957.

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

[F. R. Doc. 57-10759; Filed, Dec. 27, 1957; 8:45 a. m.]

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PART 70—GRADING AND INSPECTION OF POULTRY AND EDIBLE PRODUCTS THEREOF AND UNITED STATES CLASSES, STANDARDS, AND GRADES WITH RESPECT THERETO

MISCELLANEOUS AMENDMENTS

A notice of a proposed amendment to the regulations governing the grading and inspection of poultry and edible products thereof and United States classes, standards, and grades with respect thereto (7 CFR Part 70) was published in the FEDERAL REGISTER on December 3, 1957 (22 F. R. 9667). The amendment hereinafter promulgated is pursuant to authority contained in the Agricultural Marketing Act of 1946 (60 Stat. 1087; 7 U. S. C. 1621 et seq.).

The amendment increases the charges on basic salaries of resident Federal graders from 8 percent to 15 percent to applicants for poultry grading service peformed on a resident grading basis. The increase results from a decision that resident Federal graders should properly be covered under the Federal Leave System which increases benefits to the resident Federal graders and correspondingly increases costs of the more liberal annual and sick leave benefits. A charge, therefore, included in the basic salary cost, equal to 15 percent of the base salary is necessary to cover these increased costs including an amount equal to the cost to AMS for the Employer's tax for Old Age and Survivor's Benefits under the Social Security System and for insurance as provided in the Federal Employees' Group Life Insurance Act of 1954.

After consideration of all relevant material presented, the amendment hereinafter set forth is promulgated to become effective January 1, 1958.

It is hereby found that good cause exists for making this amendment effective January 1, 1958, for the reasons that: (1) Legislation provides that the fees charged shall be reasonable and shall as nearly as possible cover the cost of the service; the cost of the service is peculiarly within the knowledge of the Department and the fees set forth herein are necessary to cover such costs; (2) cost of performing the services have been increased by a recent decision that resident Federal graders should properly be covered under the Federal Leave System which increases benefits to the resident Federal graders, therefore, it is necessary that the charges for the services be increased as soon as practicable, which is January 1, 1958; and (3) additional time is not required in order for the industry to make preparation for compliance with this amendment.

The amendment is as follows:

1. Change paragraph (a) (4) of § 70.138 *Grading performed on a resident grading basis,* to read as follows:

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

2. Change paragraph (a) (8) of § 70.138 *Grading performed on a resident grading basis,* to read as follows:

(8) A charge, included in salary cost, equal to 15 percent of the base salary to cover an amount equal to the cost to AMS for the Employer's tax imposed under the United States Internal Revenue Code (26 U. S. C.) for Old Age and Survivors Benefits under the Social Security System and for insurance as provided in the Federal Employees' Group Life Insurance Act of 1954, sick leave, annual leave, and related servicing costs;

3. Delete subparagraph (3) in paragraph (b) of § 70.138 *Grading performed on a resident basis* and renumber subparagraphs (4) and (5) in paragraph (b) to read (3) and (4) respectively.

(60 Stat. 1090; 7 U. S. C. 1624)

Issued at Washington, D. C., this 24th day of December 1957.

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

[F. R. Doc. 57-10757; Filed, Dec. 27, 1957; 8:45 a. m.]

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

[Navel Orange Reg. 128]

### PART 914—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

#### LIMITATION OF HANDLING

§ 914.428 *Navel Orange Regulation 128*—(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 14, as amended (7 CFR Part 914), regulating the handling of navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.; 68 Stat. 906, 1047), and upon the basis of the recommendation and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such navel oranges as hereinafter provided will tend to effectuate the declared policy of the act.

(2) It is hereby further 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 hereof in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) because 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, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The Committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for navel oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such navel oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on December 24, 1957.

(b) *Order.* (1) The respective quantities of navel oranges grown in Arizona and designated part of California which may be handled during the period beginning at 12:01 a. m., P. s. t., December 29, 1957, and ending at 12:01 a. m., P. s. t., January 5, 1958, are hereby fixed as follows:

(i) District 1: 508,200 cartons;
(ii) District 2: Unlimited movement;
(iii) District 3: Unlimited movement;
(iv) District 4: Unlimited movement.

(2) All navel oranges handled during the period specified in this section are subject also to all applicable size restrictions which are in effect pursuant to this part during such period.

(3) As used in this section, "handled," "District 1," "District 2," "District 3," "District 4," and "carton" have the same meaning as when used in said amended marketing agreement and order.

(Sec. 5, 49 Stat. 853, as amended; 7 U. S. C. 608c)

Dated: December 27, 1957.

[SEAL] G. R. GRANGE,
*Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.*

[F. R. Doc. 57-10838; Filed, Dec. 27, 1957; 11:20 a. m.]

[Lemon Reg. 719]

### PART 953—LEMONS GROWN IN CALIFORNIA AND ARIZONA

#### LIMITATION OF HANDLING

§ 953.826 *Lemon Regulation 719*—(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 53, as amended (7 CFR Part 953), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.; 68 Stat. 906, 1047), and upon the basis of the recommendation and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons as hereinafter provided will tend to effectuate the declared policy of the act.

(2) It is hereby further 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 hereof in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) because the time intervening between the date when information upon which this section is based becomes available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The Committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on December 24, 1957.

(b) *Order.* (1) The respective quantities of lemons grown in California and Arizona which may be handled during the period beginning at 12:01 a. m., P. s. t., December 29, 1957, and ending at 12:01 a. m., P. s. t., January 5, 1958, are hereby fixed as follows:

(i) District 1: 23,250 cartons;
(ii) District 2: 125,550 cartons;
(iii) District 3: 37,200 cartons.

(2) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in the said amended marketing agreement and order.

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

Dated: December 26, 1957.

[SEAL] G. R. GRANGE,
*Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.*

[F. R. Doc. 57-10854; Filed, Dec. 27, 1957; 8:53 a. m.]

# TITLE 31—MONEY AND FINANCE: TREASURY

## Chapter II—Fiscal Service, Department of the Treasury

### Subchapter A—Bureau of Accounts

PART 204—ISSUE OF SUBSTITUTES OF LOST, DESTROYED, MUTILATED AND DEFACED CHECKS DRAWN ON THE TREASURER OF THE UNITED STATES

### Subchapter C—Office of the Treasurer of the United States

PART 365—ISSUE OF SUBSTITUTES OF LOST, DESTROYED, MUTILATED AND DEFACED CHECKS DRAWN ON THE TREASURER OF THE UNITED STATES

The regulations formerly appearing in Part 204 will hereafter appear in revised form as Part 365, Subchapter C, Chapter II, Title 31, of the Code of Federal Regulations of the United States of America.

The regulations formerly appearing in Part 204, Subchapter A, Chapter II, Title 31, of the Code of Federal Regulations (and as Treasury Department Circular No. 327 (Revised), dated December 3, 1945, as amended) are hereby rescinded, and revised regulations (appearing also as Treasury Department Circular No. 1001, dated December 18, 1957) are hereby prescribed to read as follows:

Sec.
365.1 Introductory.
365.2 Advice of nonreceipt or loss.
365.3 Request for substitute check; requirements for undertaking of indemnity; execution of applications in foreign countries.
365.4 Issuance of substitute check.
365.5 Receipt or recovery of original check.
365.6 Removal of stoppage of payment.
365.7 Amendment of regulations.

AUTHORITY: §§ 365.1 to 365.7 issued under R. S. 3646, as amended; 31 U. S. C. 528.

SOURCE: §§ 365.1 to 365.7 contained in Department Circular 1001, December 18, 1957.

§ 365.1 *Introductory.* This part governing the issuance of substitutes of checks drawn on the Treasurer of the United States, other than those drawn by officers or employees of the Post Office Department, is prescribed pursuant to the provisions of section 3646 of the Revised Statutes, (31 U. S. C. 528), and shall be effective January 1, 1958.

§ 365.2 *Advice of nonreceipt or loss.* (a) In the event of the nonreceipt, loss, or destruction of a check drawn on the Treasurer of the United States, or the mutilation or defacement of such a check to an extent which renders it nonnegotiable, the owner, better to protect his interest, should immediately notify the drawer, describing the check, stating the purpose for which it was issued, giving, if possible, its date, number and amount, and requesting that payment be stopped. If the name or address of the drawer is not known the request for stoppage of payment should be sent to the Treasurer of the United States, stating the purpose for which the check was issued, the name of the department or agency authorizing the payment and if possible, the date, number and amount of the check. In cases involving mutilated or defaced checks the owner should enclose the mutilated or defaced check with his communication to the drawer or Treasurer.

(b) Upon receipt of advice from an owner as to the nonreceipt, loss, destruction, mutilation, or defacement of a check the drawer will, if appropriate, transmit the owner's letter (together with the mutilated or defaced check in cases involving such checks) to the Treasurer of the United States, Washington 25, D. C., or the Federal Reserve bank or other bank through which the check is payable, as the case may be, together with a request by the drawer for stoppage of payment which includes a certification as to the accuracy of the check description and that it was properly issued.

(c) If the check, which is the basis of the owner's claim, is determined to be outstanding, the Treasurer's Office will furnish the claimant an appropriate application form for obtaining a substitute check. However, the execution of an application will not be required in the event the original written statement submitted by the claimant substantially meets the requirements of the prescribed application form.

§ 365.3 *Request for substitute check; requirements for undertaking of indemnity: execution of applications in foreign countries.* (a) An undertaking of indemnity on Form 2244 or Form 2244b in a penal sum equal to the amount of the check or, in an appropriate case, an application on Form 2244a, or an application substantially containing the same information as Form 2244a, must be executed by the claimant and submitted to the Treasurer of the United States, Washington 25, D. C.: *Provided*, That in respect to requests by persons residing within the United States, its Territories and possessions, for the issuance of substitute checks, individual or corporate sureties will not be required on undertakings of indemnity, (1) in any case where the original check was not more than $100 in amount, or (2) in any case where the original check was drawn in favor of the applicant and represented a repetitive payment on account of salary, allotment, pension, annuity, social security benefit, or similar periodic payment, unless the Secretary of the Treasury determines in either case sureties are necessary in the public interest. In the event the claimant is someone other than the payee of the original check, he should present clear and satisfactory evidence of his ownership.

(b) Unless the Secretary of the Treasury deems that an undertaking of indemnity is essential in the public interest, no undertaking of indemnity shall be required in the following classes of cases:

(1) If the Secretary of the Treasury is satisfied that the loss, theft, destruction, mutilation, or defacement occurred without fault of the owner or holder and while the check was in the custody or control of the United States or of a person duly authorized as an agent of the United States, including the Postal Service when carrying mail for an officer, employee, agent, or agency of the United States when performing services in connection with an official function of the United States, but not including the Postal Service when otherwise acting solely in its capacity as a public carrier of the mail, or while it was in the course of shipment effected pursuant to and in accordance with regulations issued under the provisions of the Government Losses in Shipment Act, as amended;

(2) If substantially the entire check is presented and surrendered by the owner or holder and the Secretary of the Treasury is satisfied as to the identity of the check presented and that any missing portions are not sufficient to form the basis of a valid claim against the United States;

(3) If the Secretary of the Treasury is satisfied that the original check is not negotiable and cannot be made the basis of a valid claim against the United States;

(4) If the amount of the check is not more than $200.00 and the check has not been endorsed by the payee;

(5) If the owner or holder is the United States or an officer or employee thereof in his official capacity, a State, the District of Columbia, a Territory or possession of the United States, a municipal corporation or political subdivision of any of the foregoing, a corporation the entire capital of which is owned by the United States, a foreign government, or a Federal Reserve Bank.

(c) An application executed in a foreign country other than by an officer or an employee of the United States, or a member of the armed forces of the United States, shall be sworn to before (1) a diplomatic or consular officer of the United States, or (2) an officer of the United States Army, Navy, Air Force, Marine Corps, or Coast Guard, or (3) an official of such foreign country authorized by law to administer oaths generally, and such foreign official shall affix his official seal, if any, and a diplomatic or consular officer of the United States shall certify that the foreign official who administered the oath was duly authorized under the laws of such foreign country so to act.

§ 365.4 *Issuance of substitute check.* Upon approval of the undertaking of indemnity, application or statement of claim, a substitute check will be issued in favor of the claimant showing such information as may be necessary to identify the original check. Appropriate notice of issuance of the substitute will be furnished the drawer of the original check, or his successor.

§ 365.5 *Receipt or recovery of original check.* (a) If the original check is received or recovered by the owner after he has requested the drawer or the Treasurer of the United States to stop payment on the original check but before a substitute check has been received, he should immediately advise the drawer or the Treasurer, as the case may be, and hold such check until receipt of instructions with respect to the negotiability of such check.

(b) If the original check is received or recovered by the owner after a substitute has been received by him, the original shall not be cashed, but shall be immediately forwarded to the Treasurer of the United States, Washington 25, D. C. Under no circumstances should both the original and substitute checks be cashed.

§ 365.6 *Removal of stoppage of payment.* Requests for removal of stoppage of payment shall be addressed by the drawer to the Treasurer of the United States, or the Federal Reserve Bank or other bank through which the check is payable, as the case may be. No request for removal of stoppage of payment shall be accepted by the Treasurer of the United States or any Federal Reserve Bank or other bank through which the check is payable, after issuance of a substitute check has been approved.

§ 365.7 *Amendment of regulations.* The Secretary of the Treasury may waive, withdraw or amend at any time or from time to time any or all of the regulations in this part.

Dated: December 20, 1957.

[SEAL] LAURENCE B. ROBBINS,
*Acting Secretary of the Treasury.*

[F. R. Doc. 57-10719; Filed, Dec. 27, 1957; 8:45 a. m.]

# TITLE 43—PUBLIC LANDS: INTERIOR

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

### Appendix—Public Land Orders

[Public Land Order 1567]

[Idaho 05884; Idaho 07058]

### IDAHO

### RESERVING LANDS WITHIN NATIONAL FORESTS FOR USE OF THE FOREST SERVICE AS ROADSIDE ZONES

By virtue of the authority vested in the President by the act of June 4, 1897 (30 Stat. 34, 36; 16 U. S. C. 473) and otherwise, and pursuant to Executive Order No. 10355 of May 26, 1952, it is ordered as follows:

Subject to valid existing rights, the following-described public lands within the Clearwater, Lolo, and Nezperce National Forests in Idaho, are hereby withdrawn from all forms of appropriation under the public land laws, including the mining but not the mineral-leasing laws, nor the act of July 31, 1947 (61 Stat. 681; 69 Stat. 367; 30 U. S. C. 601-604) as amended, and reserved for use of the Forest Service, Department of Agriculture, as roadside zones, as indicated:

BOISE MERIDIAN

CLEARWATER NATIONAL FOREST

*Lochsa River (Lewis and Clark Forest Highway 16) Roadside Zone*

A strip of land 500 feet wide contiguous to and on the northwesterly side of the Lochsa River through unsurveyed Townships 35 and 36 North, Ranges 10 and 11 East, extending from the confluence of Indian Grave Creek with the Lochsa River southwestward a distance of approximately 9 miles to the confluence of Bald Mountain Creek with the Lochsa River, and situated in what probably will be when surveyed, the following legal subdivisions:

T. 35 N., R. 10 E.,
Sec. 2, N½NW¼;
Sec. 3, S½NE¼, N½SW¼, NW¼SE¼;
Sec. 4, NE¼SE¼ and S½SE¼;
Sec. 8, N½SE¼ and SW¼SE¼;
Sec. 9, NW¼NE¼, NE¼NW¼, S½NW¼, and NW¼SW¼.
T. 36 N., R. 10 E.,
Sec. 25, SE¼SE¼;
Sec. 35, SE¼NE¼, SE¼SW¼, N½SE¼, and SW¼SE¼;
Sec. 36, N½N½ and SW¼NW¼.
T. 36, N., R. 11 E.,
Sec. 21, SE¼NW¼, E½SW¼, and NW¼SE¼;
Sec. 28, N½NW¼;
Sec. 29, S½NE¼, SE¼NW¼, NE¼SW¼, and S½SW¼;
Sec. 30, SW¼ and N½SE¼.

The areas described aggregate approximately 1,158 acres.

A strip of land 200 feet in width on each side of the center line of the said Lochsa River road as now constructed or as located on the ground within unsurveyed Townships 34 and 35 North, Ranges 9 and 10 East, and situated in what probably will be when surveyed, the following legal subdivisions:

T. 34 N., R. 9 E.,
Sec. 5, N½NE¼, SW¼NE¼, S½SW¼, and W½SE¼;
Sec. 7, E½NE¼;
Sec. 8, N½NW¼ and SW¼NW¼.
T. 35 N., R. 9 E.,
Sec. 23, NE¼SE¼ and S½S½;
Sec. 24, NE¼NE¼, S½NE¼, SE¼NW¼, N½SW¼;
Sec. 26, NW¼NW¼ and S½NW¼;
Sec. 27, NE¼SE¼ and S½S½;
Sec. 32, SE¼SE¼;
Sec. 33, NE¼, NW¼, N½SW¼, and SW¼SW¼;
Sec. 34, NW¼NW¼.
T. 35 N., R. 10 E.,
Sec. 7, SE¼SE¼;
Sec. 8, S½SW¼;
Sec. 17, NW¼NE¼ and N½NW¼;
Sec. 18, NE¼NE¼, S½NE¼, S½NW¼, SW¼, and NW¼SE¼;
Sec. 19, NW¼NW¼.

The areas described aggregate approximately 573 acres.

LOLO NATIONAL FOREST

*Lochsa River (Lewis and Clark Forest Highway 16) Roadside Zone*

A strip of land 200 feet in width on each side of the center line of the Lewis and Clark Forest Highway No. 16 through the following legal subdivisions, or so much of said width as may be situated within said subdivisions:

T. 36 N., R. 13 E., unsurveyed,
Sec. 4, N½N½.
T. 37 N., R. 13 E., unsurveyed,
Sec. 25, SE¼SE¼;
Sec. 33, S½SW¼ and SE¼;
Sec. 34, N½S½;
Sec. 35, N½;
Sec. 36, N½N½ and SW¼NW¼.
T. 37 N., R. 14 E.,
Sec. 12, NE¼NE¼, W½NE¼, SE¼NW¼, N½SW¼, SW¼SW¼, and NW¼SE¼;
Sec. 14, NW¼NE¼, N½NW¼, SW¼NW¼, and W½SW¼;
Sec. 22, E½E½;
Sec. 28, NE¼SW¼, S½SW¼, N½SE¼, and SW¼SE¼;
Sec. 30, Lot 4, SE¼SW¼, and S½SE¼.
T. 37 N., R. 15 E.,
Sec. 6, SE¼NE¼, NE¼SW¼, Lot 7, SE¼SW¼, and N½SE¼.
T. 38 N., R. 15 E.,
Sec. 16, Lot 3, S½SW¼, and NW¼SE¼;
Sec. 20, E½SE¼;
Sec. 28, NW¼NW¼;
Sec. 32, W½E½ and E½W½.

The area described aggregate approximately 722 acres.

And a strip of land 500 feet wide situated contiguous to and on the north side of the Lochsa River through unsurveyed Township 36 North, Ranges 11, 12 and 13 East, extending from the confluence of Squaw Creek with the Lochsa River westward a distance of approximately 13 miles to the confluence of Indian Grave Creek and situated in what probably will be when surveyed the following subdivisions:

T. 36 N., R. 11 E.,
Sec. 13, SE¼NE¼ and N½S½;
Sec. 14, SE¼NW¼ and N½S½;
Sec. 15, SW¼SW¼, NE¼SE¼, and S½SE¼;
Sec. 21, NE¼NE¼ and S½NE¼;
Sec. 22, W½NE¼ and S½NW¼.
T. 36 N., R. 12 E.,
Sec. 9, NE¼SW¼ and S½SW¼;
Sec. 10, W½SE¼, SE¼SW¼, and SW¼SE¼;
Sec. 11, SE¼NE¼, N½SE¼, and SW¼SE¼;
Sec. 12, S½W½;
Sec. 14, NW¼NE¼ and N½NW¼;
Sec. 15, NW¼NE¼, S½NE¼, and N½NW¼;
Sec. 16, NW¼NW¼;
Sec. 17, N½;
Sec. 18, S½N½ and N½S½.
T. 36 N., R. 13 E.,
Sec. 5, S½NE¼, N½SW¼, SW¼SW¼, and NW¼SE¼;
Sec. 6, S½SE¼;
Sec. 7, W½NE¼, SE¼NW¼, and N½SW¼.

The areas described aggregate approximately 788 acres.

NEZPERCE NATIONAL FOREST

*Lochsa River (Lewis and Clark Forest Highway 16) Roadside Zone*

A strip of land 200 feet in width on each side of the center line of the Lewis and Clark Forest Highway No. 16 through the following legal subdivisions, or so much of said width as may be situated within said subdivisions:

T. 32 N., R. 6 E.,
Sec. 1, lots 5, 6, 7, and 8;
Sec. 2, lots 5, 6, 9, and 10;
Sec. 3, lots 5, 6, 7, and 8;
Sec. 4, lots 3, 6, and 7;
Sec. 5, lot 8;
Sec. 6, lots 8 and 9;
Sec. 7, lots 2 and 4.
T. 32 N., R. 7 E.,
Sec. 5, lot 5 and S½SW¼;
Sec. 6, lots 7, 8, 9, and SE¼SE¼;
Sec. 7, lot 1;
Sec. 8, lot 2.
T. 33 N., R. 7 E.,
Sec. 1, lots 5, 7, and 8;
Sec. 11, lots 1, 2, 3, and 4;
Sec. 12, lots 2 and 3;
Sec. 14, lots 2, 3, 6, and 7;
Sec. 22, lots 1, 2, 3, 7, 8, and 9;
Sec. 23, lots 2 and 3;
Sec. 27, lots 2, 3, 6, and 7.

T. 33 N., R. 8 E., unsurveyed,
Sec. 1, N½NW¼ and SW¼NW¼;
Sec. 2, S½N½ and N½S½;
Sec. 3, N½S½;
Sec. 4, S½N½ and N½S½;
Sec. 5, SW¼NE¼, S½NW¼, and N½S½;
Sec. 6, S½NW¼ and N½S½.
T. 34, N., R. 8 E., unsurveyed,
Sec. 24, E½E½;
Sec. 25, E½NE¼, NE¼SE¼, and W½SE¼;
Sec. 36, W½E½ and E½W½.
T. 34 N., R. 9 E., unsurveyed,
Sec. 8, NW¼SW¼;
Sec. 18, N½NE¼, SW¼NE¼, NE¼SW¼, SW¼SW¼, NW¼SE¼;
Sec. 19, W½W½.

The areas described aggregate approximately 1,099 acres.

The total areas described aggregate approximately 4,340 acres.

This order shall be subject to existing withdrawals for other than national forest purposes so far as they affect any of the above-described lands, and shall take precedence over, but not otherwise affect the existing reservation of the lands for national forest purposes.

ROGER C. ERNST,
*Assistant Secretary of the Interior.*

DECEMBER 19, 1957.

[F. R. Doc. 57-10688; Filed, Dec. 27, 1957; 8:45 a. m.]

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[Public Land Order 1568]

[2113185]

NEVADA

PARTIALLY REVOKING EXECUTIVE ORDER OF APRIL 17, 1926, WHICH CREATED PUBLIC WATER RESERVE NO. 107

By virtue of the authority vested in the President by the act of June 25, 1910 (36 Stat. 847; 43 U. S. C. 141), and pursuant to Executive Order No. 10355 of May 26, 1952, it is ordered as follows:

The Executive order of April 17, 1926, creating Public Water Reserve No. 107, is hereby revoked so far as it affects the following-described land:

MOUNT DIABLO MERIDIAN

T. 17 N., R. 20 E.,
Sec. 12, NE¼NW¼.

The area described aggregates 40 acres.

The revocation is made in furtherance of an exchange under section 8 of the act of June 26, 1936 (48 Stat. 1272; 49 Stat. 1976; 43 U. S. C. 315g) by which the offered land will benefit a Federal land program. This restoration is, therefore, not subject to the provisions contained in the act of September 27, 1944 (58 Stat. 747; 43 U. S. C. 279-284) as amended, granting preference rights to veterans of World War II, the Korean Conflict, and others.

ROGER C. ERNST,
*Assistant Secretary of the Interior.*

DECEMBER 23, 1957.

[F. R. Doc. 57-10768; Filed, Dec. 27, 1957; 8:47 a. m.]

[Public Land Order 1569]

[60375]

CALIFORNIA

REVOKING PUBLIC LAND ORDER NO. 730 OF JUNE 25, 1951

By virtue of the authority vested in the President by section 2380 of the Revised Statutes (43 U. S. C. 711), and pursuant to Executive Order No. 10355 of May 26, 1952, it is ordered as follows:

1. Public Land Order No. 730 of June 25, 1951, which reserved the following-described public lands for town-site purposes, is hereby revoked:

SAN BERNARDINO MERIDIAN

T. 9 N., R. 1 W.,
Sec. 6, SE¼SE¼;
Sec. 7, N½NE¼.
T. 9 N., R. 2 W.,
Sec. 12, NE¼NE¼, E½NW¼NE¼.

The areas described aggregate 180 acres.

2. The SE¼SE¼ sec. 6, T. 9 N., R. 1 W., has been patented. The W½NW¼NE¼ sec. 7 has been classified for disposal under the act of June 4, 1954 (68 Stat. 173; 43 U. S. C. 869). Applications for this tract, therefore, for disposal under any other law will be rejected. The remaining lands are within the corporate limits of the City of Barstow, and by reason of rough terrain and topography are unsuited for entry under the homestead or desert-land laws. The entire area is closed to filings under the Small Tract Act.

3. No application for the lands may be allowed under the homestead, desert-land, or any other nonmineral public-land law unless the lands have already been classified as valuable or suitable for such type of application, or shall be so classified upon the consideration of an application. Any application that is filed will be considered on its merits. The lands will not be subject to occupancy or disposition until they have been classified.

4. This order shall not become effective to change the status of the opened lands until 10:00 a. m. on January 28, 1958. At that time the lands shall become subject to application, petition, location and selection, subject to valid existing rights, the provisions of existing withdrawals, the requirements of applicable laws, and the 91-day preference-right filing period for veterans and others entitled to preference under the act of September 27, 1944 (58 Stat. 747; 43 U. S. C. 279-284) as amended.

Inquiries concerning the lands shall be addressed to the Manager, Land Office, Bureau of Land Management, Bartlett Building, 215 W. 7th Street, Los Angeles, California.

ROGER C. ERNST,
*Assistant Secretary of the Interior.*

DECEMBER 23, 1957.

[F. R. Doc. 57-10769; Filed, Dec. 27, 1957; 8:48 a. m.]

# TITLE 39—POSTAL SERVICE

## Chapter I—Post Office Department

MISCELLANEOUS AMENDMENTS TO CHAPTER

PART 4—INFORMATION ON POSTAL MATTERS

In § 4.2 *General postal publication* (22 F. R. 1430, 4499) make the following changes:

1. In paragraph (a) amend the penultimate sentence to read as follows: "($3 for chapters 1 and 2, together with periodic looseleaf supplements for an indefinite period)."

2. Amend paragraph (b) to read as follows:

(b) Directory of Post Offices contains (1) a list of postal delivery zone offices, (2) an alphabetical list of post offices, (3) a list of post offices arranged alphabetically by states, (4) a list of post offices by counties, and (5) a list of Army and Air Force installations. ($2.25 a copy). (Distributed to all post offices).

3. Rescind paragraph (e).

4. In paragraph (h) change the price from $1.00 a copy to $1.65 for set of two books.

NOTE: Corresponds to section 114.2 of the Postal Manual.

(R. S. 161, 396, as amended; 5 U. S. C. 22, 369).

PART 5—COMPLAINTS

In § 5.1 *Postal service* add the following to the text: "In either case if the complaint concerns apparent mishandling of mail, the envelope or wrapper should be submitted."

NOTE: Corresponds to section 115.1 of the Postal Manual.

(R. S. 161, 396, as amended; 5 U. S. C. 22, 369).

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PART 27—FEDERAL GOVERNMENT MAIL AND FREE MAIL

In Part 27 make the following changes:

a. Amend the Part caption to read as set forth above.

b. Section 27.1 *Franked mail* is amended to read as follows:

§ 27.1 *Members of Congress*—(a) *Collection of postage.* Postage on mail sent under the franking privilege by the Vice President, Members and Members-elect of Congress, the Delegates and Delegates-elect from Alaska and Hawaii, the Resident Commissioner from Puerto Rico, the Secretary of the Senate, and the Clerk of the House of Representatives is paid annually by a lump-sum to the Post Office Department.

(b) *Description.* Official mail of Members of Congress is sent without prepayment of postage bearing written signature or a printed facsimile signature instead of a postage stamp. Mail accepted under frank, and the officials authorized to use franked mail, are shown in paragraph (c) of this section.

(c) *Authorized users.*

| Persons authorized to use the frank | Matter that may be franked | Marking required | Period during which the frank may be used |
|---|---|---|---|
| Vice President of the United States, Members of and Delegates to Congress, Resident Commissioners, Secretary of the Senate, Clerk of the House. | Public documents printed by order of Congress. | The words "Public Document—Free" and the signature and title, either written or printed facsimile, of the person entitled to frank it, must appear on the address side. | Until the 30th day of June following expiration of their respective terms of office. |
| Members of and Delegates to Congress and Resident Commissioners. | Congressional Record or any part of it, or speeches or reports contained in it. | The words "Congressional Record or Part of Congressional Record—Free" and the signature and title, either written or printed facsimile, of the person entitled to frank it, must appear on the address side. | During term of office only. |
| Secretary of Agriculture, Members of and Delegates to Congress. | Seeds and agricultural reports from the Department of Agriculture. | The word "Free" and the signature and title, either written or printed facsimile, of the person entitled to frank it, must appear on the address side. | Until the 30th day of June following the expiration of their terms of office. |
| Vice President of the United States, Members and Members-elect of and Delegates and Delegates-elect to Congress, and Resident Commissioners. | Official correspondence not exceeding 4 ounces in weight. Official correspondence when addressed to a Government official by title may exceed 4 ounces in weight, but must not exceed 4 pounds. | The word "Free" and the signature and title, either written or printed facsimile, of the person entitled to frank it, must appear on the address side. | Until the 30th day of June following expiration of their respective terms of office. |

(d) *Restrictions.* The following restrictions apply to franked mail:

(1) Official correspondence transmitted under frank of the Vice President, Members and Members-elect of and Delegates and Delegates-elect to Congress, and Resident Commissioners, must be on official or departmental business.

(2) No franked mail will be admitted to the mails unless admissible as ordinary mail.

(3) A person entitled to use franked mail may not loan his frank or permit its use by any committee, organization, or association; or permit its use by any person for the benefit or use of any committee, organization, or association. This restriction does not apply to any committee composed of Members of Congress.

(4) Franked mail is forwarded like any other mail, but when once delivered to the addressee it may not be remailed. A package of franked pieces may be sent by a person entitled to the franking privilege, to one addressee, who, on receiving and opening the package, may on behalf of such person, place addresses on the franked articles and mail them.

(5) Franked mail is handled as ordinary mail. Fees for special services must be paid at the time of mailing.

(e) *Weight and size limits*—(1) *Weight.* Official correspondence is limited to 4 ounces, except that when addressed to a Government official by title the limit is 4 pounds.

(2) *Size.* No limit. (NOTE: Effective July 1, 1959, a minimum size of 2¾ by 4 inches will obtain.)

NOTE: Corresponds to section 137.1 of the Postal Manual.

c. Section 27.2 *Penalty mail* is amended to read as follows:

§ 27.2 *Executive and judicial officers*—(a) *Collection of postage.* Departments, agencies and establishments of the U. S. Government must reimburse the Post Office Department in amounts equivalent to the amount of postage and fees due on their mail for which the Post Office Department does not otherwise receive compensation. Instructions governing the manner of reimbursement for mailings made without postage or fees prepaid are issued by the Bureau of Finance which negotiates reimbursement agreements with the departments and agencies concerned.

(b) *Description.* The following kinds of mail may be sent as Federal Government mail by those authorized to use this privilege:

(1) Official mail relating exclusively to the business of the Government of the United States mailed by officers of the executive and judicial branches of the Government; official mail of legislative counsel for the House of Representatives and the Senate; official mail of the Superintendent of Documents; and official correspondence concerning the Congressional Directory under direction of the Joint Committee on Printing.

(2) All correspondence, bulletins, and reports relating to agricultural extension work and home economics carried on in cooperation with the United States Department of Agriculture, when mailed by the college officer or other person connected with the extension department of the college who has been designated by the Secretary of Agriculture. Mailings may be deposited by the designated officer only at the authorized post office. Correspondence must be conducted under the name of the designated officer. Correspondence with autograph signature may be sealed but all other matter must be left unsealed.

(3) Bulletins, reports, periodicals, reprints of articles, and other publications necessary for the dissemination of results of researches and experiments, including lists of publications available for distribution, when mailed by agricultural experiment stations designated by the act of March 2, 1887, as amended by the act of August 11, 1955, as follows:

The officer in charge of a station that claims the privilege of sending materials without prepayment of postage through the mail must file an application with the Bureau of Operations, Postal Services Division, through the post office where the station is located, stating the date of establishment of the station, its name or designation, its official organization, the names of its officers, the name of the college, school or institution to which it is attached, if any, the legislation of the State or Territory providing for its establishment, and any other legislation granting it the benefits of the act of Congress referred to in this section.

(4) Annual reports of Government-aided colleges established under the act of July 2, 1862, when addressed to the Secretary of the Interior, the Secretary of Agriculture, and to any other Government-aided college. The postmaster receiving the annual reports from an officer of the college will use a post office penalty envelope or label to send it through the mail.

(5) Copyright material sent to the Register of Copyrights with claim for registration, as follows:

(i) Postmasters receiving the claim for registration and any articles that are required to accompany the claim will use a post office penalty envelope or label to send the matter to the Register of Copyrights, Washington 25, D. C.

(ii) If requested to do so, the postmaster will give a receipt for articles delivered to him to accompany a claim for registration.

(iii) When desired, the person submitting copyright matter to the postmaster may also present the fee for copyright registration enclosed in a sealed envelope addressed to Register of Copyrights, Washington 25, D. C., which must have postage prepaid at the letter rate. The postmaster, after canceling the postage stamps, will enclose the envelope containing the fee together with the copyright material in the post office penalty envelope sent to the Register of Copyrights.

(iv) Matter for copyright enclosed in post office penalty envelopes will not be sent by registered mail unless the registry fee is prepaid.

(c) *Preparation.* Government agencies and others authorized to use official mail privileges have the option of preparing the mail under one of the following methods:

(1) *Penalty.* Penalty mail, subject to the restrictions of paragraph (d) of this section, is sent without prepayment of postage. Envelopes, cards, labels, tags, and wrappers used in transmitting official mail under the penalty privilege must bear in the upper right corner of the address side the printed statement of the penalty for misuse: Penalty for Private Use to Avoid Payment of Postage, $300. The printed statement of the penalty for misuse may not be handwritten or typewritten. They must also show, over the words "Official Business" in the upper left corner of the address side, the name and address of the department, bureau, office or officer. The following additional markings are also required when applicable:

(i) Official mail of designated State extension directors must bear in the upper left corner the name of the agricultural college and the name of the post office at which the mail is to be accepted

without prepayment of postage, followed by the name and title of the designated officer and the words "Cooperative Agricultural Extension Work Acts of May 8 and June 30, 1914."

(ii) Official mailings by agricultural experiment stations must bear in the upper left corner of the address side the name of the station, the name of the post office at which the matter is to be accepted, and the name and title of the officer in charge of the station, followed by the word "Publication." The title of the bulletin or report may be used.

(2) *Postage and Fees Paid.* (i) All official mail of authorized departments or agencies, subject to the weight and size limits, if any, for matter of its class, shall be given the postal service indicated on its cover when the mail is marked in the upper right corner of the address side "Postage and Fees Paid." This marking may not be handwritten or typewritten.

(ii) Departments and agencies authorized to prepare mail under this arrangement are:

Air Force, Department of.
Airways Modernization Board.
Army, Department of.
Atomic Energy Commission.
Bureau of the Budget.
Civil Service Commission.
Civil Aeronautics Board.
Commerce, Department of.
Federal Bureau of Investigation.
Federal Home Loan Bank Board.
Federal Housing Administration.
Federal Mediation and Conciliation Service.
Federal Power Commission.
Federal Trade Commission.
General Services Administration, (except GSA Federal Supply Warehouses).
Health, Education, and Welfare, Department of.
International Cooperation Administration.
Interstate Commerce Commission.
Labor, Department of.
Library of Congress.
Marine Corps.
National Capital Housing Authority.
National Advisory Committee for Aeronautics.
National Gallery of Art.
National Institutes of Health.
National Labor Relations Board.
National Science Foundation.
Navy, Department of
Office of Defense Mobilization.
Panama Canal Company.
President's Committee on Employment of the Physically Handicapped.
Railroad Retirement Board.
Securities and Exchange Commission.
Selective Service System.
Small Business Administration.
Smithsonian Institution.
State, Department of
U. S. Court of Claims.
Veterans Administration.

(iii) Mail sent as "Postage and Fees Paid" must show over the words "Official Business" in the upper left corner of the address side the name and address of the department, bureau, office, or officer.

(iv) Self-addressed, reply envelopes or labels may be furnished to persons or concerns for convenience in submitting information for official purposes by ordinary surface mail.

(3) *Prepaid postage.* Official mail which is not sent as penalty mail or as postage and fees paid mail must have postage prepaid. The regular rates and conditions apply except that postage on official mail weighing over 4 pounds may be paid at the fourth-class rates. See paragraph (e) (1) of this section.

(d) *Restrictions of use.* The use of markings authorized on official mail as shown in paragraph (c) of this section may not be placed on other mail to avoid payment of postage or special service fees. The following restrictions apply to the use of official envelopes, cards, labels, and tags prepared as indicated in paragraph (c) of this section.

(1) Any department or office authorized to use the Federal Government mail privilege may furnish self-addressed envelopes or labels to persons or concerns for their convenience in submitting official information desired by any U. S. Government department or agency. Reply envelopes may not be furnished to bidders or contractors, or to enable private persons or concerns to send free reports or other information which they are required by law to make.

(2) The right of an officer to use the Federal Government mail privilege ceases immediately upon his going out of office.

(3) Official mail may not be sent in penalty envelopes by special delivery or as certified mail without prepayment of the fee or by airmail without prepayment of the air postage. (See paragraph (c) (2) of this section for mailings in envelopes marked "Postage and Fees Paid".) Exception: Penalty envelopes containing urgent official communications of the Postal Service may be sent special delivery or as certified mail or airmail without payment of fee or postage.

(e) *Weight and size limits*—(1) *Weight.* No article or package of official matter, or number of articles or packages of official matter, constituting, in fact, a single shipment exceeding 4 pounds may be admitted to the mails under the penalty privilege except stamped paper and supplies sold or used by the Postal Service, and books or documents published or circulated by order of Congress when mailed by the Superintendent of Documents. Official matter in packages exceeding 4 pounds, if otherwise mailable, will be accepted on payment of postage at the fourth-class rates or under the inscription "Postage and Fees Paid" within the limits of weight prescribed for such matter. (See § 25.3 of this subchapter.) Such parcels may be sealed or unsealed, and may include written matter when mailed at those rates. Official matter of the Postal Service, and books and documents circulated by order of Congress, when mailed by the Superintendent of Documents may weigh up to 70 pounds.

(2) *Size.* There is no size limit prescribed for penalty mail. Other matter is subject to the size limits prescribed in § 25.3 of this subchapter. NOTE: Effective July 1, 1959, this subparagraph will read:

(2) *Size.* The minimum size for Federal Government mail is 2¾ by 4 inches. There is no maximum size prescribed for penalty mail but other Federal Government mail is subject to the size limits prescribed in § 25.3 of this section.

NOTE: Corresponds to section 137.2 of the Postal Manual.

d. Section 27.3 *Diplomatic and consular mail* is amended to read as follows:

§ 27.3 *Mail to government departments*—(a) *Census mail.* All mail, of whatever class, relating to the census and addressed to the Census Office, or to any official thereof, and endorsed "Official Business, Census Office," will be sent without prepayment of postage. Such mail may not exceed 4 pounds.

(b) *Immigration and naturalization service mail.* All mail, of whatever class, relating to naturalization, including duplicate papers required by law or regulation to be sent to the Service by clerks of courts addressed to the Department of Justice or the Immigration and Naturalization Service, or any official of either, and endorsed "Official Business," will be transmitted without prepayment of postage and marked "Naturalization Papers." Mail relating to naturalization may not exceed 4 pounds.

NOTE: Corresponds to section 137.3 of the Postal Manual.

e. Section 27.4 *Mail to government departments* is amended to read as follows:

§ 27.4 *State employment security mailings.* All mail, including parcels, of State employment security offices cooperating with the Department of Labor, that bears in the upper left corner of the address side the words "Official Business" printed immediately below the name and address of the State employment agency, and in the upper right corner the words "Employment Security Mail—United States Postage Accounted for Under Act of Congress," will be accepted without prepayment of postage. Postage chargeable is collected periodically under a special arrangement with the Post Office Department. When sent by air, airmail postage must be prepaid. Such matter sent as registered, special delivery, or special handling mail also requires prepayment of the applicable fees.

NOTE: Corresponds to section 137.4 of the Postal Manual.

f. Section 27.5 *State employment security mailings* is amended to read as follows:

§ 27.5 *Free mail*—(a) *Diplomatic and consular mail*—(1) *Diplomatic mail.* All correspondence (written or printed) of members of the Diplomatic Corps of the countries of the Postal Union of the Americas and Spain stationed in the United States may be reciprocally transmitted in the domestic mails free of postage. Such correspondence may not exceed 4 pounds in weight. The envelopes, cards, tags, wrappers, and labels must show in the upper left corner of the address side the name of the ambassador or the minister, or the name of the embassy or legation, together with the post office address; and in the upper right corner the inscription "Diplomatic Mail" over the word "Free." These inscriptions may be handwritten, handstamped, or printed.

(2) *Consular mail.* The official correspondence (written or printed) exchanged between consulates (consuls and

vice consuls) of the countries of the Postal Union of the Americas and Spain stationed in the United States, and correspondence "directed by those consulates to the Government of the United States or their respective embassies or legations, may be transmitted in the domestic mails free of postage. Such correspondence may not exceed 4 pounds in weight. The envelopes, labels, etc., covering correspondence of consulates must show over the words "Official Correspondence," in the upper left corner of the address side, the name and address of the consul or consulate, and the name of the country represented; and, in the upper right corner, the inscription "Consular Mail" over the word "Free." These inscriptions may be handwritten, handstamped, or printed.

(b) *Absentee balloting materials*—(1) *Purpose.* Balloting materials consisting of post card applications, ballots, voting instructions, and envelopes, are sent through the mail free of postage, including airmail postage, for the purpose of enabling every person in any of the following categories to vote by absentee ballot when he is absent from the place of his voting residence and is otherwise eligible to vote:

(i) Members of the Armed Forces while in the active service and their spouses and dependents.

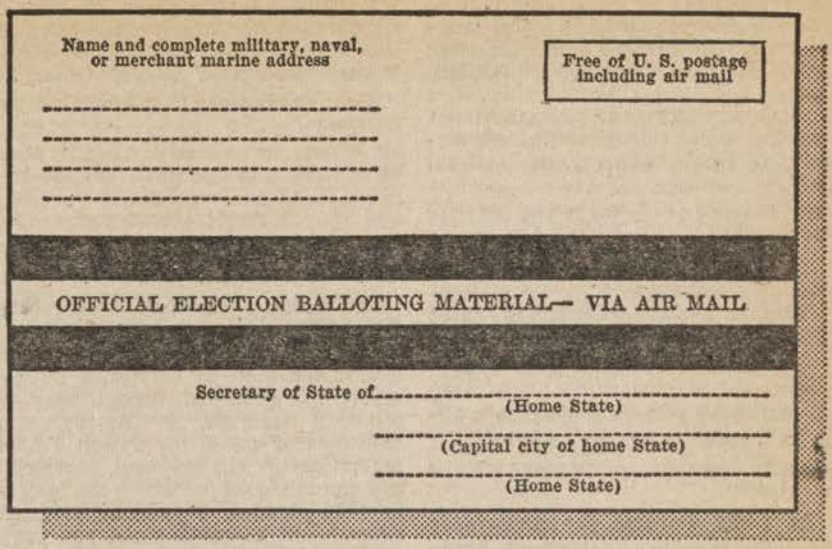
(ii) Members of the merchant marine of the United States and their spouses and dependents.

(iii) Civilian employees of the United States in all categories serving outside the United States and the District of Columbia and their spouses and dependents when residing with or accompanying them, whether or not the employee is subject to the civil-service laws and the Classification Act of 1949, and whether or not paid from funds appropriated by the Congress.

(iv) Members of religious groups or welfare agencies assisting members of the Armed Forces, who are officially attached to and serving with the Armed Forces, and their spouses and dependents.

(2) *Elections affected.* The materials may be sent for any general election of electors for President and Vice President or of Senators and Representatives in Congress and for other general primary, and special elections.

(3) *Markings required of ballot envelopes and post card applications.* (i) Envelopes used to send balloting material and envelopes supplied for return of the ballot must have printed across the face two parallel horizontal red bars, each ¼ inch wide, extending from one side of the envelope to the other side, with an intervening space of ¼ inch, the top bar to be 1¼ inches from the top of the envelope, and the words "Official Election Balloting Material—Airmail" or similar language as prescribed by State law, between the bars. There must be printed in the upper right corner of each envelope in a rectangular box the words "Free of U. S. Postage, Including Airmail". All printing on the face must be in red with an appropriate inscription or blanks for return address of sender in the upper left corner.




(ii) The Federal post card application shall be approximately 9½ x 4⅛ inches in size. On the address side of the card shall be printed in red ink the following:

FILL OUT BOTH SIDES OF THE CARD

(Name)
(Unit, Government agency, or office)
(Military base, station, ship, or office)
(Street No., APO, or FPO No.)
(City, postal zone, State)

FREE OF U. S. Postage
Including Air Mail

OFFICIAL ELECTION BALLOTING MATERIAL—VIA AIR MAIL

To:
(Title of election official)
(County or township)
(City or town, State)

(c) *Widows of former Presidents.* All mail of widows of former Presidents of the United States, when authorized by act of Congress, shall be accepted free of postage, if it bears the written signature of sender, or a facsimile signature, in the upper right corner of the address side together with the word "FREE."

(d) *Pan American Union and Pan American Sanitary Bureau.* The Pan American Union and Pan American Sanitary Bureau are authorized by law to transmit official matter free. The mail must bear the printed clause citing the penalty for private use instead of postage stamps. It must be prepared like Federal Government penalty mail and is subject to the same restrictions. (See § 27.2 (c) (1), (d), and (e).)

NOTE: Corresponds to section 137.5 of the Postal Manual.

g. Section 27.6 *Absentee balloting materials* is rescinded.

NOTE: Corresponds to section 137.6 of the Postal Manual.

(R. S. 161, 396, as amended; secs. 5, 7, 18 Stat. 343, as amended, secs. 5, 6, 19 Stat. 335, 336, as amended, sec. 85, 28 Stat. 622 as amended, sec. 7, 33 Stat. 441 as amended, 54 Stat. 695, secs. 301, 302, 303, 304, 62 Stat. 1048, as amended, secs. 305, 306, 62 Stat. 1049, as amended, secs. 203, 204, 205, 302, 69 Stat. 586, 588; 5 U. S. C. 22, 369, 2183, 2184, 2185, 2192; 39 U. S. C. 321, 321–1, 321i–321n, 325, 326, 327, 329)

## PART 43—MAIL DEPOSIT AND COLLECTION

In § 43.2 *Ordinary deposit of mail* amend paragraph (a) to read as follows:

(a) *Post office lobbies.* Letter drops are provided in lobbies of all post offices for the deposit of mail. Where warranted, post offices provide special slots or receptacles for the deposit of mail which has been separated by patrons according to local, out-of-town, air-mail, special delivery, or other appropriate designations.

NOTE: Corresponds to 153.2 of the Postal Manual.

(R. S. 161, 396 as amended, 3868; 5 U. S. C. 22, 369; 39 U. S. C. 155)

## PART 47—FORWARDING MAIL

a. In § 47.1 *Order to change address* make the following changes:

1. In first sentence of paragraph (a) amend the words "Form 22, Order to

Change Address" to read "Form 3575, Change of Address Order"; in last sentence amend the words "Order to Change Address" to read "Change of Address Order".

2. In first sentence of paragraph (b) amend the words "Order to Change Address" to read "Change of Address Order".

NOTE: Corresponds to 157.11 and 157.12 of Postal Manual.

b. In § 47.2 *Time limit of order* make the following changes:

1. Amend section caption to read: *"Time limit of change of address order"*.

2. Amend paragraph (a) to read as follows:

(a) An order without a time limit expires in 2 years and is not renewable.

NOTE: Corresponds to 157.2 and 157.2a of Postal Manual.

c. In § 47.3 *Postage for forwarding* make the following changes in paragraph (b):

1. In subparagraph (3) amend the reference "(See § 48.2 (c) of this chapter)" to read "(See § 42.8 (d) of this chapter)".

2. Add the following to subparagraph (7): "(See 48.2 (c) of this chapter)".

NOTE: Corresponds to 157.32d and 157.32c of Postal Manual.

d. In § 47.7 *Guarantee to pay forwarding postage* in paragraph (a) amend the words "Order to Change Address" to read "Change of Address Order".

NOTE: Corresponds to 157.7a of the Postal Manual.

(R. S. 161, 396 as amended, sec. 1, 64 Stat. 210; 5 U. S. C. 22, 396; 39 U. S. C. 278a)

PART 51—REGISTRY

In § 51.7 *Delivery*, amend paragraph (d) to read as follows:

(d) *Notice of arrival.* If the carrier is unable to deliver registered mail, he will leave a notice for you. If your mail is not delivered by carrier, a notice of arrival will be issued through your regular mail channels. If the mail is not delivered or called for within 5 days a second notice will be issued, provided the maximum period for which the mail may be held permits. No second attempt to deliver will be made until you request the post office to do so.

NOTE: Corresponds to 161.74 of Postal Manual.

(R. S. 161, 396 as amended, 3926 as amended; 5 U. S. C. 22, 369; 39 U. S. C. 246f, 381)

[SEAL] ABE MCGREGOR GOFF,
*General Counsel.*

[F. R. Doc. 57-10717; Filed, Dec. 27, 1957; 8:45 a. m.]

# PROPOSED RULE MAKING

## DEPARTMENT OF THE INTERIOR

### Bureau of Reclamation

### [ 43 CFR Part 409 ]

PAGE, ARIZONA

LEASING AND UTILIZATION OF LANDS

The townsite of Page, Arizona, is on Federal lands administered by the Bureau of Reclamation, Department of the Interior. Incorporation of the area under the laws of Arizona will be accomplished as soon as possible, but in the interim there are certain matters which cannot be dealt with under laws of the State. Such matters include the leasing of the lands, the placing of structures thereon, and utilization of the lands for the conduct of commercial enterprises and the rendering of services. Pursuant to the authority contained in the acts of August 4, 1939 (53 Stat. 1187, 43 U. S. C. 387, 485) and April 11, 1956 (70 Stat. 105) it is proposed to issue the regulations set forth below.

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

FRED A. SEATON,
*Secretary of the Interior.*

DECEMBER 23, 1957.

A new part is added to Title 43, Chapter II, reading as follows:

Sec.
409.1 Scope of part.
409.2 Filing applications.
409.3 References.

Subpart A—Leases of Land

409.4 Term of leases.
409.5 Qualifications of lessees.
409.6 Renewals.
409.7 Rates.

Subpart B—Commercial and Service Permits

409.8 Definition.
409.9 Applicability.
409.10 Filing fee.
409.11 Qualifications of applicants.
409.12 Classification of permits.
409.13 Traffic in alcoholic beverages prohibited.
409.14 Duration and cancellation.

Subpart C—Building Permits

409.15 Definition.
409.16 Requirements.

AUTHORITY: §§ 409.1 to 409.16 issued under act of August 4, 1939, 53 Stat. 1187, 43 U. S. C. 387, 485, and the act of April 11, 1956, 70 Stat. 105.

§ 409.1 *Scope of part.* The regulations in this part are applicable to lands being administered by the Bureau of Reclamation within the exterior boundaries of Page, Arizona, as such boundaries are established from time to time under authority of the Commissioner of Reclamation. Such lands may be leased, utilized for the conduct of commercial enterprise and the rendition of services, and structures may be placed thereon only under and pursuant to the terms of requisite leases, licenses, and permits issued in accordance with the applicable subparts of the regulations of this part.

§ 409.2 *Filing applications.* Applications for leases, licenses or permits, governed by regulations of this part, will be filed with the official of the Bureau of Reclamation in charge of the administration of Page, Arizona, now located at Kanab, Utah, until such time as such official is stationed at Page, Arizona. When used hereafter in this part, the term "Bureau of Reclamation" shall refer to such official.

§ 409.3 *References.* Upon written request by the Bureau of Reclamation, each applicant will furnish a letter, or letters, signed by the applicant, addressed to and authorizing financial institutions and others to supply to the Bureau of Reclamation any information it may require in regard to financial responsibility and other relevant matters as to warrant the belief that, if granted the license, lease, or permit, such applicant will be able to meet the conditions of such license, lease, or permit. Refusal of the applicant to furnish such authority, or his failure to do so within a period of two weeks from the date of receipt of the written notice shall be a sufficient ground for the rejection of the application.

SUBPART A—LEASES OF LAND

§ 409.4 *Term of leases.* Leases shall be for periods of not to exceed fifty (50) years, and unless otherwise provided by the Commissioner of Reclamation they shall be in accordance with terms and conditions and in the form approved by the Commissioner on October 14, 1957, and shall be subject to the terms of the regulations of this part.

§ 409.5 *Qualifications of lessees.* No application for a lease hereunder shall be approved until the applicant has satisfied the Bureau of Reclamation that (a) he is a citizen of the United States or has declared his intention to become such; (b) he is a person of good moral character; (c) he does not intend to hold the area for which the lease is requested for speculative purposes; (d) he is financially responsible so as to warrant the belief that, if granted a lease, he will be able to meet all of the conditions and obligations of such a lease.

§ 409.6 *Renewals.* No lease shall be renewed or extended if the lessee has failed or refused to make such reasonable improvements, alterations, or repairs on the building or buildings on the leased premises as have been requested in writing by the Bureau of Reclamation.

§ 409.7 *Rates.* All leases shall be made at the fair market value, as determined by the Bureau of Reclamation.

SUBPART B—COMMERCIAL AND SERVICE PERMITS

§ 409.8 *Definition.* The term "permit" as used in this subpart shall mean

the privilege conferred by the Bureau of Reclamation upon individuals, partnerships, corporations, or other entities to utilize leased premises for the purpose of engaging in any form of commercial enterprise or the rendition of services.

§ 409.9 *Applicability.* Leased land may be utilized for the conduct of commercial enterprise or the rendition of services only if a permit is issued in accordance with the provisions of this subpart.

§ 409.10 *Filing fee.* Each application for a permit must be accompanied by a filing fee of twenty-five ($25.00) dollars. If a permit is not granted the filing fee will be returned.

§ 409.11 *Qualifications of applicants.* Applicants for permits must establish to the satisfaction of the Bureau of Reclamation both the adequacy of their financial resources and the appropriateness of their training and experience. The requirement of training and experience will be satisfied in the case of an applicant who is the holder of a valid license or permit issued upon proof of qualification by the State of Arizona pursuant to the statutes of Arizona.

§ 409.12 *Classification of permits.* Permits shall be of three types: (a) Exclusive, (b) personal, (c) general business. Exclusive permits shall be limited to public utilities or to such other entities whose operations in the opinion of the Bureau of Reclamation are necessary to promote the public interest. While in the issuance of permits the promotion of free competition will be the objective, the number of other permits may be restricted temporarily if in the opinion of the Bureau of Reclamation such restriction is required as a means of assisting in the maintenance of conditions conducive to the establishment of services and enterprises adequate to meet community needs. But, if any restrictions are imposed, they confer no right in existing permittees to the continuation of such restrictions.

§ 409.13 *Traffic in alcoholic beverages prohibited.* The privilege conferred by a permit shall not include trading in, selling, distributing, storing for any of the foregoing purposes, or manufacturing any alcoholic beverages, but this limitation shall not be applicable in the case of permits issued to duly licensed physicians, dentists, and pharmacists who prescribe or dispense beverage alcohol or preparations containing beverage alcohol for medicinal purposes as part of the practice of their professions.

§ 409.14 *Duration and cancellation.* Permits shall be granted to applicants meeting the requirements of this subpart for a period of not to exceed three years and shall be renewable for like periods upon application filed therefor, if the applicant then meets the requirements of the regulations of this part. Each permit shall be subject to cancellation upon violation by the holder thereof of applicable Federal or State laws, pertinent regulations duly promulgated, terms and conditions of the permit, or by breach of the terms of the lease of property used in connection with the commercial enterprise or service undertaken pursuant to the authority of the permit.

SUBPART C—BUILDING PERMITS

§ 409.15 *Definition.* The term "building permit" as used in this part shall mean permission granted in writing by the Bureau of Reclamation for erection of structures, or the alteration, or improvement of existing structures on leased land.

§ 409.16 *Requirements.* A building permit will be issued only after plans for a structure, together with the location on a particular tract or tracts of land involved, have been approved. All residential construction shall conform to the standards of the Federal Housing and Home Finance Agency and all commercial construction shall conform to the Uniform Building Code of the Pacific Coast Building Officials Conference. All plumbing systems in all buildings shall be in accordance with applicable provisions of the American Standard National Plumbing Code and all electrical installations shall be in accordance with applicable provisions of the latest edition of the "National Electrical Code," standard of the National Board of Fire Underwriters for Electrical Wiring and Apparatus. Further, the residential and commercial building construction shall conform to the requirements of applicable Coconino County and Arizona State codes. Buildings in residential areas may not be used for commercial or industrial purposes. All structures and the use thereof shall conform to the zoning plan of Page, Arizona.

[F. R. Doc. 57-10772; Filed, Dec. 27, 1957; 8:48 a. m.]

## INTERSTATE COMMERCE COMMISSION

### [ 49 CFR Part 179 ]

[No. 32339]

TRANSFERS OF OPERATING RIGHTS

NOTICE OF PROPOSED RULE MAKING

DECEMBER 20, 1957.

Notice is hereby given of a proposed amendment to the Rules and Regulations Governing Transfer of Operating Rights, 49 CFR Part 179, by the addition of a paragraph reading substantially as follows:

Prior to their effective dates, synopses of affirmative orders entered pursuant to the rules, in this part currently will be published in the FEDERAL REGISTER. The notice accompanying such publication will refer to section 17 (8) of the Interstate Commerce Act and include a requirement that if a timely petition is filed by an interested person seeking reconsideration or oral hearing, such petition must specify with particularity the alleged errors or matters claimed to have been erroneously decided. If the petition contains a request for oral hearing, the request shal be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted in affidavit form.

The proposed publication in the FEDERAL REGISTER would be under a heading substantially as follows:

PUBLIC NOTICE, PRIOR TO THEIR EFFECTIVE DATES, OF ORDERS ENTERED UNDER THE TRANSFER RULES, 49 CFR PART 179

Orders with deferred effective dates, as later explained, recently have been entered approving applications filed under section 212 (b) of the Interstate Commerce Act and Rules and Regulations Governing Transfer of Operating Rights, 49 CFR Part 179. The effective date of each order is such that if, within 30 days from the date of this publication, a petition is filed by an interested person seeking reconsideration, the effective date of the particular order will, pursuant to section 17 (8) of the Interstate Commerce Act, be postponed pending disposition of the petition. In such a petition the matters claimed to have been erroneously decided and the alleged errors must be specified with particularity. If the petition contains a request for oral hearing the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted in affidavit form. The Commission will determine whether or not assignment of the matter for hearing is necessary or desirable. Synopses of the indicated orders, together with the name and address of the practitioner representing applicant, or applicants, follow below. (Then list indicated synopses.)

The present rules have no provision for public notice. That situation is consistent with the legislative history which shows that transactions of the character here in question were not deemed by Congress to be of sufficient public concern to warrant imposition of the normal requirements of due process. Brooks Transportation Co. v. United States of America and Interstate Commerce Commission, E. D. Va., decided May 13, 1957, as yet unreported.

As the great majority of the indicated transactions are noncontroversial, it is desirable they be processed with a minimum of procedural delay. In some instances the indicated transactions may be of controversial character. In such a situation there should be an opportunity, despite the absence of a mandatory due-process requirement, for an interested person timely to bring the pertinent facts to the Commission's attention, and for a hearing to be held should that become necessary. The proposal herein provides for such an opportunity prior to the effectiveness of the order.

No oral hearing on the proposed change is contemplated, but any person wishing to make representations in favor of or against the proposal may do so by the submission of written data, views, or arguments. An original and two copies of such data, views, or arguments shall be filed with the Commission on or before February 3, 1958.

Notice to the general public shall be given by depositing a copy hereof in the Office of the Secretary of the Commission for public inspection and by filing a copy with the Director, Division of the Federal Register.

By the Commission.

[SEAL] HAROLD D. MCCOY, *Secretary.*

[F. R. Doc. 57-10786; Filed, Dec. 27, 1957; 8:51 a. m.]

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Food and Drug Administration

### [ 21 CFR Part 37 ]

[Docket No. FDC 64]

CANNED TUNA; DEFINITION AND STANDARD OF IDENTITY; LABEL STATEMENT OF OPTIONAL INGREDIENTS

NOTICE OF HEARING

A notice of proposed rule making was published in the FEDERAL REGISTER of August 28, 1956 (21 F. R. 6492), setting forth a proposed definition and standard of identity and a proposed standard of fill of container for canned tuna. An order acting on the proposals was published in the FEDERAL REGISTER of February 13, 1957 (22 F. R. 892). No objections were filed protesting the provisions of the standard of fill of container and accordingly that standard became fully effective August 13, 1957.

Objections were filed protesting those labeling provisions in the identity standard requiring the words "in water" to be included in the name of the food when water is used as the packing medium and requiring tuna darker than Munsell value 5.3 to be declared on the label as "dark tuna". Notice of these objections and of the stay of the provisions to which the objections were directed until final action after a public hearing was published in the FEDERAL REGISTER of August 29, 1957 (22 F. R. 6961). Except for the provisions stayed, the identity standard is scheduled to become effective February 13, 1958. Since publication of the notice of objections, the National Canners Association, representing a substantial portion of the tuna-canning industry, has requested postponement of the effective date of the identity standard for 1 year. The need for the requested postponement was supported only with respect to the design and procurement of new labels. The labeling requirements of the identity standard are set out in § 37.1 (h). Postponement of those provisions of § 37.1 (h) that were not stayed, until final action is taken disposing of the objections to be taken up at the public hearing, will meet the needs set out in the request of the National Canners Association.

Now, therefore, pursuant to the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055, as amended 70 Stat. 919; 21 U. S. C. 341, 371) and in accordance with the authority delegated to him by the Secretary (22 F. R. 1045), the Commissioner of Food and Drugs hereby extends the effective date of § 37.1 (h) of the definition and standard of identity for canned tuna until the effective date of the order ruling on the objections to be heard. Notice is hereby given that a public hearing will be held for the purpose of receiving evidence relevant and material to the objections to the requirement in the identity standard for canned tuna that the words "in water" are to be included in the name of the food when water is used as the packing medium and to the requirement for label declaration of tuna darker than Munsell value 5.3 as "dark tuna".

The hearing will begin at 10 o'clock in the morning of January 29, 1958, in Room 3046, South Agriculture Building, 12th and Independence Avenue SW., Washington, D. C. All interested persons are invited to attend this hearing and present evidence. The hearing will be conducted in accordance with the rules of practice therefor.

Mr. Leonard D. Hardy is hereby designated as presiding officer to conduct the hearing, with full authority to administer oaths and affirmations and to do all other things appropriate to the conduct of the hearing. The presiding officer is required to certify the entire record of the proceeding to the Commissioner of Food and Drugs for action.

Dated: December 24, 1957.

[SEAL] JOHN L. HARVEY,
*Deputy Commissioner of Food and Drugs.*

[F. R. Doc. 57-10793; Filed, Dec. 27, 1957; 8:52 a. m.]

# NOTICES

## DEPARTMENT OF AGRICULTURE

### Office of the Secretary

DESIGNATION OF CLAIMANT AGENCIES WITH RESPECT TO FOOD

In accordance with the description of responsibilities set forth in section 201 of Executive Order No. 10480 and paragraph 1 of Defense Mobilization Order I-7, and pursuant to the authority contained in sections 602 and 603 of Executive Order 10480, the following agencies of the Government are hereby designated as claimant agencies before the Secretary of Agriculture with respect to food as defined in section 601 (h) of Executive Order 10480.

1. Department of Defense with respect to military requirements for all persons eating out of military supplies. (Such Department shall advise the Departments of State and Agriculture of requirements by counties whenever the military requirements submitted include food for foreign civilians or for foreign forces.)

2. Department of Commerce with respect to requirements for food for nonfood industrial uses.

3. Department of State with respect to foreign requirements, other than military requirements, for food produced in the United States. (The Foreign Agricultural Service of the Department of Agriculture shall advise and cooperate with the Department of State in developing a procedure for foreign countries to use in supplying estimates of their food requirements from United States sources. The Foreign Agricultural Service will further advise and cooperate with the Department of State in analyzing such requirements and in developing estimates of requirements in the absence of a submission by the countries concerned.)

4. Department of the Interior with respect to requirements for food for civilians in United States possessions, territories, and trust territories other than those included in the military requirements. (Requirements for food from sources other than the United States shall be reported separately.)

5. Department of Agriculture, through such official or agency thereof as may be designated by the Secretary, with respect to requirements for food for all persons in the continental United States eating out of civilian supplies and for all other domestic non-industrial uses (e. g., feed, seed). (The Federal Civil Defense Administration will advise regarding civilian food requirements whenever its functions are concerned.)

This designation of claimant agencies supersedes the "Designation of Claimant Agencies to Present Requirements With Respect to Food" which was approved on the 6th day of February 1951 and filed with the FEDERAL REGISTER on the 9th day of February 1951 (16 F. R. 1289), later designated Defense Food Delegation No. 5 (16 F. R. 3311). This designation of claimant agencies shall apply to planning as well as to emergency operations.

(Pub. Law 774, 81st Cong., 2d Sess., as amended; E. O. 10480 (18 F. R. 4939), as amended; Defense Mobilization Order I-7 (18 F. R. 5366, 6736), as amended)

Done at Washington, D. C., this 23d day of December 1957.

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

[F. R. Doc. 57-10762; Filed, Dec. 27, 1957; 8:46 a. m.]

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

ALASKA

NOTICE OF PROPOSED WITHDRAWAL AND RESERVATION OF LANDS

Highway Engineer, Territory of Alaska has filed an application, Serial No. Anchorage 039759, for the withdrawal of the lands described below, from all forms of appropriation under the public-land laws, including the mining and mineral-leasing laws. The applicant desires the land for use in conjunction with a public dock and warehouse facility on the Homer Spit.

For a period of 60 days from the date of publication of this notice, persons having cause may present their objections in writing to the undersigned official of the Bureau of Land Management, Department of the Interior, Box 480, Anchorage, Alaska.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands involved in the application are:

T. 7 S., R. 13 W., S. M.,
Section 1: Lot 22.

Containing 0.92 acres more or less.

EDWARD J. HOFFMANN,
*Acting Operations Supervisor,*
*Anchorage.*

[F. R. Doc. 57-10770; Filed, Dec. 27, 1957; 8:48 a. m.]

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OREGON

NOTICE OF PROPOSED WITHDRAWAL AND RESERVATION OF LANDS NO. 58-5

DECEMBER 19, 1957.

The Bureau of Land Management, United States Department of the Interior, has filed an application, Serial No. Oregon 05825, for the withdrawal of the lands described below subject to valid existing rights from all forms of appropriation under the public land laws, excepting mineral leases under the mineral leasing laws and grazing under the Taylor Grazing Act.

The applicant desires the land for a source of cinders for construction and maintenance of Federal and County roads in the vicinity.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, 1001 N. E. Lloyd Blvd., P. O. Box 3861, Portland 8, Oregon.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands involved in the application are:

WILLAMETTE MERIDIAN, OREGON

T. 14 S., R. 15 E.,
Sec. 30: S½SE¼.

80.00 acres.

VIRGIL T. HEATH,
*State Supervisor.*

[F. R. Doc. 57-10771; Filed, Dec. 27, 1957; 8:48 a. m.]



# DEPARTMENT OF COMMERCE

## Civil Aeronautics Administration

[Amdt. 19]

ORGANIZATION AND FUNCTIONS

ESTABLISHMENT OF TWO NEW AIRPORT DISTRICT OFFICES WITH NECESSARY REVISIONS IN AREAS SERVED BY DISTRICT OFFICES IN REGION 1

In accordance with the public information requirements of the Administrative Procedure Act section 21 (b) of the Organization and Functions of the Civil Aeronautics Administration, as published on April 10, 1954 (19 F. R. 2100), and amended on September 14, 1956 (21 F. R. 6960), is further amended to include 2 new Airport District Offices and to revise the areas served by certain other Airport District Offices in Region 1.

1. The following new Airport District Offices with areas served are hereby established:

Portland, Maine, Portland Municipal Airport, 974 Westbrook Street—Maine, New Hampshire, Vermont.

Washington, D. C., West Laboratory, P. R. A. Building, Washington National Airport, Washington 25, D. C.—Delaware, Maryland, Virginia, West Virginia.

2. The areas served by the following Airport District Offices are revised to read:

Boston, Mass., 2200 U. S. Custom House—Massachusetts, Rhode Island, Connecticut.

New Cumberland, Pa., Harrisburg State Airport—Pennsylvania.

Columbus, Ohio, New Post Office Building, 85 Marconi Boulevard—Ohio, Kentucky.

[SEAL] JAMES T. PYLE,
*Administrator of Civil Aeronautics.*

DECEMBER 20, 1957.

[F. R. Doc. 57-10766; Filed, Dec. 27, 1957; 8:47 a. m.]

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# ATOMIC ENERGY COMMISSION

URANIUM-233 GUARANTEED FAIR PRICES

1. This notice supplements the following Commission announcements regarding guaranteed fair prices for uranium-233:

a. The Commission's notice published March 3, 1956 (21 F. R. 1421), which stated that guaranteed fair prices had been established for special nuclear material delivered to the Commission prior to midnight June 30, 1962, and that these prices were available to holders of AEC permits for access to information classified "Confidential—Restricted Data."

b. The announcement of November 18, 1956 (Press Release No. 930), which specified the guaranteed fair price for uranyl (233) nitrate delivered to the Commission in the period midnight July 1, 1962 to midnight June 30, 1963.

This notice supplements those announcements by incorporating the guaranteed fair prices for uranium-233 referred to in 21 F. R. 1421 and the announcement of November 18, 1956 to the extent that such prices are now declassified. Certain prices for uranium-233, in effect prior to July 1, 1962, remain classified "Confidential—Restricted Data." This notice supplements those announcements also by incorporating specifications for uranyl (233) nitrate previously classified "Confidential—Restricted Data".

2. The prices contained in this notice are "guaranteed fair prices" determined in accordance with the provisions of section 56 of the Atomic Energy Act of 1954 for uranyl (233) nitrate lawfully produced under license from the Atomic Energy Commission, and delivered to the Commission at the designated receiving point within the time specified below.

3. It is emphasized that while the Commission intends to extend the guarantee period for uranyl (233) nitrate prices each year for one additional year, the prices which will be established for subsequent years may be different from those previously in effect.

4. Chemical Specification:

a. The uranium content shall be approximately 400 grams per liter of solution.

b. Nitrate ion shall constitute not less than 98 percent by weight of the total anions in the solution.

c. Metallic impurities shall not exceed 5 percent by weight of the total metallic content of the solution. No uranium isotopes shall be counted as impurities for purposes of this subparagraph c.

5. Physical Specification:

a. The radioactivity of the U-233 will be measured in terms of radiation level. The radiation level resulting from fission product decay (excluding radiation arising from U-232 daughter activity) of a 1-liter sample contained in a polyethylene bottle approximately 4 inches in diameter with wall ¼ inch or less in thickness, shall not exceed 1 mr/hr/gram of contained uranium as read on an air ionization type gamma survey meter with window closed at a distance of 12 inches from the center of the container. Appropriate adjustments may be made for measurements obtained using other sample volumes, container sizes and container materials.

b. The cross-section of impurities for thermal neutrons (0.025 ev) shall not exceed 0.010 $cm^2$ per gram of uranium. (This is equivalent to 250 ppm of Boron.)

6. Form: Uranyl (233) nitrate in a water solution.

7. Packaging: The uranyl (233) nitrate is to be packaged as uranyl nitrate solution in suitable containers and shipped in accordance with Government regulations. AEC will either return reusable containers to common carrier at the designated receiving point or will make proper adjustments for the value of the containers.

8. The designated receiving point is the U. S. Atomic Energy Commission, Oak Ridge, Tennessee.

9. Prices paid will be as follows:

a. For uranyl (233) nitrate delivered to U. S. Atomic Energy Commission, at designated receiving point during the period beginning February 1, 1957, and ending midnight June 30, 1963, $15 per gram of U-233 and U-235; provided however, that when the combined content of U-233 and U-235 is less than 95 percent by weight of the total uranium, the price of $15 per gram shall be reduced

by the ratio of the per-gram price of U–235 at the enrichment represented by the combined content to the per-gram price of U–235 at 95 percent enrichment of $17.11 per gram. The per-gram prices for enriched U–235 have been announced by the AEC, and are available from the Division of Civilian Application, Washington 25, D. C. For example, such a computation results in the following values:

| Weight percent (U–233+U–235) in total uranium | $/gram (U–233+U–235) | $/gram total U |
|---|---|---|
| 100 | 15.00 | 15.00 |
| 95 | 15.00 | 14.25 |
| 90 | 14.96 | 13.46 |
| 80 | 14.90 | 11.92 |
| 70 | 14.84 | 10.39 |
| 60 | 14.77 | 8.86 |
| 50 | 14.69 | 7.35 |
| 40 | 14.58 | 5.83 |
| 30 | 14.41 | 4.32 |
| 20 | 14.12 | 2.82 |
| 10 | 13.40 | 1.34 |
| 5 | 12.24 | 0.61 |
| 1 | 6.64 | 0.07 |

b. The above price does not supersede the prices to be paid for uranyl (233). nitrate meeting the specifications given in sections (2), (3), (4), (5), (6), and (7) (a) of TID 4020, Code A–1, Revision No. 1, "Uranyl (233) Nitrate Salt" (Confidential—Restricted Data) or for uranium (233) metal meeting the specifications given in TID 4020; Code A–2, Revision No. 1, (Confidential—Restricted Data) for material delivered to the U. S. Atomic Energy Commission at designated receiving point prior to midnight June 30, 1962.

10. Fair prices paid by AEC for special nuclear materials which meet the specifications set forth above, and are delivered to designated receiving point prior to midnight June 30, 1963, may not be reduced by the Commission except as provided in this paragraph. The prices are, however, subject to upward or downward adjustment semiannually when substantial changes have occurred in the "Wholesale Price Index, excluding Farm Products and Processed Foods," published by the Bureau of Labor Statistics. The July 1955 index of 116.5 (1947–1949=100) is used as the initial base. If the October index of any year is greater or less than the base index by five percent or more, the prices may be adjusted the following January 1. Similarly, if the April index of any year is greater or less than the base index by five percent or more, the prices may be adjusted the following July 1. Prices may be adjusted by the percentage change which has occurred in the index, the adjusted prices being computed to the nearest cent. Following such an adjustment, the index used in computing the adjustment will become the new base.

11. Interested persons may contact:

U. S. Atomic Energy Commission, Division of Civilian Application, 1901 Constitution Avenue, Washington 25, D. C.

Dated at Washington, D. C., this 18th day of December 1957.

For the Atomic Energy Commission,

K. E. FIELDS,
*General Manager.*

[F. R. Doc. 57–10756; Filed, Dec. 27, 1957; 8:45 a. m.]

# FEDERAL POWER COMMISSION

[Docket No. G–13950]

NATURAL GAS PIPELINE CO. OF AMERICA

ORDER SUSPENDING PROPOSED REVISED TARIFF SHEETS AND PROVIDING FOR HEARING

DECEMBER 20, 1957.

Natural Gas Pipeline Company of America (Natural), on November 21, 1957, tendered for filing Fifth Revised Sheets Nos. 5 and 6, Third Revised Sheet No. 7, and Second Revised Sheet No. 8 to its FPC Gas Tariff, First Revised Volume No. 1, proposing that such revised tariff sheets become effective on December 21, 1957. Such revised tariff sheets would effect an increase in rates and charges of approximately $6,438,000 annually, or 11.4 percent, based on sales for the year ended August 1, 1957, as adjusted. The proposed annual increase is in addition to the amounts being collected by Natural at the rate of about $5,366,000 annually since August 11, 1957, and at the rate of about $10,060,000 annually since March 2, 1955, subject to undertakings to assure refund of excess charges in proceedings in Docket Nos. G–12157 and G–3123, respectively. The proceeding in Docket No. G–3123 has been submitted for decision. As yet, no hearing has been held in Docket No. G–12157.

The now proposed increased rates and charges are largely based on (1) so-called average-weighted field price of gas at the the wellhead in lieu of actual cost for Natural's own production, (2) a claimed rate of return of 6½ percent per year, and (3) claimed increases in other operating expenses. In sum, Natural advances substantially the same predicate for this instant rate increase as for the prior increased rate proposals involved in Docket Nos. G–3123 and G–12157.

More specifically, the major adjustments relied upon by Natural include, among others:

(a) An allowance of $4,765,569 for Natural's own natural-gas production, based on an asserted average-weighted field price of 9.67 cents per Mcf in the Panhandle Field of Texas, which is substantially higher than "claimed book production costs," including return at the claimed rate of 6½ percent.

(b) Return of $5,741,570 based upon a claimed rate of return of 6½ percent upon a year-end "utility" rate base of $88,331,847, after exclusion of wellhead production and gasoline extraction properties, which rate of return may not be fair and reasonable.

(c) Claimed income tax expense allowance of $3,663,593, of which Federal income taxes are estimated to be $3,637,404, and state income taxes $26,189 (0.72 percent of Federal income taxes), associated with the claimed rate of return of 6½ percent.

(d) Treatment of Natural's gasoline extraction operations as nonutility or nonjurisdictional and crediting the claimed cost of service with an amount assertedly associated with Btu loss in such operations of $538,734.

(e) Adjustments upward of purchased gas costs by a net of $3,939,341, including $313,823 in purchases from Colorado Interstate Gas Company pursuant to rates and charges under suspension in Docket No. G–13541, $598,158 from Texas Illinois Natural Gas Pipeline Company—which, like Natural, is an affiliate of The Peoples Gas Light & Coke Company—pursuant to rates and charges under suspension in Docket No. G–13951, as well as to reflect asserted and estimated changes in supply sources, prices, and volumes, which may or may not occur.

(f) Use of a year-end rate base instead of an average net rate base, an adjustment which may not be proper, and the use of a test year purporting to show decreased sales, but increased plant.

In its statement of the nature, reasons, and basis for the proposed tariff changes, Natural also states that the level of the demand and commodity charges are based on the claimed cost of service, the division between demand and commodity charges being established, apparently not on the basis of classified and allocated costs, but on the basis of a selected judgment figure of 20 cents per Mcf for the comodity charge, with the demand charge bearing the remainder of the claimed costs. Natural alleges that the 20 cents commodity charge is as high as such charge should be, and that "(a) higher commodity charge would jeopardize the estimated sales."

The net effect of all the adjustments results in claimed cost of service for the test year of $64,023,297, of which $62,467,366 is allocated to jurisdictional sales. Natural proposes to recoup $62,461,766 of this latter amount by increased jurisdictional rates and charges as follows:

| | Present | Proposed | Increase |
|---|---|---|---|
| Rate Schedule CD–1: | | | |
| First block: | | | |
| Demand charge. | $1.44 | $2.36 | 92 cents. |
| Commodity charge. | 19.44 cents | 20 cents | 0.06 cent. |
| Second block: | | | |
| Demand charge. | $2.06 | $2.39 | 33 cents. |
| Commodity charge. | 19.57 cents | 20 cents | 0.43 cent. |
| Rate Schedule I–1. | 20.17 cents | 20 cents | (0.17 cent). |

The increased rates and charges proposed by Natural in Fifth Revised Sheets Nos. 5 and 6, and Third Revised Sheet No. 7 and the decreased rate and charge in Second Revised Sheet No. 8 to its FPC Gas Tariff, First Revised Volume No. 1, 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, pursuant to the authority of the Natural Gas Act, particularly Sections 4 and 15 thereof, concerning the lawfulness of the rates, charges, classifications, and services provided in Natural's FPC Gas Tariff, First Revised Volume No. 1, as proposed to be amended by Fifth Revised Sheets Nos. 5 and 6, Third Revised Sheet No. 7, and

Second Revised Sheet No. 8, and that said proposed revised tariff sheets be suspended as hereinafter ordered and the use thereof be deferred pending hearing and decision thereon, except as they may become effective as provided by the Natural Gas Act.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held at a time and place to be fixed by notice from the Secretary concerning the lawfulness of the rates, charges, classifications, and services, or any of them, subject to the jurisdiction of the Commission, provided in Natural's FPC Gas Tariff, First Revised Volume No. 1, as proposed to be amended by Fifth Revised Sheets Nos. 5 and 6, Third Revised Sheet No. 7, and Second Revised Sheet No. 8 tendered for filing on November 21, 1957.

(B) Pending such hearing and decision thereon, Fifth Revised Sheets Nos. 5 and 6, Third Revised Sheet No. 7, and Second Revised Sheet No. 8 to Natural's FPC Gas Tariff, First Revised Volume No. 1, be and same are each hereby suspended and the use thereof deferred until May 22, 1958, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(C) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

[SEAL] MICHAEL J. FARRELL,
*Acting Secretary.*

[F. R. Doc. 57-10722; Filed, Dec. 27, 1957; 8:45 a. m.]

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[Docket No. G-13980]

ATLANTIC REFINING CO.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGE IN RATE

DECEMBER 20, 1957.

The Atlantic Refining Company (Respondent), on November 25, 1957, tendered for filing a proposed change in its presently effective rate schedule for sales of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of change, dated November 9, 1957.

Purchaser: El Paso Natural Gas Company.

Rate schedule designation: Supplement No. 1 to Respondent's FPC Gas Rate Schedule No. 139.

Effective date: January 1, 1958. (Effective date is the date proposed by Respondent.)

In support of the proposed periodic increase, Respondent cites the contract provisions and further states that such increase is not uncommon in long-term contracts in order to permit initial delivery at a price lower than the contemplated average price for the life of the contract.

The increased rate and charge so proposed has 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 said supplement to Respondent's rate schedule, described and designated in the first paragraph hereof, be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commision's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in said supplement to Respondent's rate schedule.

(B) Pending such hearing and decision thereon, said supplement be and it is hereby suspended and the use thereof deferred for a period of five months from and after the "effective date" set forth in the first paragraph hereof, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) 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.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission (Commissioners Digby and Kline dissenting).

[SEAL] MICHAEL J. FARRELL,
*Acting Secretary.*

[F. R. Doc. 57-10723; Filed, Dec. 27, 1957; 8:45 a. m.]

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[Docket No. G-13982]

BRITISH AMERICAN OIL PRODUCING CO.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGE IN RATE

DECEMBER 20, 1957.

The British American Oil Producing Company (Respondent), on November 27, 1957, tendered for filing a proposed change in its presently effective rate schedule for sales of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of change, dated November 26, 1957.

Purchaser: El Paso Natural Gas Company.

Rate schedule designation: Supplement No. 4 to Respondent's FPC Gas Rate Schedule No. 5.

Effective date: January 1, 1958. (Effective date is the date proposed by Respondent.)

In support of its proposed periodic rate increase, Respondent cites the contract provisions and states that the pricing arrangement therein is common to many long-term contracts in order to permit initial delivery at a price lower than the contemplated average price for the life of the contract. Respondent further states that pricing arrangement makes possible dedication of reserves which could not otherwise be obtained.

The increased rate and charge so proposed has 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 said supplement to Respondent's rate schedule, described and designated in the first paragraph hereof, be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in said supplement to Respondent's rate schedule.

(B) Pending such hearing and decision thereon, said supplement be and it is hereby suspended and the use thereof deferred for a period of five months from and after the "effective date" set forth in the first paragraph hereof, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) 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.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission (Commissioners Digby and Kline dissenting).

[SEAL] MICHAEL J. FARRELL,
*Acting Secretary.*

[F. R. Doc. 57-10724; Filed, Dec. 27, 1957; 8:46 a. m.]

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[Docket No. G-13983]

GULF OIL CORP.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGES IN RATES

DECEMBER 20, 1957.

Gulf Oil Corporation (Respondent), on November 29, 1957, tendered for filing proposed changes in certain of its rate

schedules presently in effect for sales of natural gas subject to the jurisdiction of the Commission. The proposed changes, which constitute increased rates and charges, are contained in the following designated filings:

Description: Notices of change, undated.
Purchaser: El Paso Natural Gas Company.
Rate schedule designation: (1) Supplement No. 4 to Respondent's FPC Gas Rate Schedule No. 13. (2) Supplement No. 1 to Respondent's FPC Gas Rate Schedule No. 56. (3) Supplement No. 6 to Respondent's FPC Gas Rate Schedule No. 12.
Effective date: January 1, 1958. (Effective date is the date proposed by Respondent.)

In support of the proposed periodic rate increases, Respondent cites the contract provisions and further states either that the respective contract was negotiated at arm's-length under competitive conditions or under distress conditions. Respondent further contends that the proposed increases are just, fair and reasonable.

The increased rates and charges so proposed 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 changes, and that said supplements to Respondent's rate schedules, described and designated in the first paragraph hereof, be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rates and charges contained in said supplements to Respendent's rate schedules.

(B) Pending such hearing and decision thereon, said supplements be and they hereby are suspended and the use thereof deferred for a period of five months from and after the "effective date" set forth in the first paragraph hereof, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplements hereby suspended nor the rate schedules 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.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission (Commissioners Digby and Kline dissenting).

[SEAL] MICHAEL J. FARRELL,
*Acting Secretary.*

[F. R. Doc. 57-10725; Filed, Dec. 27, 1957; 8:46 a. m.]

[Docket No. G-13984]

## GULF OIL CORP.

### ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGE IN RATE

DECEMBER 20, 1957.

Gulf Oil Corporation (Respondent), on November 29, 1957, tendered for filing a proposed change in its presently effective rate schedule for sales of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of change, undated.
Purchaser: El Paso Natural Gas Company.
Rate schedule designation: Supplement No. 4 to Respondent's FPC Gas Rate Schedule No. 65.
Effective date: January 1, 1958, or date increase becomes effective under rate schedule, if later. (Effective date is the date proposed by Respondent, or the date the increase becomes effective under the terms of the contract, whichever is later.)

In support of the proposed periodic rate increase, Respondent states that it is based upon the provisions of the gas sales contract which was executed after arm's-length bargaining under competitive conditions, and that the proposed price is just, fair and reasonable. Supplement No. 4 also includes a proportionate increase in Texas occupation tax.

Respondent has not furnished sufficient information to establish the date upon which the terms of the basic contract providing for such increase become operative.

The increased rate and charge so proposed, insofar as it pertains to periodic rate increase, has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds:

(1) Good cause exists that Respondent submit within a reasonable time proof of the date upon which the proposed increased rate would become effective under the aforesaid Supplement No. 4 to Respondent's FPC Gas Rate Schedule No. 65.

(2) 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 proposed increased rate and charge and that Supplement No. 4 to Respondent's FPC Gas Rate Schedule No. 65, insofar as it pertains to periodic rate increase, be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Respondent shall submit proof, through agreement with the buyer or otherwise, of the date the proposed increase rate would have been effective under Supplement No. 4 to Respondent's FPC Gas Rate Schedule No. 65.

(B) Pursuant to the authority of the Natural Gas Act, particularly Sections 4 and 15 thereof, the Commission's Rules of Practice and Procedure, and the Regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge, insofar as it pertains to periodic rate increase, contained in said Supplement No. 4 to Respondent's FPC Gas Rate Schedule No. 65.

(C) Pending such hearing and decision thereon, said Supplement No. 4 to Respondent's FPC Gas Rate Schedule No. 65, insofar as it pertains to periodic rate increase, be and it hereby is suspended and the use thereof deferred for a period of five months from and after the "effective date" set forth in the first paragraph hereof, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(D) 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.

(E) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission (Commissioners Digby and Kline dissenting).

[SEAL] MICHAEL J. FARRELL,
*Acting Secretary.*

[F. R. Doc. 57-10726; Filed, Dec. 27, 1957; 8:46 a. m.]

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[Docket No. G-13986]

## PAUL F. BARNHART

### ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGE IN RATE

DECEMBER 20, 1957.

Paul F. Barnhart (Respondent), on December 2, 1957, tendered for filing a proposed change in its presently effective rate schedule for sales of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of change, dated November 15, 1957.
Purchaser: El Paso Natural Gas Company.
Rate schedule designation: Supplement No. 2 to Respondent's FPC Gas Rate Schedule No. 13.
Effective date: January 2, 1958. (Effective date is the first day after expiration of the required thirty days' notice.)

In support of the proposed periodic rate increase, Respondent cites the contract provisions and claimed increased production costs. Respondent further states that proposed price is below that being paid in the general area.

The increased rate and charge so proposed has 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 said supplement

to Respondent's rate schedule, described and designated in the first paragraph hereof, be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in said supplement to Respondent's rate schedule.

(B) Pending such hearing and decision thereon, said supplement be and it is hereby suspended and the use thereof deferred for a period of five months from and after the "effective date" set forth in the first paragraph hereof, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) 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.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission (Commissioners Digby and Kline dissenting).

[SEAL] MICHAEL J. FARRELL,
*Acting Secretary.*

[F. R. Doc. 57-10727; Filed, Dec. 27, 1957; 8:46 a. m.]

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[Docket No. G-13987]

ANDERSON-PRICHARD OIL CO.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGE IN RATE

DECEMBER 20, 1957.

Anderson-Prichard Oil Company (Respondent), on November 29, 1957, tendered for filing a proposed change in its presently effective rate schedule for sales of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of change, undated.
Purchaser: El Paso Natural Gas Company.
Rate schedule designation: Supplement No. 1 to Respondent's FPC Gas Rate Schedule No. 73.
Effective date: January 1, 1958. (Effective date is the date proposed by Respondent.)

In support of the proposed periodic rate increase, Respondent cites the contract provisions and further states that the contract was negotiated by arm's-length bargaining with escalation method of pricing which would provide some measure of protection against increased operating costs and would furnish an incentive to explore for new gas reserves.

The increased rate and charge so proposed has 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 said supplement to Respondent's rate schedule, described and designated in the first paragraph hereof, be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in said supplement to Respondent's rate schedule.

(B) Pending such hearing and decision thereon, said supplement be and it is hereby suspended and the use thereof deferred for a period of five months from and after the "effective date" set forth in the first paragraph hereof, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) 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.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission (Commissioners Digby and Kline dissenting).

[SEAL] MICHAEL J. FARRELL,
*Acting Secretary.*

[F. R. Doc. 57-10728; Filed, Dec. 27, 1957; 8:46 a. m.]

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[Docket No. G-13988]

SHELL OIL CO.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGES IN RATES

DECEMBER 20, 1957.

Shell Oil Company (Respondent), on November 29, 1957, tendered for filing proposed changes in certain of its rate schedules presently in effect for sales of natural gas subject to the jurisdiction of the Commission. The proposed changes, which constitute increased rates and charges, are contained in the following designated filings:

Description: Notices of change, dated November 25, 1957.
Purchaser: El Paso Natural Gas Company.
Rate schedule designation: (1) Supplement No. 4 to Respondent's FPC Gas Rate Schedule No. 16. (2) Supplement No. 1 to Respondent's FPC Gas Rate Schedule No. 40. (3) Supplement No. 1 to Respondent's FPC Gas Rate Schedule No. 95.
Effective date: January 1, 1958. (Effective date is the date proposed by Respondent.)

In support of the proposed periodic rate increases, Respondent states that the fixed escalation clause was incorporated in each of the contracts after arm's-length negotiations. Respondent contends that denial of the operation of this provision would be, in effect, a denial of a major consideration to it for entering into the contract. Respondent also cites higher costs and taxes.

The increased rates and charges so proposed 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 changes, and that said supplements to Respondent's rate schedules, described and designated in the first paragraph hereof, be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rates and charges contained in said supplements to Respondent's rate schedules.

(B) Pending such hearing and decision thereon, said supplements be and they hereby are suspended and the use thereof deferred for a period of five months from and after the "effective date" set forth in the first paragraph hereof, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplements hereby suspended nor the rate schedules 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.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission (Commissioners Digby and Kline dissenting).

[SEAL] MICHAEL J. FARRELL,
*Acting Secretary.*

[F. R. Doc. 57-10729; Filed, Dec. 27, 1957; 8:46 a. m.]

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[Docket No. G-13994]

HONOLULU OIL CORP.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGE IN RATE

DECEMBER 20, 1957.

Honolulu Oil Corporation (Respondent), on November 29, 1957, tendered for filing a proposed change in its presently effective rate schedule for sales of nat-

ural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of change, dated November 26, 1957.
Purchaser: El Paso Natural Gas Company.
Rate schedule designation: Supplement No. 5 to Respondent's FPC Gas Rate Schedule No. 1.
Effective date: January 1, 1958. (Effective date is the date proposed by Respondent.)

In support of the proposed periodic rate increase, Respondent states that it is based upon the terms of the gas sales contract which was executed after arm's-length bargaining, and that the contract contains the escalation method of pricing in order to provide for increased costs. Supplement No. 5 also provides for a proportionate increase in Texas occupation tax.

The increased rate and charge proposed in said Supplement No. 5 insofar as it pertains to periodic price increases has 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 proposed rate and charge and that Supplement No. 5 to Respondent's FPC Gas Rate Schedule No. 1 insofar as it pertains to a periodic increase in rate be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority contained in sections 4, 5, 15, and 16 of the Natural Gas Act and the Commission's general rules and regulations, a public hearing be held, upon a date to be fixed by notice from the Secretary, concerning the lawfulness of the proposed increased rate and charge; and, pending such hearing and decision thereon, the above designated Supplement No. 5 to Respondent's FPC Gas Rate Schedule No. 1, insofar as the same pertains to a proposed periodic increase in rate, be and the same hereby is suspended and the use thereof deferred for a period of five months from and after the "effective date" set forth in the first paragraph hereof, and until such further time as it is 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) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission (Commissioners Digby and Kline dissenting).

[SEAL] MICHAEL J. FARRELL,
*Acting Secretary.*

[F. R. Doc. 57-10732; Filed, Dec. 27, 1957; 8:47 a. m.]

[Docket No. G-13995]

## PAN AMERICAN PETROLEUM CORP.

### ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGE IN RATE

DECEMBER 20, 1957.

Pan American Petroleum Corporation (Respondent), on November 29, 1957, tendered for filing a proposed change in its presently effective rate schedule for sales of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of change, dated November 26, 1957.
Purchaser: El Paso Natural Gas Company.
Rate schedule designation: Supplement No. 6 to Respondent's FPC Gas Rate Schedule No. 18.
Effective date: January 1, 1958. (Effective date is the date proposed by Respondent.)

The proposed increased rate pertains to both a periodic rate increase plus a proportionate increase in Texas occupation tax.

In support of the proposed periodic rate increase, Respondent states that it is based upon an escalation provision, common in the gas industry, in the gas sales contract which was executed in arm's length bargaining.

The increased rate and charge so proposed, insofar as it pertains to periodic rate increase, has 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 said supplement to Respondent's rate schedule described and designated in the first paragraph hereof, insofar as it pertains to periodic rate increase, be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge, insofar as it pertains to periodic rate increase, contained in said supplement to Respondent's rate schedule.

(B) Pending such hearing and decision thereon, said supplement, insofar as it pertains to periodic rate increase, be and it hereby is suspended and the use thereof deferred for a period of five months from and after the "effective date" set forth in the first paragraph hereof, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) 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.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission (Commissioners Digby and Kline dissenting).

[SEAL] MICHAEL J. FARRELL,
*Acting Secretary.*

[F. R. Doc. 57-10733; Filed, Dec. 27, 1957; 8:47 a. m.]

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[Docket No. G-13990]

## MAGNOLIA PETROLEUM CO., ET AL.

### ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGE IN RATE

DECEMBER 20, 1957.

Magnolia Petroleum Company (Operator), et al. (Respondent), on November 27, 1957, tendered for filing a proposed change in its presently effective rate schedule for sales of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of change, undated.
Purchaser: El Paso Natural Gas Company.
Rate schedule designation: Supplement No. 2 to Respondent's FPC Gas Rate Schedule No. 19.
Effective date: January 1, 1958. (Effective date is the date proposed by Respondent.)

In support of the proposed periodic rate increase, Respondent cites the contract provisions and states that the cost of exploration and production has increased. Respondent also states that the contract was negotiated at arm's-length.

The increased rate and charge so proposed has 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 said supplement to Respondent's rate schedule, described and designated in the first paragraph hereof, be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in said supplement to Respondent's rate schedule.

(B) Pending such hearing and decision thereon, said supplement be and it is hereby suspended and the use thereof deferred for a period of five months from and after the "effective date" set forth in the first paragraph hereof, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) 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.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission (Commissioners Digby and Kline dissenting).

[SEAL] MICHAEL J. FARRELL,
*Acting Secretary.*

[F. R. Doc. 57-10730; Filed, Dec. 27, 1957; 8:46 a. m.]

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[Docket No. G-13993]

F. A. CALLERY, INC.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGE IN RATE

DECEMBER 20, 1957.

F. A. Callery, Incorporated (Respondent), on November 29, 1957, tendered for filing a proposed change in its presently effective rate schedule for sales of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of change, dated November 27, 1957.
Purchaser: El Paso Natural Gas Company.
Rate Schedule designation: Supplement No. 1 to Respondent's FPC Gas Rate Schedule No. 8.
Effective date: January 1, 1958. (Effective date is the date proposed by Respondent.)

Respondent merely cites the pricing provisions of the contract in support of its proposed periodic rate increase.

The increased rate and charge so proposed has 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 said supplement to Respondent's rate schedule, described and designated in the first paragraph hereof, be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in said supplement to Respondent's rate schedule.

(B) Pending such hearing and decision thereon, said supplement be and it is hereby suspended and the use thereof deferred for a period of five months from and after the "effective date" set forth in the first paragraph hereof, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) 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.

(D) Interested State commissions may participate as provided by § 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission (Commissioners Digby and Kline dissenting).

[SEAL] MICHAEL J. FARRELL,
*Acting Secretary.*

[F. R. Doc. 57-10731; Filed, Dec. 27, 1957; 8:46 a. m.]

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[Docket No. G-13996]

SUNRAY MID-CONTINENT OIL CO.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGES IN RATES

DECEMBER 20, 1957.

Sunray Mid-Continent Oil Co. (Respondent), on November 29, 1957, tendered for filing proposed changes in certain of its rate schedules presently in effect for sales of natural gas subject to the jurisdiction of the Commission. The proposed changes, which constitute increased rates and charges, are contained in the following designated filings:

Description: (1) Notices of change, dated November 26, 1957. (2) Notice of change, dated November 25, 1957.
Purchaser: El Paso Natural Gas Company.
Rate schedule designation: (1) Supplement No. 1 to Respondent's FPC Gas Rate Schedule No. 101. (2) Supplement No. 5 to Respondent's FPC Gas Rate Schedule No. 103. (3) Supplement No. 1 to Respondent's FPC Gas Rate Schedule No. 142.
Effective date: January 1, 1958. (Effective date is the date proposed by Respondent.)

Supplement No. 1 to Rate Schedule No. 101 pertains to a periodic rate increase as well as proportionate increases in the New Mexico conservation tax. Supplement No. 5 to Rate Schedule No. 103 pertains to a periodic rate increase as well as to a proportionate increase in the Texas occupation tax.

In support of the proposed periodic rate increases, Respondent states that they are based upon the terms of the gas sales contract which was executed after arm's-length bargaining. Respondent points out that such increases are common to many long-term contracts in the gas industry and that the prices are in line with other field prices in the area.

The increased rates and charges proposed in the aforesaid supplements, insofar as they pertain to periodic rate increases, 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 proposed increased rates and charges and that Supplement No. 1 to Respondent's FPC Gas Rate Schedule No. 1, Supplement No. 5 to Respondent's FPC Gas Rate Schedule No. 103, and Supplement No. 1 to Respondent's FPC Gas Rate Schedule No. 142, insofar as they pertain to the proposed periodic increase in rates, be suspended and the use thereof deferred as hereinafter ordered.

(A) Pursuant to the authority contained in sections 4, 5, 15, and 16 of the Natural Gas Act, and the Commission's general rules and regulations, a public hearing be held, upon a date to be fixed by notice from the Secretary, concerning the lawfulness of the proposed increased rates and charges, and pending such hearing and decision thereon the above designated Supplement No. 1 to Respondent's FPC Gas Rate Schedule No. 1, Supplement No. 5 to Respondent's FPC Gas Rate Schedule No. 103, and Supplement No. 1 to Respondent's FPC Gas Rate Schedule No. 142, insofar as they pertain to a proposed periodic rate increase, be and the same hereby are suspended and the use thereof deferred for a period of five months from and after the "effective date" set forth in the first paragraph hereof, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(B) Neither the supplements hereby suspended nor the rate schedules 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 sections 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission (Commissioners Digby and Kline dissenting).

[SEAL] MICHAEL J. FARRELL,
*Acting Secretary.*

[F. R. Doc. 57-10734; Filed, Dec. 27, 1957; 8:47 a. m.]

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[Docket No. G-13997]

UNION OIL CO. OF CALIFORNIA

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGE IN RATE

DECEMBER 20, 1957.

Union Oil Company of California (Respondent), on November 29, 1957, tendered for filing a proposed change in its presently effective rate schedule for sales of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of change, undated.
Purchaser: El Paso Natural Gas Company.
Rate schedule designation: Supplement No. 5 to Respondent's FPC Gas Rate Schedule No. 10.
Effective date: January 1, 1958. (Effective date is the date proposed by Respondent.)

In support of the proposed periodic rate increase, Respondent states that it

is based upon the terms of the gas sales contract, that the buyer has agreed to this change in price, and thus that the rule of the Mobile case, 350 U. S. 332, has been complied with, and finally that the proposed increased rate is in the lower bracket of prices for gas in the west Texas area. Supplement No. 5 also provides for a proportionate increase in Texas occupation tax.

The increased rate and charge proposed in said Supplement No. 5 insofar as it pertains to periodic price increases has 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 proposed rate and charge and that Supplement No. 5 to Respondent's FPC Gas Rate Schedule No. 10 insofar as it pertains to a periodic increase in rate be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority contained in sections 4, 5, 15, and 16 of the Natural Gas Act and the Commission's general rules and regulations, a public hearing be held, upon a date to be fixed by notice from the Secretary, concerning the lawfulness of the proposed increased rate and charge; and, pending such hearing and decision thereon, the above designated Supplement No. 5 to Respondent's FPC Gas Rate Schedule No. 10, insofar as the same pertains to a proposed periodic increase in rate, be and the same hereby is suspended and the use thereof deferred for a period of five months from and after the "effective date" set forth in the first paragraph hereof, and until such further time as it is 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) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission (Commissioners Digby and Kline dissenting).

[SEAL] MICHAEL J. FARRELL,
*Acting Secretary.*

[F. R. Doc. 57-10735; Filed, Dec. 27, 1957; 8:47 a. m.]

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[Docket No. G-13998]

PEERLESS OIL AND GAS CO.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGE IN RATE

DECEMBER 20, 1957.

Peerless Oil and Gas Company (Respondent), on November 29, 1957, tendered for filing a proposed change in its presently effective rate schedule for sales of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of change, dated November 25, 1957.

Purchaser: El Paso Natural Gas Company.

Rate schedule designation: Supplement No. 1 to Respondent's FPC Gas Rate Schedule No. 16.

Effective date: January 1, 1958. (Effective date is the date proposed by Respondent.)

In support of the proposed periodic rate increase, Respondent states that it is based upon a favored nations escalation provision of the gas sales contract which has become activated by the buyer's payment of one cent increase in the field.

The increased rate and charge so proposed has 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 said supplement to Respondent's rate schedule, described and designated in the first paragraph hereof, be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in said supplement to Respondent's rate schedule.

(B) Pending such hearing and decision thereon, said supplement be and it is hereby suspended and the use thereof deferred for a period of five months from and after the "effective date" set forth in the first paragraph hereof, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) 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.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission (Commissioners Digby and Kline dissenting).

[SEAL] MICHAEL J. FARRELL,
*Acting Secretary.*

[F. R. Doc. 57-10736; Filed, Dec. 27, 1957; 8:47 a. m.]

[Docket No. G-13999]

PHILLIPS PETROLEUM CO.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGE IN RATE

DECEMBER 20, 1957.

Phillips Petroleum Company (Respondent), on November 25, 1957, tendered for filing a proposed change in its presently effective rate schedule for sales of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of change, dated November 21, 1957.

Purchaser: El Paso Natural Gas Company.

Rate schedule designation: Supplement No. 3 to Respondent's FPC Gas Rate Schedule No. 47.

Effective date: January 1, 1958. (Effective date is the date proposed by Respondent.)

In support of the proposed rate increase, Respondent states that it is based upon the terms of the gas sales contract which was executed after arm's-length bargaining, and, further, that the proposed increased revenues will not be sufficient to offset the costs and deficiency in earnings for the jurisdictional sales in the test year. Supplement No. 3 also provides for a proportionate increase in Texas occupation tax.

The increased rate and charge proposed in said Supplement No. 3 insofar as it pertains to periodic price increases has 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 proposed rate and charge and that Supplement No. 3 to Respondent's FPC Gas Rate Schedule No. 47 insofar as it pertains to a periodic increase in rate be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority contained in sections 4, 5, 15, and 16 of the Natural Gas Act and the Commission's general rules and regulations, a public hearing be held, upon a date to be fixed by notice from the Secretary, concerning the lawfulness of the proposed increased rate and charge; and, pending such hearing and decision thereon, the above designated Supplement No. 3 to Respondent's FPC Gas Rate Schedule No. 47, insofar as the same pertains to a proposed periodic increase in rate, be and the same hereby is suspended and the use thereof deferred for a period of five months from and after the "effective date" set forth in the first paragraph hereof, and until such further time as it is 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) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission (Commissioners Digby and Kline dissenting).

[SEAL] MICHAEL J. FARRELL,
*Acting Secretary.*

[F. R. Doc. 57-10737; Filed, Dec. 27, 1957; 8:47 a. m.]

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[Docket No. G-14004]

HANLEY CO.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGE IN RATE

DECEMBER 20, 1957.

Hanley Company (Respondent), on December 5, 1957, tendered for filing a proposed change in its presently effective rate schedule for sales of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of change, undated.
Purchaser: El Paso Natural Gas Company.
Rate schedule designation: Supplement No. 4 to Respondent's FPC Gas Rate Schedule No. 11.
Effective date: January 5, 1958, or the date increase becomes effective under rate schedule, if later. (Effective date is the date proposed by Respondent, or the date the increase becomes effective under the terms of the contract, whichever is later).

The proposed increased rate pertains to both a periodic rate increase plus a proportionate increase in Texas occupation tax. Respondent has not furnished sufficient information to establish the date upon which the terms of the basic contract providing for such increase becomes operative.

In support of the proposed periodic rate increase, Respondent states that it is based upon the terms of the gas sales contract and increased costs.

The increased rate and charge proposed in the foregoing supplement, insofar as it pertains to periodic rate increase, has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful.

The Commission finds:

(1) Good cause exists that Respondent submit within a reasonable time proof of the date upon which the proposed increased rate would become effective under Supplement No. 4 to Respondent's FPC Gas Rate Schedule No. 11.

(2) 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 proposed increased rate and charge and that Supplement No. 4 to Respondent's FPC Gas Rate Schedule, insofar as it pertains to periodic rate increase, be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Respondent shall submit proof, through agreement with the buyer or otherwise, of the date the proposed increased rate would have been effective under Supplement No. 4 to Respondent's FPC Gas Rate Schedule No. 11.

(B) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in said Supplement No. 4 to Respondent's FPC Gas Rate Schedule No. 11, insofar as it pertains to periodic rate increase.

(C) Pending such hearing and decision thereon, said Supplement No. 4 to Respondent's FPC Gas Rate Schedule No. 11, insofar as it pertains to periodic rate increase, be and it hereby is suspended and the use thereof deferred for a period of five months from and after the "effective date" set forth in the first paragraph hereof, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(D) 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.

(E) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission (Commissioners Digby and Kline dissenting).

[SEAL] MICHAEL J. FARRELL,
*Acting Secretary.*

[F. R. Doc. 57-10738; Filed, Dec. 27, 1957; 8:47 a. m.]

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[Docket No. G-14040]

KERR-MCGEE OIL INDUSTRIES, INC., ET AL.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGE IN RATES

DECEMBER 20, 1957.

Kerr-McGee Oil Industries, Inc. (Operator), et al., (Respondent), on November 22, 1957, tendered for filing a proposed change in its presently effective rate schedule for sales of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of change, dated November 21, 1957.
Purchaser: Cities Service Gas Company.
Rate schedule designation: Supplement No. 1 to Kerr-McGee's FPC Gas Rate Schedule No. 50.
Effective date: December 23, 1957. (Effective date is the effective date proposed by Respondent.)

In support of the proposed periodic rate increase, Respondent cites contract provision, arm's-length transaction, and states the price increase is not unreasonable but is fair, just and reasonable.

The increased rate and charge so proposed has 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 said supplement to Respondent's rate schedule, described and designated in the first paragraph hereof, be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in said supplement to Respondent's rate schedule.

(B) Pending such hearing and decision thereon, said supplement be and it is hereby suspended and the use thereof deferred for a period of five months from and after the "effective date" set forth in the first paragraph hereof, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) 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.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission (Commissioners Digby and Kline dissenting).

[SEAL] MICHAEL J. FARRELL,
*Acting Secretary.*

[F. R. Doc. 57-10739; Filed, Dec. 27, 1957; 8:47 a. m.]

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[Docket No. G-14043]

ANDERSON-PRICHARD OIL CORP.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGE IN RATES

DECEMBER 20, 1957.

Anderson-Prichard Oil Corporation (Respondent) on November 22, 1957, tendered for filing a proposed change in its presently effective rate schedule for sales of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of change, dated November 21, 1957.
Purchaser: Cities Service Gas Company.

Rate schedule designation: Supplement No. 1 to Anderson-Prichard's FPC Gas Rate Schedule No. 76.

Effective date: December 23, 1957. (Effective date is the effective date proposed by Respondent.)

In support of the proposed periodic rate increase, Respondent cites contract provision, arm's-length negotiations, protection against increases in operating costs, and would deprive applicant of its right to a just and reasonable rate.

The increased rate and charge so proposed has 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 said supplement to Respondent's rate schedule, described and designated in the first paragraph hereof, be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in said supplement to Respondent's rate schedule.

(B) Pending such hearing and decision thereon, said supplement be and it is hereby suspended and the use thereof deferred for a period of five months from and after the "effective date" set forth in the first paragraph hereof, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) 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.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission (Commissioners Digby and Kline dissenting).

[SEAL] MICHAEL J. FARRELL,
*Acting Secretary.*

[F. R. Doc. 57-10740; Filed, Dec. 27, 1957; 8:48 a. m.]

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[Docket No. G-14045]

ALBERT GACKLE ET AL.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGE IN RATE

DECEMBER 20, 1957.

Albert Gackle (Operator), et al (Respondent), on November 22, 1957, tendered for filing a proposed change in his presently effective rate schedule for sales of natural gas subject to the jurisdiction of the Commission. The proposed change which constitutes an increased rate and charge is contained in the following designated filing:

Description: Notice of change dated November 21, 1957.

Purchaser: El Paso Natural Gas Company.

Rate schedule designation: Supplement No. 7 to Respondent's FPC Gas Rate Schedule No. 6.

Effective date: January 1, 1958. (Effective date is the date proposed by Respondent.)

In support of the proposed rate increase, Respondent states that the increase is provided for in the contract, the increased rate is not higher than the average field prices under contracts now being negotiated and is not higher than that being paid in surrounding fields.

It appears that the proposed increase results from the operation of escalation provisions in the contract but no proof has been submitted as to the date on which such escalation would be effective.

The increased rate and charge so proposed has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds:

(1) Good cause exists that Respondent submit within a reasonable time proof of the date upon which the proposed increased rate would become effective under the above-designated rate schedule.

(2) 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) Respondent shall submit proof, through agreement with the Buyer or otherwise, of the date that the proposed increased rate would have been effective under the above-designated rate schedule.

(B) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in said supplement to Respondent's rate schedule.

(C) Pending such hearing and decision thereon, said supplement is hereby suspended and the use thereof deferred until June 1, 1958, or until such date that is five months after the date that the proposed rate set forth in said supplement would have become effective under the terms of the above-designated rate schedule, whichever is later, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(D) 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.

(E) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission.

[SEAL] MICHAEL J. FARRELL,
*Acting Secretary.*

[F. R. Doc. 57-10741; Filed, Dec. 27, 1957; 8:48 a. m.]

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[Docket No. G-14096]

TEXAS CO.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGES IN RATES

DECEMBER 20, 1957.

The Texas Company (Respondent), on November 22, 1957, tendered for filing proposed changes in its presently effective rate schedules for sales of natural gas, subject to the jurisdiction of the Commission. The proposed changes, which constitute increased rates and charges, are contained in the following designated filings:

Description: Notices of change, undated.

Purchaser: El Paso Natural Gas Company.

Rate schedule designation: Supplement No. 2 to Respondent's FPC Gas Rate Schedule No. 28. Supplement No. 2 to Respondent's FPC Gas Rate Schedule No. 29. Supplement No. 2 to Respondent's FPC Gas Rate Schedule No. 30. Supplement No. 2 to Respondent's FPC Gas Rate Schedule No. 31.

Effective date: January 1, 1958. (Effective date is the effective date proposed by Respondent.)

In support of the proposed increased rates, Respondent states that the contracts were entered into after arm's length bargaining and that the increased rates are provided for in the contracts. Respondent further cites its increased exploration costs as justification of the increased rates.

It appears that the proposed increases result from the operation of a favored-nation escalation provision in the contracts but no proof has been submitted as to the date on which such escalation would be effective.

The increased rates and charges so proposed have not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds:

(1) Good cause exists that Respondent submit within a reasonable time proof of the date upon which the proposed increased rates would become effective under the appropriate rate schedules.

(2) 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 changes, and that said supplements to Respondent's rate schedules, described and designated in the first paragraph hereof, be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Respondent shall submit proof, through agreement with the Buyer or otherwise, of the date that each of the proposed increased rates would have been effective under the appropriate rate schedule.

(B) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rates and charges contained in said supplements to Respondent's rate schedules.

(C) Pending such hearing and decision thereon, said supplements are each hereby suspended and the use thereof deferred until June 1, 1958, or until such date that is five months after the date that the proposed rates set forth in said supplements would have become effective under the terms of the appropriate rate schedule, whichever is later, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(D) Neither the supplements hereby suspended, nor the rate schedules 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.

(E) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission.

[SEAL] MICHAEL J. FARRELL,
*Acting Secretary.*

[F. R. Doc. 57-10742; Filed, Dec. 27, 1957; 8:48 a. m.]

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[Docket No. G-13981]

SINCLAIR OIL & GAS CO.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGES IN RATES

DECEMBER 23, 1957.

Sinclair Oil & Gas Company (Respondent), on November 25 and 27, 1957, tendered for filing proposed changes in certain of its rate schedules presently in effect for sales of natural gas subject to the jurisdiction of the Commission. The proposed changes, which constitute increased rates and charges, are contained in the following designated filings:

Description: (1) Notice of change, dated November 21, 1957. (2) Notice of change, dated November 25, 1957.

Purchaser: El Paso Natural Gas Company.

Rate schedule designation: (1) Supplement No. 14 to Respondent's FPC Gas Rate Schedule No. 8. (2) Supplement No. 1 to Respondent's FPC Gas Rate Schedule No. 83.

Effective date: January 1, 1958. (Effective date is the date proposed by Respondent.)

In support of the proposed periodic rate increases, Respondent cites the contract provisions and also contends that the proposed increases will not result in an excessive rate of return on the regulated business. Respondent further states that the proposed increases will assist it in obtaining a rate and return commensurate with its risks, and will represent a fair consideration for its commitment to the purchaser.

The increased rates and charges so proposed 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 changes, and that said supplements to Respondent's rate schedules, described and designated in the first paragraph hereof, be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rates and charges contained in said supplements to Respondent's rate schedules.

(B) Pending such hearing and decision thereon, said supplements be and they hereby are suspended and the use thereof deferred for a period of five months from and after the "effective date" set forth in the first paragraph hereof, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplements hereby suspended nor the rate schedules 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.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission (Commissioners Digby and Kline dissenting).

[SEAL] MICHAEL J. FARRELL,
*Acting Secretary.*

[F. R. Doc. 57-10773; Filed, Dec. 27, 1957; 8:48 a. m.]

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[Docket No. G-14000]

PHILLIPS PETROLEUM CO. ET AL.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGE IN RATE

DECEMBER 23, 1957.

Phillips Petroleum Company (Operator), et al., (Respondent), on November 25, 1957, tendered for filing a proposed change in its presently effective rate schedule for sales of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of change, dated November 21, 1957.

Purchaser: El Paso Natural Gas Company.

Rate schedule designation: Supplement No. 1 to Respondent's FPC Gas Rate Schedule No. 274.

Effective date: January 1, 1958. (Effective date is the date proposed by Respondent.)

In support of the proposed rate increase, Respondent states that it is based upon the terms of the gas sales contract which was executed after arm's-length bargaining, and, further, that the proposed increased revenues will not be sufficient to offset costs or deficiency in earnings in jurisdictional sales for the test year.

The increased rate and charge so proposed has 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 said supplement to Respondent's rate schedule, described and designated in the first paragraph hereof, be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR, Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in said supplement to Respondent's rate schedule.

(B) Pending such hearing and decision thereon, said supplement be and it is hereby suspended and the use thereof deferred for a period of five months from and after the "effective date" set forth in the first paragraph hereof, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) 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.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission (Commissioners Digby and Kline dissenting).

[SEAL] MICHAEL J. FARRELL,
*Acting Secretary.*

[F. R. Doc. 57-10775; Filed, Dec. 27, 1957; 8:48 a. m.]

[Docket No. G-13992]

TIDEWATER OIL CO. ET AL.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGE IN RATE

DECEMBER 23, 1957.

Tidewater Oil Company (Operator), et al., (Respondent), on November 29, 1957, tendered for filing proposed changes in its rate schedule presently in effect for sales of natural gas subject to the jurisdiction of the Commission. The proposed changes, which constitute increased rates and charges based on the increase in the State conservation tax and on the periodic rate increase set forth in the contract, are contained in the following designated filing:

Description: Notice of change, dated November 25, 1957.
Purchaser: El Paso Natural Gas Company.
Rate schedule designation: Supplement No. 9 to Respondent's FPC Gas Rate Schedule No. 43.
Effective date: January 1, 1958. (Effective date is the date proposed by Respondent.)

In support of the proposed periodic rate increase, Respondent states that the provisions of the contract were reached after good faith negotiations and that the parties agreed to all the terms. Respondent further states the favored nation's provisions of the contract are an integral part of the total consideration upon which it delivers gas to the purchaser and that such consideration was for the entire volume of gas to be delivered for the entire period of the contract.

The proposed increased rate and charge insofar as it relates to the periodic rate increase set forth in the contract has 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 said supplement to Respondent's rate schedule, described and designated in the first paragraph hereof, insofar as it relates to the periodic rate increase, be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed periodic increase in rate and charge contained in said supplement to Respondent's rate schedule.

(B) Pending such hearing and decision thereon, said supplement insofar as it relates to the periodic rate increase set forth in the contract be and it hereby is suspended and the use thereof deferred for a period of five months from and after the "effective date" set forth in the first paragraph hereof, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) 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.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission (Commissioners Digby and Kline dissenting).

[SEAL] MICHAEL J. FARRELL,
*Acting Secretary.*

[F. R. Doc. 57-10774; Filed, Dec. 27, 1957; 8:48 a. m.]

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[Docket No. G-14001]

OHIO OIL CO.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGES IN RATES

DECEMBER 23, 1957.

The Ohio Oil Company (Respondent), on November 29, 1957, tendered for filing proposed changes in certain of its rate schedules presently in effect for sales of natural gas subject to the jurisdiction of the Commission. The proposed changes, which constitute increased rates and charges, are contained in the following designated filings:

Description: Notices of change, undated.
Purchaser: El Paso Natural Gas Company.
Rate schedule designation: (1) Supplement No. 2 to Respondent's FPC Gas Rate Schedule No. 6. (2) Supplement No. 3 to Respondent's FPC Gas Rate Schedule No. 27.
Effective date: January 1, 1958. (Effective date is the date proposed by Respondent.)

In support of the proposed rate increases, Respondent states that they are based upon the terms of the gas sales contracts which were executed after competitive bargaining and that the price is fair and reasonable.

The increased rates and charges so proposed 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 charges, and that said supplements to Respondent's rate schedules, described and designated in the first paragraph hereof, be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rates and charges contained in said supplements to Respondent's rate schedules.

(B) Pending such hearing and decision thereon, said supplements be and they hereby are suspended and the use thereof deferred for a period of five months from and after the "effective date" set forth in the first paragraph hereof, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplements hereby suspended nor the rate schedules 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.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission (Commissioners Digby and Kline dissenting).

[SEAL] MICHAEL J. FARRELL,
*Acting Secretary.*

[F. R. Doc. 57-10776; Filed, Dec. 27, 1957; 8:49 a. m.]

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[Docket No. G-14002]

CHARLES B. WRIGHTSMAN

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGE IN RATE

DECEMBER 23, 1957.

Charles B. Wrightsman (Respondent), on December 2, 1957, tendered for filing a proposed change in its presently effective rate schedule for sales of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of change, dated November 29, 1957.
Purchaser: El Paso Natural Gas Company.
Rate schedule designation: Supplement No. 1 to Respondent's FPC Gas Rate Schedule No. 2.
Effective date: January 2, 1958. (Effective date is the first day after expiration of the required thirty days' notice.)

In support of the proposed rate increase, Respondent states that it is based upon the terms of the gas sales contract.

The increased rate and charge so proposed has 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 said supplement to Respondent's rate schedule, described and designated in the first paragraph hereof, be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness

of the proposed increased rate and charge contained in said supplement to Respondent's rate schedule.

(B) Pending such hearing and decision thereon, said supplement be and it is hereby suspended and the use thereof deferred for a period of five months from and after the "effective date" set forth in the first paragraph hereof, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) 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.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission (Commissioners Digby and Kline dissenting).

[SEAL] MICHAEL J. FARRELL,
*Acting Secretary.*

[F. R. Doc. 57-10777; Filed, Dec. 27, 1957; 8:49 a. m.]

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[Docket No. G-14003]

SUPERIOR OIL CO.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGE IN RATE

DECEMBER 23, 1957.

The Superior Oil Company (Respondent), on December 2, 1957, tendered for filing a proposed change in its presently effective rate schedule for sales of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of change, dated November 29, 1957.

Purchaser: El Paso Natural Gas Company.

Rate schedule designation: Supplement No. 2 to Respondent's FPC Gas Rate Schedule No. 44.

Effective date: January 2, 1958. (Effective date is the first day after expiration of the required thirty days' notice.)

In support of the proposed periodic rate increase, Respondent states that it is based upon the terms of the gas sales contract which was executed after arm's-length bargaining.

The increased rate and charge so proposed has 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 said supplement to Respondent's rate schedule, described and designated in the first paragraph hereof, be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in said supplement to Respondent's rate schedule.

(B) Pending such hearing and decision thereon, said supplement be and it is hereby suspended and the use thereof deferred for a period of five months from and after the "effective date" set forth in the first paragraph hereof, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) 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.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission (Commissioners Digby and Kline dissenting).

[SEAL] MICHAEL J. FARRELL,
*Acting Secretary.*

[F. R. Doc. 57-10778; Filed, Dec. 27, 1957; 8:49 a. m.]

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[Docket No. G-14006]

PHILLIPS PETROLEUM CO. ET AL.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGE IN RATE

DECEMBER 23, 1957.

Phillips Petroleum Company (Operator), et al. (Respondent), on November 25, 1957, tendered for filing a proposed change in its presently effective rate schedule for sales of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of change, dated November 21, 1957.

Purchaser: El Paso Natural Gas Company.

Rate schedule designation: Supplement No. 1 to Respondent's FPC Gas Rate Schedule No. 256.

Effective date: January 1, 1958. (Effective date is the effective date proposed by Respondent.)

In support of the periodic rate increase, Respondent states that such increase was provided for in the original contract, and makes general statements concerning the arms-length bargaining nature of the contract and Respondent's current costs.

The increased rate and charge so proposed has 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 said supplement to Respondent's rate schedule, described and designated in the first paragraph hereof, be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in said supplement to Respondent's rate schedule.

(B) Pending such hearing and decision thereon, said supplement be and it is hereby suspended and the use thereof deferred for a period of five months from and after the "effective date" set forth in the first paragraph hereof, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) 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.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission (Commissioners Digby and Kline dissenting).

[SEAL] MICHAEL J. FARRELL,
*Acting Secretary.*

[F. R. Doc. 57-10779; Filed, Dec. 27, 1957; 8:49 a. m.]

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[Docket No. G-14007]

PHILLIPS PETROLEUM CO.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGE IN RATE

DECEMBER 23, 1957.

Phillips Petroleum Company (Respondent), on November 25, 1957, tendered for filing a proposed change in its presently effective rate schedule for sales of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge is contained in the following designated filing:

Description: Notice of change, dated November 21, 1957.

Purchaser: El Paso Natural Gas Company.

Rate schedule designation: Supplement No. 2 to Respondent's FPC Gas Rate Schedule No. 66.

Effective date: January 1, 1958. (Effective date is the effective date proposed by Respondent.)

In support of the periodic rate increase, Respondent states that such in-

crease was provided for in the original contract, and makes general statements concerning the arm's-length bargaining nature of the contract and Respondent's current costs.

The increased rate and charge so proposed has 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 said supplement to Respondent's rate schedule, described and designated in the first paragraph hereof, be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in said supplement to Respondent's rate schedule.

(B) Pending such hearing and decision thereon, said supplement be and it is hereby suspended and the use thereof deferred for a period of five months from and after the "effective date" set forth in the first paragraph hereof, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) 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.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission (Commissioners Digby and Kline dissenting).

[SEAL] MICHAEL J. FARRELL,
*Acting Secretary.*

[F. R. Doc. 57-10780; Filed, Dec. 27, 1957; 8:49 a. m.]

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[Docket No. G-14029]

R. C. JONES & CO., INC., ET AL.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGE IN RATE

DECEMBER 23, 1957.

R. C. Jones & Company, Inc., (Operator), et al., (Respondent), on November 25, 1957, tendered for filing a proposed change in its presently effective rate schedule for sales of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of change, undated.
Purchaser: Lone Star Gas Company.
Rate schedule designation: Supplement No. 1 to Respondent's FPC Gas Rate Schedule No. 1.
Effective date: January 1, 1958. (Effective date is the effective date proposed by Respondent.)

In support of the proposed periodic rate increase, Respondent states that the increase is provided for in the contract, is fair and necessary for the well owners to cover increased costs, occurring since negotiation of the contract.

The increased rate and charge so proposed has 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 said supplement to Respondent's rate schedule, described and designated in the first paragraph hereof, be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in said supplement to Respondent's rate schedule.

(B) Pending such hearing and decision thereon, said supplement be and it is hereby suspended and the use thereof deferred for a period of five months from and after the "effective date" set forth in the first paragraph hereof, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) 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.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission (Commissioners Digby and Kline dissenting).

[SEAL] MICHAEL J. FARRELL,
*Acting Secretary.*

[F. R. Doc. 57-10781; Filed, Dec. 27, 1957; 8:50 a. m.]

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[Docket No. G-14032]

TIDEWATER OIL CO.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGE IN RATE

DECEMBER 23, 1957.

Tidewater Oil Company (Respondent), on November 25, 1957, tendered for filing a proposed change in a presently effective rate schedule for sales of natural gas, subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of change, dated November 18, 1957.
Purchaser: El Paso Natural Gas Company.
Rate schedule designation: Supplement No. 7 to Tidewater Oil Company. FPC Gas Rate Schedule No. 50.
Effective date: January 1, 1958. (Effective date is the effective date proposed by Respondent.)

In support of the proposed increased rate, Respondent states that the periodic rate adjustment is made to reflect a change in rate as provided in its contract with El Paso, that the contract was arrived at after arm's-length bargaining, and that the increased price is in all respects fair, reasonable and just. Such statements and the general conclusionary observation that the price is just and reasonable are insufficient to demonstrate that the increased price is lawful per se. Union Oil Company, 16 F. P. C. 100.

The increased rate and charge so proposed has 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 said supplement to Respondent's rate schedule, described and designated in the first paragraph hereof, be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR, Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in said supplement to Respondent's rate schedule.

(B) Pending such hearing and decision thereon, said supplement be and it is hereby suspended and the use thereof deferred for a period of five months from and after the "effective date" set forth in the first paragraph hereof, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) 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.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37(f)).

By the Commission (Commissioners Digby and Kline dissenting).

[SEAL] MICHAEL J. FARRELL,
*Acting Secretary.*

[F. R. Doc. 57-10782; Filed, Dec. 27, 1957; 8:50 a. m.]

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[Docket No. G-14033]

GETTY OIL CO.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGE IN RATE

DECEMBER 23, 1957.

Getty Oil Company (Respondent), on November 25, 1957, tendered for filing a proposed change in a presently effective rate schedule for sales of natural gas, subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of change, dated November 19, 1957.

Purchaser: El Paso Natural Gas Company.

Rate schedule designation: Supplement No. 4 to Getty Oil Company FPC Gas Rate Schedule No. 1.

Effective date: January 1, 1958. (Effective date is the effective date proposed by Respondent.)

In support of the proposed increased rate, Respondent cites that the periodic rate increase is embodied in its contract with El Paso (together with the related tax component), that the contract was a product of arm's-length bargaining, and that the increased rate is in all respects, fair, reasonable and just. We have long since held that such allegations, coupled with the general conclusionary statement that the increased rate is just and reasonable, is insufficient to prove that the increased rate is, per se, lawful. Union Oil Company, 16 F. P. C. 100.

The increased rate and charge so proposed has 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 said supplement to Respondent's rate schedule, described and designated in the first paragraph hereof, be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in said supplement to Respondent's rate schedule.

(B) Pending such hearing and decision thereon, said supplement be and it is hereby suspended and the use thereof deferred for a period of five months from and after the "effective date" set forth in the first paragraph hereof, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) 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.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission (Commissioners Digby and Kline dissenting).

[SEAL] MICHAEL J. FARRELL,
*Acting Secretary.*

[F. R. Doc. 57-10783; Filed, Dec. 27, 1957; 8:50 a. m.]

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## GENERAL SERVICES ADMINISTRATION

[Delegation of authority 107, Revocation]

SECRETARY OF STATE

PROCUREMENT OF SUPPLIES AND SERVICES FOR THE POINT IV PROGRAM

1. Delegation of authority dated October 30, 1951 (16 F. R. 11249), is hereby revoked.

2. This revocation shall become effective as of this date.

Dated: December 20, 1957.

FRANKLIN G. FLOETE,
*Administrator.*

[F. R. Doc. 57-10789; Filed, Dec. 27, 1957; 8:51 a. m.]

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[Delegation of Authority 139, Revocation]

SECRETARY OF THE TREASURY

NEGOTIATION OF CONTRACTS RELATING TO THE BUREAU OF ENGRAVING AND PRINTING

1. Delegation of authority dated August 12, 1952 (17 F. R. 7562) is hereby revoked.

2. This revocation shall become effective as of this date.

Dated: December 20, 1957.

FRANKLIN G. FLOETE,
*Administrator.*

[F. R. Doc. 57-10791; Filed, Dec. 27, 1957; 8:52 a. m.]

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[Delegation of Authority 245, Revocation]

SECRETARY OF HEALTH, EDUCATION AND WELFARE

NEGOTIATION OF CERTAIN CONTRACTS FOR THE PURCHASE OF LIVESTOCK FOR BREEDING PURPOSES

1. Delegation of authority dated June 8, 1955 (20 F. R. 4148) is hereby revoked.

2. This revocation shall become effective as of this date.

Dated: December 20, 1957.

FRANKLIN G. FLOETE,
*Administrator.*

[F. R. Doc. 57-10792; Filed, Dec. 27, 1957; 8:52 a. m.]

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[Delegation of Authority 316]

SECRETARY OF COMMERCE

NEGOTIATION OF CONTRACTS FOR SUPPLIES AND SERVICES IN CONNECTION WITH NATIONAL BUREAU OF STANDARDS PROGRAMS

1. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), as amended, herein called "the act," authority is hereby delegated to the Secretary of Commerce to negotiate purchases and contracts for supplies and services, without advertising, under sections 302 (c) (5) and (10) of the act.

2. This authority shall be exercised only with respect to procurement of those supplies and services which are required in connection with authorized activities, other than administrative programs, conducted by the National Bureau of Standards.

3. This authority shall be exercised in accordance with applicable limitations and requirements of the act, particularly sections 304, 305 and 307 thereof, and in accordance with policies, procedures and controls prescribed by the General Services Administration.

4. Subject to the provisions of 3 above, the authority herein delegated may be redelegated to any official or employee of the Department of Commerce.

5. This delegation shall be effective as of the date hereof, and shall not extend beyond June 30, 1959.

Dated: December 20, 1957.

FRANKLIN G. FLOETE,
*Administrator.*

[F. R. Doc. 57-10790; Filed, Dec. 27, 1957; 8:51 a. m.]

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## FEDERAL RESERVE SYSTEM

WISCONSIN BANKSHARES CORPORATION

ORDER DENYING APPLICATION FOR ACQUISITION OF VOTING SHARES OF CAPITOL NATIONAL BANK OF MILWAUKEE

In the matter of the application of Wisconsin Bankshares Corporation for approval of acquisition of voting shares of proposed Capitol National Bank of Milwaukee, Milwaukee, Wisconsin.

The above matter having come before the Board on the application of Wisconsin Bankshares Corporation, Milwaukee, Wisconsin, filed pursuant to the provisions of section 3 (a) (2) of the Bank Holding Company Act of 1956, for prior approval of the acquisition by it of direct ownership of 2,950 shares of a total of 3,000 voting shares of the Capitol National Bank of Milwaukee, Milwaukee, Wisconsin, a proposed new institution, and it appearing, after due consideration thereof pursuant to the requirements of

the Bank Holding Company Act of 1956, that such application should be denied,

*It is hereby ordered,* That the said application of Wisconsin Bankshares Corporation shall be, and the same hereby is, denied.

Dated: December 20, 1957.

By order of the Board of Governors.[1]

[SEAL] S. R. CARPENTER, *Secretary.*

[F. R. Doc. 57-10784; Filed, Dec. 27, 1957; 8:50 a. m.]

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FIRST BANK STOCK CORPORATION

NOTICE OF REQUEST FOR DETERMINATION AND ORDER FOR HEARING THEREON

Notice is hereby given that request has been made to the Board of Governors of the Federal Reserve System, pursuant to section 4 (c) (6) of the Bank Holding Company Act of 1956 (12 U. S. C. 1843) and section 5 (b) of the Board's Regulation Y (12 CFR 222.5 (b)), by First Bank Stock Corporation, Minneapolis, Minnesota, a bank holding company, for a determination by said Board that each of the companies listed below and the activities thereof are of the kind described in those provisions of the act and the regulation so as to make it unnecessary for the prohibitions of section 4 of the act with respect to shares in nonbanking organizations to apply in order to carry out the purposes of the act:

1. First Bancredit Corporation.
2. First Service Agencies, Inc.

Inasmuch as section 4 (c) (6) of the Bank Holding Company Act of 1956 requires that any determination pursuant thereto be made by the Board after due notice and hearing and on the basis of the record made at such hearing,

*It is hereby ordered,* That pursuant to section 4 (c) (6) of the Bank Holding Company Act of 1956 and in accordance with sections 5 (b) and 7 (a) of the Board's Regulation Y (12 CFR 222.5 (b), 222.7 (a)), promulgated under the Bank Holding Company Act of 1956, a hearing with respect to this matter be held commencing on January 14, 1958, at 10 o'clock a. m., at the office of the Federal Reserve Bank of Minneapolis, 73 South Fifth Street, in the City of Minneapolis, State of Minnesota, before a hearing examiner selected by the Civil Service Commission pursuant to section 11 of the Administrative Procedure Act, such hearing to be conducted in accordance with the Rules of Practice for Formal Hearings of the Board of Governors of the Federal Reserve System (12 CFR Part 263). The Board's Rules of Practice for Formal Hearings provide, in part, that "all such hearings shall be private and shall be attended only by respondents and their representatives or counsel, representatives of the Board, witnesses, and other persons having an official interest in the proceedings: *Provided, however,* That on the written request of one or more respondents or counsel for the Board, or on its own motion, the Board, when not prohibited by law, may permit other persons to attend or may order the hearing to be public."

Any person desiring to give testimony in this proceeding should file with the Secretary of the Board, directly or through the Federal Reserve Bank of Minneapolis, on or before January 2, 1958, a written request relative thereto, said request to contain a statement of the reasons for wishing to appear, the nature of the petitioner's interest in the proceeding, and a summary of the matters concerning which said petitioner wishes to give testimony. Such request will be presented to the designated hearing examiner for his determination in the matter at the appropriate time. Persons submitting timely requests will be notified of the hearing examiner's decision in due course.

Dated: December 20, 1957.

By order of the Board of Governors.

[SEAL] S. R. CARPENTER, *Secretary.*

[F. R. Doc. 57-10785; Filed, Dec. 27, 1957; 8:50 a. m.]

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[1] Voting for this action: Chairman Martin and Governors Szymczak, Mills, Robertson, and Shepardson; absent and not voting: Vice Chairman Balderston and Governor Vardaman.

## SMALL BUSINESS ADMINISTRATION

[Delegation of Authority 30-VI-8]

MANAGER, DISASTER FIELD OFFICE

DELEGATION RELATING TO FINANCIAL ASSISTANCE FUNCTIONS

I. Pursuant to the authority delegated to the Regional Director by Delegation No. 30 (Revision 4), dated July 1, 1957, there is hereby delegated to the Manager of the Disaster Field Office, Hopkinsville, Kentucky, the following authority:

A. *General.* To carry out all of the functions listed for the Disaster Field Office in section 202 of SBA-100, Administrative Manual.

B. *Specific.* To take the following actions in accordance with the limitations of such delegations as set forth in SBA-500, Financial Assistance Manual:
1. To approve or decline disaster loans in an amount not exceeding $20,000.00.

C. *Correspondence.* To sign all nonpolicy making correspondence, except Congressional correspondence, relating to the functions of the Disaster Field Office.

II. The authority delegated herein may not be redelegated.

III. All authority delegated herein may be exercised by any SBA employee designated as Acting Manager of the Disaster Loan Office.

Dated: November 25, 1957.

J. G. GARWICK, *Regional Director, Region VI, Cleveland, Ohio.*

[F. R. Doc. 57-10787; Filed, Dec. 27, 1957; 8:51 a. m.]

PART II

# FEDERAL REGISTER

VOLUME 22 NUMBER 251

*Washington, Saturday, December 28, 1957*

## TITLE 47—TELECOMMUNICATION

### Chapter I—Federal Communications Commission

[Docket No. 11846; FCC 57-1353]

PART 1—PRACTICE AND PROCEDURE

REVISION OF PART

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 11th day of December 1957;

The Commission, having under consideration the revision and recodification of Part 1 of its Rules and Regulations, Practice and Procedure; and

It appearing that revision and recodification of the present Part 1 of the Commission's rules and regulations appears to be desirable in order that practice before the Commission may be codified in accordance with current concepts of practice and procedure as determined by public interest, administrative expediency, recent legislation and court decisions; and

It further appearing that Part 1 at present does not contain specific rules to be followed in rule-making procedures; and

It further appearing that, in the interest of administrative expediency, many rules which are, under the present Part 1, applicable to all services should be made applicable to certain services only and that many other rules should apply for all services; and

It further appearing that the Commission issued, on October 16, 1956, a Notice of Proposed Rule Making to which a proposed revision of Part 1 of these rules and regulations was attached, and that, in said notice, interested parties were called upon to comment on said proposed revision; and

It further appearing that pursuant to said notice interested parties did file such comments, especially the Federal Communications Bar Association and individual members thereof; and

It further appearing that pursuant to said notice interested persons presented written data, views and arguments. Many conferences on these comments were held between the ad hoc Committee of the Commission on Rules consisting of representatives of all Bureaus and Offices under the chairmanship of the Office of the General Counsel as well as an ad hoc Committee established by the Federal Communications Bar Association; and

It further appearing that as a result of these conferences and after examination of the various comments, the Commission has in part accepted and in part rejected the many views presented; and

It further appearing that a further conference with representatives of the Federal Communications Bar Association has been held and that the Commission has been advised that said Association is agreeable to issuance of the rules in the form set forth below; and

It finally appearing that it is recognized that application of the rules set forth below may indicate the necessity or desirability of further study and amendment thereof and that, therefore, the Commission will welcome suggestions from all interested persons looking toward improvement of said rules;

*It is ordered*, That pursuant to section 4 (i) and 303 (r) of the Communications Act of 1934, as amended, Part 1 of the Commission's rules and regulations should be and herewith is recodified effective February 3, 1958, as shown below.

Released: December 13, 1957.

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

#### Subpart A—General Rules of Practice and Procedure

GENERAL



PARTIES AND PRACTITIONERS



ACTION BY MOTIONS COMMISSIONER, CHIEF HEARING EXAMINER, OR HEARING EXAMINER



SPECIFICATIONS AND SERVICE OF PLEADINGS AND OTHER PAPERS



MISCELLANEOUS PROCEDURES



#### Subpart B—Hearing and Decision Practice and Procedure

GENERAL

AUTHORITY: §§ 1.10 to 1.581 issued under sec. 4, 48 Stat. 1066, as amended; 47 U. S. C. 154. Interpret or apply sec. 303, 48 Stat. 1082, as amended; 47 U. S. C. 303.

## SUBPART A—GENERAL RULES OF PRACTICE AND PROCEDURE

### GENERAL

§ 1.10 *Proceedings before the Commission.* The Commission may on its own motion or petition of any interested party hold such proceedings as it may deem necessary from time to time in connection with the investigation of any matter which it has power to investigate under the law, or for the purpose of obtaining information necessary or helpful in the determination of its policies, the carrying out of its duties, or the formulation or amendment of its rules and regulations. For such purposes it may subpena witnesses and require the production of evidence. Procedures to be followed by the Commission shall, unless specifically prescribed in this part, be such as in the opinion of the Commission will best serve the purposes of such proceeding.

§ 1.11 *Requests for Commission Action.* Except where formal procedures are required under the provisions of this chapter, requests for action may be submitted informally. Requests should set forth clearly and concisely the facts relied upon, the relief sought and the interest of the person submitting the request.

§ 1.12 *Separate pleading for different requests.* (a) A separate pleading should be filed:

(1) For any request to stay the effectiveness of any decision or order issued by the Commission;

(2) For each request which, under Part O, the Commission's Statement of Organization, Delegations of Authority, and Other Information, will be acted upon by different Bureaus of Offices.

(b) A request for any stay which has not been filed in a separate pleading will not be considered by the Commission.

(c) Where pleadings are filed containing requests which should be acted upon under said Part O by different Bureaus or Offices, the petitioner may, except in case of a request for stay, be requested to file additional copies of the original pleading within a specified period of time. In such case the action on the pleading will be held in abeyance during the period so specified. In case of failure to timely comply with said request, the original pleading will be returned without consideration. The time within which responsive pleadings to such pleadings should be filed will be computed from the date of timely compliance with said request.

§ 1.13 *Oppositions and replies to oppositions.* Except as otherwise provided in this chapter, oppositions to petitions, motions, or other pleadings must be filed within 10 days after such petitions, motions, or other pleadings are filed with the Commission, and replies to such oppositions must be filed within 5 days after such oppositions are filed with the Commission: *Provided, however,* That oppositions to requests for stay of any order, decision of the Commission, or other temporary relief must be filed within 5 days after such requests are filed and replies thereto within 3 days after such oppositions are filed. No further pleadings may be filed unless specifically requested by the Commission or authorized by it or the Chief Hearing Examiner.

§ 1.14 *Withdrawal of papers.* The granting of a request to dismiss or withdraw an application or a pleading does not authorize the removal of such application or pleading from the Commission's records.

§ 1.15 *Suspension, amendment or waiver of rules.* The provisions of this chapter may be suspended, revoked, amended, or waived for good cause shown, in whole or in part, at any time by the Commission, subject to the provisions of the Administrative Procedure Act and the provisions of this chapter. Any provision of the rules may be waived by the Commission on its own motion or on petition if good cause therefor is shown.

NOTE: See Subpart C of this part for practice and procedure involving rule making.

§ 1.16 *Reconsideration on Commission's own motion.* The Commission may, on its own motion, set aside any action made or taken by it within 30 days after release of the document containing the full text of such action, or, in case such a document is not released,

after release of a "Public Notice" announcing the action in question. (See also § 1.191 on reconsideration and rehearing on motion of parties and others.)

§ 1.17 *Declaratory rulings.* The Commission may, in accordance with section 5d of the Administrative Procedure Act, on motion or on its own motion issue a declaratory ruling terminating a controversy or removing uncertainty.

§ 1.18 *Computation of time.* (a) In computing any period of time, the day of the act, event, or default after which the designated period of time begins to run is not to be included unless otherwise prescribed by statute. Wherever an action of the Commission is involved, the period of time is computed from the day of release of the "Public Notice" thereof unless such act is taken in a Decision, Order, or Memorandum in which event the day of Commission release of such document will govern.

(b) In computing any period of time, the last day of the period is to be included in the computation, unless it is a Saturday, Sunday or a legal holiday, or a day on which the Commission's office is closed prior to 5:00 p. m. in which event the period runs until the end of the next full day when the Commission's office is open. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation. A half holiday will be considered as a holiday.

(c) All petitions, pleadings, or other requests for Commission action must be tendered for filing in complete form before 5:00 p. m. Any such petition, pleading, or other request for Commission action lodged with the Commission in complete form after 5:00 p. m. shall be deemed to be tendered for filing as of the next succeeding business day.

(d) Where any petition, pleading, or other document is required to be served by the rules in this chapter and service thereof is made by mail, and the time allowed for filing a response thereto is 10 days or less, an additional 3 days for responding will be allowed except the provision of this paragraph shall not apply to § 1.193 (c).

PARTIES AND PRACTITIONERS

§ 1.21 *Parties.* (a) Any party may appear before the Commission and be heard in person or by attorney.

(b) The appropriate Bureau Chief(s) of the Commission shall be deemed to be a party to every adjudicatory proceeding (as defined in the Administrative Procedure Act) without the necessity of being so named in the order designating the proceeding for hearing.

(c) When, in any proceeding, a pleading is filed on behalf of either the General Counsel or the Chief Engineer, he shall thereafter be deemed a party to the proceeding.

§ 1.22 *Authority for representation.* Any person, in a representative capacity, transacting business with the Commission, may be required to show his authority to act in such capacity.

§ 1.23 *Persons who may be admitted to practice.* (a) Any person who is a member in good standing of the bar of the Supreme Court of the United States or of the highest court of any state, territory, or of the District of Columbia, and is not under any order of any court suspending, enjoining, restraining, disbarring, or otherwise restricting him in the practice of law, may represent others before the Commission.

(b) When such member of the bar acting in a representative capacity appears in person or signs a paper in practice before the Commission, his personal appearance or signature shall constitute a representation to the Commission that, under the provisions of this chapter and the law, he is authorized and qualified to represent the particular party in whose behalf he acts. Further proof of authority to act in a representative capacity may be required.

§ 1.24 *Censure, suspension, or disbarment of attorneys.* (a) The Commission may censure, suspend, or disbar any person who has practiced, is practicing, or holding himself out as entitled to practice before it if it finds that such person:

(1) Does not possess the qualifications required by § 1.23;

(2) Has failed to conform to standards of ethical conduct required of practitioners at the Bar of any court of which he is a member;

(3) Is lacking in character or professional integrity; and/or

(4) Displays toward the Commission or any of its hearing officers conduct which, if displayed toward any court of the United States or any of its Territories or the District of Columbia, would be cause for censure, suspension, or disbarment.

(b) Before any member of the bar of the Commission shall be censured, suspended, or disbarred, charges shall be preferred by the Commission against such practitioner and he shall be afforded an opportunity to be heard thereon.

§ 1.25 *Former Commissioners and employees.* (a) No Commissioner shall, for a period of one year following the termination of his services as a Commissioner, represent any person before the Commission in a professional capacity, except that this restriction shall not apply to any former Commissioner who has served the full term for which he was appointed.

(b) No member, officer, or employee of the Commission (1) whose active service with the Commission has terminated but who is receiving pay while on annual leave not taken prior to separation from such active service, or (2) who is in any other leave status, shall appear as attorney or participate in the preparation or handling of any matter before, or to be submitted to, the Commission.

(c) Nothing in this section shall be construed as authorizing the performance of any act which is prohibited by the provisions of Title 18 U. S. C. Sec. 284.

§ 1.26 *Appearance.* Rules relating to appearances are set forth in §§ 1.62, 1.63, 1.140, and 1.402.

ACTION BY MOTIONS COMMISSIONER, CHIEF HEARING EXAMINER, OR HEARING EXAMINER

§ 1.41 *Matters acted on.* The motions, petitions, and other pleadings upon which the Motions Commissioner, Chief Hearing Examiner, or Hearing Examiner may act are specified in detail in Part O, the Commission's Statement of Organization, Delegations of Authority, and Other Information. The procedural rules governing disposition of motions, petitions, and other pleadings by the Motions Commissioner, Chief Hearing Examiner, and Hearing Examiners are detailed in §§ 1.42 through 1.47, inclusive.

§ 1.42 *Number of copies.* An original and seven copies of each motion, petition, or other pleading to be acted upon by the Motions Commissioner, Chief Hearing Examiner, or Hearing Examiner and of any opposition thereto, shall be filed.

§ 1.43 *Time for action.* Unless it is found that irreparable injury would be caused one of the parties or that the public interest so requires, or unless all parties have consented, the Motions Commissioner, Chief Hearing Examiner, or Hearing Examiner shall withhold consideration of any motion, petition, or other pleading until it has been on file, accompanied by proof of service upon all parties, for a period of four days.

§ 1.44 *Oppositions.* Any party may file within the time specified in § 1.43 an opposition to a motion, petition, or other pleading to be acted on by the Motions Commissioner, Chief Hearing Examiner, or Hearing Examiner. Replies to such oppositions will not be accepted. (See however § 1.432)

§ 1.45 *Oral argument.* Oral argument with respect to any contested motion, petition, or other pleading before the Motions Commissioner, Chief Hearing Examiner, or Hearing Examiner will be held upon request or when in the opinion of such officer the ends of justice will be best served thereby. Timely notice will be given of the date, time, and place of any such oral argument to be held pursuant hereto.

§ 1.46 *Rulings.* The Motions Commissioner, Chief Hearing Examiner, or Hearing Examiner will dispose of any matter pending before him by written order which shall be released promptly. The order upon contested matters shall contain a statement of the reasons for the ruling therein, unless such order is self-explanatory or is merely an affirmance of a prior denial in which reasons have been given.

§ 1.47 *Review of adverse ruling.* Any interested party may obtain a review of an adverse ruling made by the Motions Commissioner, Chief Hearing Examiner or Hearing Examiner,

(a) by filing, within five days after the order is released or the ruling is made, a petition for review by the Commission or

(b) by specifically requesting review of the ruling complained of as part of the exceptions filed to the initial decision

in accordance with the provisions of §§ 1.153 through 1.155.

SPECIFICATIONS AND SERVICE OF PLEADINGS AND OTHER PAPERS

§ 1.50 *Cross reference.* (a) Rules governing applications and reports are contained in the respective subparts of this part dealing with the services.

(b) Special rules governing complaints against common carriers arising under the Communications Act are set forth in Subpart E of this part.

§ 1.51 *Length of pleadings.* Pleadings by any party to any proceeding which has been designated for hearing which relate to an appeal from an interlocutory ruling of the Motions Commissioner, the Chief Hearing Examiner, or the Hearing Examiner, or relate to petitions for reconsideration and grant of application without hearing, will not be accepted for filing if the pleadings exceed 15 double spaced typewritten pages: *Provided,* That parties may, in a separate pleading, request permission to file pleadings of more than 15 pages on matters covered by this section, which permission will be granted by the Chief Hearing Examiner upon good cause shown. Such requests must be filed within two days of the ruling in question. The five-day requirement of § 1.47 shall be operative only after disposal of the request for permission to file a pleading exceeding the limit here specified.

§ 1.52 *Specifications as to pleadings and documents.* All pleadings and documents (except briefs) filed in any proceeding shall, unless otherwise specifically provided, be on paper either 8 by 10½ or 14 inches or 8½ by 11, 13 or 14 inches, with left-hand margin not less than 1½ inches wide. This requirement shall not apply to original documents, or admissible copies thereof, offered as exhibits or to specially prepared exhibits. The impression shall be on one side of the paper only and shall be double-spaced, except that long quotations shall be single spaced and indented. All papers, except charts and maps, shall be typewritten or prepared by mechanical processing methods, other than letterpress or printing. The foregoing shall not apply to official publications. All copies must be clearly legible.

§ 1.53 *Specifications as to briefs.* Briefs may be printed, typewritten, mimeographed, or multigraphed. Printed briefs shall be in 10- or 12-point type, on good unglazed paper, 5⅞ inches wide by 9 inches long, with inside margin not less than 1½ inches wide, and with double spaced text and single spaced quotations.

§ 1.54 *Number of copies of pleadings, briefs, and other documents.* Except as otherwise specifically provided in this chapter, an original and 14 copies of all pleadings, briefs, and other documents required or permitted to be filed shall be furnished the Commission, and one extra copy for each party to the proceeding when service is made by the Commission.

§ 1.55 *Subscription and verification.* The original of all petitions, motions, pleading, briefs, and other documents filed by any party represented by counsel, shall be signed by at least one attorney of record in his individual name, whose address shall be stated. Copies should be conformed. A party who is not represented by an attorney shall sign and verify the document and state his address. Except when otherwise specifically provided by rule or statute, documents signed by the attorney for a party need not be verified or accompanied by affidavit. The signature of an attorney constitutes a certificate by him that he has read the document; that to the best of his knowledge, information, and belief there is good ground to support it; and that it is not interposed for delay. If the original of a document is not signed or is signed with intent to defeat the purpose of this section, it may be stricken as sham and false, and the matter may proceed as though the document had not been filed. An attorney may be subjected to appropriate disciplinary action, pursuant to § 1.24, for a willful violation of this rule or if scandalous or indecent matter is inserted.

§ 1.56 *Service of documents and proof of service.* In all adjudicatory proceedings, in rule making proceedings governed by sections 7 and 8 of the Administrative Procedure Act, and in every other case where service is required or permitted by law, service of all briefs, notices, pleadings, or other papers shall be made in conformity with this section. All such documents which are required or permitted to be served upon parties shall be served not later than the respective dates fixed by these rules for service thereof as follows:

(a) Service upon the party, his attorney, or other duly constituted agent shall be made by the party filing the pleading or document or by his representative by delivering a copy or by mailing it to the last known address: *Provided, however,* That formal complaints, including supplemental, cross, and amended complaints filed under section 208 of the Communications Act of 1934, as amended, will be served by the Commission. When any party is represented by an attorney of record in a formal proceeding, the service shall be made upon the attorney. Delivery of a copy pursuant to this section means handing it to the attorney, the party, or the party's duly constituted agent; or leaving it at the office of the person to be served with his clerk or other person in charge thereof, or, if there is no one in charge, leaving it in a conspicuous place therein, or, if the office is closed or the person to be served has no office, leaving it at his dwelling house or usual place of abode with some person of suitable age and discretion then residing therein. Service by mail is complete upon mailing. If the person upon whom service by mail is being made resides 500 miles or more from the person effecting service, such mailing must be made by airmail.

(b) Proof of service, as provided in this section, shall be filed before action is taken. The proof of service shall show the time and manner of service, and may be by written acknowledgement of service, by certificate of the person effecting the service, or by other proof satisfactory to the Commission. Failure to make proof of service will not affect the validity of the service. The Commission may at any time allow the proof to be amended or supplied, unless to do so would result in material prejudice to a party.

MISCELLANEOUS PROCEDURES

§ 1.61 *Notice of violations.* (a) Any licensee who appears to have violated any provision of the Communications Act or any provision of this chapter shall be served with a written notice calling the facts to his attention and requesting a statement concerning the matter. FCC Form 793 may be used for this purpose.

(b) Within 10 days from receipt of notice or such other period as may be specified, the licensee shall send a written answer, in duplicate, direct to the office of the Commission originating the official notice. If an answer cannot be sent nor an acknowledgment made within such 10-day period by reason of illness or other unavoidable circumstances, acknowledgment and answer shall be made at the earliest practicable date with a satisfactory explanation of the delay.

(c) The answer to each notice shall be complete in itself and shall not be abbreviated by reference to other communications or answers to other notices. If the notice relates to violations that may be due to the physical or electrical characteristics of transmitting apparatus, the answer shall state fully what steps, if any, have been taken to prevent future violations, and, if any new apparatus is to be installed, the date such apparatus was ordered, the name of the manufacturer, and the promised date of delivery. If the installation of such apparatus requires a construction permit, the file number of the application shall be given, or if a file number has not been assigned by the Commission, such identification shall be given as will permit ready identification of the application. If the notice of violation relates to lack of attention to or improper operation of the transmitter, the name and license number of the operator in charge shall be given.

§ 1.62 *Revocation of station licenses and construction permits and issuance of cease and desist orders.* (a) Whenever it appears that a station license or construction permit should be revoked for any of the reasons set forth in section 312 (a) of the Communications Act, or a cease and desist order should be issued for any of the reasons specified in section 312 (b) of the Communications Act, the Commission will, except in cases of wilfullness or those in which the public health, interest, or safety require otherwise, either by notice of violation as provided for in § 1.61 or by any other written warning, call to the attention of the licensee or permittee the facts or conduct which may warrant revocation of the license or construction permit or the issuance of a cease and desist order, and the Commission will accord to the licensee or permittee a reasonable opportunity to demonstrate or achieve

compliance with the said warning. In case of failure to timely comply therewith or in cases of wilfullness or those in which public health, interest, or safety requires, the Commission will issue an order directing the licensee, permittee, or person to show cause why an order of revocation or a cease and desist order, as the case may be, should not be issued.

(b) Any order to show cause issued in accordance with paragraph (a) of this section will contain a statement of the matters with respect to which the Commission is inquiring and will call upon the licensee, permittee, or person to appear before the Commission at a time and place stated in the order, but in no event less than 30 days after the receipt of such order, and give evidence upon the matter specified therein: Except, that where safety of life or property is involved, the Commission may provide in the order for a shorter period.

(c) In order to avail himself of the opportunity to be heard, the licensee, permittee, or person, in person or by his attorney, shall, within 30 days of the receipt of the order or such shorter period as may be specified therein if the safety of life or property is involved, file with the Commission a written statement stating that he will appear at the hearing and present evidence on the matter specified in the order. If the licensee, permittee, or person fails to file such an appearance within the time specified in this paragraph, the right to a hearing shall be deemed waived.

(d) Hearings on the matters specified in the order to show cause and the practice and procedure in connection therewith shall accord with the provisions of this subpart and Subpart B of this part, except that in all such hearings the burden of proceeding with the introduction of evidence and burden of proof shall be upon the Commission, and except that the Commission may, where the circumstances of the proceeding require expedition, specify in the show cause order times less than those specified in §§ 1.153 and 1.154 within which the initial decision in such proceedings shall become effective, within which exceptions to such initial decision or replies thereto may be filed, and within which parties may file notice of intent to seek and participate in oral argument.

(e) Where a hearing is waived and no written statement has been filed within 30 days of the receipt of the order to show cause or such shorter period of time as may be specified therein, the allegations of fact contained in the order to show cause will be deemed as correct and the Hearing Examiner will issue an initial decision invoking the sanctions specified in the order to show cause.

(f) Where a hearing is waived, a written statement in mitigation or justification may be submitted within 30 days of the receipt of the order to show cause or within such shorter period of time as may be specified therein. The Hearing Examiner may, if the statement contains, with particularity, factual allegations denying or, in the Hearing Examiner's opinion, justifying the facts upon which the show cause order is based, call upon the submitting party to furnish additional information, and the Hearing Examiner shall request all opposing parties to file an answer to the written statement and/or additional information. The Hearing Examiner will then, unless he orders that further pleadings be filed, close the record and issue, on basis of the procedure delineated in this paragraph, an initial decision.

(g) Corrections or promise to correct the condition complained of in the order to show cause shall not preclude the issuance of an order to cease and desist.

(h) Any order of revocation or cease and desist order issued pursuant to this section shall include a statement of findings and the grounds therefor, shall specify the effective date of the order, and shall be served on the licensee, permittee, or person.

§ 1.63 *Modification of licenses or construction permits on motion of the Commission.* (a) Whenever it appears that a station license or construction permit should be modified, the Commission will notify the licensee or permittee in writing of the proposed action and the grounds and reasons therefor and direct him to show cause why an order modifying the license or construction permit in the manner proposed by the Commission should not be issued.

(b) Any order to show cause issued in accordance with paragraph (a) of this section will notify the licensee or permittee that he may request, within a period of time to be stated in the order to show cause, that a hearing be held on the proposed modification. In case of timely request, a hearing will be held on the proposed modification, in no event less than 30 days after the receipt of the order to show cause, unless the Commission finds that safety of life or property require the fixing of a shorter period.

(c) In order to avail himself of the right to request a hearing and of the opportunity to appear and give evidence upon the matters specified in the order to show cause, the licensee or permittee, in person or by his attorney, shall, within the period of time as may be specified in the order to show cause, file with the Commission a written statement stating that he requests a hearing and will appear at the hearing and present evidence on the matter specified in the order to show cause. Such written statement must contain a detailed response to the matter specified in the order to show cause and the permittee or licensee shall be limited in the hearing to matters fairly encompassed within the issues raised by the response.

(d) The right to request a hearing shall, unless good cause is shown in a petition to be filed not later than 5 days before the lapse of the time specified in paragraph (c) of this section, be deemed waived:

(1) In case of failure to timely file a written statement as required by paragraph (c) of this section;

(2) In case of filing the written statement provided for in paragraph (c) of this section but failure to appear at the hearing, either in person or by counsel.

(e) Where the right to request a hearing is waived and no written statement has been filed within the period of time specified in the order to show cause, the licensee or permittee will be deemed to consent to the modification as proposed in the order to show cause and a final decision will be issued by the Commission accordingly.

(f) Where the right to request a hearing has been waived, a written statement may be filed within the period of time to be specified in the order to show cause, showing with particularity why the license or construction permit should not be modified or not so modified as proposed in the order to show cause. In this case, the Commission may, depending upon the facts alleged and proof offered, either call upon the submitting party to furnish additional information under oath, designate the proceeding for hearing, or issue without further proceedings an order modifying the construction permit or license as proposed in the order to show cause or in said written statement. The order to show cause will advise the person against whom it is directed of procedure set forth in this paragraph.

(g) Any order of modification issued pursuant to this section shall include a statement of the findings and the grounds and reasons therefor, shall specify the effective date of the order, and shall be served on the licensee or permittee.

§ 1.64 *Partial grants.* Where the Commission without a hearing grants any application in part, or with any privileges, terms, or conditions other than those requested, or subject to any interference that may result to a station if designated application or applications are subsequently granted, the action of the Commission shall be considered as a grant of such application unless the applicant shall, within 30 days from the date on which such grant is made or from its effective date if a later date is specified, file with the Commission a written request rejecting the grant as made. Upon receipt of such request, the Commission will vacate its original action upon the application and set the application for hearing in the same manner as other applications are set for hearing.

§ 1.65 *Operation pending action on renewal application.* (a) Where there is pending before the Commission at the time of expiration of license any proper and timely application for renewal of license with respect to any activity of a continuing nature, in accordance with the provision of section 9 (b) of the Administrative Procedure Act, such license shall continue in effect without further action by the Commission until such time as the Commission shall make a final determination with respect to the renewal application. No operation by any licensee under this section shall be construed as a finding by the Commission that the operation will serve public interest, convenience, or necessity, nor shall such operation in any way affect or limit the action of the Commission with respect to any pending application or proceeding. A licensee operating by virtue of this section shall, after the date of expiration specified in the license, post,

in addition to the original license, any acknowledgment received from the Commission that the renewal application has been accepted for filing or a signed copy of the application for renewal of license which has been submitted by the licensee, or in services other than broadcast and common carrier, a statement certifying that the licensee has mailed or filed a renewal application, specifying the date of mailing or filing.

(b) Where there is pending before the Commission at the time of expiration of license any proper and timely application for renewal or extension of the term of a license with respect to any activity not of a continuing nature, the Commission may in its discretion grant a temporary extension of such license pending determination of such application. No such temporary extension shall be construed as a finding by the Commission that the operation of any radio station thereunder will serve public interest, convenience, or necessity beyond the express terms of such temporary extension of license, nor shall such temporary extension in any way affect or limit the action of the Commission with respect to any pending application or proceeding.

(c) Except where an instrument of authorization clearly states on its face that it relates to an activity not of a continuing nature, or where the non-continuing nature is otherwise clearly apparent upon the face of the authorization, all licenses issued by the Commission shall be deemed to be related to an activity of a continuing nature.

§ 1.66 *Grants of licenses without hearing.* (a) An application for license by the lawful holder of a construction permit will be granted without hearing where the Commission, upon examination of such application, finds that all the terms, conditions, and obligations set forth in the application and permit have been fully met, and that no cause or circumstance arising or first coming to the knowledge of the Commission since the granting of the permit would, in the judgment of the Commission, make the operation of such station against the public interest.

(b) In the event the Commission is unable to make the findings in paragraph (a) of this section, the Commission will designate the application for hearing upon specified issues.

§ 1.67 *Procedures for handling applications requiring special aeronautical study.* (a) All antenna surveys are conducted by the Antenna Survey Branch of the Engineering Division, Field Engineering and Monitoring Bureau.

(b) Each operating Bureau or Office examines the applications for which it is responsible to ascertain whether or not antenna consideration is required. If such consideration is required, the antenna data is furnished to the Antenna Survey Branch of the Engineering Division, Field Engineering and Monitoring Bureau.

(c) The Antenna Survey Branch then ascertains whether a special aeronautical study is required.

(d) If no special aeronautical study is required, the application and the appropriate antenna painting and lighting specifications are returned to the originating Bureau or Office for such further action as is necessary.

(e) If a special aeronautical study is required, the antenna data are forwarded to the appropriate regional airspace subcommittee for its study and recommendations and the originating Bureau or Office advised of this action.

(f) Upon receipt of a report from the airspace subcommittee approving a proposed antenna, the Antenna Survey Branch prescribes antenna tower painting and lighting specifications or other conditions in accordance with provisions of Part 17 of this chapter and forwards this information to the originating Bureau or Office. If the proposed antenna is disapproved, a report of the disapproval is forwarded to the originating Bureau or Office.

§ 1.68 [Reserved.]

§ 1.69 [Reserved.]

§ 1.70 *Application for radio operator license.* (a) Application for a new, renewed, replacement, or duplicate commercial radio operator license, for a verification card, or for a verification of operator license (for additional posting) FCC Form 759, shall be filed on FCC Form 756 entitled "Application for Radio Operator License": Except that, if a restricted radiotelephone operator permit is being applied for, FCC Form 756 shall not be used but application shall in all cases be filed on FCC Form 753–1 entitled "Application for Restricted Radiotelephone Operator Permit by Declaration."

(b) Application for an amateur radio operator license is included with the application for station license. (See § 1.530.)

§ 1.71 *Procedure with respect to commercial radio operator license applications.* (a) Upon acceptance for filing of an application for a new commercial operator license, an examination is conducted, where required, by the field office with which the application is filed in accordance with Part 13 of this chapter. If applicant passes the examination and is found qualified in respect to citizenship, character, and physical condition, the license will be issued. Where doubts as to citizenship, character, or physical condition arise, the application is referred to the Commission's Inspection and Examination Division, Field Engineering and Monitoring Bureau, Washington, D. C., for consideration. If it appears that further information is required to determine the applicant's qualifications or that a grant of the application will not serve the public interest, the applicant will be notified in writing and given an opportunity to furnish such written showings as the Commission may request and as the applicant may desire to submit. If, from the information furnished, it does not appear that the applicant is qualified or that the public interest would be served by a grant of the application, the applicant will be advised thereof in writing and given the opportunity to request, within the period of time to be specified in such writing, that the application be set for hearing. In case of failure timely to request such hearing, the application will be denied.

(b) Where an examination is not required, the application will be handled with respect to other matters in accordance with the procedure in paragraph (a) of this section.

(c) Applications for renewal of license after acceptance for filing are handled in accordance with the procedure contained in paragraph (a) of this section, except that no examination is required unless the circumstances as set forth in § 13.28 of this chapter exist, in which case a renewal examination will be required.

§ 1.72 *Suspension of operator licenses.* Whenever grounds exist for suspension of an operator license, as provided in section 303 (m) of the Communications Act, the Chief of the Safety and Special Radio Services Bureau, with respect to amateur operator licenses, or the Chief of the Field Engineering and Monitoring Bureau, with respect to commercial operator licenses, may issue an order suspending the operator license. No order of suspension of any operator's license shall take effect until 15 days' notice in writing of the cause for the proposed suspension has been given to the operator licensee, who may make written application to the Commission at any time within said 15 days for a hearing upon such order. The notice to the operator licensee shall not be effective until actually received by him, and from that time he shall have 15 days in which to mail the said application. In the event that physical conditions prevent mailing of the application before the expiration of the 15-day period, the application shall then be mailed as soon as possible thereafter, accompanied by a satisfactory explanation of the delay. Upon receipt by the Commission of such application for hearing, said order of suspension shall be designated for hearing by the Chief, Safety and Special Radio Services Bureau or the Chief, Field Engineering and Monitoring Bureau, as the case may be, and said order of suspension shall be held in abeyance until the conclusion of the hearing. Upon the conclusion of said hearing, the Commission may affirm, modify, or revoke said order of suspension. If the license is ordered suspended, the operator shall send his operator license to the office of the Commission in Washington, D. C., on or before the effective date of the order, or, if the effective date has passed at the time notice is received, the license shall be sent to the Commission forthwith.

§ 1.73 *Procedure with respect to equipment type approval and type acceptance.* Rules on applications for equipment type approved and on type acceptance are contained in Part 2, Subpart F, of this chapter.

§ 1.74 *Procedure with respect to Experimental Radio Services.* Rules governing applications for licensing of stations in the Experimental Radio Services (other than broadcast) are contained in Part 5 of this chapter.

§ 1.75 *Procedure with respect to licensing in the Industrial, Scientific, and Medical services.* Rules governing applications for licensing in the Industrial, Scientific, and Medical service are contained in Part 18 of this chapter.

## SUBPART B—HEARING AND DECISION PRACTICE AND PROCEDURE

### General

§ 1.101 *Scope.* This subpart shall be applicable to the following cases which have been designated for hearing:

(a) Adjudication (as defined by the Administrative Procedure Act); and

(b) Rule making proceedings which are required by law to be made on the record after opportunity for a Commission hearing.

NOTE: For special provisions relating to consideration of standard broadcast applications in the light of the 1950 NARBA and the U. S./Mexican Agreement, see § 1.352.

§ 1.102 *Official reporter; transcript.* The Commission will designate from time to time an official reporter for the recording and transcribing of hearing proceedings. No transcript of the testimony taken, or argument had, at any hearing will be furnished by the Commission, but will be open to inspection under § 0.406 of the Commission's Statement of Organization, Delegations of Authority and Other Information. Copies of such transcript, if desired, may be obtained from the official reporter upon payment of the charges therefor.

§ 1.103 *Notice of hearing.* Reasonable notice of hearing will be given to all parties to a proceeding, and will include:

(a) A statement as to the time, place and nature of the hearing. If the time and place are not specified, the initial notice will indicate that the time and place will be designated at a later date;

(b) A statement as to the legal authority and jurisdiction under which the hearing is to be held; and

(c) A statement of the matters of fact and law involved.

§ 1.104 *Petitions to intervene.* (a) Where, in cases involving applications for construction permits and station licenses, or modifications or renewals thereof, the Commission has failed to notify and name as a party to the hearing any person who qualifies as a party in interest, such person may acquire the status of a party by filing, under oath and at any time not later than 10 days prior to the date of hearing, a petition for intervention showing the basis of its interest. Where such person's interest is based upon a claim that a grant of the application would cause objectionable interference under applicable provisions of this chapter to such person as a licensee of permittee of an existing or authorized station, the petition to intervene must be accompanied by an affidavit of a qualified radio engineer which shall show, either by following the procedures prescribed in this chapter for determining interference in the absence of measurements or by actual measurements made in acordance with the methods prescribed in this chapter, the extent of such interference. Where the person's status as a party in interest is established, the petition to intervene will be granted.

(b) Any other person desiring to participate as a party in any hearing may file a petition for leave to intervene not later than 10 days prior to the date of hearing. The petition must set forth the interest of the petitioner in the proceedings and must show how such petitioner's participation will assist the Commission in the determination of the issues in question, and such petitions must be accompanied by the affidavit of a person with knowledge as to the facts set forth in the petition. The Commission, in its discretion, may grant or deny such petition or may permit intervention by such persons limited to particular issues or to a particular stage of the proceeding.

(c) The granting of any petition to intervene shall not have the effect of changing or enlarging the issues specified in the Commission's notice of hearing unless the Commission shall on motion amend the same.

(d) Any person desiring to file a petition for leave to intervene later than 10 days prior to the date of hearing shall set forth the interest of the petitioner in the proceedings, show how such petitioner's participation will assist the Commission in the determination of the issues in question, and set forth reasons why it was not possible to file a petition within the time prescribed by paragraphs (a) and (b) of this section. Such petition shall be accompanied by the affidavit of a person with knowledge of the facts set forth in the petition, and where petitioner claims that a grant of the application would cause objectionable interference under applicable provisions of this chapter, the petition for leave to intervene must be accompanied by the affidavit of a qualified radio engineer showing the extent of such alleged interference according to the methods prescribed in paragraph (a) of this section. If in the opinion of the Commission good cause is shown for the delay in filing, the Commission may in its discretion grant such petition or may permit intervention limited to particular issues or to a particular stage of the proceeding.

§ 1.105 *Participation by non-parties; consideration of communications.* (a) If any matter is designated for hearing the Secretary will notify all persons who have requested that they be advised of the hearing in order that they will have an opportunity to appear and give evidence at such hearing. In the case of communications bearing more than one signature, notice of hearing shall be given to the person first signing unless the communication clearly indicates that such notice should be sent to someone other than such person.

(b) No person shall be precluded from giving any relevant, material, and competent testimony at a hearing because he lacks a sufficient interest to justify his intervention as a party in the matter.

(c) When a hearing is held, no communication wil be considered in determining the merits of any matter unless it has been received into evidence. The admissibility of any communication shall be governed by the applicable rules of evidence, and no communication shall be admissible on the basis of a stipulation unless Commission's counsel as well as counsel for all of the parties shall join in such stipulation.

§ 1.106 *Consolidations.* (a) The Commission, upon motion or upon its own motion, will, where such action will best conduce to the proper dispatch of business and to the ends of justice, consolidate for hearing:

(1) Any cases which involve the same applicant or involve substantially the same issues, or

(2) Any applications which present conflicting claims.

(b) (1) In broadcast cases, no application will be consolidated for hearing with a previously filed application or applications unless such application is substantially complete and tendered for filing not later than the close of business on the day preceding the day the previously filed application or applications are designated for hearing.

(2) In non-broadcast cases, any application that is mutually exclusive with another application or applications already designated for hearing will be consolidated for hearing with such other application or applications only if the later application in question has been filed within 5 days after public notice has been given in the FEDERAL REGISTER of the Commission's order which first designated for hearing the prior application or applications with which such application is in conflict.

(3) Any mutually exclusive application filed after the date prescribed in subparagraphs (1) or (2) of this paragraph will be dismissed without prejudice and will be eligible for refiling only after a final decision is rendered by the Commission with respect to the prior application or applications or after such application or applications are dismissed or removed from the hearing docket.

### Continuances and Prehearing Conferences

§ 1.111 *Prehearing conferences.* (a) The Commission or the presiding officer on its or his initiative, or at the request of any party, may direct the parties or their attorneys to appear at a specified time and place for a conference prior to or during the course of a hearing, or to submit suggestions in writing, for the purpose of considering, among other things, the following matters:

(1) The necessity or desirability of simplification, clarification, amplification, or limitation of the issues;

(2) The possibility of stipulating with respect to facts;

(3) The procedure at the hearing;

(4) The limitation of the number of witnesses;

(5) In cases arising under Title II of the Communications Act, the necessity or desirability of amending the pleadings and offers of settlement or proposals of adjustment; and

(6) In cases involving comparative broadcast applications:

(i) Narrowing the issues or the areas of inquiry and proof at the hearing;

(ii) Admissions of fact and of documents which will avoid unnecessary proof;

(iii) Reports and letters relating to surveys or contacts;
(iv) Assumptions regarding the availability of equipment;
(v) Network programming;
(vi) Assumptions regarding the availability of networks proposed;
(vii) Offers of letters in general;
(viii) The method of handling evidence relating to the past cooperation of existing stations owned and/or operated by the applicants with organizations in the area;
(ix) Proof of contracts, agreements, or understandings reduced to writing;
(x) Stipulations;
(xi) Need for depositions;
(xii) The numbering of exhibits;
(xiii) The order or offer of proof with relationship to docket number; and
(xiv) The date for the formal hearing and such other matters as will be conducive to an expeditious conduct of the hearing.

(b) At the pre-hearing conferences prescribed by this section, the parties in any broadcast proceeding shall be prepared to discuss the advisability of reducing any or all phases of their affirmative direct cases to written form. Where it appears that it will conduce significantly to the disposition of the proceeding for the parties to submit any portion of their cases in writing, it is the policy of the Commission to encourage them to do so. However, the phase or phases of the proceeding to be submitted in writing, the dates for the exchange of the written material, and other procedural limitations upon the effect of adopting the written case procedure (such as, whether material ruled out as incompetent may be restored by competent oral testimony) is to be left to agreement of the parties as approved by the Hearing Examiner.

(c) An official transcript of all pre-hearing conferences shall be made.

§ 1.112 *Time and place of hearing.* Any hearing shall begin at the time and place ordered by the Commission or the Chief Hearing Examiner. The time and place of subsequent hearings shall be determined by the presiding officer: *Provided, however,* That in case the hearing is scheduled to begin in the District of Columbia, the first change of place of such hearing will be ordered by the Commission or the Chief Hearing Examiner.

§ 1.113 *Continuances and extensions.* Continuances of any proceeding or hearing and extensions of time for making any filing or performing any act required or allowed to be done within a specified time may be granted by the Commission or the presiding officer upon motion for good cause shown, unless the time for performance or filing is limited by statute.

DEPOSITIONS

§ 1.121 *When depositions may be taken.* At any time after a case has been designated for hearing, the testimony of any witness may be taken by deposition for purposes other than discovery.

§ 1.122 *Notice to take depositions.* A party to a hearing desiring to take the deposition of any person shall give reasonable notice in writing to every other party. The notice shall state the time and place for taking the deposition, the name and address of each person to be examined, if known, and if the name is not known, a general description sufficient to identify him or the particular class or group to which he belongs, and the matters with which the deposition will be concerned. On motion of any party upon whom the notice is served, the Commission may, for good cause shown, enlarge or shorten the time for taking the deposition.

§ 1.123 *Deposition orders.* (a) After notice is served for taking a deposition, upon motion seasonably made by any party or by the person to be examined, and upon notice and for good cause shown, the Commission may make an order:
(1) That the deposition shall not be taken;
(2) That it may be taken only at some designated place other than that stated in the notice;
(3) That it may be taken only on written interrogatories;
(4) That certain matters shall not be inquired into;
(5) That the scope of the examination shall be limited to certain matters;
(6) That the examination shall be held with no one present except the parties to the action and their officers or counsel; or
(7) That after being sealed the deposition shall be opened only by order of the Commission.

(b) The Commission may make any other order which justice requires to protect the party or witness from annoyance, embarrassment, or oppression.

§ 1.124 *Persons before whom depositions may be taken.* Depositions shall be taken before any judge of any court of the United States; any United States commissioner; any clerk of a district court; any chancellor, justice, or judge of a supreme or superior court; the mayor or chief magistrate of a city; any judge of a county court, or court of common pleas of any of the United States; any notary public, not being of counsel or attorney to any party, nor interested in the event of the proceeding.

§ 1.125 *Oath; transcript of depositions.* The officer before whom the deposition is to be taken shall administer an oath or affirmation to the witness and shall personally, or by someone acting under his direction and in his presence, record the testimony of the witness. The testimony shall be taken stenographically and transcribed, unless the parties agree otherwise. In lieu of participating in the oral examination, parties served with notice of taking a deposition may transmit written interrogatories to the officer, who shall propound them to the witness and record the answers verbatum.

§ 1.126 *Submission of deposition to witness; changes; signing.* When the testimony is fully transcribed, the deposition of each witness shall be submitted to him for examination and shall be read to or by him. Any changes in form or substance which the witness desires to make shall be entered upon the deposition by the officer with a statement of the reasons given by the witness for making them. The deposition shall then be signed by the witness, unless the parties by stipulation waive the signing, or the witness is ill, cannot be found, or refuses to sign. If the deposition is not signed by the witness the officer shall sign it and state on the record the fact of the waiver, the illness or absence of the witness, the fact of the refusal to sign together with the reason, if any, given therefor; and the deposition may then be used as fully as though signed, unless upon a motion to suppress, the Commission holds that the reason given for the refusal to sign requires rejection of the deposition in whole or in part.

§ 1.127 *Certification of deposition and filing by officer; copies.* The officer shall certify on the deposition that the witness was duly sworn by him, that the deposition is a true record of the testimony given by the witness, and that said officer is not of counsel or attorney to either of the parties, nor interested in the event of the proceeding or investigation. He shall then securely seal the deposition in an envelope endorsed with the title of the action and marked "Deposition of (here insert name of witness)" and shall promptly send the original and two copies thereof, together with the original and two copies of all exhibits, by registered mail to the Secretary of the Commission.

§ 1.128 *Inclusion in the record.* (a) No deposition shall constitute a part of the record in any proceeding until received in evidence at a hearing.

(b) The deposition of a person with a substantial interest in, or holding a position of responsibility with, a party to the proceeding will not be admitted in evidence unless it is shown that the witness is dead or seriously ill, that other exceptional circumstances exist, or that the testimony proffered is of such character that, in the interest of justice and with due regard to the importance of presenting the testimony of the witnesses orally, the deposition should be admitted

§ 1.129 *Objections to depositions.* (a) Except as provided in paragraphs (b), (c) and (d) of this section, objection may be made at the hearing to receiving in evidence any deposition or part thereof for any reason which would require the exclusion of the evidence if the witness were then present and testifying.

(b) Objections to the competency of a witness, or to the competency, relevancy, or materiality of testimony are not waived by failure to make them before or during the taking of the deposition unless the ground of the objection is one which might have been obviated or removed if presented at that time.

(c) Errors and irregularities occurring at the oral examination in the manner of taking the deposition, in the form of the questions or answers, in the oath or affirmation, or in the conduct of parties and errors of any kind which might be obviated, removed, or cured if promptly

presented, are waived unless reasonable objection thereto is made at the taking of the deposition.

(d) Any objection made at the time of the examination to the qualifications of the officer taking a deposition, or to the manner of taking it, or to the evidence presented, or to the conduct of any party, and any other objection to the proceedings, shall be noted by the officer upon the deposition. Evidence objected to shall be taken subject to such objection.

SUBPENAS

§ 1.131 *Who may sign and issue.* Subpenas requiring the attendance and testimony of witnesses, and subpenas requiring the production of any books, papers, schedules of charges, contracts, agreements, and documents relating to any matter under investigation or hearing may be signed and issued as follows:

(a) Hearings before the Commission en banc or before a Committee of Commissioners: By a Commissioner;

(b) Hearings before a Hearing Examiner: By the Hearing Examiner, or in his absence by the Chief Hearing Examiner.

§ 1.132 *Requests; verification and content; motion to quash.* A subpena, other than one directed by the Commission on its own initiative, will be issued only upon request in writing, unless such request is made on the record while a hearing is in progress, in which case such request on the record may be accepted in lieu of written request. Any request for a subpena shall be supported by a showing of the general relevance and materiality of the evidence sought. A request for a subpena to compel a witness to produce documentary evidence shall be in writing, duly subscribed and verified, and shall specify with particularity the books, papers, and documents desired and the facts expected to be proved thereby. Other parties to the proceeding need not be served with copies of a request for a subpena. Any person against whom a subpena is directed may file a motion to quash or limit the subpena setting forth reasons why the subpena should not be complied with or limited in scope. Prompt notice, including a brief statement of the reasons therefor, will be given of the denial, in whole or in part, of a request for subpena and of a motion to quash.

§ 1.133 *Witness fees.* Witnesses who are subpenaed and respond thereto are entitled to the same fees, including mileage, as are paid for like service in the courts of the United States. The party at whose instance the testimony is taken shall tender such fees at the time the subpena is served.

§1.134 *Service of subpenas; return.* (a) A subpena may be served by a United States marshal or his deputy or by Commission personnel or by any person who is not a party and is not less than 18 years of age. Service of a subpena upon a person named therein shall be made by delivering a copy thereof to such person and by tendering to him the fees for one day's attendance and the mileage allowed by law. If the subpena is issued on behalf of the United States or an officer or agency thereof fees and mileage need not be tendered.

(b) If service of the subpena is made by a person other than a United States marshal or his deputy, such person shall make affidavit thereof, stating the date, time, and manner of service; and return such affidavit on, or with, the original subpena in accordance with the form thereon. In case of failure to make service, the reasons for the failure shall be stated on the original subpena. In making service, the original subpena shall be exhibited to the person served, shall be read to him if he is unable to read, and a copy thereof shall be left with him. The original subpena, bearing or accompanied by the required return affidavit, or statement, shall be returned forthwith to the Secretary of the Commission, or, if so directed on the subpena, to the official before whom the person named in the subpena is required to appear.

§ 1.135 *Attendance of witness; disobedience.* The attendance of witnesses and the production of documentary evidence may be required from any place in the United States at any designated place of hearing. In case of disobedience to a subpena the Commission or any party to a proceeding before the Commission may invoke the aid of any court of the United States in requiring the attendance and testimony of witnesses and the production of documentary evidence.

HEARINGS AND DECISIONS

§ 1.140 *Procedure when an application is designated for hearing.* (a) When an application has been designated for hearing, the Secretary of the Commission will mail an order to the applicant setting forth the reasons for the Commission's action and the issues upon which the application will be heard. In addition, the notice of hearing will be published in the FEDERAL REGISTER. The Commission will, when possible, give at least 60 days advance notice on comparative hearings.

(b) Any hearing subsequently held upon such application shall be a full hearing in which the applicant and all other parties in interest shall be permitted to participate but in which both the burden of proceeding with the introduction of evidence upon any issue specified by the Commission, as well as the burden of proof upon all such issues, shall be upon the applicant except as otherwise provided in the order of designation.

(c) In order to avail himself of the opportunity to be heard, the applicant, in person or by his attorney, shall, within 20 days of the mailing of the notice of designation for hearing by the Secretary, file with the Commission, in triplicate, a written appearance stating that he will appear on the date fixed for hearing, and present evidence on the issues specified in the order. Where an applicant fails to file such a written appearance within the time specified, or has not filed prior to the expiration of that time period a petition to dismiss without prejudice, or a petition to accept, for good cause shown, such written appearance beyond expiration of said 20 days the application will be dismissed with prejudice by the Chief Hearing Examiner for failure to prosecute.

(d) The Commission will on its own motion name as parties to the hearing any person found to be a party in interest.

(e) In order to avail himself of the opportunity to be heard, any person named as a party pursuant to paragraph (d) of this section shall, within 20 days of the mailing of the notice of his designation as a party, file with the Commission, in person or by attorney, a written appearance in triplicate, stating that he will appear and present evidence on the issues specified in the notice of hearing. Any person so named who fails to file this written statement within the time specified, shall, unless good cause for such failure is shown, forfeit his hearing rights.

§ 1.141 *Motions to enlarge, change, or delete issues.* Motion to enlarge, change, or delete the issues may be filed by any party to a hearing. Such motions must be filed with the Commission not later than 15 days after the issues in the hearing have first been published in the FEDERAL REGISTER. Any person desiring to file a motion to enlarge, change, or delete the issues after the expiration of such 15 days must set forth the reason why it was not possible to file the petition within the prescribed 15 days. Unless good cause is shown for delay in filing, the motion will not be granted.

§ 1.142 *Order of procedure.* (a) At hearings on a formal complaint or petition or in a proceeding for any instrument of authorization which the Commission is empowered to issue, the complainant, petitioner, or applicant, as the case may be, shall, unless the Commission otherwise orders, open and close. At hearings on protests, the protestant opens and closes the proceedings in case the issues are not specifically adopted by the Commission; otherwise the grantee does so. At hearings on orders to show cause, to cease and desist, to revoke or modify a station license under sections 312 and 316 of the Communications Act, or other like proceedings instituted by the Commission, the Commission shall open and close.

(b) At all hearings under Title II of the Communications Act, other than hearings on formal complaints, petitions, or applications, the respondent shall open and close unless otherwise specified by the Commission.

(c) In all other cases, the Commission, or presiding officer, shall designate the order of presentation. Intervenors shall follow the party in whose behalf intervention is made, and in all cases where the intervention is not in support of an original party, the Commission, or presiding officer, shall designate at what stage such intervenors shall be heard.

(d) Immediately upon convening the formal hearing in any proceeding, the hearing examiner shall enter upon the record a statement reciting all actions taken at the prehearing conferences, and incorporating into the record all of the stipulations and agreements of the

parties which are approved by him, and any special rules which he may deem necessary to govern the course of the proceeding.

§ 1.143 *Designation of presiding officer.* (a) Hearings will be conducted by one or more Commissioners or by an Examiner designated pursuant to section 11 of the Administrative Procedure Act: *Provided,* That in cases of adjudication, hearings will be conducted only by the Commission, or a Hearing Examiner. If a presiding officer becomes unavailable to the Commission prior to the taking of testimony, another presiding officer will be designated.

(b) Unless the Commission determines that due and timely execution of its functions requires otherwise, presiding officers shall be designated, and notice thereof released to the public, at least 10 days prior to the date set for hearing. In the event that a presiding officer deems himself disqualified and desires to withdraw from the case he shall notify the Commission of his withdrawal at least 7 days prior to the date set for hearing. Any party may request the presiding officer to withdraw on the grounds of personal bias or other disqualification. The person seeking disqualification shall file with the presiding officer an affidavit setting forth in detail the facts alleged to constitute grounds for disqualification, and the presiding officer may file a response thereto. Such affidavit shall be filed not later than 5 days before the commencement of the hearing, unless for good cause shown, additional time is necessary. If the presiding officer believes himself not disqualified, he shall so rule and proceed with the hearing. If the person seeking disqualification excepts to the ruling, he shall so state at the time the ruling is made, and the presiding officer shall certify the question, together with the affidavit and any response filed in connection therewith, to the Commission. The hearing shall be suspended pending a ruling on the question by the Commission. The Commission may rule on the question without hearing, or it may require testimony or argument on the issues raised. The affidavit, response, testimony, and decision thereon shall be part of the record in the case. Unless objection is made and specific exception is taken, the right to request withdrawal of the presiding officer shall be deemed waived.

§ 1.144 *Authority of presiding officers.* Presiding officers, with respect to cases assigned to them, from the date of their designations until the submission of their decisions or the transfer of the cases to the Commission or other presiding officers, shall have such authority as is vested in them by law and the provisions of this chapter, including authority to:

(a) Administer oaths and affirmations;

(b) Issue subpenas;

(c) Examine witnesses;

(d) Rule upon questions of evidence;

(e) Take or cause depositions to be taken;

(f) Regulate the course of the hearing, maintain decorum, and exclude from the hearing any person engaging in contemptuous conduct or otherwise disrupting the proceedings;

(g) Require the filing of memoranda of law and the presentation of oral argument with respect to any question of law upon which they are required to rule during the course of the hearing;

(h) Hold conferences for the settlement or simplification of the issues by consent of the parties;

(i) Dispose of procedural requests or similar matters, as provided for in section 0.231 of the Commission's Statement of Organization, Delegations of Authority, and Other Information;

(j) Take actions and make decisions or recommend decisions in conformity with the Administrative Procedure Act.

§ 1.145 [Reserved.]

§ 1.146 *Closing of the hearing.* The record of hearing shall be closed by an announcement to that effect at the hearing by the presiding officer when the taking of testimony has been concluded. In the discretion of the presiding officer, the record may be closed as of a future specified date in order to permit the admission into the record of exhibits to be prepared: *Provided,* The parties to the proceeding stipulate on the record that they waive the opportunity to cross-examine or present evidence with respect to such exhibits. The record in any hearing which has been adjourned may not be closed by such officer prior to the adjourned date except upon 10 days' notice to all parties to the proceeding.

§ 1.147 *Certification of transcript.* After the close of the hearing, the complete transcript of testimony, together with all exhibits, shall be certified as to identity by the presiding officer and filed in the office of the Secretary of the Commission. Notice of such certification shall be served on all parties to the proceedings.

§ 1.148 *Corrections to transcript.* Within 10 days after the date of notice of certification of the transcript, any party to the proceeding may file with the presiding officer a motion requesting the correction of the transcript, which motion shall be accompanied by proof of service thereof upon all other parties to the proceedings. Within 5 days after the filing of such a motion, other parties may file a pleading in support of or in opposition to such motion. Thereafter, the presiding officer shall, by order, specify the corrections to be made in the transcript, and a copy of the order shall be served upon all parties and made a part of the record. The presiding officer, on his initiative, may specify corrections to be made in the transcript on 5 days' notice.

§ 1.149 *Proposed findings and conclusions.* (a) Each party to the proceeding may file proposed findings of fact and conclusions, briefs, or memoranda of law: *Provided, however,* That the presiding officer may direct any party other than Commission counsel to file proposed findings of fact and conclusions, briefs, or memoranda of law. Such proposed findings of fact, conclusions, briefs, and memoranda of law shall be filed within 20 days after the record is closed, unless additional time is allowed.

(b) All pleadings and other papers filed pursuant to this section shall be accompanied by proof of service thereof upon all other counsel in the proceeding; if a party is not represented by counsel, proof of service upon such party shall be made.

(c) In the absence of a showing of good cause therefor, the failure to file proposed findings of fact, conclusions, briefs, or memoranda of law, when directed to do so, may be deemed a waiver of the right to participate further in the proceeding.

§ 1.150 *Contents of findings of fact and conclusions.* Proposed findings of fact shall be set forth in serially numbered paragraphs and shall set out in detail and with particularity all basic evidentiary facts developed on the record (with appropriate citations to the transcript of record or exhibit relied on for each evidentiary fact) supporting the conclusions proposed by the party filing same. Proposed conclusions shall be separately stated. Proposed findings of fact and conclusions submitted by a person other than an applicant may be limited to those issues in connection with the hearing which affect the interests of such person.

§ 1.151 *Initial and recommended decisions.* (a) Except as provided in paragraphs (b) and (c) of this section, the presiding officer shall prepare an initial (or recommended) decision which shall be transmitted to the Secretary of the Commission who shall make it public immediately and file it in the docket of the case.

(b) The Commission may direct the certification of the record in a pending proceeding to it for initial or final decision where:

(1) The Commission finds upon the record that due and timely execution of its functions, imperatively and unavoidably, require such certification, or

(2) The presiding officer becomes unavailable to the Commission after the taking of testimony has been concluded, in which event the record shall be certified to the Commission by the Chief Hearing Examiner.

(c) If the presiding officer becomes unavailable to the Commission after the taking of evidence has commenced but before it has been concluded, the Commission may:

(1) Order a rehearing before another presiding officer designated in accordance with § 1.143, or

(2) Upon a finding that due and timely execution of its functions imperatively and unavoidably so requires, order the hearing to be continued by another presiding officer (or by the Commission itself) designated in accordance with § 1.143: *Provided,* That the officer continuing the hearing shall not, without the expressed consent of all parties, prepare an initial decision but shall certify the record to the Commission for an initial or final decision with or without a rec-

ommended decision as provided in paragraph (d) of this section.

(d) When the Commission has directed that the record be certified to it for initial or final decision, the presiding officer will first prepare and file a recommended decision to be released with the Commission's initial or final decision except where he becomes unavailable to the Commission or the Commission finds upon the record that due and timely execution of its functions imperatively and unavoidably requires that no recommended decision be issued by the presiding officer.

(e) Each initial and recommended decision shall contain findings of fact and conclusions, as well as the reasons or basis therefor, upon all the material issues of fact, law, or discretion presented on the record; each initial decision shall also contain the appropriate rule or order, and the sanction, relief or denial thereof; and each recommended decision shall contain recommendations as to what disposition of the case should be made by the Commission. Each initial decision will show the date upon which it will become effective in accordance with the rules in this part in the absence of exceptions, appeal, or review.

(f) The authority of the presiding officer over the proceedings shall cease when he has filed his initial or recommended decision, or, if it is a case in which he is to file no decision, when he has certified the case to the Commission for decision after specifying corrections to the transcript in accordance with § 1.148.

§ 1.152 *Waiver of initial or recommended decision.* At the conclusion of the hearing or within 20 days thereafter, all parties to the proceeding may agree to waive an initial or recommended decision, and may request that the Commission issue a final decision or order in the case. The Commission may, in its discretion, grant the request, in whole or in part, if such action will best conduce to the proper dispatch of business and to the ends of justice.

§ 1.153 *Appeal and review of initial decision.* (a) Within 30 days after the date on which public release of the full text of an initial decision is made, or such other time as the Commission may specify, any of the parties may appeal to the Commission by filing exceptions to the initial decision; and such decision shall not become effective and shall then be reviewed by the Commission, whether or not such exceptions may thereafter be withdrawn. The time for filing such exceptions may be extended for good cause shown.

(b) The Commission may on its own initiative provide, by order adopted not later than 20 days after the time for filing exceptions expires, that an initial decision shall not become final, and that it shall be further reviewed or considered by the Commission.

(c) In any case in which an initial decision is subject to review in accordance with paragraph (a) or (b) of this section, the Commission may, on its own initiative or upon appropriate requests by a party, take any one or more of the following actions:

(1) Hear oral argument on the exceptions;

(2) Require the filing of briefs;

(3) Prior to or after oral argument or the filing of exceptions or briefs, reopen the record and/or remand the proceedings to the presiding officer to take further testimony or evidence;

(4) Prior to or after oral argument or the filing of exceptions or briefs, remand the proceedings to the presiding officer to make further findings or conclusions; and

(5) Prior to or after oral argument or the filing of exceptions or briefs, issue, or cause to be issued by the presiding officer, a supplemental initial decision.

(d) No initial decision shall become effective before 50 days after public release of the full text thereof is made unless otherwise ordered by the Commission. The timely filing of exceptions, the further review or consideration of an initial decision on the Commission's initiative, or the taking of action by the Commission under paragraph (c) of this section shall stay the effectiveness of the initial decision until the Commission's review thereof has been completed. If the effective date of an initial decision falls within any further time allowed for the filing of exceptions, it shall be postponed automatically until 30 days after time for filing exceptions has expired.

(e) If no exceptions are filed, and the Commission has not ordered the review of an initial decision on its initiative, or has not taken action under paragraph (c) of this section, the initial decision shall become effective, an appropriate notation to that effect shall be entered in the docket of the case, and a "Public Notice" thereof shall be given by the Commission. The provisions of § 1.16 shall not be applicable with respect to this paragraph.

(f) When any party fails to file exceptions within the specified time to an initial decision which proposes to deny its application, such party shall be deemed to have no interest in further prosecution of its application, and its application may be dismissed with prejudice for failure to prosecute.

§ 1.154 *Exceptions; oral arguments.* (a) Each exception to an initial decision or to any part of the record or proceeding in any case, including rulings upon motions or objections, shall point out with particularity alleged errors in the decision or ruling and shall contain specific references to the page or pages of the transcript of hearing, exhibit, or order if any on which the exception is based. Any objection not saved by exception filed pursuant to this section is waived. The exceptions should be concise and they will not be accepted if they contain argumentative matters or discussions of law. Lengthy excerpts of testimony, when desired, shall not be contained in the exceptions but shall be set forth in an appendix.

(b) Within the period of time allowed in § 1.153 (a) for the filing of exceptions any party may file a statement in support of an initial decision in whole or in part, which shall be similar in form to a statement of exceptions.

(c) Exceptions or supporting statements may be accompanied by a separate brief or memorandum of law in support thereof. Except by special permission, such brief or memorandum of law will not be accepted if it exceeds 50 double spaced typewritten pages in length. Within 10 days, or such other time as the Commission may specify, after the time for filing exceptions has expired, any other party may file a reply brief to which the same limitation of length applies. If exceptions have been filed, any party may request oral argument not later than five days after the time for filing replies to the exceptions has expired; if no request for oral argument is filed within the time allowed, the parties will be deemed to have waived oral argument. In cases of adjudication the Commission will, by order, grant any party's request for oral argument; in any case of rule making or any case where an initial decision is omitted (see § 1.151 (b)), the Commission in its discretion shall, by order, grant or deny oral argument. Within 5 days after release of the Commission's order designating an initial decision for oral argument, as provided in paragraph (d) of this section, any party who wishes to participate in the oral argument shall file written notice of intention to appear and participate in oral argument; and failure to file written notice shall constitute a waiver of the opportunity to participate.

(d) Each order scheduling a case for oral argument will contain the allotment of time for each party for oral argument before the Commission. The Commission will grant, in its discretion, upon good cause shown, an extension of such time upon petition by a party, which petition must be filed within 5 days after issuance of said order for oral argument.

(e) Within 10 days after a transcript of oral argument has been filed in the office of the Secretary of the Commission, any party who participated in the oral argument may file with the Commission a motion requesting correction of the transcript, which motion shall be accompanied by proof of service thereof upon all other parties who participated in the oral argument. Within 5 days after the filing of such a motion, other parties may file a pleading in support of or in opposition to such motion. Thereafter, the Commissioner who presided at the oral argument shall, by order, specify the corrections to be made in the transcript, and a copy of the order shall be served upon all parties to the proceeding. The Commissioner who presided at the oral argument may, on his own initiative, by order, specify corrections to be made in the transcript on 5 days' notice of the proposed corrections to all parties who participated in the oral argument.

§ 1.155 *Limitation of matters to be reviewed.* Upon review of any initial decision, the Commission may, in its discretion, limit the issues to be reviewed to those findings and conclusions to which exceptions have been filed, or to those findings and conclusions specified

in the Commission's order of review issued pursuant to § 1.153 (b).

§ 1.156 *Number of copies of proposed findings of fact, etc.* An original and fourteen copies of proposed findings of fact and conclusions, exceptions, supporting statements, or briefs shall be filed.

§ 1.157 *Final decision of the Commission.* (a) After opportunity has been afforded for the filing of proposed findings of fact and conclusions, exceptions, supporting statements, briefs, and for the holding of oral argument as provided in this subpart, the Commission will issue a final decision in each case in which an initial decision has not become final.

(b) The final decision shall contain:

(1) Findings of fact and conclusions, as well as the reasons or basis therefor, upon all the material issues of fact, law or discretion presented on the record;

(2) Ruling on each relevant and material exception filed; and

(3) The appropriate rule or order and the sanction, relief or denial thereof.

§ 1.158 *The record.* The transcript of testimony and exhibits, together with all papers and requests filed in the proceeding, shall constitute the exclusive record for decision. Where any decision rests on official notice of a material fact not appearing in the evidence in the record, any party shall on timely request be afforded an opportunity to show the contrary.

EVIDENCE

§ 1.171 *Rules of evidence.* Except as otherwise provided in this subpart, the rules of evidence governing civil proceedings in matters not involving trial by jury in the courts of the United States shall govern formal hearings. Such rules may be relaxed if the ends of justice will be better served by so doing.

§ 1.172 *Cumulative evidence.* The introduction of cumulative evidence shall be avoided, and the number of witnesses that may be heard in behalf of a party on any issue may be limited.

§ 1.173 *Further evidence during hearing.* At any stage of a hearing, the presiding officer may call for further evidence upon any issue and may require such evidence to be submitted by any party to the proceeding.

§ 1.174 *Documents containing matter not material.* If material and relevant matter offered in evidence is embraced in a document containing other matter not material or relevant, and not intended to be put in evidence, such document will not be received, but the party offering the same shall present to other counsel, and to the presiding officer, the original document, together with true copies of such material and relevant matter taken therefrom, as it is desired to introduce. Upon presentation of such matter, material and relevant, in proper form, it may be received in evidence, and become a part of the record. Other counsel will be afforded an opportunity to introduce in evidence, in like manner, other portions of such document if found to be material and relevant.

§ 1.175 *Documents in foreign language.* Every document, exhibit, or other paper written in a language other than English, which shall be filed in any proceeding, or in response to any order, shall be filed in the language in which it is written together with an English translation thereof duly verified under oath to be a true translation. Each copy of every such document, exhibit, or other paper filed shall be accompanied by a separate copy of the translation.

§ 1.176 *Copies of exhibits.* No document or exhibit, or part thereof, shall be received as, or admitted in, evidence unless offered in duplicate. In addition, when exhibits of a documentary character are to be offered in evidence, copies shall be furnished to other counsel unless the presiding officer otherwise directs.

§ 1.177 *Mechanical reproductions as evidence.* Unless offered for the sole purpose of attempting to prove or demonstrate sound effect, mechanical or physical reproductions of sound waves shall not be admitted in evidence. Any party desiring to offer any matter alleged to be contained therein or thereupon shall have such matter typewritten on paper of the size prescribed by § 1.52, and the same shall be identified and offered in duplicate in the same manner as other exhibits.

§ 1.178 *Tariffs as evidence.* In case any matter contained in a tariff schedule on file with the Commission is offered in evidence, such tariff schedule need not be produced or marked for identification, but the matter so offered shall be specified with particularity (tariff and page number) in such manner as to be readily identified, and may be received in evidence by reference subject to check with the original tariff schedules on file.

§ 1.179 *Proof of official record; authentication of copy.* An official record, or entry therein when admissible for any purpose, may be evidenced by an official publication thereof or by a copy attested by the officer having legal custody of the record, or by his deputy, and accompanied with a certificate that such officer has the custody. If the office in which the record is kept is within the United States or within a territory or insular possession subject to the dominion of the United States, the certificate may be made by the judge of a court of record of the district or political subdivision in which the record is kept, authenticated by the seal of the court, or may be made by any public officer having a seal of office having official duties in the district or political subdivision in which the record is kept, authenticated by the seal of his office. If the office in which the record is kept is in a foreign state or country, the certificate may be made by a secretary of embassy or legation, consul general, consul, vice consul, or consular agent, or by any officer in the foreign service of the United States stationed in the foreign state or country in which the record is kept, and authenticated by the seal of his office.

§ 1.180 *Proof of lack of record.* The absence of an official record or entry of a specified tenor in an official record may be evidenced by a written statement signed by an officer, or by his deputy, who would have custody of the official record, if it existed, that after diligent search no record or entry of a specified tenor is found to exist in the records of his office, accompanied by a certificate as provided in § 1.179. Such statement and certificate are admissible as evidence that the records of his office contain no such record or entry.

§ 1.181 *Other proof of official record.* Sections 1.179 and 1.180 do not prevent the proof of official records or of entry or lack of entry therein by any method authorized by any applicable statute or by the rules of evidence at common law.

REHEARINGS, RECONSIDERATION, AND PROTESTS

§ 1.191 *Petitions for reconsideration and rehearing.* (a) When a decision, order, or requirement has been made by the Commission in any proceeding, except where a protest filed under § 1.193 (c) through (h) has been denied, any party thereto, or any other person aggrieved or whose interests are adversely affected thereby, may petition for reconsideration or rehearing.

(b) Any person not a party to the proceeding desiring to file a petition for reconsideration or for rehearing shall state with particularity his interests in the proceeding and show good reason why it was not possible for him to participate in the proceeding.

(c) Petitions for reconsideration or rehearing and any supplement thereto must be filed within 30 days from the date of release of the document containing the full text of such action, or in case such a document is not released, after release of a "Public Notice" announcing the action in question. No supplement or addition to a petition for reconsideration or rehearing which has not been acted upon by the Commission, filed after expiration of the 30 day period, will be considered except upon leave granted by the Commission upon a separate pleading for leave to file, which shall state the grounds therefor, including a showing that new and material circumstances have occurred or that the matters advanced were not previously available to the petitioner through the exercise of due diligence. Any decision, order, or requirement made after rehearing, reversing, changing, or modifying the original order shall be subject to the same provisions with respect to rehearing as an original order.

(d) Petitions for reconsideration or rehearing filed under this section may request (1) reconsideration; (2) reargument; (3) reopening of the proceeding; (4) amendment of any finding; or (5) such other relief as may be appropriate. Such petition shall state specifically the form of relief sought and, subject to this requirement, may contain alternative requests. Each such petition shall state with particularity in what respect the decision, order, or requirement or any matter determined therein is claimed to be unjust, unwarranted, or erroneous, and, with respect to any finding of fact,

must specify the pages of record relied on.

(e) No evidence other than newly discovered evidence, evidence which has become available only since the original taking of evidence, or evidence which the Commission believes should have been taken in the original proceeding will be taken at any rehearing.

(f) Where a petition for reconsideration or for rehearing is based upon a claim of electrical interference, under appropriate rules in this chapter, to an existing station or a station for which a construction permit is outstanding, such petition must be accompanied by an affidavit of a qualified radio engineer which shall show, either by following the procedures set forth in this chapter for determining interference in the absence of measurements or by actual measurements made in accordance with the methods prescribed by this chapter, that electrical interference will be caused to the station within its normally protected contour.

(g) Without special order of the Commission, the filing of a petition for reconsideration or rehearing shall not excuse any person from complying with or obeying any decision, order, or requirement of the Commission, or operate in any manner to stay or postpone the enforcement thereof. However, upon good cause shown the Commission will stay the effectiveness of its order or requirement pending a decision on the petition for reconsideration or rehearing.

§ 1.192 *Petition for reconsideration and grant without hearing.* Where the Commission has designated an application for hearing, the applicant may file a petition requesting reconsideration and grant of the application without hearing.

§ 1.193 *Protests of grants without hearing.* (a) Where any instrument of authorization for a radio station, other than a license pursuant to a construction permit, has been granted without a hearing, any party in interest may file a protest directed to such grant and request a hearing on the application granted. Such protest shall be signed by the protestant and subscribed to under oath, in accordance with § 1.303. Such protest must be filed with the Commission within 30 days after release of the document containing the full text of such action, or in case such a document is not released, after release of a "Public Notice" announcing the action in question and must separately set forth:

(1) Such allegations of fact as will show the protestant to be a party in interest, i. e., a person aggrieved or whose interests are adversely affected by the Commission's authorization, protest of which is sought. Each such allegation of fact shall be separately stated.

(2) Facts indicating the reasons why the grant was improperly made or would otherwise not be in the public interest. Each such reason shall be separately stated and facts in support thereof shall be specified in detail and shall not include general non-specific conclusory arguments and allegations.

(3) The specific issues upon which protestant wishes a hearing to be held, which issues must relate directly to a matter specified with particularity as part of subparagraph (2) of this paragraph.

(b) Arguments and citations of authority may be set forth in a brief accompanying the protest but must be excluded from the protest itself.

(c) Oppositions to protests and briefs in support thereof shall contain all material, including that pertinent to the determination referred to in paragraph (h) of this section, deemed appropriate to the Commission's resolution of the protest. Such oppositions and supporting briefs must be filed within 10 days after the filing of such protest, and any replies to such oppositions must be filed within 5 days after the filing of the oppositions.

(d) Protests, oppositions, and replies shall be filed with the Commission in original and 14 copies and shall be accompanied by proof of service upon the grantee or the protestant, as the case may be, and/or their respective attorneys.

(e) The Commission may upon consideration of a protest direct either the protestant or grantee or both to submit further statements of fact under oath relating to the matters raised in the protest.

(f) Within 30 days from the date of the filing of the protest, the Commission will enter findings as to whether such protest meets the requirements set forth in paragraphs (a) (1) and (2) of this section. If the Commission finds that one of these requirements is not met, it will dismiss the protest. If the Commission finds that these requirements are met, it will designate the application in question for hearing. As to issues which the Commission believes present no grounds for setting aside the grant, even if the facts alleged were to be proven, the Commission may designate such issues for oral argument only. The other issues will be designated for evidentiary hearing except that the Commission may redraft the issues in accordance with the facts or substantive matters alleged in the protest and may also specify such additional issues as it deems desirable. In any evidentiary hearing subsequently held upon issues specified by the Commission, upon its own initiative or adopted by it, both the burden of proceeding with the introduction of evidence and the burden of proof shall be upon the grantee. With respect to issues resulting from facts set forth in the protest and not adopted or specified by the Commission on its own motion, both the burden of proceeding with the introduction of evidence and the burden of proof shall be upon the protestant.

(g) The procedure in such protest hearing shall be governed by the provisions of §§ 1.102 to 1.181, except as otherwise provided in this section.

(h) Pending hearing and decision, the effective date of the Commission's action to which protest is made shall be postponed to the effective date of the Commission's decision after hearing, unless the authorization involved is necessary to the maintenance or conduct of an existing service or unless the Commission affirmatively finds that the public interest requires that the grant remain in effect, in which event the Commission shall authorize the applicant to utilize the facilities or authorization in question pending the Commission's decision after hearing.

## SUBPART C—RULE MAKING PRACTICE AND PROCEDURE

### Petitions and Related Pleadings

§ 1.201 [Reserved.]

§ 1.202 *Petitions for rule making.* (a) Any interested person may petition for the issuance, amendment or repeal of a rule or regulation.

(b) The petition for rule making shall conform to the requirements of §§ 1.52, 1.54 and 1.55 and should be submitted or addressed to the Secretary, Federal Communications Commission, Washington 25, D. C.

(c) The petition shall set forth the text or substance of the proposed rule, amendment, or rule to be repealed, together with all facts, views, arguments and data deemed to support the action requested, and shall indicate how the interests of petitioner will be affected.

§ 1.203 *Notice and availability.* All petitions for rule making meeting the requirements of § 1.202 will be given a file number, and promptly thereafter, a "Public Notice" will be given (by means of a Commission release entitled "Petitions for Rule Making Filed") as to the petitioner, file number, nature of the proposal and date of filing. Petitions are available for public inspection at the Commission's Docket Reference Room in Washington, D. C.

§ 1.204 *Responses to petitions and replies.* (a) Any interested person may file a statement in support of or in opposition to a petition for rule making prior to Commission action on the petition but not later than 30 days after "Public Notice", as provided for in § 1.203, is given of the filing of such a petition. Such a statement shall be accompanied by proof of service upon the petitioner on or prior to the date of filing in conformity with § 1.56 and shall conform in other aspects with the requirements of §§ 1.52, 1.54 and 1.55.

(b) Any interested person may file a reply to statements in support of or in opposition to a petition for rule making prior to Commission action on the petition but not later than 15 days after the filing of such a statement. Such a reply shall be accompanied by proof of service upon the party or parties filing the statement or statements to which the reply is directed on or prior to the date of filing in conformity with § 1.56 and shall conform in other aspects with the requirements of §§ 1.52, 1.54 and 1.55.

(c) No additional pleadings may be filed unless specifically requested by the Commission or authorized by it.

§ 1.205 *Action on petitions.* If the Commission determines that the petition discloses sufficient reasons in support of the action requested to justify the institution of a rule making proceeding, and

notice and public procedure thereon are required or deemed desirable by the Commission, an appropriate notice of proposed rule making will be issued. In those cases where notice and public procedure thereon are not required, the Commission may issue a final order amending the rules. In all other cases the petition for rule making will be denied and the petitioner will be notified of the Commission's action with the grounds therefor.

RULE MAKING PROCEEDINGS

§ 1.211 *Notice of proposed rule making.* (a) When pursuant to a petition therefor, or upon its own motion, the Commission proposes to issue, amend or repeal a substantive rule, a notice of proposed rule making will be published in the FEDERAL REGISTER unless all persons subject thereto are named and either are personally served or otherwise have actual notice thereof in accordance with law. Except when notice is required by statute or when the Commission considers it desirable, a notice will not ordinarily be issued of the adoption, amendment or repeal of interpretative rules, general statements of policy, organization rules, procedures or practice; matters relating to military, naval or foreign affairs functions of the United States, Commission management or personnel, public property, loans, grants, benefits or contracts; or in any situation in which the Commission for good cause finds (and incorporates such finding in the rule issued) that notice and public procedure thereon are impracticable, unnecessary or contrary to the public interest.

(b) In addition to the notice provisions of paragraph (a) of this section, the Commission, before prescribing any requirements as to accounts, records, or memoranda to be kept by carriers, will notify the appropriate State agencies having jurisdiction over any carrier involved of the proposed requirements.

§ 1.212 *Content of notice.* A notice of the proposed issuance, amendment, or repeal of a rule will include:

(a) a statement of the time, nature and place of any public rule making proceeding to be held;

(b) reference to the authority under which the issuance, amendment or repeal of a rule is proposed;

(c) either the terms or substance of the proposed rule or a description of the subjects and issues involved;

(d) the docket number assigned to the proceeding; and

(e) a statement of the time for filing comments and replies thereto.

§ 1.213 *Comments and replies.* (a) After notice of proposed rule making is issued, the Commission will afford interested persons an opportunity to participate in the rule making proceeding through submission of written data, views, or arguments, with or without opportunity to present the same orally in any manner.

(b) A reasonable time will be provided for submission of comments in support of or in opposition to proposed rules, and the time provided will be specified in the notice of proposed rule making.

(c) A reasonable time will be provided for filing comments in reply to the original comments, and the time provided will be specified in the notice of proposed rule making.

(d) No additional comments may be filed unless specifically requested by the Commission or authorized by it.

§ 1.214 *Statutory requirement for hearing.* When rules are required by law to be made on the record after opportunity for a Commission hearing, the requirements of sections 7 and 8 of the Administrative Procedure Act and applicable provisions of Subparts A and B of this part will govern in place of §§ 1.213 and 1.215.

§ 1.215 *Form of comments and replies.* Comments and replies to comments filed in response to a notice of proposed rule making should conform to the requirements of §§ 1.52 and 1.54.

§ 1.216 *Further notice of rule making.* In any rule making proceeding where the Commission deems it warranted, a further notice of proposed rule making will be issued with opportunity for parties of record and other interested persons to submit comments in conformity with §§ 1.213 and 1.215.

§ 1.217 *Oral argument and other proceedings.* In any rule making proceeding where the Commission determines that an oral argument, hearing or any other type of proceeding is warranted, notice of the time, place and nature of such proceeding will be published in the FEDERAL REGISTER, and will be mailed to all parties to the proceeding.

§ 1.218 *Commission action.* The Commission will consider all relevant comments and material of record before taking final action in a rule making proceeding and will issue a decision incorporating its finding and a brief statement of the reasons therefor.

§ 1.219 *Effective date of rules.* (a) Any rule issued by the Commission will be made effective not less than 30 days from the time it is published in the FEDERAL REGISTER except as otherwise specified in paragraphs (b) and (c) of this section.

(b) For good cause found and published with the rule, any rule issued by the Commission may be made effective within less than 30 days from the time it is published in the FEDERAL REGISTER. Rules involving any military, naval or foreign affairs function of the United States; matters relating to agency management or personnel, public property, loans, grants, benefits or contracts; rules granting or recognizing exemption or relieving restriction; or organization rules, procedure or practice, or interpretative rules and statements of policy may be made effective without regard to the 30 day requirement.

(c) In cases of alterations by the Commission in the required manner or form of keeping accounts by carriers, notice will be served upon affected carriers not less than 6 months prior to the effective date of such alterations.

SUBPART D—BROADCAST APPLICATIONS AND PROCEEDINGS

§ 1.300 *Scope.* This subpart is applicable to all broadcast services listed in Parts 3 and 4 of this chapter. For additional information relative to applications, see the respective rules relating to each service.

GENERAL REQUIREMENTS AS TO APPLICATIONS

§ 1.301 *Applications required.* (a) Except as provided in paragraph (b) of this section, construction permits as defined in section 3 (dd) of the Communications Act of 1934, as amended; station licenses as defined in section 3 (bb) of the Communications Act; modifications of construction permits or licenses; renewals of licenses; transfers, assignments of construction permits or station licenses, or any rights thereunder, shall be granted only upon written and subscribed application. A separate application shall be filed for each instrument of authorization requested, except as may otherwise be provided in this part.

(b) In cases of (1) emergency found by the Commission involving danger to life or property or due to damage to equipment, or (2) during a national emergency proclaimed by the President or declared by the Congress and during the continuance of any war in which the United States is engaged, and when such action is necessary for the national defense or security or otherwise in furtherance of the war effort, the Commission may grant construction permits and station licenses, or modifications or renewals thereof, without the filing of a formal application, but no authorization so granted shall continue in effect beyond the period of the emergency or war requiring it.

(c) Each individual request submitted under the provisions of paragraph (b) of this section shall contain, as a minimum requirement, the following information:

(1) Name and address of applicant;

(2) Location of proposed installation or operation;

(3) Official call letters of any valid station authorization already held by applicant and the station location;

(4) Type of service desired (not required for renewal, nor for modification unless class of station is to be modified);

(5) Frequency assignment, authorized transmitter power(s), and authorized class(es) of emission desired (not required for renewal; required for modification only to the extent such information may be involved);

(6) Equipment to be used, specifying the manufacturer and type or model number (not required for renewal; required for modification only to the extent such information may be involved);

(7) Statements to the extent necessary for the Commission to determine whether or not the granting of the desired authorization will be in accordance with the citizenship eligibility requirements of section 310 of the Communications Act; and

(8) Statement of facts which, in the opinion of the applicant, constitute an emergency to be found by the Commis-

sion for the purpose of this section including estimated duration of emergency or which, if during an emergency or war declared by the President or Congress, necessitate such action without formal application for the national defense or security or in furtherance of the war efforts.

§ 1.302 *Filing of applications.* All applications for authorizations set forth in § 1.301 must be filed in the Office of the Secretary, Federal Communications Commission, Washington 25, D. C. The number of copies required for each application is set forth in the FCC Form which is to be used in filing such application.

§ 1.303 *Subscription and verification of applications.* (a) Each application, or amendment thereto and each written statement of fact required by the Commission from any applicant or licensee to enable the Commission to determine whether the original application should be granted or denied or a license revoked shall, except in the cases enumerated in § 1.301 (b), be personally signed under oath or affirmation by the applicant, if an individual; a partner of the applicant, if a partnership; or an officer of the applicant, if a corporation or association: *Provided, however,* That subscription and verification may be made by the attorney for the party in case of physical disability of the party or absence from the continental United States.

(b) Where more than one copy of an application is required to be filed with the Commission, only the original need be signed and verified; the copies may be conformed.

§ 1.304 *Contents of applications.* (a) Each application shall include all information called for by the particular form on which the application is required to be filed unless the information called for is inapplicable in which case this fact shall be indicated.

(b) The Commission may require an applicant to submit such documents and written statements of fact, under oath, as in its judgment may be necessary. The Commission may also, upon its own motion or upon motion of any party to a proceeding, order the applicant to amend his application so as to make the same more definite and certain.

§ 1.305 *Specification of facilities.* (a) An application for facilities in the standard, FM, or television broadcast services shall be limited to one frequency, or channel assignment, and no application will be accepted for filing if it requests alternate frequency or channel assignments.

(b) An application for facilities in the experimental and auxiliary broadcast services may request the assignment of more than one frequency if consistent with applicable rules in Part 4 of this chapter. Such applications must specify the frequency or frequencies requested and may not request alternate frequencies.

(c) An application for construction permit for a new broadcast station, the facilities for which are specified in an outstanding construction permit, will not be accepted for filing.

(d) An application for facilities in the international broadcast service may be filed without a request for specific frequency as the Commission will assign frequencies from time to time in accordance with §§ 3.702 and 3.711 of this chapter.

§ 1.306 *Acceptance of applications.* (a) Applications which are tendered for filing in Washington, D. C., are dated by the Office of the Secretary upon receipt and then forwarded to the Broadcast Bureau where an administrative examination is made to ascertain whether the applications are complete. Applications found to be complete or substantially complete are accepted for filing and are given a file number. In case of minor defects as to completeness, the applicant will be requested to supply the missing information. Applications which are not substantially complete will be returned to the applicant.

(b) Acceptance of an application for filing merely means that it has been the subject of a preliminary review by the Commission's administrative staff as to completeness. Such acceptance will not preclude the subsequent dismissal of the application if it is found to be patently not in accordance with the Commission's rules.

(c) At regular intervals the Commission will issue a "Public Notice" listing all applications and major amendments thereto which have been accepted for filing.

§ 1.307 *Defective applications.* (a) Applications which are determined to be patently not in accordance with the Commission's rules, regulations, or other requirements, unless accompanied by an appropriate request for waiver, will be considered defective and will not be accepted for filing or if inadvertently accepted for filing will be dismissed. Requests for waiver shall show the nature of the waiver or exception desired and shall set forth the reasons in support thereof.

(b) If an applicant is requested by the Commission to file any additional documents or information not included in the prescribed application form, a failure to comply with such request will be deemed to render the application defective and such application will be dismissed.

§ 1.308 *Inconsistent or conflicting applications.* While an application is pending and undecided, no subsequent inconsistent or conflicting application may be filed by the same applicant, his successor or assignee, or on behalf or for the benefit of the same applicant, his successor or assignee.

§ 1.309 *Repetitious applications.* (a) Where the Commission has denied an application for a new station or for any modification of services or facilities, or dismissed such application with prejudice, no like application involving service of the same kind to substantially the same area by substantially the same applicant, or his successor or assignee, or on behalf or for the benefit of the original parties in interest, may be filed within 12 months from the effective date of the Commission's action: *Provided, however,* That applicants whose applications have been denied in a comparative hearing for a particular FM or television facility allocated in the FM or television allocation table, may immediately reapply for another available FM or television channel.

(b) Where an appeal has been taken from the action of the Commission in denying a particular application, another application for the same class of broadcast station and for the same area, in whole or in part, filed by the same applicant, or his successor or assignee, or on behalf or for the benefit of the original parties in interest, will not be considered until final disposition of such appeal.

§ 1.310 *Multiple applications.* Where there is one application for new or additional facilities pending, no other application for new or additional facilities for a station of the same class to serve the same community, may be filed by the same applicant, or his successor or assignee, or on behalf or for the benefit of the original parties in interest. Multiple applications may not be filed simultaneously.

§ 1.311 *Amendments of applications.* (a) Any application may be amended as a matter of right prior to the adoption date of the order designating such application for hearing merely by filing the appropriate number of copies of the amendments in question duly executed in accordance with § 1.303.

(b) Requests to amend an application after it has been designated for hearing will be considered only upon written petition properly served upon the parties of record, and will be granted only for good cause shown. If the granting of such petition would permit a grant of the amended application or an application theretofore in conflict with the amended application, such petition must be accompanied by an affidavit as to whether or not consideration has been promised to or received by petitioner, directly or indirectly, in connection with the filing of such petition for amendment. If such consideration has been promised or received, the affidavit shall set forth in full detail all the relevant facts. The affidavit of consideration shall be executed by:

(1) The applicant, if an individual;

(2) A partner of applicant, if a partnership; or

(3) An officer of applicant having personal knowledge of the facts, if a corporation or association.

§ 1.312 *Dismissal of applications.* (a) Any application may, upon request of the applicant, be dismissed without prejudice as a matter of right prior to the designation of such application for hearing. An applicant's request for the return of an application that has been accepted for filing will be regarded as a request for dismissal.

(b) Failure to prosecute an application, or failure to respond to official correspondence or request for additional information, will be cause for dismissal. Such dismissal with be without prejudice

where an application has not yet been designated for hearing; such dismissal may be made with prejudice after an application has been designated for hearing.

(c) Requests to dismiss an application without prejudice after it has been designated for hearing will be considered only upon written petition properly served upon all parties of record and will be granted only for good cause shown. Such petition must be accompanied by an affidavit as to whether or not consideration has been promised to or received by petitioner, directly or indirectly, in connection with the filing of such petition for dismissal of the application. If consideration has been promised or received, the affidavit shall set forth in full detail all relevant facts. The affidavit of consideration shall be executed by the applicant, if an individual; a partner of applicant, if a partnership; or an officer of the applicant having personal knowledge of the facts, if a corporation or association.

§ 1.313 *Forfeiture of construction permit.* A construction permit shall be automatically forfeited if the station is not ready for operation within the time specified therein or within such further time as the Commission may have allowed for completion, and a notation of the forfeiture of any construction permit under this provision will be placed in the records of the Commission as of the expiration date.

§ 1.314 *Period of construction.* Each construction permit will specify a maximum of 60 days from the date of granting thereof as the time within which construction of the station shall begin and a maximum of 6 months thereafter as the time within which construction shall be completed and the station ready for operation, unless otherwise determined by the Commission upon proper showing in any particular case.

§ 1.315 *License, simultaneous modification and renewal.* When an application is granted by the Commission necessitating the issuance of a modified license less than 60 days prior to the expiration date of the license sought to be modified, and an application for renewal of said license is granted subsequent or prior thereto (but within 30 days of expiration of the present license), the modified license as well as the renewal license shall be issued to conform to the combined action of the Commission.

### Filing of Applications and Description of Application Forms

§ 1.321 *Formal and informal applications.* (a) "Formal application" means any request for authorization where an FCC Form for such request is prescribed. "Informal application" means all other requests for authorization. Informal applications may be in letter form, but all such applications should contain a caption clearly indicating the nature of the request submitted therein.

(b) An informal application requesting modification of an outstanding authorization must comply with the requirements as to signing under oath and affirmation specified in §§ 1.301 and 1.303.

§ 1.322 *Application forms for authority to construct a new station or make changes in an existing station.* (a) Applications for new facilities or modification of existing facilities shall be made on the following forms:

(1) FCC Form 301 "Application for Authority to Construct a New Broadcast Station or Make Changes in an Existing Broadcast Station."

(2) FCC Form 309 "Application for Authority to Construct or Make Changes in an Existing International, Experimental Television, Experimental Facsimile, or a Developmental Broadcast Station."

(3) FCC Form 313 "Application for Authorization in the Auxiliary Broadcast Services."

(4) FCC Form 318 "Request For Subsidiary Communications Authorizations." For use by existing FM broadcast licensees applying for permit to establish a SCA service, modification of SCA, renewal of SCA.

(5) FCC Form 340 "Application for Authority to Construct or Make Changes in a Noncommercial Educational FM Broadcast Station."

(6) [Reserved.]

(7) FCC Form 346 "Application for Authority to Construct or Make Changes in a Television Broadcast Translator Station."

(b) Applications for construction permit or modification thereof involving the installation of new transmitting apparatus should be filed at least 60 days prior to the contemplated construction.

§ 1.323 *Application for extension of construction permit or for construction permit to replace expired construction permit.* (a) Application for extension of time within which to construct a station shall be filed on FCC Form 701. The application shall be filed at least 30 days prior to the expiration date of the construction permit if the facts supporting such application for extension are known to the applicant in time to permit such filing. In other cases, an application will be accepted upon a showing satisfactory to the Commission of sufficient reasons for filing within less than 30 days prior to the expiration date. Such applications will be granted upon a specific and detailed showing that the failure to complete was due to causes not under the control of the grantee, or upon a specific and detailed showing of other matters sufficient to justify the extension.

(b) Application to replace an expired construction permit shall be made on FCC Form 321 "Application for Construction Permit to Replace Expired Permit." Such application must be filed within 30 days of the expiration date of the authorization sought to be replaced.

§ 1.324 *Application to operate by remote control.* Application by an existing licensee or permittee for a permit to operate a standard or FM broadcast station by remote control shall be made on FCC Form 301–A "Request for Modification—Broadcast Station Authorization (Remote Control)."

§ 1.325 *Application for license to cover construction permit.* (a) The application for station license shall be filed by permittee prior to service or program tests.

(b) The following application forms shall be used:

(1) FCC Form 302 "Application for New Broadcast Station License."

(2) FCC Form 310 "Application for an International, Experimental Television, Experimental Facsimile, or a Developmental Broadcast Station License."

(3) FCC Form 313 "Application for Authorization in the Auxiliary Broadcast Services."

(4) FCC Form 318 "Request for Subsidiary Communications Authorization."

(5) FCC Form 341 "Application for Noncommercial Educational FM Broadcast Station License."

(6) (Reserved.)

(7) FCC Form 347 "Application for Television Broadcast Translator Station License."

§ 1.326 *Application for license to use former main transmitter or antenna as an auxiliary.* The following application forms shall be used when no new construction is involved:

(a) FCC Form 302 "Application for Broadcast Station License."

(b) FCC Form 341 "Application for Noncommercial Educational FM Broadcast Station License."

§ 1.327 *Application for modification of license.* (a) An application for modification of license may be filed for:

(1) Change in name of licensee where no change in ownership or control is involved;

(2) Change station location involving no change in transmitter location;

(3) Change main studio location of a television station to or from a location outside the principal community;

(4) Change studio location of a standard or FM station to a location outside the city limits other than the associated transmitter site;

(5) Change of hours of operation of a standard broadcast station.

(b) The application forms set forth in § 1.322 shall be used.

§ 1.328 *Application for renewal of license.* (a) Unless otherwise directed by the Commission, an application for renewal of license shall be filed at least 90 days prior to the expiration date of the license sought to be renewed except that applications for renewal of license of an experimental or developmental broadcast station or a television broadcast translator station shall be filed at least 60 days prior to the expiration date of the license sought to be renewed.

(b) No application for renewal of license of any broadcast station will be considered unless there is on file with the Commission the information, if any, currently required by §§ 1.341 to 1.343, inclusive, for the particular class of station. The renewal application shall include a reference by date and file number to such information on file.

(c) Whenever the Commission regards an application for a renewal of license as essential to the proper conduct

of a hearing or investigation, and specifically directs that it be filed by a date certain, such application shall be filed within the time thus specified. If the licensee fails to file such application within the prescribed time, the hearing or investigation shall proceed as if such renewal application had been received.

(d) The following application forms shall be used:

(1) FCC Form 303 "Application for Renewal of Broadcast Station License."

(2) FCC Form 311 "Application for Renewal of an International, Experimental Television, Experimental Facsimile, or a Developmental Broadcast Station License." To be used for all applications for renewal of licenses of Experimental Television, Experimental Facsimile, and Developmental Broadcast stations.

(3) FCC Form 313 "Application for Authorization in the Auxiliary Broadcast Services." To be used for all applications for renewal of regular licenses of auxiliary broadcasting stations.

(4) FCC Form 318 "Request for Subsidiary Communications Authorizations."

(5) FCC Form 342 "Application for Renewal of Noncommercial Educational FM Broadcast Station License."

(6) (Reserved).

(7) FCC Form 348 "Application for Renewal of Television Broadcast Translator Station License."

§ 1.329 *Application for voluntary assignment or transfer of control.* (a) Application for consent to the assignment of construction permit or license, or for consent to the transfer of control of a corporation holding such a construction permit or license, shall be filed with the Commission on FCC Form 314 (Assignment of License), FCC Form 315 (Transfer of Control), or FCC Form 316 (Short Form). Such application should be filed with the Commission at least 45 days prior to the contemplated effective date of assignment or transfer of control.

(b) The following assignment or transfer applications may be filed on FCC Form 316.

(1) Assignment from an individual or individuals (including partnerships) to a corporation owned and controlled by such individuals or partnerships without any substantial change in their relative interests;

(2) Assignment from a corporation to its individual stockholders without effecting any substantial change in the disposition of their interests;

(3) Assignment or transfer by which certain stockholders retire and the interest transferred is not a controlling one;

(4) Corporate reorganization which involves no substantial change in the beneficial ownership of the corporation;

(5) Assignment or transfer from a corporation to a wholly owned subsidiary thereof or vice versa, or where there is an assignment from a corporation to a corporation owned or controlled by the assignor stockholders without substantial change in their interests; or

(6) Assignment of less than a controlling interest in a partnership.

§ 1.330 *Application for involuntary assignment of license or transfer of control.* (a) The Commission shall be notified in writing promptly of the death or legal disability of an individual permittee or licensee, a member of a partnership, or a person directly or indirectly in control of a corporation which is a permittee or licensee.

(b) Within 30 days after the occurrence of such death or legal disability, an application on FCC Form 316 shall be filed requesting consent to involuntary assignment of such permit or license or for involuntary transfer of control of such corporation to a person or entity legally qualified to succeed to the foregoing interests under the laws of the place having jurisdiction over the estate involved.

§ 1.331 *Application for temporary authorization.* (a) The specific circumstances in which temporary authority will be granted are set out in Parts 2, 3, and 4 of this chapter.

(b) Temporary authority may be granted to a licensee or permittee of a broadcast station to operate such station for a period not to exceed 90 days upon request therefor. Any such request should be filed with the Commission at least 10 days prior to the date of the proposed operation, and should be accompanied by a statement giving full particulars as to the purpose for which the request is made. Any temporary authority issued under this section may be cancelled by the Commission without further notice or hearing.

(c) No request by a standard broadcast station for temporary authority to extend its hours of operation beyond those authorized by its regular authorization will be accepted or granted by the Commission.

(d) An informal application may be used provided such application is signed by the applicant under oath or affirmation in accordance with the provisions of § 1.303.

(e) Request for temporary operation necessitated by equipment damage or failure may be made without regard to the procedural requirements of this section.

§ 1.332 *Application for renewal or modification of special service authorization.* (a) No special service authority will be issued after February 3, 1958: *Provided, however,* Consideration will be given to renewal or modification of a special service authorization outstanding on February 3, 1958 providing a satisfactory showing has been made in regard to the following, among others:

(1) That the requested operation may not be granted on a regular basis under the existing rules governing the operation of standard broadcast stations;

(2) That experimental operation is not involved as provided for by § 3.32 of this chapter; and

(3) That public interest, convenience, and necessity will be served by the authorization requested.

(b) Application for renewal or modification of special service authorization must be made by formal application on FCC Form 317 "Application for Standard Broadcast Station Special Service Authorization or Extension Thereof."

§ 1.333 *Application for standard broadcast station experimental operation.* Special experimental authorization may be issued, in accordance with § 3.32 of this chapter, to the licensee of a standard broadcast station in addition to the regular license. An informal application should be used in applying for such authorization.

§ 1.334 *Application concerning programs to be transmitted to foreign radio stations.* Application under section 325 (b) of the Communications Act for authority to locate, use, or maintain a radio broadcast studio in connection with a foreign radio station should be made on FCC Form 308 "Application for permit to locate, maintain, or use studio or apparatus for production of programs to be transmitted or delivered to foreign radio station": *Provided,* That licensees or permittees may file an informal application in those cases where the programs to be transmitted or delivered to a foreign radio station has been, is being, or will be broadcast in the United States by said licensee or permittee.

§ 1.335 *Application to determine operating power by direct measurement of antenna power.* Application to determine operating power of standard broadcast stations by direct measurement of antenna power shall be made on FCC Form 302 "Application for New Broadcast Station License."

§ 1.336 *Application for permission to use lesser grade operators.* (a) Application for temporary permission to operate standard and FM broadcast stations with licensed operators of a lesser grade than normally required by the Commission's rules shall be submitted to the Engineer in Charge of the radio district in which the station is located. Such permission will be granted for periods not to exceed 60 days if a proper showing is made, as set forth in this section, and may be renewed upon request only upon the making of an adequate similar showing. A request for extension of the permission previously granted may be granted upon a showing setting forth what continuing efforts have been made to obtain licensed operators of a grade normally required. The Engineer in Charge may terminate this permission in the absence of a satisfactory showing in the written report that adequate efforts have been made to obtain such operators, or for other good reason in the judgment of the Engineer in Charge.

(b) Such application or report is not required to be submitted on any numbered or prescribed form. However, the request or report shall be in writing, signed by the licensee, if the licensee is an individual; by a partner, if the licensee is a partnership; or by an officer of the corporation, if the licensee is a corporation.

(c) A specific request for permission to use operators of lesser grade than required by the Commission's rules shall include the following information:

(1) Call letters of the station;

(2) Name of licensee;

(3) The number of persons holding radiotelephone first class operator licenses that will be employed as full-time operators at the station (this does not include part-time employees and persons only available on call in case of emergencies);

(4) A showing that at least one first class operator will be employed full time at the station and will be available on call at all times in the event of equipment failure;

(5) A statement that the additional licensed radiotelephone first class operators required for maintaining the normal schedule of operation could not be obtained for employment at the station;

(6) In the event an operator of the required grade was rejected by the station, a statement should be submitted by the station showing the reason for the rejection; and

(7) A showing that all known sources of broadcast operators within a reasonable distance have been exhausted. Names and addresses of sources contacted and the date of such contact shall be stated.

(d) The chief operator holding a radiotelephone first class operator license at a station to which temporary permission has been granted shall mail to the Engineer in Charge of the area from whom permission is received, within 3 days after employment of a lesser grade operator, a written cerification setting forth the name and operator license number of the lesser grade operator employed and stating that the operator has the ability to perform the normal operation of the station.

§ 1.337 *Requests for extensions of authority to operate without certain indicating instruments.* Requests for extension of authority to operate without a frequency monitor, a modulation monitor, a plate ammeter or voltmeter, a base current meter or common point meter, or a transmission line meter for FM and television stations, should be made by informal application to the Engineer in Charge of the radio district in which the station is located. Such requests must contain information as to when and what steps were taken to repair or replace the defective instrument.

OTHER FORMS AND INFORMATION TO BE FILED WITH THE COMMISSION

§ 1.341 *Financial report.* Each licensee or permittee of a commercially operated standard, FM, television, or international broadcast station (as defined in Part 3 of this chapter) shall file with the Commission on or before April 1 of each year, on FCC Form 324, broadcast revenue and expense statements for the preceding calendar year together with a statement as to investment in tangible broadcast property as of December 31 of such calendar year.

§ 1.342 *Filing of contracts.* Each licensee or permittee of a standard, FM, television, or international broadcast station (as defined in Part 3 of this chapter), whether operating or intending to operate on a commercial or noncommercial basis, shall file with the Commission copies of the following contracts, instruments, and documents together with amendments, supplements, and cancellations, within 30 days of execution thereof. The substance of oral contracts shall be reported in writing.

(a) Contracts relating to network service: All network affiliation contracts, agreements, or understandings between a station and a national, regional, or other network shall be filed. Transcription agreements or contracts for the supplying of film for television stations which specify option time must be filed. This section does not require the filing of transcription agreements or contracts for the supplying of film for television stations which do not specify option time, nor contracts granting the right to broadcast music such as ASCAP, BMI, or SESAC agreements.

(b) Contracts relating to ownership or control: Contracts, instruments, or documents relating to the present or future ownership or control of the licensee or permittee or of the licensee's or permittee's stock, rights, or interests therein, or relating to changes in such ownership or control. This paragraph is limited to the following:

(1) Articles of partnership, association, and incorporation, and changes in such instruments;

(2) Bylaws, and any instruments effecting changes in such bylaws;

(3) Any agreement, document, or instruments affecting, directly or indirectly, the ownership or voting rights of the licensee's or permittee's stock (common or preferred, voting or non-voting stock), such as: (i) Agreements for transfer of stock; (ii) Instruments for the issuance of new stock; or (iii) Agreements for the acquisition of licensee's or permittee's stock by the issuing licensee or permittee corporation. Options to purchase stock, pledges, trust agreements, and other executory agreements are required to be filed;

(4) Proxies with respect to the licensee's or permittee's stock running for a period in excess of one year; and all proxies, whether or not running for a period of one year, given without full and detailed instructions binding the nominee to act in a specified manner. With respect to proxies given without full and detailed instructions, a statement showing the number of such proxies, by whom given and received, and the percentage of outstanding stock represented by each proxy shall be submitted by the licensee or permittee within 30 days after the stockholders' meeting in which the stock covered by such proxies has been voted; *Provided, however,* That when the licensee or permittee is a corporation having more than 50 stockholders, such complete information need be filed only with respect to proxies given by stockholders who are officers or directors, or who have 1 percent or more of the corporation's voting stock; in cases where the licensee or permittee is a corporation having more than 50 stockholders and the stockholders giving the proxies are neither officers or directors nor hold 1 percent or more of the corporation's stock, the only information required to be filed is the name of any person voting 1 percent or more of the stock by proxy, the number of shares voted by proxy by such person, and the total number of shares voted at the particular stockholders' meeting in which the shares were voted by proxy;

(5) Mortgage or loan agreements containing provisions restricting the licensee's or permittee's freedom of operation, such as those affecting voting rights, specifying or limiting the amount of dividends payable, the purchase of new equipment, the maintenance of current assets, etc.; or

(6) Any agreement reflecting a change in the officers, directors, or stockholders of a corporation, other than the licensee or permittee, having an interest, direct or indirect, in the licensee or permittee as specified by § 1.343.

(c) Contracts relating to the sale of broadcast time to "time brokers" for resale.

(d) Contracts relating to Subsidiary Communications Authorization Operation, except contracts granting licensees or permittees engaged in SCA the right to broadcast copyright music.

(e) Time sales contracts: Time sales contracts with the same sponsor for 4 or more hours per day, except where the length of the events (such as athletic contests, musical programs, and special events (broadcast pursuant to the contract is not under control of the station.

(f) Contracts relating to personnel:

(1) The following contracts, agreements, or understandings shall be filed: management consultant agreements with independent contractors; contracts relating to the utilization in a management capacity of any person other than an officer, director, or regular employee of the licensee or permittee station; management contracts with any persons, whether or not officers, directors, or regular employees which provide for both a percentage of profits and a sharing in losses; or any similar agreements.

(2) The following contracts, agreements, or understandings need not be filed: agreements with persons regularly employed as general or station managers or salesmen; contracts with program managers or program personnel; contracts with chief engineers or other engineering personnel; contracts with attorneys, accountants, or consulting radio engineers; contracts with performers; contracts with station representatives; contracts with labor unions; or any similar agreements.

§ 1.343 *Ownership reports.* (a) Each licensee of a standard, FM, or television station (as defined in Part 3 of this chapter), whether operating or intending to operate on a commercial or non-commercial basis, shall file an Ownership Report (FCC Form 323) at the time the application for renewal of station license is required to be filed: *Provided, however,* That licensees owning more than one standard, FM, or television broadcast station need file only one Ownership Report at three-year intervals. Ownership Reports shall give the following information as of a date not more than 30 days prior to the filing of the Ownership Report:

(1) In the case of an individual, the name of such individual;

(2) In the case of a partnership, the names of the partners and the interest of each partner;

NOTE: Any change in partners or in their rights will require prior consent of the Commission upon an application for consent to assignment of license or permit. If such change involves less than a controlling interest, the application for Commission consent to such change may be made upon FCC Form 316 (Short Form).

(3) In the case of a corporation, association, trust, estate, or receivership, the data applicable to each:

(i) The name, residence, citizenship, and stock-holdings of officers, directors, stockholders, trustees, executors, administrators, receivers, and members of any association;

(ii) Full information as to family relationship or business association between two or more officials and/or stockholders, trustees, executors, administrators, receivers, and members of any association;

(iii) Capitalization with a description of the classes and voting power of stock authorized by the corporate charter or other appropriate legal instrument and the number of shares of each class issued and outstanding; and

(iv) Full information on FCC Form 323 with respect to the interest and identity of any person having any direct, indirect, fiduciary, or beneficiary interest in the licensee or any of its stock;

For example:

(*a*) Where A is the beneficial owner or votes stock held by B, the same information should be furnished for A as is required for B.

(*b*) Where X corporation controls the licensee, or holds 25 percent or more of the number of issued and outstanding shares of either voting or non-voting stock of the licensee, the same information should be furnished with respect to X corporation (its capitalization, officers, directors, and stockholders and the amount of stock [by class] in X held by each) as is required in the case of the licensee, together with full information as to the identity and citizenship of the person authorized to vote licensee's stock, in case of voting stock.

(*c*) The same information should be furnished as to Y corporation if it controls X corporation or holds 25 percent or more of the number of issued and outstanding shares of either voting or non-voting stock of X, and as to Z corporation if it controls Y corporation or holds 25 percent or more of the number of issued and outstanding shares of either voting or non-voting stock of Y and so on back to natural persons.

(4) In the case of all licensees:

(i) A list of all contracts still in effect required to be filed with the Commission by § 1.342 showing the date of execution and expiration of each contract; and

(ii) Any interest which the licensee may have in any other broadcast station.

(b) A permittee shall file an Ownership Report (FCC Form 323) within 30 days of the date of grant by the Commission of an application for original construction permit. The Ownership Report of the permittee shall give the information required by the applicable portions of paragraph (a) of this section.

(c) A supplemental Ownership Report (FCC Form 323) shall be filed by each licensee or permittee within 30 days after any change occurs in the information required by the Ownership Report from that previously reported. Such report shall include without limitation:

(1) Any change in capitalization or organization;

(2) Any change in officers and directors;

(3) Any transaction affecting the ownership, direct or indirect, or voting rights of licensee's or permittee's stock, such as:

(i) A transfer of stock;

(ii) Issuance of new stock or disposition of treasury stock; or

(iii) Acquisition of licensee's or permittee's stock by the issuing corporation; or

(4) Any change in the officers, directors, or stockholders of a corporation other than the licensee or permittee such as X, Y, or Z corporation described in the example in paragraph (a) (3) of this section.

NOTE: Before any change is made in the organization, capitalization, officers, directors, or stockholders of a corporation other than licensee or permittee, which results in a change in the control of the licensee or permittee, prior Commission consent must be received under § 310 (b) of the Communications Act and § 1.329. A transfer of control takes place when an individual, or group in privity, gains or loses affirmative or negative (50 percent) control. See instructions on FCC Form 323 "Ownership Report".

(d) Exceptions: Where information is required under paragraphs (a), (b), or (c) of this section with respect to a corporation or association having more than 50 stockholders or members, such information need be filed only with respect to stockholders or members who are officers or directors of the corporation or association, or to other stockholders or members who have 1 percent or more of either the voting or non-voting stock of the corporation or voting rights in the association.

### THE MANNER IN WHICH APPLICATIONS ARE PROCESSED

§ 1.351 *Standard broadcast applications on which action will be withheld pending conclusion of the proceeding in Docket No. 8333.* Action will be withheld on the following types of applications:

(a) Applications proposing daytime or limited time assignments on any of the frequencies specified in § 3.25 (a) and (b) of this chapter.

(b) Applications by existing daytime or limited time stations presently assigned to any of the frequencies specified in § 3.25 (a) and (b) of this chapter, proposing:

(1) A change in operation resulting in an increase in radiation towards the normally protected contour of a United States Class I station on the channel; or

(2) A change in transmitter location resulting in a material reduction in the distance from that station to the normally protected contour of a United States Class I station on the channel.

(c) Applications for new stations, and those for changes in frequency assignment of existing stations, proposing unlimited time Class II assignments which would operate differently during the day and night in the continental United States on any of the frequencies specified in § 3.25 (b) of this chapter, or in Alaska, Hawaii, Virgin Islands, and Puerto Rico on any of the frequencies specified in § 3.25 (a) and (b) of this chapter.

(d) Applications for changes in existing stations, other than frequency, proposing unlimited time Class II facilities which would operate differently during the day and night in the continental United States on any of the frequencies specified in § 3.25 (b) of this chapter, or proposing unlimited Class II facilities in Alaska, Hawaii, Virgin Islands and Puerto Rico on any of the frequencies specified in § 3.25 (a) and (b) of this chapter, where the resulting daytime and nighttime operations are different; and it is either

(1) Proposed to change daytime operation resulting in any increase in radiation towards the normally protected contour of a United States Class I station on the channel; or

(2) It is proposed to change transmitter location resulting in a material reduction in the distance from that station to the normally protected contour of a United States Class I station on the channel.

§ 1.352 *Standard broadcast applications involving stations in other North American countries.* (a) The special procedural provisions set forth in paragraphs (b) through (e) of this section with respect to the consideration of applications for standard broadcast station assignments are adopted in order to take into account the policy set out in the note to § 3.28 (b) of this chapter. (That note has reference to consideration by the Commission of applications for standard broadcast station assignments pending action with respect to ratification and entry into force of provisions of (1) the North American Regional Broadcasting Agreement, Washington, 1950, referred to herein as NARBA, (2) the Agreement between the United States of America and the United Mexican States concerning Radio Broadcasting in the Standard Broadcast Band, Mexico, D. F. 1957, referred to herein as the U. S./Mexican Agreement, and (3) the existing relationship in the field of standard broadcasting between the United States and a North American country not signatory to either of these agreements, referred to herein as a nonsignatory country.) The procedure set forth in paragraphs (b) through (e) of this section is applicable to all applications before the Commission for standard broadcast station assignments except those already being held in a pending status in connection with Dockets Nos. 6741 and 8333.

(b) Whenever it appears with respect to an application not in hearing status that a grant thereof would be inconsistent with the NARBA or the U. S./Mexican Agreement, or that the operation proposed therein would cause objectionable interference to a station in a nonsignatory country, such application shall be placed in the pending file and, except as provided in this section, shall not receive further consideration or action

pending modification of the policy set forth in the note to § 3.28 (b) of this chapter. Where it appears that any such application is mutually exclusive with an application or applications, the grant of which would not be inconsistent with these agreements and would not result in objectionable interference to any station in a non-signatory country, such application will be designated for hearing in consolidation with the application or applications with which it is in conflict. In such cases, the question of consistency with the NARBA or the U. S./Mexican Agreement or objectionable interference to stations in a non-signatory country shall be made a matter of issue in the hearing.

(c) (1) Whenever it appears, with respect to any application which has been designated for hearing by itself or with other applications in any consolidated proceeding, that a grant of the application or each and every one of the applications involved would be inconsistent with the NARBA or the U. S./Mexican Agreement or would result in objectionable interference to a station in a non-signatory country, and where the hearing involved has not been commenced, such application or applications will be removed from the hearing docket and placed in the pending file. Where the hearing involved has commenced, such application or applications will be placed in the pending file, but will not be removed from the hearing docket. Such action shall be by order and may be taken by the Commission.

(2) Whenever it appears with respect to one or more, but not all, of the applications in any consolidated proceeding that a grant of such application or applications would be inconsistent with the NARBA or the U. S./Mexican Agreement or would result in objectionable interference with stations in a non-signatory country, and where consistency with the agreements or interference to stations in a non-signatory country is not already a matter at issue in the proceeding, the notice of hearing will be amended to include an appropriate issue, and if the record has been closed it will be reopened for the purpose of taking testimony with respect to such issue. Such action will be taken by the Commission upon its own motion, or upon motion of any party to the proceeding or the Chief of the Broadcast Bureau.

(3) In any proceeding in which, after the hearing has commenced, it becomes necessary to place the applications involved in the pending file or to add, with respect to any application or applications, an issue concerning consistency with the NARBA or the U. S./Mexican Agreement or interference to stations in a non-signatory country, the applicants concerned will, not withstanding the status of proceeding and the provisions of § 1.311 (b), be afforded a reasonable opportunity to amend for the purpose of achieving consistency with these agreements and eliminating interference to a non-signatory country.

(4) In any proceeding in which there is an issue concerning consistency with the NARBA or the U. S./Mexican Agreement or interference to stations in a non-signatory country, the presiding officer will include in his decision a finding on this issue. However, neither the presiding officer nor the Commission will take this factor into account in arriving at a determination whether the grant of any application in the proceeding would serve the public interest. The presiding officer and the Commission will adhere to the policy outlined below in taking final or intermediate action upon the applications involved in such proceedings.

(i) Applications will be granted where such action would not be inconsistent with the NARBA or the U. S./Mexican Agreement, would not result in interference to a station in a non-signatory country, and would otherwise be in the public interest.

(ii) Applications will be denied (*a*) which are mutually exclusive with an application granted in accordance with subdivision (i) of this subparagraph and (*b*) where a denial is required for reasons independent of the question whether grant of application would be consistent with the NARBA or the U. S./Mexican Agreement or would result in objectionable interference to a station in a non-signatory country.

(iii) Applications will be placed in the pending file without removal from the hearing docket (*a*) where a grant would be inconsistent with the NARBA or the U. S./Mexican Agreement or would result in interference to a station in a non-signatory country but would otherwise be in the public interest; and (*b*) where a denial would be based upon comparative consideration with an application placed in the pending file in accordance with the immediately preceding subdivision (iii) (*a*).

(d) Whenever any application is placed in the pending file pursuant to paragraphs (b) or (c) of this section, the applicant concerned will be notified of the Commission's action in the matter. Any interested applicant who believes that an application has been erroneously placed in the pending file may petition the Commission for a review of its action. Petitions requesting that an application be placed in the pending file will also be entertained. All petitions filed pursuant to this paragraph must be filed in quintuplicate and be accompanied by an affidavit of a qualified radio engineer setting forth the engineering basis for the petition. Upon receipt of a petition filed in accordance with this paragraph, the Commission will review the action to which the petition is directed and provide opportunity for the submission by interested parties of any further data that may be required for full consideration of the matter.

(e) As a matter of general practice, except as provided in the procedure set forth in paragraphs (b) through (d) of this section, applications consistent with the NARBA and the U. S./Mexican Agreement which do not propose operations which would cause interference to stations in a non-signatory country will be considered and acted upon by the Commission in accordance with its established procedure, even though the NARBA or the U. S./Mexican Agreement may not yet have entered into force. In particular cases involving applications consistent with both agreements but in which special considerations of an international nature require that a different procedure be followed, the applicant or applicants involved will be formally advised to that effect.

§ 1.353 *Staff consideration of applications which receive action by the Commission.* Upon acceptance of an application, the complete file is reviewed by the staff and a report containing the recommendations and any other documents required is prepared and placed on the Commission's agenda.

§ 1.354 *Processing of standard broadcast applications.* (a) Applications for standard broadcast facilities are divided into two groups.

(1) In the first group are applications for new stations or for major changes in the facilities of authorized stations, such as changes in frequency, power, hours of operation, station location, or substantial change in directional antenna system. The applications in the first group are acted on by the Commission.

(2) The second group of applications consists of those which involve relatively minor changes in the facilities of authorized stations. The types of applications in the second group are listed in section 0.241 of the Statement of Organization, Delegations of Authority and Other Information and are acted upon by the Chief of the Broadcast Bureau under delegated authority.

(b) The Commission will not act on applications in paragraph (a) (1) of this section until 30 days after the date on which "Public Notice" is given by the Commission of acceptance for filing of such application. If an amendment to such application is filed requesting a major change as defined in paragraph (a) (1) of this section, the Commission will take no action until 30 days have elapsed since the date on which "Public Notice" is given of the acceptance for filing of such amendment. Where a later filed application or major amendment thereto is in conflict with another application, the 30-day limitation shall be applicable only to the earlier of the conflicting proposals.

(c) Applications for new stations or for major changes in the facilities of authorized stations are processed as nearly as possible in the order in which they are filed. Such applications will be placed in the processing line in numerical sequence, and are drawn by the staff for study, the lowest file number first. Thus, the file number determines the order in which the staff's work is begun on a particular application. There is one exception thereto; the Broadcast Bureau is authorized to group together for processing applications which involve interference conflicts where it appears that the applications must be designated for hearing in a consolidated proceeding.

(d) Applications which are acted upon under delegated authority are not placed on the processing line but are processed as nearly as possible in the order in which they are filed.

(e) Applications for modification of license to change hours of operation of a

class IV station, to decrease hours of operation of any other class of station, or to change station location involving no change in transmitter site will be considered without reference to the processing line.

(f) If, upon examination, the Commission finds that the public interest, convenience, and necessity will be served by the granting of an application, the same will be granted. If, on the other hand, the Commission is unable to make such a finding and it appears that a hearing may be required, the procedure set forth in § 1.362 will be followed.

(g) When an application which has been designated for hearing has been removed from the hearing docket, the application will be returned to its proper position (as determined by the file number) in the processing line. Petitions for amendment, removal from the hearing docket, and grant will not be entertained insofar as they request a grant. The Examiner, or Chief Hearing Examiner in acting on such petitions, will dismiss the request for a grant.

(h) An application will continue to be carried under the same file number unless a major amendment is made which involves the substitution of a different application. (Examples: Change in station location so that essentially a new service area is involved; substitution of new parties in the application so that the original applicant no longer holds a majority control.)

(i) When an application is reached for processing, and it is necessary to address a letter to the applicant asking further information, the application will not be processed until the information requested is received, and the application will be placed in the pending file to await the applicant's response.

(j) When an application is placed in the pending file, the applicant will be notified of the reason for such action.

§ 1.355 *Processing of television broadcast applications.* (a) Applications for television broadcast facilities are divided into two groups.

(1) In the first group are applications for new stations or for major changes in the facilities of authorized stations, such as changes in frequency, significant increases in power and/or antenna height, significant changes in antenna location, and changes in station location.

(2) The second group of applications consists of those which involve relatively minor changes in the facilities of authorized stations.

(b) The Commission will not act on applications in paragraph (a) (1) of this section until 30 days have elapsed since the date on which "Public Notice" is given by the Commission of acceptance for filing of such application. If an amendment to such application is filed requesting a major change as defined in paragraph (a) (1) of this section, the Commission will take no action until 30 days have elapsed since the date on which "Public Notice" is given of the acceptance for filing of such amendment. Where a later filed application or major amendment thereto is in conflict with another application, the 30-day limitation shall be applicable only to the earlier of the conflicting proposals.

(c) Applications for television stations will be processed as nearly as possible in the order in which they are filed.

(d) Regardless of the number of applications filed for channels in a city or the number of assignments available in that city, those applications which are mutually exclusive, i. e., which request the same channel, will be designated for hearing. All other applications for channels will, if the applicants are duly qualified, receive grants. For example, if Channels 6, 13, 47, and 53 have been assigned to City X and there are pending two applications for Channel 6 and one application for each of the remaining channels, the latter three applications will be considered for grants without hearing and the two mutually exclusive applications requesting Channel 6 will be designated for hearing. If there are two pending applications for Channel 6 and two applications for Channel 13, separate hearings will be held.

(e) Where applications are mutually exclusive because the distance between their respective proposed transmitter sites is contrary to the station separation requirements set forth in § 3.610 of this chapter, said applications will be processed and designated for hearing at the time the application with the lower file number is reached for processing. In order to be considered mutually exclusive with a lower file number application, the higher file number application must have been accepted for filing at least one day before the lower file number application has been acted upon by the Commission.

(f) Where prior to designation for hearing, a mutually exclusive application on file becomes unopposed, or where an amended application or a new application is filed in place of the several competing applications and the applicant formed by such a merger is completely or substantially the same parties as the parties to the original application or applications, the remaining application may be available for consideration on its merits by the Commission at a succeeding regular meeting as promptly as processing and review by the Commission can be completed.

§ 1.356 *Processing of FM and noncommercial educational FM broadcast applications.* (a) Applications for FM broadcast stations are divided into two groups.

(1) In the first group are applications for new stations, applications for major modification of authorized facilities, or amendments to such applications requesting a major change in the proposed facilities. (Such as changes in the class of station, significant increases in power and/or antenna height, and/or a change in station location.)

(2) The second group of applications consist of those which involve relatively minor changes in the facilities of authorized stations.

(b) Applications for noncommercial educational FM broadcast stations are divided into two groups.

(1) In the first group are applications for new stations.

(2) In the second group are all applications for changes in the facilities of authorized noncommercial educational FM broadcast stations.

(c) Applications delineated in paragraphs (a) (1) and (b) (1) of this section will be acted upon by the Commission. The Commission, however, will not act on applications delineated in paragraph (a) (1) of this section until 30 days have elapsed since the date on which "Public Notice" is given by the Commission of acceptance for filing of such application. If an amendment to such application is filed requesting a major change as defined in paragraph (a) (1) of this section, the Commission will take no action until 30 days have elapsed since the date on which "Public Notice" is given of the acceptance for filing of such an amendment.

(d) Applications for noncommercial educational FM broadcast stations delineated in paragraph (b) of this section may be acted upon at any time after "Public Notice" is given of acceptance for filing of such applications.

(e) Applications delineated in paragraphs (a) (2) and (b) (2) of this section will be acted upon by the Chief of the Broadcast Bureau under delegated authority.

(f) Regardless of the number of applications filed for Class B channels in a city or the number of assignments available in that city, those applications which are mutually exclusive, i. e., which request the same channel, will be designated for hearing. All other applications for channels will, if the applicants are duly qualified, receive grants. For example, if Channels 230, 238, 242, and 250 have been assigned to City X and there are pending two applications for Channel 230 and one application for each of the remaining channels, the latter three applications will be considered for grants without hearing and the two mutually exclusive applications requesting Channel 230 will be designated for hearing. If there are two pending applications for Channel 230 and two applications for Channel 238, separate hearings will be held.

§ 1.357 *Staff consideration of applications which do not require action by the Commission.* Those applications which do not require action by the Commission but which, pursuant to the delegation of authority contained in the Commission's Statement of Organization, Delegations of Authority, and Other Information, may be acted upon by Chief, Broadcast Bureau are forwarded to the Broadcast Bureau for necessary action. If the application is granted, the license division issues the formal authorization. In any case where it is recommended that the application be set for hearing, where a novel question of policy is presented, or where the Chief, Broadcast Bureau desires instructions from the Commission, the matter is placed on the Commission agenda.

ACTION ON APPLICATIONS

§ 1.361 *Grants without hearing of authorizations other than licenses pursu-*

*ant to construction permit; procedure for filing objections.* (a) An application for an instrument of authorization, other than a license pursuant to a construction permit, will be granted without hearing where: (1) such application is in proper form; (2) there is not pending a mutually exclusive application filed in accordance with paragraph (b) of this section; and (3) it appears from an examination of the application and supporting data, and upon consideration of objections filed pursuant to paragraph (c) of this section, that: (i) The applicant is legally, technically, financially, and otherwise qualified; (ii) The application is not in violation of the provisions of law or this chapter or established policies of the Commission; and (iii) A grant of the application would otherwise serve public interest, convenience, or necessity.

(b) In making its determinations pursuant to the provisions of paragraph (a) of this section, the Commission will not consider any other application as being mutually exclusive with the application under consideration unless such other application was substantially complete and was filed with the Commission not later than the close of business on the day preceding the day on which the Commission takes action with respect to the application under consideration.

(c) Before Commission action on an application for an instrument of authorization, other than a license pursuant to a construction permit, any person may file objections to the grant. Such objection shall be signed by the objector. The limitation on pleadings and time for filing pleadings provided for in § 1.13 shall not be applicable to any objections duly filed under this section.

§ 1.362 *Designation for hearing.* (a) If the Commission is unable, upon examination of any application for an instrument of authorization other than a license pursuant to a construction permit, to make the findings specified in § 1.361 (a), it will without delay notify the applicant and all other known parties in interest of the grounds and reasons for its inability to make such findings, and of all objections made to the application, as well as the source and nature of such objections. Following such notice, the applicant is given an opportunity to reply. If the Commission, after considering such reply, should still be unable to determine that a grant without hearing would be in the public interest, it shall formally designate the application for hearing upon the issues then obtaining and shall notify the applicant and all other known parties in interest of such action.

(b) Where a grant of an application would preclude the grant of any application or applications mutually exclusive with it, the Commission may, if public interest will be served thereby, make a conditional grant of one of the applications and designate all of the mutually exclusive applications for hearing. Such conditional grant will be made upon the express condition that such grant is subject to being withdrawn if, at the hearing, it is shown that public interest will be better served by a grant of one of the other applications. Such conditional grants will be issued only where it appears:

(1) That some or all of the applications were not filed in good faith but were filed for the purpose of delaying or hindering the grant of another application; or

(2) That public interest requires the prompt establishment of radio service in a particular community or area; or

(3) That a grant of one or more applications would be in the public interest, and that a delay in making a grant to any applicant until after the conclusion of a hearing on all applications might jeopardize the rights of the United States under the provisions of international agreement to the use of the frequency in question; or

(4) That a grant of one application would be in the public interest, and that it appears from an examination of the remaining applications that they cannot be granted because they are in violation of provisions of the Communications Act, other statutes, or the provisions of this chapter.

§ 1.363 *Retention of applications in hearing status after designation for hearing.* (a) After an application for a broadcast facility is designated for hearing, it will be retained in hearing status upon the dismissal or amendment and removal from hearing of any other application or applications with which it has been consolidated for hearing.

(b) Where the applicants in a consolidated hearing for a broadcast facility by option, merger, or like arrangement effect a consolidation of their respective interests, the application which is to be prosecuted should be amended to reflect the arrangements between or among the applicants, and as amended will be retained in hearing along with the other applications, which will be dismissed by the hearing examiner's initial decision.

(c) In all cases arising under paragraphs (a) and (b) of this section, the hearing examiner will consider in the initial decision the issue of whether a grant of the remaining application or applications to be prosecuted would be in the public interest in the light of the arrangement whereunder the parties effected a consolidation of their respective interests or the competing applications were either dismissed or amended and removed from hearing.

(d) An application for a broadcast facility which has been designated for hearing and which is amended so as to eliminate the need for hearing or further hearing on the issues specified, other than as provided for in paragraph (b) of this section, will be removed from hearing status.

§ 1.364 *Special waiver procedure relative to applications.* (a) In the case of any broadcast applications designated for hearing, the parties may request the Commission to grant or deny an application upon the basis of the information contained in the applications and other papers specified in paragraph (b) of this section, without the presentation of oral testimony. Any party desiring to follow this procedure should execute and file with the Commission a waiver in accordance with paragraph (e) of this section, and serve copies on all other parties, or a joint waiver may be filed by all the parties. Upon the receipt of waivers from all parties to a proceeding, the Commission will decide whether the case is an appropriate one for determination without the presentation of oral testimony. If it is determined by the Commission that, notwithstanding the waivers, the presentation of oral testimony is necessary, the parties will be so notified and the case will be retained on the hearing docket. If the Commission concludes that the case can appropriately be decided without the presentation of oral testimony, the record will be considered as closed as of the date the waivers of all parties were first on file with the Commission.

(b) In all cases considered in accordance with this procedure, the Commission will decide the case upon the basis of the information contained in the applications and any other papers open to public inspection on file with the Commission, as of the date the record was closed, which pertain to the applicants or applications in question. The Commission may call upon any party to furnish any additional information which the Commission deems necessary to a proper decision. Such information shall be served upon all parties. The waiver previously executed by the parties shall be considered in effect unless within 10 days of the service of such information the waiver is withdrawn.

(c) Any decision by the Commission rendered pursuant to this section will be in the nature of a final decision, unless otherwise ordered by the Commission.

(d) By agreeing to the waiver procedure prescribed in this section, no party shall be deemed to waive the right to petition for reconsideration or rehearing, or to appeal to the Courts from any adverse final decision of the Commission.

(e) The waiver provided for by this section shall be in the following form:

WAIVER

Name of applicant _____
Call letters _____
Docket No. _____

The undersigned hereby requests the Commission to consider its application and grant or deny it in accordance with the procedure prescribed in § 1.364 of the Commission's rules and regulations. It is understood that all the terms and provisions of _____ are incorporated in this waiver.

## SUBPART E — COMPLAINTS, APPLICATIONS, TARIFFS, AND REPORTS INVOLVING COMMON CARRIERS

### GENERAL

§ 1.401 *Show cause orders.* (a) The Commission may commence any proceeding within its jurisdiction against any common carrier by serving upon the carrier an order to show cause. The order shall contain a statement of the particulars and matters concerning which the Commission is inquiring and the reasons for such action, and will call upon the carrier to appear before the Commission at a place and time therein stated and give evidence upon the matters specified in the order.

(b) Any carrier, upon whom an order has been served under this section, shall file its answer within the time specified in the order. Such answer shall specifically and completely respond to all allegations and matters contained in the show cause order.

(c) All papers filed by a carrier in a proceeding under this section shall conform with the specifications of §§ 1.52 and 1.53 and the subscription and verification requirements of § 1.55. An original and 14 copies of all such papers shall be filed.

§ 1.402 *Appearances*—(a) *Hearings.* Except as otherwise required by § 1.140 regarding application proceedings, by § 1.62 regarding proceedings instituted under section 312 of the Communications Act of 1934, as amended, or by Commission order in any proceeding, no written statement indicating intent to appear need be filed in advance of actual appearance at any hearing by any person or his attorney.

(b) *Oral arguments.* Within 5 days after release of an order designating an initial decision for oral argument or within such other time as may be specified in the order, any party who wishes to participate in the oral argument shall file a written statement indicating that he will appear and participate. Within such time as may be specified in an order designating any other matter for oral argument, any person wishing to participate in the oral argument shall file a written statement to that effect setting forth the reasons for his interest in the matter. The Commission will advise him whether he may participate. (See § 1.154 for penalties for failure to file appearance statements in proceedings involving oral arguments on initial decisions.)

(c) *Commission counsel.* The requirement of paragraph (b) of this section shall not apply to counsel representing the Commission or the Chief of the Common Carrier Bureau.

COMPLAINTS

§ 1.411 *Formal or informal complaints.* Complaints filed against carriers under section 208 of the Communications Act may be either formal or informal.

§ 1.412 *Satisfaction of complaints; damages.* If a carrier satisfies any complaint brought to its attention by the Commission, a statement must be filed with the Commission, in duplicate, setting forth when and how the complainant has been satisfied: *Provided, however,* That no complaint seeking damages as a result of alleged unjust or unreasonable charges, practices, classifications, or regulations contained in an effective tariff schedule on file with the Commission shall be satisfied except after appropriate authorization by the Commission.

INFORMAL COMPLAINTS

§ 1.416 *Form.* An informal complaint shall be in writing and shall contain: (a) The name and address of the complainant, (b) the name of the carrier against which the complaint is made, and (c) a complete statement of the facts tending to show that such carrier did or omitted to do anything in contravention of the Communications Act.

§ 1.417 *Procedure.* Upon receipt of any informal complaint, the Commission will forward a copy to the carrier complained of or take the question up by correspondence with the carrier. The carrier will also be called upon within such time as may be prescribed either to satisfy the complaint or advise the Commission of its refusal or inability to do so. If the carrier satisfies the complaint, it shall so notify the Commission in accordance with the provisions of § 1.412. The Commission will forward a copy of the carrier's notice of satisfaction to the complainant. If the carrier refuses or is unable to satisfy the complaint, it shall so notify the Commission, in duplicate, and the Commission will forward a copy of such notice to the complainant, with a statement of the procedure to be followed to further prosecute the complaint.

§ 1.418 *Unsatisfied informal complaints; formal complaints relating back to the filing dates of informal complaints.* When an informal complaint has not been satisfied pursuant to § 1.417, the complainant may file a formal complaint in the form specified in § 1.421. Such filing will be deemed to relate back to the filing date of the informal complaint: *Provided,* That the formal complaint: (a) Is filed within 6 months from the date of the Commission's statement accompanying a copy of the carrier's notice of refusal or inability to satisfy, (b) makes reference to the date of the informal complaint, and (c) is based on the same cause of action as the informal complaint. If no formal complaint is filed within the 6-month period, the complainant will be deemed to have abandoned the unsatisfied informal complaint, and such complaint will be deemed dismissed.

FORMAL COMPLAINTS

§ 1.421 *Form.* (a) A formal complaint shall contain the name of each complainant and defendant, the address of each complainant, and the name and address of his attorney, if represented by attorney, and shall be subscribed and verified by the complainant.

(b) The following form may be used in cases to which it is applicable, with such alterations as the circumstances may render necessary.

COMPLAINT

BEFORE THE FEDERAL COMMUNICATIONS COMMISSION, WASHINGTON, D. C.

Docket No. ------ (To be inserted by the Secretary of the Commission)

---

Complainant

*v.*

---

Defendant

The complainant (here insert full name of each complainant and if a corporation the corporate title of such complainant) shows:

(1) That (here state occupation and post office address of each complainant).

(2) That (here insert the full name, occupation, and post office address of each defendant).

(3) That (here insert fully and clearly the specific act or thing complained of, together with such facts as are necessary to give a full understanding of the situation).

Wherefore, complainant asks (here state specifically the relief desired).

Dated at ---------- this ------ day of ----------, 19---.

---

(Name of each complainant)

---

(Name and address of attorney, if any)

Form of Verification

---

being first duly sworn, on oath, deposes, and says: That he is the complainant (or one of the complainants) in the above-entitled matter; that he has read the within and foregoing complaint and knows the contents thereof, and that the matter and things therein stated are true of his own knowledge, save and except those matters therein stated on information and belief, and as to those he believes them to be true.

---

Subscribed and sworn to before me this ------ day of ---------- 19---.

---

(Notary public or other proper officer)

§ 1.422 *Statement of issues and facts.* A formal complaint shall be so drawn as to advise the Commission and the defendant fully wherein the provisions of the Communications Act, or an order, rule, or regulation of the Commission have been violated; the facts claimed to constitute such violation including such data as will identify, with reasonable certainty, the communications or transmissions, or other services complained of (as well as any other appropriate facts elicited by § 1.423), and the relief sought.

§ 1.423 *Damages; allegations with certainty.* (a) In case recovery of damages is sought, the complaint shall contain appropriate allegations showing such data as will serve to identify, with reasonable certainty, the communications or transmissions, or other services, for which recovery is sought and shall state:

(1) That the complainant makes claim for damages;

(2) The name and address of each individual claimant asking damages;

(3) The name and address of the defendant against which claim is made;

(4) The communications, transmissions, or other services rendered, the charge applied thereto, the date when charges were paid, by whom paid, and by whom borne;

(5) The period of time within which, or the specific dates when the communications, transmissions, or other services were rendered;

(6) The points of origin and reception of the communications or transmissions, and if the damages sought to be recovered are for services other than communications or transmissions, then the allegations of the complaint shall state the nature and extent of such services, the date or dates when rendered, when paid for, and by whom borne;

(7) The nature and amount of injury sustained by each claimant;

(8) Separately, the damages with respect to each communication, transmission, or other service for which recovery is sought;

(9) If damages are sought on behalf of others than the complainant, in what capacity or by what authority complaint is made in their behalf; and

(10) That suit has not been filed in any court on the basis of the same cause of action.

(b) Damages will not be awarded upon a complaint unless specifically requested. Damages may be awarded, however, upon a supplemental complaint based upon the finding of the Commission in the original proceeding.

§ 1.424 *Specific tariff schedule references.* The several charges, classifications, regulations, or practices complained of should be set out by specific reference to the tariff schedules in which they appear, whenever that is possible.

§ 1.425 *Joinder of complainants and causes of action.* (a) Two or more complainants may join in one complaint if their respective causes of action are against the same defendant and concern substantially the same alleged violation of the Communications Act and substantially the same facts.

(b) Two or more grounds of complaint involving the same principle, subject, or statement of facts may be included in one complaint, but should be separately stated and numbered.

§ 1.426 *Discrimination, preference, or prejudice.* When unjust or unreasonable discrimination or undue or unreasonable preference, advantage, prejudice, or disadvantage is alleged, the complaint shall clearly specify the particular person, company or other entity, locality, or description of traffic affected thereby, and the particular discrimination, preference, advantage, prejudice, or disadvantage relied upon as constituting a violation of the Communications Act.

§ 1.427 *Supplemental complaints.* (a) *Filing.* There may be filed with the Commission a supplemental complaint setting forth transactions, occurrences or events which have happened since the filing of the original complaint and which relate to the original cause of action.

(b) *Seeking damages.* If recovery of damages or overcharges is sought by supplemental complaint, it must be filed with the Commission within the statutory periods of limitations as to actions contained in section 415 of the Communications Act.

§ 1.428 *Cross complaints.* A cross complaint, seeking any relief within the jurisdiction of the Commission against any carrier which is a party (complainant or defendant) to the proceeding, may be filed by a defendant with its answer. A cross complaint will be accepted for filing and will be served by the Commission in the manner provided in § 1.429 for serving complaints. For the purpose of this subpart, the term "cross complaint" shall include counterclaim.

§ 1.429 *Copies; service.* (a) An original and 14 copies of all pleadings and briefs filed in any formal complaint proceeding shall be furnished the Commission, and one extra copy for each party to the proceeding when service is made by the Commission.

(b) The Commission will serve a copy of any formal complaint filed with it (and any supplemental, amended, or cross complaint) together with a notice of the filing of the complaint. Such notice shall call upon the carrier to satisfy the complaint in accordance with § 1.412 or answer the same in writing within the time specified in said notice.

(c) All subsequent pleadings and briefs filed in any formal complaint proceeding shall be served by the filing party on all other parties to the proceeding in accordance with the requirements of § 1.56. Proof of such service shall also be made in accordance with the requirements of said section.

§ 1.430 *Answers to complaints, supplemental complaints, amended complaints, and cross complaints.* Any carrier upon whom a copy of a formal complaint, supplemental complaint, amended complaint, or cross complaint is served under this subpart shall serve an answer within the time specified by the Commission in its notice of complaint. The answer shall advise the parties and the Commission fully and completely of the nature of the defense, and shall respond specifically to all material allegations of the complaint. Collateral or immaterial issues shall be avoided in answers and every effort should be made to narrow the issues. Matters alleged as affirmative defenses shall be separately stated and numbered. Any defendant failing to file and serve an answer within the time and in the manner prescribed may be deemed in default.

§ 1.431 *Motions to dismiss complaints or to make them more definite and certain.* (a) A defendant may serve with his answer a motion to dismiss a complaint because of lack of legal sufficiency appearing on the face of such complaint.

(b) Within 10 days after service of a complaint by the Commission, a defendant may file a motion that the allegations in the complaint be made more definite and certain, such motion to point out the defects complained of and details desired. If such motion is granted by the Commission, it will order the complainant to file an amended complaint within such time as may be specified in the order.

§ 1.432 *Replies to answers or amended answers; motions to make answers more definite and certain.* Within 10 days after service of an answer or an amended answer, a complainant may serve a reply which shall be responsive to matters contained in such answer or amended answer and shall not contain new matters. Failure to reply will not be deemed as admission of any allegations contained in such answer or amended answer. A complainant may also serve with his reply a motion that the answer be made more definite and certain, such motion to point out the defects complained of and the details desired. If such motion is granted by the Commission, it will order the defendant to file an amended answer within such time as may be specified in the order.

§ 1.433 *Oppositions to motions to dismiss complaints or to make them more definite and certain.* Within 10 days after service of a motion to dismiss a complaint or to make it more definite and certain, a complainant may serve an opposition to such motion.

§ 1.434 *Specifications as to pleadings, briefs, and other documents; subscription and verification.* All papers filed in any formal complaint proceeding must be drawn in conformity with the requirements of §§ 1.52, 1.53, and 1.55.

§ 1.435 *Formal complaints not stating a cause of action; defective pleadings.* (a) Any document purporting to be a formal complaint which does not state a cause of action under the Communications Act will be dismissed. In such case any amendment to such document will be considered a new filing which must be made within the statutory periods of limitations of actions contained in section 415 of the Communications Act, if recovery of damages or overcharges is sought.

(b) Any pleading filed in a formal complaint proceeding not in conformity with the requirements of the applicable rules in this part (other than the matter covered in paragraph (a) of this section) may be deemed defective. In such case the Commission will:

(1) Request that specified defects be corrected and that corrected pleadings be filed and served within a prescribed time as a condition to being treated as timely filed; and

(2) Notify all persons, known to the Commission to have been served with any defective pleading, of the action taken under this paragraph.

APPLICATIONS

§ 1.440 *Scope.* The general rules relating to applications contained in §§ 1.441 through 1.447 apply to all applications filed by carriers except those filed by public correspondence radio stations pursuant to Parts 7, 8, 9, 14, and 21 of this chapter. Part 21 contains general rules applicable to applications filed pursuant thereto. For general rules applicable to applications filed pursuant to Parts 7, 8, 9, and 14, see such parts and Subpart F of this part.

§ 1.441 *Place of filing; number of copies.* All applications shall be tendered for filing with the Office of the Secretary, Federal Communications Commission, Washington 25, D. C. The applications will be dated by the Office of the Secretary upon receipt and then forwarded to the Common Carrier Bureau. The number of copies required for each application is set forth in the rules in this chapter relating to various types of applications. However, if any application is not of the types covered by this chapter, an original and two copies of such application shall be submitted.

§ 1.442 *Subscription and verification.* Each application or amendment thereto shall be personally subscribed and verified (or affirmed) by the applicant, if the

applicant is an individual; by any one of the partners, if the applicant is a partnership; by an officer or duly authorized employee, if the applicant is a corporation; by a member who is an officer, if the applicant is an unincorporated association; or by an executive of the applicant if the applicant is not an individual, partnership, corporation or association: *Provided, however*, That an application may be subscribed and verified by the attorney-at-law or in fact for an applicant in case of physical disability of the applicant, or his absence from the continental United States. If subscription and verification is made by a person other than the applicant, such person must set forth in the verification the grounds of his belief as to all matters not stated upon his knowledge and the reason why it is not made by the applicant. Only the original of the application need be subscribed and verified or affirmed; the copies may be conformed.

§ 1.443 *Amendments.* (a) Any application not designated for hearing may be amended at any time by the filing of subscribed and verified (or affirmed) amendments in the same manner, and with the same number of copies, as was the initial application.

(b) After any application is designated for hearing, requests to amend such application may be granted by the Commission upon good cause shown by petition, which petition shall be properly served upon all other parties to the hearing.

(c) The Commission may order the applicant to amend his application at any time so as to make it more definite and certain. Such order may be issued by the Commission upon its own motion or upon petition of any interested person, which petition shall be properly served upon the applicant and, if the application has been designated for hearing, upon all parties to the hearing.

§ 1.444 *Additional statements.* The Commission may require an applicant to submit such additional documents and written statements of fact, subscribed and verified (or affirmed), as in its judgment may be necessary.

§ 1.445 *Defective applications.* (a) Applications not in accordance with the applicable rules in this chapter may be deemed defective and returned by the Commission without acceptance of such applications for filing and consideration. Such applications will be accepted for filing and consideration if accompanied by petition showing good cause for waiver of the rule with which the application does not conform.

(b) The assignment of a file number, if any, to an application is for the administrative convenience of the Commission and does not indicate the acceptance of the application for filing and consideration.

§ 1.446 *Inconsistent or conflicting applications.* When an application is pending or undecided, no inconsistent or conflicting application filed by the same applicant, his successor or assignee, or on behalf or for the benefit of said applicant, his successor, or assignee, will be considered by the Commission.

§ 1.447 *Dismissal of applications*—(a) *Before designation for hearing.* Any application not designated for hearing may be dismissed without prejudice at any time upon request of the applicant. An applicant's request for the return of an application that has been accepted for filing and consideration, but not designated for hearing, will be deemed a request for dismissal without prejudice. The Commission may dismiss an application without prejudice before it has been designated for hearing when the applicant fails to comply or justify noncompliance with Commission requests for additional information in connection with such application.

(b) *After designation for hearing.* A request to dismiss an application without prejudice after it has been designated for hearing shall be made by petition properly served upon all parties to the hearing and will be granted only for good cause shown. The Commission may dismiss an application with prejudice after it has been designated for hearing when the applicant:

(1) Fails to comply with the requirements of § 1.140 (c);

(2) Otherwise fails to prosecute his application; or

(3) Fails to comply or justify noncompliance with Commission requests for additional information in connection with such application.

§ 1.448 *Action on applications under delegated authority.* Certain applications do not require action by the Commission but, pursuant to the delegated authority contained in the Commission's Statement of Organization, Delegation of Authority and Other Information, may be acted upon by the Telegraph Committee, the Telephone Committee, or the Chief of the Common Carrier Bureau, respectively, subject to reconsideration by the Commission.

SPECIFIC TYPES OF APPLICATIONS UNDER TITLE II OF COMMUNICATIONS ACT

§ 1.449 *Cross reference.* Specific types of applications under Title III of the Communications Act involving public correspondence radio stations are specified in Parts 6, 7, 8, 9, and 21 of this chapter.

§ 1.450 *Interlocking directorates.* Applications under section 212 of the Communications Act for authority to hold the position of officer or director of more than one carrier subject to the act or for a finding that two or more carriers are commonly owned shall be made in the form and manner and with the number of copies required by Part 62 of this chapter. The Commission shall be informed of any change in status of any person authorized to hold the position of officer or director of more than one carrier, as required by Part 62 of this chapter.

§ 1.451 *Construction, extension, acquisition or operation of lines.* (a) Applications under section 214 of the Communications Act for authority to construct a new line, extend any line, acquire or operate any line or extension thereof, or to engage in transmission over or by means of such additional or extended line, to furnish temporary or emergency service, or to supplement existing facilities shall be made in the form and manner and with the number of copies required by Part 63 of this chapter.

(b) In cases under this section requiring a certificate, notice is given to and a copy of the application is filed with the Secretary of the Army, the Secretary of the Navy, and the Governor of each State involved. Hearing is held if any of these persons desires to be heard or if the Commission determines that a hearing should be held. Copies of applications for certificates are filed with the regulatory agencies of the States involved.

§ 1.452 *Discontinuance, reduction, or impairment of service.* (a) Applications under section 214 of the Communications Act for authority to discontinue, reduce, or impair service to a community or part of a community or for the temporary, emergency, or partial discontinuance, reduction, or impairment of service shall be made in the form and manner and with the number of copies required by Part 63 of this chapter. Posted and published notice shall be given the public as required by Part 63 of this chapter.

(b) In cases under this section requiring a certificate, notice is given to and a copy of the application is filed with the Secretary of the Army, the Secretary of the Navy, and the Governor of each State involved. Hearing is held if any of these persons desires to be heard or if the Commission determines that a hearing should be held. Copies of all formal applications under this section requesting authorizations (including certificates) are filed with the Secretary of the Army, the Secretary of the Navy, and the Governor of each State involved. Copies of all applications under this section requesting authorizations (including certificates) are filed with the regulatory agencies of the States involved.

§ 1.453 *Consolidation or acquisition of telephone companies.* Applications under section 221 (a) of the Communications Act for authority to consolidate or acquire telephone companies shall be made in the form and manner and with the number of copies required by Part 66 of this chapter.

§ 1.454 *Consolidation of domestic telegraph carriers.* (a) Applications under section 222 of the Communications Act by two or more domestic telegraph carriers for authority to effect a consolidation or merger or to acquire all or any part of the domestic telegraph properties, domestic telegraph facilities, or domestic telegraph operations of any carrier shall contain such information as is necessary for the Commission to act upon such application under the provisions of section 222 of the act.

(b) These applications are acted upon by the Commission after public hearing. Reasonable notice in writing of the public hearing and an opportunity to be heard is given by the Commission to the Governor of each of the States in which any of the physical property involved in such proposed consolidation or merger is situated, to the Secretary of State, the Secretary of the Army, the Attorney

General of the United States, the Secretary of the Navy, representatives of employees where represented by bargaining representatives known to the Commission, and to such other persons as the Commission may deem advisable.

§ 1.455 *Cable landing licenses.* (a) Applications for cable landing licenses under 47 U. S. C. 34–39 and Executive Order No. 10530, dated May 10, 1954, should be filed in duplicate and in accordance with the provisions of said Order. These applications should contain the name and address of the applicant, the corporate structure and citizenship of officers if a corporation; description of submarine cable, including type and number of channels and capacity thereof; location of points on shore of United States and points in foreign countries where cable will land (including map); proposed use, need, and desirability of the cable; and any other information as may be necessary to enable the Commission to act thereon.

(b) These applications are acted upon by the Commission after obtaining the approval of the Secretary of State and such assistance from any executive department or establishment of the Government as it may require.

(c) Original files relating to submarine cable landing licenses and applications for licenses since June 30, 1934, are kept by the Commission. Such applications for licenses (including all documents and exhibits filed with and made a part thereof, with the exception of any maps showing the exact location of the submarine cable or cables to be licensed) and the licenses issued pursuant thereto, with the exception of such maps, shall, unless otherwise ordered by the Commission, be open to public inspection in the offices of the Commission in Washington, D. C.

(d) Original files relating to licenses and applications for licenses for the landing operation of cables prior to June 30, 1934, were kept by the Department of State and such files prior to 1930 have been transferred to the Executive and Foreign Affairs Branch of the General Records Office of the National Archives. Requests for inspection of these files should, however, be addressed to the Federal Communications Commission, Washington 25, D. C.; and the Commission will obtain such files for a temporary period in order to permit inspection at the offices of the Commission.

TARIFFS

§ 1.461 *Filing.* Schedules of charges and classifications, practices and regulations affecting such charges required under section 203 of the Communications Act shall be constructed, filed, and posted in accordance with and subject to the requirements of Part 61 of this chapter.

§ 1.462 *Application for special tariff permission.* Applications under section 203 of the Communications Act for special tariff permission shall be made in the form and manner and with the number of copies required by Part 61 of this chapter.

§ 1.463 *Petitions for suspension of tariff schedules*—(a) *Content.* A petition for suspension of a new tariff schedule or any provision thereof shall indicate the schedule affected by its Federal Communications Commission number and give specific reference to the items against which protest is made, together with a statement of the grounds thereof.

(b) *When filed.* A petition for suspension will not ordinarily be considered unless made in writing and filed with the Commission and served upon the publishing carrier at least 10 days before the effective date of the tariff schedule. In case of emergency and within the time limits herein provided, a telegraphic request for suspension may be sent to the Commission, a copy of which shall be sent to the publishing carrier and shall set forth succinctly the substance of the matters required by paragraph (a) of this section. Such telegraphic request must be forthwith confirmed by petition filed and served in accordance with this section.

(c) *Reply.* A publishing carrier may reply to a petition for suspension, but such reply should be filed with the Commission and served upon petitioner within 3 days after service of the petition for suspension.

(d) *Copies; service.* An original and 14 copies of each petition or reply must be filed with the Commission, and one copy must be simultaneously served upon the publishing carrier or each petitioner, as the case may be.

CONTRACTS, REPORTS, AND REQUESTS REQUIRED TO BE FILED BY CARRIERS

§ 1.468 *Requests for extension of filing time.* Requests for extension of time within which to file contracts, reports, and requests referred to in §§ 1.469 through 1.493 shall be made in writing and may be granted for good cause shown.

CONTRACTS

§ 1.469 *Filing.* Copies of carrier contracts, agreements, concessions, licenses, authorizations or other arrangements, shall be filed as required by Part 43 of this chapter.

FINANCIAL AND ACCOUNTING REPORTS AND REQUESTS

§ 1.471 *Annual financial reports.* (a) Annual financial reports shall be filed by carriers and affiliates as required by Part 43 of this chapter on the following forms:

(1) Form H (holding companies who do not report to the Commission in the manner prescribed in paragraph (b) of this section).

(2) Form L (licensees in the domestic public land mobile radio services who do not report to the Commission on Annual Report Form M).

(3) Form M (telephone companies, classes A and B).

(4) Form O (wire-telegraph and ocean-cable carriers, classes A and B).

(5) Form R (radiotelegraph carriers, classes A and B).

(b) Verified copies of annual reports filed with the Securities and Exchange Commission on its Form 10–K, Form 1–MD, or such other form as may be prescribed by that Commission for filing of equivalent information, shall be filed annually with this Commission by each person directly or indirectly controlling any communications common carrier in accordance with Part 43 of this chapter.

(c) Carriers having separate departments or divisions for carrier and non-carrier operations shall file separate supplemental annual reports with respect to such carrier and non-carrier operations in accordance with Part 43 of this chapter.

§ 1.472 *Monthly financial reports.* Monthly reports of revenues, expenses, and other items shall be filed by carriers as required by Part 43 of this chapter on the following forms:

FCC Form 901—Telephone.
FCC Form 903—Radiotelegraph and Ocean-cable.
FCC Form 905—Wire-telegraph.

§ 1.473 *Reports of proposed changes in depreciation rates.* Carriers shall file reports regarding proposed changes in depreciation rates as required by Part 43 of this chapter.

§ 1.474 *Reports regarding pensions and benefits.* Carriers shall file reports regarding pensions and benefits as required by Part 43 of this chapter.

§ 1.475 *Reports regarding division of international telegraph communication charges.* Carriers engaging in international telegraph communication shall file reports in regard to the division of communication charges as required by Part 43 of this chapter.

§ 1.476 *Reports relating to traffic by international carriers.* Commission Orders Nos. 85 and 86 require international telegraph carriers to file on FCC Form 336 and common carriers engaged in radiotelegraph communication with maritime mobile stations (with certain exceptions) to file on FCC Form 337 certain traffic information at periodic intervals. A complete description of these reports is set forth in Orders Nos. 85 and 86.

§ 1.477 *Reports and requests to be filed under Part 31 of this chapter.* Reports and requests shall be filed either periodically, upon the happening of specified events, or for specific approval by class A and class B telephone companies in accordance with and subject to the provisions of Part 31 of this chapter.

§ 1.478 *Reports and requests to be filed under Part 33 of this chapter.* Reports and requests shall be filed either periodically, upon the happening of specified events, or for specific approval, by class C telephone companies in accordance with and subject to the provisions of Part 33 of this chapter.

§ 1.479 *Reports and requests to be filed under Part 34 of this chapter.* Reports and requests shall be filed either periodically, upon the happenings of specified events, or for specific approval, by radiotelegraph carriers in accordance with and subject to the provisions of Part 34 of this chapter.

§ 1.480 *Reports and requests to be filed under Part 35 of this chapter.* Reports and requests shall be filed either

periodically, upon the happening of specified events, or for specific approval, by wire-telegraph and ocean-cable carriers in accordance with and subject to the provisions of Part 35 of this chapter.

SERVICES AND FACILITIES REPORTS

§ 1.483 *Reports regarding telegraph carrier services.* Telegraph carriers shall file descriptions of their services as required by Part 43 of this chapter.

§ 1.484 *Reports relating to continuing authority to supplement facilities or to provide temporary or emergency service.* Carriers receiving authority under Part 63 of this chapter shall file quarterly or semiannual reports as required therein.

§ 1.485 *Reports relating to reduction in temporary experimental service.* As required in Part 63 of this chapter, carriers shall report reductions in service which had previously been expanded on an experimental basis for a temporary period.

§ 1.486 *Reports regarding domestic telegraph speed of service.* The Western Union Telegraph Company shall furnish monthly reports under Part 64 of this chapter in regard to Message Center speed of service and Origin to Destination speed of service on FCC Forms 338–A and 338–B, respectively, and copies of instructions to field offices in accordance with Part 64 of this chapter.

§ 1.487 *Reports relating to service by carriers engaged in public radio service operations.* Monthly and quarterly reports must be filed with the Commission in connection with certain fixed public radio service operations. No form is prescribed. A complete description of the contents of these reports is contained in Part 6 of this chapter.

MISCELLANEOUS REPORTS

§ 1.490 *Reports regarding amendments to charters, by-laws and partnership agreements of carriers engaged in domestic public radio services.* Amendments to such documents shall be reported and filed in accordance with Part 21 of this chapter.

§ 1.491 *Reports regarding premature destruction of records.* Carriers shall file reports relating to the premature destruction of records as required by Parts 45 and 46 of this chapter.

§ 1.492 *Reports of negotiations regarding foreign communication matters.* Carriers engaging or participating in foreign communications shall file monthly reports covering negotiations conducted as required by Part 43 of this chapter.

§ 1.493 *Reports regarding free service rendered the Government for national defense.* Carriers rendering free service in connection with the national defense to any agency of the United States Government shall file reports in accordance with Part 2 of this chapter.

## SUBPART F—SAFETY AND SPECIAL SERVICES APPLICATIONS AND PROCEEDINGS

GENERAL REQUIREMENTS AS TO APPLICANTS

§ 1.500 *Scope.* This subpart is applicable to all services listed in Parts 7, 8, 9, 10, 11, 12, 14, 16, 19, and 20 of this chapter, except that rules involving common carriers concerning complaints, tariffs, applications and reports required under Title II of the Communications Act are set forth in Subpart E of this part. (For additional information relative to applications, see the rules in this chapter relating to each of the respective services.) In case of any conflict or inconsistency between the rules set forth in this subpart and the rules for the specific services enumerated in this section, the former shall govern.

§ 1.501 *Applications required.* (a) Except as provided in paragraph (b) of this section, construction permits as defined in section 3 (dd) of the Communications Act of 1934, as amended; station licenses as defined in section 3 (bb) of the Communications Act; operator licenses or modifications or renewals thereof; assignments of construction permits or station licenses or any rights thereunder; and consent to transfer control of a corporation holding a construction permit or license, shall be granted only upon written, subscribed, and verified application.

(b) In cases of (1) emergency found by the Commission involving danger to life or property or due to damage to equipment, or (2) during a national emergency proclaimed by the President or declared by the Congress and during the continuance of any war in which the United States is engaged, when such action is necessary for the national defense or security or otherwise in furtherance of the war effort, or (3) in cases of emergency where the Commission finds, in these services, that it would not be feasible to secure renewal applications from existing licensees or otherwise to follow normal licensing procedure, the Commission may grant construction permits and station licenses, or modifications or renewals thereof, without the filing of a formal application, but no such authorization shall be granted for or continue in effect beyond the period of the emergency or war requiring it. The procedure to be followed for requests submitted under the provisions of this paragraph is the same as for obtaining special temporary authority under § 1.525.

(c) In case of vessels at sea, the Commission may issue by cable, telegraph, or radio a permit for the operation of a station until the vessel returns to a port of the continental United States.

(d) Canadian licensees desiring to operate in the United States under the terms of Articles 2 and 3 of the Convention between the United States and Canada concerning Operation of Certain Radio Equipment or Stations (which entered into force May 15, 1952) shall make application upon FCC Form 410 which shall be filed with the Secretary, Federal Communications Commission, Washington 25, D. C. Forms may be obtained from the FCC Secretary, any field office of the Commission, or from the Controller of Telecommunications, Department of Transport, Ottawa, Canada.

§ 1.502 *Where applications are to be filed.* (a) Applications requesting authority (except renewal of license) under Part 12 of this chapter, or, for class C stations only, under Part 19 of this chapter, shall be filed in the nearest Field Office of the Commission, the location of which may be found in local directories under the heading "United States Government".

(b) All applications, except those for renewal of station license, for authority to establish or operate stations (other than ship stations) in the Alaska area subject to this part, including correspondence relating thereto, shall be filed in triplicate with the Commission's Engineer in Charge at Seattle, Washington. The provisions of this paragraph shall apply to each application for construction permit, license, or modification of construction permit or license.

(c) A formal application for ship station license, or for modification of existing license including modification to cover replacement of radiotelephone transmitting apparatus (but not including renewal of station license), to authorize the use of telephony on board a vessel when accompanied by a request for an interim ship station license, shall be filed in accordance with § 8.36 of this chapter and presented in person by applicant or his agent at the nearest Field Office of the Commission, as shown in section 0.49 of the Commission's Statement of Organization, Delegations of Authority, and Other Information.

(d) All other applications shall be filed with the Commission's offices in Washington as follows:

(1) By mail, addressed to:

Secretary, Federal Communications Commission, Washington 25, D. C. or,

(2) In person, Secretary's Office

New Post Office Building, 12th Street and Pennsylvania Avenue NW., Washington, D. C. or,

(3) In person, Application Control Reference Room

New Post Office Building, 12th Street and Pennsylvania Avenue NW., Washington, D. C.

§ 1.503 *Subscription and verification of applications.* Each application or amendment thereto shall be personally subscribed and verified by the party filing such application or amendment, if the applicant be an individual; by any one of the partners if an applicant be a partnership; by an officer if the applicant be a corporation; or by a member who is an officer if the applicant be an unincorporated association: *Provided, however,* That subscription and verification may be made by the attorney for the party in case of physical disability of the party, or his absence from the continental United States. If it be made by a person other than the party, he must set forth in the verification the grounds of his belief as to all matters not stated upon his knowledge and the reason why it is not made by the party. Where more than one copy of an application is required to be filed with the Commission, only the original need be signed and verified; the copies may be conformed. Postmasters in Alaska are authorized to administer oaths.

§ 1.504 *Full disclosures.* Each application shall contain full and complete disclosures with regard to the real party or parties in interest and as to all matters and things required to be disclosed by the application forms. Additional information of a purely explanatory nature submitted in letter form need not be notarized.

§ 1.505 *Amendments of applications.* (a) Any amendment to an application shall be subscribed, verified, and submitted in the same manner, and with the same number of copies, as was the original application.

(b) Any application may be amended as a matter of right prior to the designation of such application for hearing merely by filing the appropriate number of copies of the amendments in question duly executed.

(c) The Commission may upon its own motion or upon motion of any party to a proceeding, order the applicant to amend his application so as to make the same more definite and certain, and may require an applicant to submit such documents and written statements of facts, under oath as in its judgment may be necessary.

§ 1.506 *Dismissal of applications.* (a) Any application may, upon written request signed by the applicant or his attorney, be dismissed without prejudice as a matter of right prior to the designation of such application for hearing.

(b) Failure to prosecute an application, or failure to respond to official correspondence or request for additional information, will be cause for dismissal. Such dismissal will be without prejudice where an application has not yet been designated for a hearing; such dismissal may be with prejudice after an application has been designated for a hearing.

(c) Requests to dismiss an application without prejudice after it has been designated for hearing will be considered only upon written petition properly served upon all parties of record and will be granted only for good cause shown. Such petition must be accompanied by the affidavit of a person with knowledge of the facts as to whether or not consideration has been promised to or received by petitioner, directly or indirectly, in connection with the filing of such petition for dismissal of the application.

FILING OF APPLICATIONS AND DESCRIPTION OF APPLICATION FORMS

§ 1.521 *Procedure for obtaining a radio station authorization and for commencement of operation.* (a) Persons desiring to install and operate radio transmitting equipment should first submit an application for a radio station authorization in accordance with the rules for the particular service. A list of all application forms used by Safety and Special Radio Services Bureau is contained in § 1.522. Each form contains appropriate instructions concerning the number of required copies, where it may be filed, and the services in which it is intended to be used.

(b) Each application shall include all information called for by the particular form on which the application is required to be filed unless the information called for is inapplicable in which case that fact shall be indicated.

(c) In some cases equipment and service tests are required before an authorized station may be placed in regular operation. Reference should be made to the specific service regarding these provisions.

§ 1.522 *Forms to be used.*

| FCC Form | Title |
|---|---|
| 400 | Application for Radio Station Authorization in the Safety and Special Radio Services. |
| 400–10 | Instructions for completion of FCC Form 400. |
| 400–A | Request for Amendment of Radio Station Authorization. |
| 401 | Application for New or Modified Radio Station Construction Permit (Other than Broadcasting). |
| 401–A | Description of Proposed Antenna Structure(s) (Services other than Broadcast). |
| 403 | Application for Radio Station License or Modification Thereof (Other than Broadcasting, Amateur, Ship, and Aircraft). |
| 404 | Application for Aircraft Radio Station License. |
| 405–A | Application for Renewal of Radio License (Short Form). |
| 410 | Registration of Canadian Radio Station Licensee and Application for Permit to Operate. |
| 453–B | Certificate of Special Temporary Authorization for Operation of Radio Station on Board New Aircraft. |
| 480 | Application for Civil Air Patrol Radio Station Authorization. |
| 481 | Application for Authority to Operate a Station in the Radio Amateur Civil Emergency Service. |
| 482 | Certification of Civil Defense Radio Officer. |
| 501 | Application for Ship Radio Station Licenses. |
| 501–A | Application for Ship Radiotelephone Station License. |
| 505 | Application for Citizens Radio Station Construction Permit and License. |
| 525 | Application for Disaster Communications Radio Station Construction Permit and License. |
| 602 | Application for Amateur Station License at a Military Post. |
| 610 | Application for Amateur Operator and/or Station License. |
| 701 | Application for Additional Time to Construct Radio Station. |
| 702 | Application for Consent to Assignment of Radio Station Construction Permit or License (For Stations in Services Other Than Broadcast). |
| 703 | Application for Consent to Transfer of Control of Corporation Holding Construction Permit for Station License (For Stations in Services Other Than Broadcast). |
| 820 | Application for Ship Exemption. |
| 820–A | Application for Exemption (Great Lakes Agreement). |

§ 1.523 *Construction permits.* No construction permit is required for any class of station in the Maritime, Aviation, Public Safety, Industrial, Land Transportation, Citizens Radio, Disaster Communications, and Amateur Services except as follows: A construction permit is required for:

(a) All operational fixed stations;

(b) Land radiopositioning stations in the industrial radiolocation service;

(c) Public coast stations and limited Class I and Class II coast stations;

(d) Shore radiolocation, shore radionavigation, and shore radar stations;

(e) Alaskan public fixed stations; and

(f) Any station involving the erection of a new antenna or changes in an existing antenna if:

(1) The antenna structures proposed to be erected will exceed an overall height of 170 feet above ground level, except that where the antenna is mounted on top of an existing man-made structure other than an antenna structure, and does not increase the overall height of such man-made structure by more than 20 feet, no Form 401–A need be filed; or

(2) The antenna structures proposed to be erected will exceed an overall height of one foot above the established airport (landing area) elevation for each 200 feet of distance, or fraction thereof, from the nearest boundary of such landing area, except that where the antenna does not exceed 20 feet above the ground or if the antenna is mounted on top of an existing man-made structure, other than an antenna structure, or natural formation and does not increase the overall height of such man-made structure or natural formation by more than 20 feet, no Form 401–A need be filed.

NOTE: In cases of Amateur stations involving the criteria set forth in paragraph (f) of this section, applicants need file only FCC Form 401–A; an application for construction permit is not required.

§ 1.524 *Assignment or transfer of control, voluntary and involuntary.* (a) (1) Radio station licenses are not transferable; however, except for those set forth in subparagraph (2) of this paragraph, they may be assigned. Licenses must be assigned whenever there is a change of ownership of an authorized radio station as for example, the radio communication equipment is sold with a business. The new owner must apply for assignment to him of the existing authorization in accordance with the rules under which the station is authorized.

(2) Licenses for stations in the Amateur, Aviation (aircraft), Citizens, and Maritime (ship) Radio Services cannot be assigned. Whenever there is a change of ownership of one of these latter stations, the new owner must apply for a new license. Upon receipt of the new license, the former license must be surrendered for cancellation.

(b) (1) Application for consent to voluntary assignment of a construction permit or license, or for consent to voluntary transfer of control of a corporation holding a construction permit or license, shall be filed with the Commission at least 60 days prior to the contemplated effective date of assignment or transfer of control.

(2) The following application forms should be used:

(i) FCC Form 400, "Application for Radio Station Authorization in the Safety and Special Radio Services" may be used for application for assignment of station authorization in services under Parts 10, 11, and 16 of this chapter. Attached thereto shall be a notarized letter from proposed assignor stating his desire to assign his current authori-

zation in accordance with the rules governing the particular service involved.

(ii) FCC Form 702, "Application for Consent to Assignment of Radio Station Construction Permit or License (for stations in services other than Broadcast)."

(iii) FCC Form 703, "Application for Consent to Transfer of Control of Corporation Holding Construction Permit or Station License (for stations in services other than Broadcast)."

(c) (1) In the event of the death or legal disability of a permittee or licensee, a member of a partnership, or a person directly or indirectly in control of a corporation which is a permittee or licensee, the Commission shall be notified in writing promptly of the occurrence of such death or legal disability.

(2) Within 30 days after the occurrence of such death or legal disability (except in the case of a ship or amateur station), application shall be filed for consent to involuntary assignment of such permit or license, or for involuntary transfer of control of such corporation, to a person or entity legally qualified to succeed to the foregoing interests under the laws of the place having jurisdiction over the estate involved. The procedure and forms to be followed are the same as those specified in paragraph (b) of this section.

(3) In the case of stations in the Amateur, Aviation (aircraft), Citizens, and Maritime (ship) Radio Services, involuntary assignment of licenses will not be made; such licenses shall be surrendered for cancellation upon the death or legal disability of the licensee.

§ 1.525 *Application for special temporary authorization.* (a) Special temporary authority may be granted to install and operate new equipment, or to operate a licensed station in a manner and to an extent or for service other or beyond that authorized in an existing license upon proper application therefor. No such request will be considered unless full particulars as to the purpose for which the request is made are stated and unless the request is received by the Commission at least 10 days prior to the date of proposed operation. A request received within less than 10 days may be accepted upon due showing of sufficient reasons.

(b) Requests for such temporary authorization may be filed in letter form signed under oath; however, in cases of emergency involving danger to life or property or due to damage to equipment, such request may be made by telephone or telegraph provided written request, signed under oath, is submitted within 10 days from the date of such request.

(c) The purchasers of a new aircraft with factory-installed radio equipment may operate the radio station on the aircraft for a period of 30 days under Special Temporary Authority evidenced by a copy of a certificate (FCC Form 453B) executed by the manufacturer, dealer, or distributor, the original of which has been mailed to the Commission with the formal application for station license.

§ 1.526 *Application for renewal of license.* (a) Application for renewal of station license shall be submitted on FCC Form 405–A (except as noted in paragraph (b) of this section). Application for renewal of license in the Amateur Radio Service shall be filed during the last 120 days of the license term; all other applications for renewal of license shall be filed during the last 60 days of the license term. In any case in which the licensee has, in accordance with the provisions of this chapter made timely and sufficient application for renewal of license, no license with reference to any activity of a continuing nature shall expire until such application shall have been finally determined.

(b) Application for renewal of authorization to operate an amateur station in the Radio Amateur Civil Emergency Service shall be filed on FCC Form 481–1 and shall be submitted concurrently with the application for renewal of the basic amateur radio station license. Application for renewal of Civil Air Patrol radio station authorization shall be submitted on FCC Form 480. Application for renewal of aircraft radio station license shall be submitted on FCC Form 404.

§ 1.527 *Application for ship radio inspection or periodical survey of ships subject to compulsory radio requirements.* (a) Applications for ship radio inspection and certification of the ship radio license in accordance with the requirements of section 362 (b) of the Communications Act, and/or issuance of a Safety Convention certificate in accordance with the terms of Regulations 11 and 12, Chapter I of the Safety Convention, should be submitted on FCC Form 801 entitled "Application for Ship Radio Inspection". This form should be forwarded to the Engineer in Charge of the radio district office nearest the desired port of inspection (see section 0.49 of the Commission's Statement of Organization, Delegations of Authority, and Other Information).

(b) Applications for periodical survey as required by Article 11 of the Great Lakes Agreement and certification prescribed by Articles 12 and 13 thereof, should be submitted on FCC Form 809 "Application for Periodical Survey (Great Lakes Agreement)". This form should be forwarded to the Engineer in Charge of the radio district office nearest the desired place of survey (see section 0.49 of the Commission's Statement of Organization, Delegations of Authority, and Other Information).

(c) Applications for inspection of ship radio equipment and apparatus, for the purposes of Part II of Title III of the Communications Act of 1934, as amended, or the Great Lakes Agreement, on a Sunday or a national holiday or during other than the established working hours on any other day, should be submitted on FCC Form 808 entitled "Application for and Certificate of Overtime Service Involving Inspection of Ship Radio Equipment." This form should be forwarded to the Engineer in Charge of the radio district office nearest the desired port of inspection (see section 0.49 of the Commission's Statement of Organization, Delegations of Authority, and Other Information).

(d) Application for periodical inspection and certification of vessels subject to Part III of Title III of the Communications Act pursuant to section 385 thereof should be submitted on FCC Form 812 entitled "Application for Periodical Inspection (Communications Act, Title III, Part III)". This form should be forwarded to the Engineer in Charge of the radio district office nearest the desired port of inspection (see section 0.49 of the Commission's Statement of Organization, Delegation of Authority, and Other Information).

§ 1.528 *Application for exemption from compulsory ship radio requirements.* Applications for exemption, filed under the provisions of sections 352 (b) or (c) and 383 of the Communications Act, and Regulations 5 or 6, Chapter IV, of the Safety of Life at Sea Convention, London, 1948, shall be submitted on FCC Form 820 entitled "Application for Ship Exemption". Applications for exemption filed under the provisions of Article 6 of the Great Lakes Agreement shall be submitted on FCC Form 820–A entitled "Application for Exemption (Great Lakes Agreement)".

§ 1.529 *Procedure with respect to applications for ship radio inspection or periodical survey.* After the following applications are accepted for filing, the Engineer in Charge of the radio district office in which the application is submitted makes the necessary examination and issues the appropriate certification:

(a) Application for ship radio inspection and certification of the ship radio license, pursuant to the requirements of section 362 (b) of the Communications Act;

(b) Application for a Safety Convention certificate in accordance with the terms of Regulations 11 and 12, Chapter I of the Safety Convention;

(c) Application for periodical survey as required by Article 11 of the Great Lakes Agreement and certification prescribed by Articles 12 and 13 thereof.

(d) Application for periodical inspection and certification of vessels subject to Part III of Title III of the Communications Act, pursuant to section 385 thereof.

§ 1.530 *Procedure with respect to amateur radio operator license.* After an application for an amateur radio operator license is accepted and an examination is conducted in accordance with § 12.44 of this chapter, the examination is graded by the office supervising the examination. The results of the examination are forwarded to Washington, and if the applicant is successful, a license is issued by the Safety and Special Radio Services Bureau.

§ 1.531 *Application for extension of construction permit.* (a) A construction permit shall be automatically forfeited if the station is not ready for operation within the time specified therein or within such further time as the Commission may have allowed for completion, and a notation of the forfeiture of any construction permit under this provision will be placed in the records of the Commission as of the expiration date.

(b) Application for extension of time within which to construct a station shall be filed on FCC Form 701, except in the

Public Safety, Industrial, and Land Transportation Radio Services where FCC Form 400–A shall be used. Such application shall be filed at least 30 days prior to the expiration date of the construction permit if the facts supporting such application for extension are known to the applicant in time to permit such filing. In other cases such applications will be accepted upon a showing satisfactory to the Commission of sufficient reasons for filing within less than 30 days prior to the expiration date. Such applications will be granted upon a specific and detailed showing that the failure to complete was due to causes not under the control of the grantee, or upon a specific and detailed showing of other matters sufficient to justify the extension.

§ 1.532 *Time in which station must be placed in operation.* In those cases in which a license is issued initially in lieu of a construction permit, if the station authorized is not placed in operation within eight months from the date of grant, the authorization shall be invalid and must be returned to the Commission for cancellation.

§ 1.533 *Installation or removal of apparatus.* In the Public Safety, Industrial, and Land Transportation Radio Services, replacement of transmitting equipment may be made without prior authorization: *Provided,* The replacement transmitters appear on the Commission's "List of Equipments Acceptable for Licensing" and designated for use in the Public Safety, Industrial, and Land Transportation Radio Services, and the substitute equipment employs the same type of emission and does not exceed the power limitations as set forth in the station authorization.

THE MANNER IN WHICH APPLICATIONS ARE PROCESSED

§ 1.541 *How applications are distributed.* Applications for radio station authorizations in the Safety and Special Radio Services are forwarded through the Application Control Office to the appropriate Division for processing as follows:

(a) Aviation Division: Air Carrier Aircraft, Private Aircraft, Airdrome Control, Aeronautical Enroute, Aeronautical Fixed, Operational Fixed (Aviation), Aeronautical Utility Mobile, Radionavigation (Aviation), Flight Test, Flying School, Aeronautical Public Service, Civil Air Patrol, Aeronautical Advisory, Aeronautical Metropolitan.

(b) Industrial Division: Power, Petroleum, Forest Products, Motion Picture, Relay Press, Special Industrial, Low Power Industrial, Industrial Radiolocation.

(c) Land Transportation Division: Motor Carrier, Railroad, Taxicab, Automobile Emergency, Highway Truck, Citizens.

(d) Marine Division: Coast Stations, Public Coast Station, Limited Coast Stations, Stations on Land in the Maritime Radiolocation Service, Fixed Stations Associated with the Maritime Mobile Service for Maritime purposes, Stations on Shipboard in the Maritime Services.

(e) Public Safety and Amateur Division: Police, Fire, Forestry Conservation, Highway Maintenance, Special Emergency, State Guard, Amateur, Disaster, RACES.

§ 1.542 *How file numbers are assigned.* (a) File numbers are assigned by Application Control to all applications and authorizations in the Safety and Special Radio Services with the exception of the following: Amateur Radio Service, RACES, Citizens Radio Service, all classes of ship stations including radiolocation, radionavigation and radar, the Disaster Communications Service, all classes of Aircraft, and Canadian Registrations (file numbers may be assigned to applications in these services if the application is routed outside of the division). A sample file number 13143–LX–P–K is made up of the following parts: 13143 is the serial number which is assigned in numerical sequence upon receipt of the application; LX is the service designator which, in this case, indicates the Taxicab Radio Service; the letter P indicates that the application is for a construction permit; and the letter K indicates that the application was received during the fiscal year 1956.

(b) File number symbols and service designators:

AMATEUR AND DISASTER SERVICES

Y—Amateur.
D—Disaster.
R—RACES.

AVIATION SERVICES

A—Aeronautical and fixed group.
AM—Aircraft group.
AA—Aviation auxiliary group.
AR—Aviation radionavigation land.
AC—Civil Air Patrol.

INDUSTRIAL SERVICES

IF—Forest products.
IR—Industrial radiolocation.
IL—Low power industrial.
IM—Motion picture.
IP—Petroleum.
IW—Power.
IY—Relay press.
IS—Special industrial.

LAND TRANSPORTATION SERVICES

LA—Automobile emergency.
LC—Citizens.
LI—Interurban passenger.
LJ—Interurban property.
LK—Highway truck.
LR—Railroad.
LX—Taxicab.
LU—Urban passenger.
LV—Urban property.

MARINE SERVICES

MK—Alaskan group.
M—Costal group.
MA—Marine auxiliary group.
MR—Marine radiolocation land.
MS—Ship group.

PUBLIC SAFETY SERVICES

PF—Fire.
PO—Forestry conservation.
PH—Highway maintenance.
PP—Police.
P—Public safety (combined).
PS—Special emergency.
PG—State Guard.

(c) Types of applications or authorizations:

P—Construction Permit.
MP—Modified CP.
MP/L—Modified CP and License.
MP/ML—Modified CP and Modified License.
AP—Assignment of Permit.
L—License.
ML—Modified License.
AL—Assignment of License.
P/L—Combination CP and License.
R—Renewed License.
TC—Transfer of Control.

§ 1.543 *Frequency coordination, Canada.* (a) As a result of mutual agreements, the Commission has, since May 1950, exchanged comments with the Canadian Department of Transport regarding proposed assignments in certain frequency bands for stations north of "Line A". Line A is described as follows: Begins at Aberdeen, Washington, running by great circle arc to the intersection of 48° N. and 120° W., thence along parallel 48° N. to the intersection of 95° W., thence by great circle arc through the southernmost point of Duluth, Minn., thence by great circle arc to 45° N. 85° W., thence southward along the meridian 85° W., to its intersection with parallel 41° N., thence along parallel 41° N. to its intersection with meridian 82° W., thence by great circle arc through the southernmost point of Bangor, Maine, thence by great circle arc through the southernmost point of Searsport, Maine, at which point it terminates.

(b) The frequency bands are as follows:

| *Mc* | *Mc* |
|---|---|
| 30.56– 32.00 | 42.00– 50.00 |
| 33.00– 34.00 | 72.00– 74.60 |
| 35.00– 36.00 | 75.40– 76.00 |
| 37.00– 38.00 | 152.00–162.00 |
| 39.00– 40.00 | 450.00–460.00 |

(c) Due, however, to the nature of the service, proposed assignments on the following specific frequencies are not coordinated:

| *Mc* | *Mc* |
|---|---|
| 35.10 | 156.8 |
| 35.14 | 156.9 |
| 35.18 | 157.0 |
| 156.3 | 157.1 |
| 156.4 | 157.2 |
| 156.5 | 157.3 |
| 156.6 | 157.4 |
| 156.7 | |

§ 1.544 *Shared use of broadcast antenna structure.* Applicants who propose to share the use of an antenna structure used by a standard, FM, or TV broadcast station shall submit the following information as a part of the application:

(a) A scale sketch of the antenna system showing the position of the proposed antenna on the tower structure and its relation to any required obstruction lights and other antennas on the tower; and

(b) A diagram which will clearly indicate the proposed method of mounting the transmission feed lines and how these lines will bridge antenna base insulators if employed by the broadcast station.

§ 1.545 *Defective applications.* (a) Applications which are incomplete with respect to completeness of answers, supplementary statements, execution, or other matters of a formal character shall be deemed to be defective and may be returned to the applicant with a brief statement as to such defects.

(b) Applications will also be deemed to be defective and may be returned to the applicant in the following cases:

(1) Statutory disqualification of applicant, e. g., aliens under section 310 of the Communications Act;

(2) Proposed use or purpose of station would be unlawful;

(3) Requested frequency is not allocated for assignment for the service proposed.

(c) Applications which are not in accordance with the provisions of this chapter, or other requirements of the Commission will be considered defective and may be dismissed unless accompanied either by (1) a petition to amend any rule or regulation with which the application is in conflict, or (2) a request of the applicant for waiver of, or exception to, any rule, regulation, or requirement with which the application is in conflict. Such request shall show the nature of the waiver or exception desired and set forth the reasons in support thereof. Applications may be dismissed, if the accompanying petition for waiver or amendment of rules does not set forth reasons which, sufficient if true, would justify a waiver or change of the rules.

(d) If an applicant is requested by the Commission to file any additional documents or information not included in the prescribed application form, failure to comply with such request will be deemed to render the application defective, and such application may be dismissed.

§ 1.546 *How applications are processed.* (a) Applications are processed in sequence according to date of filing. Applications which are in accordance with the provisions of this chapter and established policies of the Commission may be processed to completion in accordance with the applicable delegations of authority as set forth in Part O, the Commission's Statement of Organization, Delegations of Authority, and Other Information.

(b) Applications are presented to the Commission in cases where:

(1) Applicant requests reconsideration of action taken by the staff under such delegations of authority;

(2) Requests are made for waiver of, or exception to, a rule for a period in excess of 90 days; and

(3) Applicant files a reply to a letter sent pursuant to section 309 (b) of the Communications Act.

§ 1.547 *Grants without a hearing* The Commission will grant without a hearing an application for radio facilities which is proper upon its face and appears, from an examination of the application and supporting data, that:

(a) The applicant is legally, technically, and financially qualified;

(b) A grant of the application would not involve modification, revocation, or non-renewal of any existing license or outstanding construction permit;

(c) A grant of the application would not preclude the grant of any mutually exclusive application; and

(d) A grant of the application would be in the public interest.

§ 1.548 *Designation for hearing.* Applications which are returned to applicants as defective because of incompleteness of answers, inadequacy of data, or questions of eligibility will be accompanied by a brief statement advising applicant of the defects in such application. If, upon the resubmission of such application, the Commission is still unable to make a determination that the public interest, convenience, or necessity will be served by a grant of such application, the applicant will be advised by letter pursuant to the provisions of section 309 (b) of the act as to the grounds and reasons for its inability to make such findings and of all the objections made to such application. Following such notice, the applicant will be given an opportunity to reply. If the Commission, after considering such reply, should still be unable to determine that a grant without hearing would be in the public interest, convenience, or necessity, it will formally designate the application for hearing upon the issues then obtaining and will notify the applicant and all other known parties in interest of such action. Parties in interest, if any, who are not notified by the Commission of its action with respect to a particular application may acquire the status of a party to the proceeding therein by filing a petition for intervention showing the basis of their interest at any time not less than ten days prior to the date of hearing. Any hearing subsequently held upon such application shall be a full hearing in which the applicant and all other parties in interest shall be permitted to participate but in which both the burden of proceeding with the introduction of evidence upon any issue specified by the Commission, as well as the burden of proof upon all such issues shall be upon the applicant.

§ 1.549 *Resubmitted applications.* Any application which has been returned to the applicant for correction will be processed in original order of receipt when resubmitted if it is received within 30 days (45 days outside continental United States) from the date on which it was returned to the applicant. If the application is not resubmitted within the prescribed time, it will be treated as a new application and considered at the time other applications received on the same date are considered.

§ 1.550 *Repetitious applications.* Where the Commission has, for any reason, denied an application for a new station or for any modification of services or facilities, dismissed such application with prejudice, or revoked the license for a radio station in the Safety and Special Radio Services, the Commission will not consider a like or new application involving service of the same kind to substantially the same area by substantially the same applicant, its successor or assignee, or on behalf of or for the benefit of the original parties in interest, until after the lapse of 12 months from the effective date of the Commission's order. The Commission may, for good cause shown, waive the requirements of this section.

### Reports To Be Filed With the Commission

§ 1.561 *Reports, annual and semi-annual.* (a) Licensees of stations authorized for developmental operation shall submit a report on the results of the developmental program. The report shall be filed with and made a part of each application for renewal of authorization.

(b) The report shall include comprehensive and detailed information on the following:

(1) The final objective.

(2) Results of operation to date.

(3) Analysis of the results obtained.

(4) Copies of any published reports.

(5) Need for continuation of the program.

(6) Number of hours of operation on each frequency.

(c) Where required by the particular service rules, licensees who have entered into agreements with other persons for the cooperative use of radio station facilities must submit annually an audited financial statement reflecting the nonprofit cost-sharing nature of the arrangement to the Commission's offices in Washington, D. C., no later than three months after the close of the licensee's fiscal year.

### Forfeitures Against Ships and Ship Masters

§ 1.581 *Forfeitures against ships and ship masters.* (a) Whenever information is received indicating that reasonable grounds exist to support a suit for collection of forfeitures provided by sections 364, 386, and 507 of the Communications Act of 1934, as amended, the owner of the ship and the master will be notified of apparent liability for forfeitures. The notification will specify dates, places, and the nature of the alleged violations or irregularities, and will advise the parties of the Commission's authority under section 504 (b) of the act to remit or mitigate such forfeitures upon application therefor. Applications for mitigation or remission may be filed within 30 days from the date of receipt of the notification letter, or within such extended time as may for good cause be granted. The application must be in duplicate but need not follow any special form. After a review of the case in the light of all the information available, including the information and arguments presented in the application, the applicant will be notified of the determination, which may be either remission of the entire amount, an offer of mitigation of the forfeiture to the extent which appears warranted under the circumstances, or denial of any relief.

(b) Acceptance of an offer of mitigation may be accomplished through payment, within 30 days from the date of receipt of the notification, of the amount specified therein by check or similar means drawn to the order of the Treasurer of the United States and mailed to the Commission.

(c) In lieu of acceptance of an offer of mitigation, or in the event of denial of relief, application may be made within 30 days from the date of receipt of the notification for review by the Commission as provided in section 5 (d) (2) of the act. The application should set forth the reasons for applicant's belief that the original action on his application should be modified. It may include a

statement of any material facts that may have been omitted from the original application for relief. On review the Commission may affirm, modify, or set aside the previous action, or direct any further proceedings that appear necessary and in the public interest.

(d) If the applicant fails to take any action in respect to a notification of apparent liability for forfeiture or an offer of mitigation or a notification of denial of relief, the case may be referred by the Commission to the Attorney General of the United States for appropriate civil action to recover the forfeiture in accordance with the provisions of section 504 (a) of the act.

APPENDIX—A PLAN OF COOPERATIVE PROCEDURE IN MATTERS AND CASES UNDER THE PROVISIONS OF SECTION 410 OF THE COMMUNICATIONS ACT OF 1934

(Approved by the Federal Communications Commission October 25, 1938, and approved by the National Association of Railroad and Utilities Commissioners on November 17, 1938.)

PRELIMINARY STATEMENT CONCERNING THE PURPOSE AND EFFECT OF THE PLAN

Sec. 410 of the Communications Act of 1934 authorizes cooperation between the Federal Communications Commission, hereinafter called the Federal Commission, and the State commissions of the several States, in the administration of said Act. Subsection (a) authorizes the reference of any matter arising in the administration of said Act to a board to be composed of a member or members from each of the States in which the wire, or radio communication affected by or involved in the proceeding takes place, or is proposed. Subsection (b) authorizes conferences by the Federal Commission with State commissions regarding the relationship between rate structures, accounts, charges, practices, classifications, and regulations of carriers subject to the jurisdiction of such State commissions and of said Federal Commission and joint hearings with State commissions in connection with any matter with respect to which the Federal Commission is authorized to act.

Obviously, it is impossible to determine in advance what matters should be the subject of a conference, what matters should be referred to a board, and what matters should be heard at a joint hearing of State commissions and the Federal Commission. It is understood, therefore, that the Federal Commission or any State commission will freely suggest cooperation with respect to any proceedings or matter affecting any carrier subject to the jurisdiction of said Federal Commission and of a State commission, and concerning which it is believed that cooperation will be in the public interest.

To enable this to be done, whenever a proceeding shall be instituted before any commission, Federal or State, in which another commission is believed to be interested, notice should be promptly given each such interested commission by the commission before which the proceeding has been instituted. Inasmuch, however, as failure to give notice as contemplated by the provisions of this plan will sometimes occur purely through inadvertence, any such failure should not operate to deter any commission from suggesting that any such proceeding be made the subject matter of cooperative action, if cooperation therein is deemed desirable.

It is understood that each commission, whether or not represented in the National Association of Railroad and Utilities Commissioners, must determine its own course of action with respect to any proceeding in the light of the law under which, at any given time, it is called upon to act, and must be guided by its own views of public policy; and that no action taken by such Association can in any respect prejudice such freedom of action. The approval by the Association of this plan of cooperative procedure, which was jointly prepared by the Association's standing Committee on Cooperation between Federal and State commissions and said Federal Commission, is accordingly recommendatory only; but such plan is designed to be, and it is believed that it will be, a helpful step in the promotion of cooperative relations between the State commissions and said Federal Commission.

NOTICE OF INSTITUTION OF PROCEEDING

Whenever there shall be instituted before the Federal Commission any proceeding involving the rates of any telephone or telegraph carrier, the State commissions of the States affected thereby will be notified immediately thereof by the Federal Commission, and each notice given a State commission will advise such commission that, if it deems the proceeding one which should be considered under the cooperative provisions of the Act, it should either directly or through the National Association of Railroad and Utilities Commissioners, notify the Federal Commission as to the nature of its interest in said matter and request a conference, the creation of a joint board, or a joint hearing as may be desired, indicating its preference and the reasons therefor. Upon receipt of such request the Federal Commission will consider the same and may confer with the commission making the request and with other interested commission, or with representatives of the National Association of Railroad and Utilities Commissioners, in such manner as may be most suitable; and if cooperation shall appear to be practicable and desirable, shall so advise each interested State commission, directly, when such cooperation will be by joint conference or by reference to a joint board appointed under said Sec. 410 (a), and, as hereinafter provided, when such cooperation will be by a joint hearing under said Sec. 410 (b).

Each State commission should in like manner notify the Fedreal Commission of any proceeding instituted before it involving the toll telephone rates or the telegraph rates of any carrier subject to the jurisdiction of the Federal Commission.

PROCEDURE GOVERNING JOINT CONFERENCES

The Federal Commission, in accordance with the indicated procedure, will confer with any State commission regarding any matter relating to the regulation of public utilities subject to the jurisdiction of either commission. The commission desiring a conference upon any such matter should notify the other without delay, and thereupon the Federal Commission will promptly arrange for a conference in which all interested State commissions will be invited to be present.

PROCEDURE GOVERNING MATTERS REFERRED TO A BOARD

Whenever the Federal Commission, either upon its own motion or upon the suggestion of a State commission, or at the request of any interested party, shall determine that it is desirable to refer a matter arising in the administration of the Communications Act of 1934 to a board to be composed of a member or members from the State or States affected or to be affected by such matter, the procedure shall be as follows:

The Federal Commission will send a request to each interested State commission to nominate a specified number of members to serve on such board.

The representation of each State concerned shall be equal, unless one or more of the States affected chooses to waive such right of equal representation. When the member or members of any board have been nominated and appointed, in accordance with the provisions of the Communications Act of 1934, the Federal Commission will make an order referring the particular matter to such board, and such order shall fix the time and place of hearing, define the force and effect the action of the board shall have, and the manner in which its proceedings shall be conducted. The rules of practice and procedure, as from time to time adopted or prescribed by the Federal Commission, shall govern such board, as far as applicable.

PROCEDURE GOVERNING JOINT HEARINGS

Whenever the Federal Commission, either upon its own motion or upon suggestions made by or on behalf of any interested State commission or commissions, shall determine that a joint hearing under said Sec. 410 (b) is desirable in connection with any matter pending before said Federal Commission, the procedure shall be as follows:

(a) The Federal Commission will notify the general solicitor of the National Association of Railroad and Utilities Commissioners that said Association, or, if not more than eight States are within the territory affected by the proceeding, the State commissions interested, are invited to name Cooperating Commissioners to sit with the Federal Commission for the hearing and consideration of said proceeding.

(b) Upon receipt of any notice from said Federal Commission inviting cooperation, if not more than eight States are involved, the general solicitor shall at once advise the State commissions of said States, they being represented in the membership of the association, of the receipt of such notice, and shall request each such commission to give advice to him in writing, before a date to be indicated by him in his communication requesting such advice (1) whether such commission will cooperate in said proceeding, (2) if it will, by what commissioner it will be represented therein.

Upon the basis of replies received, the general solicitor shall advise the Federal Commission what States, if any, are desirous of making the proceeding cooperative and by what commissioners they will be represented, and he shall give like advice to each State commission interested therein.

(d) If more than eight States are interested in the proceeding, because within territory for which rates will be under consideration therein, the general solicitor shall advise the president of the association that the association is invited to name a cooperating committee of State commissioners representing the States interested in said proceeding.

The president of the association shall thereupon advise the general solicitor in writing (1) whether the invitation is accepted on behalf of the association, and (2) the names of commissioners selected to sit as a cooperating committee. The president of the association shall have authority to accept or to decline said invitation for the association, and to determine the number of commissioners who shall be named on the cooperating committee, provided that his action shall be concurred in by the chairman of the association's executive committee. In the event of any failure of the president of the association and chairman of its executive committee to agree, the second vice president of the association (or the chairman of its committee on cooperation between State and Federal commissions, if there shall be no second vice president) shall be consulted, and the majority opinion of the three shall prevail. Consultations and expressions of opinion may be by mail or telegraph.

(e) If any proceeding, involving more than eight States, is pending before the Federal Commission, in which cooperation has not been invited by that Commission,

which the association's president and the first and second vice presidents, or any two of them, consider should be made a cooperating proceeding, they may instruct the general solicitor to suggest to the Federal Commission that the proceeding be made a cooperative proceeding; and any State commission considering that said proceeding should be made cooperative may request the president of the association or the chairman of its executive committee to make such suggestion after consideration with the executive officers above named. If said Federal Commission shall assent to the suggestion, made as aforesaid, the president of the association shall have the same authority to proceed, and shall proceed in the appointment of a cooperating committee, as is provided in other cases involving more than eight States, wherein the Federal Commission has invited cooperation, and the invitation has been accepted.

(f) Whenever any case is pending before the Federal Commission involving eight States or less, which a commission of any of said States considers should be made cooperative, such commission, either directly or through the general solicitor of the association, may suggest to the Federal Commission that the proceeding be made cooperative. If said Federal Commission accedes to such suggestion, it will notify the general solicitor of the association to that effect and thereupon the general solicitor shall proceed as is provided in such case when the invitation has been made by the Federal Commission without State commission suggestion.

APPOINTMENT OF COOPERATING COMMISSIONERS BY THE PRESIDENT

In the appointment of any cooperating committee, the president of the association shall make appointments only from commissions of the States interested in the particular proceeding in which the committee is to serve. He shall exercise his best judgment to select cooperating commissioners who are especially qualified to serve upon cooperating committees by reason of their ability and fitness; and in no case shall he appoint a commissioner upon a cooperating committee until he shall have been advised by such commissioner that it will be practicable for him to attend the hearings in the proceeding in which the committee is to serve, including the arguments therein, and the cooperative conferences, which may be held following the submission of the proceeding, to an extent that will reasonably enable him to be informed upon the issues in the proceeding and to form a reasonable judgment in the matters to be determined.

TENURE OF COOPERATORS

(a) No State commissioner shall sit in a cooperative proceeding under this plan except a commissioner who has been selected by his commission to represent it in a proceeding involving eight States or less, or has been selected by the president of the association to sit in a case involving more than eight States, in the manner hereinbefore provided.

(b) A commissioner who has been selected, as hereinbefore provided, to serve as a member of a cooperating committee in any proceeding, shall without further appointment, and without regard to the duration of time involved, continue to serve in said proceeding until the final disposition thereof, including hearings and conferences after any order or reopening, provided that he shall continue to be a State commissioner.

(c) No member of a cooperating committee shall have any right or authority to designate another commissioner to serve in his place at any hearing or conference in any proceeding in which he has been appointed to serve.

(d) Should a vacancy occur upon any cooperating committee, in a proceeding involving more than eight States, by reason of the death of any cooperating commissioner, or of his ceasing to be a State commissioner, or of other inability to serve, it shall be the duty of the president of the association to fill the vacancy by appointment, if, after communication with the chairman of the cooperating committee, it be deemed necessary to fill such vacancy.

(e) In the event of any such vacancy occurring upon a cooperating committee involving not more than eight States, the vacancy shall be filled by the commission from which the vacancy occurs.

COOPERATING COMMITTEE TO DETERMINE RESPECTING ANY REPORT OF STATEMENT OF ITS ATTITUDE

(a) Whenever a cooperating committee shall have concluded its work, or shall deem such course advisable, the committee shall consider whether it is necessary and desirable to make a report to the interested State commissions, and, if it shall determine to make a report, it shall cause the same to be distributed through the secretary of the association, or through the general solicitor to all interested commissions.

(b) If a report of the Federal Commission will accompany any order to be made in said proceeding, the Federal Commission will state therein the concurrence or nonconcurrence of said cooperating committee in the decision or order of said Federal Commission.

CONSTRUCTION HEREOF IN CERTAIN RESPECTS EXPRESSLY PROVIDED

It is understood and provided that no State or States shall be deprived of the right of participation and cooperation as hereinbefore provided because of nonmembership in the association. With respect to any such State or States, all negotiations herein specified to be carried on between the Federal Commission and any officer of such association shall be conducted by the Federal Commission directly with the chairman of the commission of such State or States.

## CROSS REFERENCES

SUBPART A

| *New section* | *derived from old section* |
|---|---|
| 1.10 | 1.727, 1.801. |
| 1.11 | 1.721 and 1.727. |
| 1.12 | New. |
| 1.13 | 1.730. |
| 1.14 | 1.768. |
| 1.15 | 1.701. |
| 1.16 | 1.726 (c). |
| 1.17 | 1.728. |
| 1.18 | 1.703. |
| 1.21 | 1.711. |
| 1.22 | 1.712. |
| 1.23 | 1.713. |
| 1.24 | 1.714. |
| 1.25 | 1.715. |
| 1.26 | New. |
| 1.41 | 1.741, 1.742, 1.743 (a), 1.744 (a), (b). |
| 1.42 | 1.748. |
| 1.43 | 1.745. |
| 1.44 | 1.746. |
| 1.45 | 1.747. |
| 1.46 | 1.749. |
| 1.47 | 1.750. |
| 1.50 | 1.727 (a), 1.761. |
| 1.51 | 1.751. |
| 1.52 | 1.762. |
| 1.53 | 1.763. |
| 1.54 | 1.764. |
| 1.55 | 1.765. |
| 1.56 | 1.767. |
| 1.61 | 1.401. |
| 1.62 | 1.402, 1.509. |
| 1.63 | 1.403. |
| 1.64 | 1.383. |
| 1.65 | 1.384. |
| 1.66 | New. |
| 1.67 | 1.377. |
| 1.70 | 1.329. |
| 1.71 | 1.375. |
| 1.72 | 1.404. |
| 1.73 | 1.333 (c). |
| 1.74 | New. |
| 1.75 | New. |

SUBPART B

| | |
|---|---|
| 1.101 | New. |
| 1.102 | 1.802. |
| 1.103 | 1.803. |
| 1.104 | 1.388, 1.722. |
| 1.105 | 1.723. |
| 1.106 | 1.724. |
| 1.111 | 1.813. |
| 1.112 | 1.812. |
| 1.113 | 1.811. |
| 1.121 | New. |
| 1.122 | 1.821 (a). |
| 1.123 | 1.821 (b). |
| 1.124 | 1.822 (a). |
| 1.125 | 1.822 (b). |
| 1.126 | 1.823. |
| 1.127 | 1.824. |
| 1.128 | 1.825 (a), 1.826. |
| 1.129 | 1.822, 1.825. |
| 1.131 | 1.831. |
| 1.132 | 1.832 |
| 1.133 | 1.833. |
| 1.134 | 1.834. |
| 1.135 | New. |
| 1.140 | 1.387, 1.716. |
| 1.141 | 1.389, 1.725. |
| 1.142 | 1.842. |
| 1.143 | 1.843. |
| 1.144 | 1.844. |
| 1.146 | 1.846. |
| 1.147 | 1.847. |
| 1.148 | 1.848. |
| 1.149 | 1.849. |
| 1.150 | 1.850. |
| 1.151 | 1.851. |
| 1.152 | 1.852. |
| 1.153 | 1.853. |
| 1.154 | 1.854. |
| 1.155 | 1.855. |
| 1.156 | 1.856. |
| 1.157 | 1.857. |
| 1.158 | 1.859. |
| 1.171 | 1.871. |
| 1.172 | 1.872. |
| 1.173 | 1.873. |
| 1.174 | 1.874. |
| 1.175 | 1.875. |
| 1.176 | 1.876. |
| 1.177 | 1.877. |
| 1.178 | 1.878. |
| 1.179 | 1.879. |
| 1.180 | 1.880. |
| 1.181 | 1.881. |
| 1.191 | 1.390, 1.892, 1.893, 1.894, 1.895. |
| 1.192 | 1.386. |
| 1.193 | New. |

SUBPART C

| | |
|---|---|
| 1.202 | 1.702. |
| 1.203–1.205 | New. |
| 1.211–1.219 | New. |

SUBPART D

| | |
|---|---|
| 1.300 | New. |
| 1.301 | 1.301. |
| 1.302 | 1.302. |
| 1.303 | 1.303, 1.307. |
| 1.304 | 1.304, 1.305, 1.306, 1.308. |
| 1.305 | 1.304. |
| 1.306 | 1.361(d), 1.371. |
| 1.307 | 1.361. |
| 1.308 | 1.362. |
| 1.309 | 1.363. |
| 1.310 | 1.364. |
| 1.311 | 1.365. |
| 1.312 | 1.366, 1.381. |
| 1.313 | 1.314 (a). |
| 1.314 | New (but see § 3.94). |
| 1.315 | New (but see § 3.34 (b)). |
| 1.321 | 1.332. |
| 1.322 | 1.309 (b), 1.311, 1.313. |

| *New section derived from old section* | |
|---|---|
| 1.323 | 1.314. |
| 1.324 | 1.309 (a). |
| 1.325 | 1.317. |
| 1.326 | 1.318. |
| 1.327 | 1.319. |
| 1.328 | 1.320. |
| 1.329 | 1.321. |
| 1.330 | 1.323. |
| 1.331 | 1.324. |
| 1.332 | 1.325. |
| 1.333 | 1.326. |
| 1.334 | 1.327. |
| 1.335 | 1.328. |
| 1.336 | 1.334. |
| 1.337 | 1.332 (d). |
| 1.341 | 1.341. |
| 1.342 | 1.342. |
| 1.343 | 1.343. |
| 1.351 | Footnote 10b. |
| 1.352 | 1.300. |
| 1.353 | 1.372. |
| 1.354 | 1.373. |
| 1.355 | 1.378. |
| 1.356 | 1.379. |
| 1.357 | 1.374. |
| 1.361 | 1.382. |
| 1.362 | 1.385. |
| 1.363 | 1.367. |
| 1.364 | 1.391. |

SUBPART E

| | |
|---|---|
| 1.401 | 1.591. |
| 1.402 | New. |
| 1.411 | 1.571. |
| 1.412 | New. |
| 1.416 | 1.572. |
| 1.417 | 1.573. |
| 1.418 | 1.574. |
| 1.421 | 1.575. |
| 1.422 | 1.576. |
| 1.423 | 1.580. |
| 1.424 | 1.578. |
| 1.425 | 1.576 (partially). |
| 1.426 | 1.582, 1.583. |
| 1.427 | 1.584, 1.586. |
| 1.428 | 1.587. |
| 1.429 | 1.577 (partially). |
| 1.430 | 1.588, 1.589. |
| 1.431 | New. |
| 1.432 | New. |
| 1.433 | New. |
| 1.434 | New. |
| 1.435 | New. |
| 1.440 | New. |
| 1.441 | 1.521. |
| 1.442 | 1.501. |
| 1.443 | 1.504, 1.505, 1.507 (partially). |
| 1.444 | 1.503. |
| 1.445 | 1.506. |
| 1.446 | 1.510. |
| 1.447 | 1.507, 1.508. |
| 1.448 | Partially from 1.524, 1.525, 1.526. |
| 1.449 | New. |
| 1.450 | 1.524. |
| 1.451 | 1.525. |
| 1.452 | 1.526. |
| 1.453 | 1.527. |
| 1.454 | 1.528. |
| 1.455 | Appendix 1. |
| 1.461 | 1.541. |
| 1.462 | 1.523. |
| 1.463 | 1.590. |
| 1.468 | 1.522 (partially). |
| 1.469 | 1.543. |
| 1.471 | 1.544. |
| 1.472 | 1.545. |
| 1.473 | 1.551. |
| 1.474 | 1.553. |
| 1.475 | 1.554. |
| 1.476 | 1.557 (partially). |
| 1.477 | 1.547. |
| 1.478 | 1.548. |
| 1.479 | 1.549. |
| 1.480 | 1.550. |
| 1.483 | 1.347, 1.555. |
| 1.484 | 1.559 (partially). |
| 1.485 | New. |
| 1.486 | 1.560. |

| *New section derived from old section* | |
|---|---|
| 1.487 | 1.346, 1.557 (partially). |
| 1.490 | New. |
| 1.491 | 1.552. |
| 1.492 | 1.556. |
| 1.493 | New. |

SUBPART F

| | |
|---|---|
| 1.501 | 1.301. |
| 1.502 | New. |
| 1.503 | 1.303 and 1.307. |
| 1.504 | 1.305. |
| 1.505 | 1.306, 1.307, 1.308, 1.365. |
| 1.506 | 1.366, 1.381. |
| 1.521 | 1.312, 1.315, 1.317. |
| 1.522 | 1.310, 1.312, 1.317, 1.318, 1.319. |
| 1.523 | 1.333. |
| 1.524 | 1.322, 1.323. |
| 1.525 | 1.324. |
| 1.526 | 1.320. |
| 1.527 | 1.330. |
| 1.528 | 1.331. |
| 1.529 | 1.376. |
| 1.530 | 1.375. |
| 1.531 | 1.314. |
| 1.532 | New. |
| 1.533 | 1.313. |
| 1.541 | New. |
| 1.542 | New. |
| 1.543 | New. |
| 1.544 | New. |
| 1.545 | 1.361 |
| 1.546 | New. |
| 1.547 | 1.382. |
| 1.548 | 1.385. |
| 1.549 | New. |
| 1.550 | 1.363 |
| 1.561 | New. |
| 1.581 | 1.410. |

APPENDIX

| | |
|---|---|
| Appendix | Appendix 2. |

CROSS REFERENCE, OLD TO NEW

| *Old provisions included in new* | |
|---|---|
| 1.300 | 1.352. |
| 1.301 | 1.301, 1.501. |
| 1.302 | 1.302. |
| 1.303 | 1.303, 1.503. |
| 1.304 | 1.304, 1.305. |
| 1.305 | 1.304, 1.504. |
| 1.306 | 1.304, 1.505. |
| 1.307 | 1.303, 1.503, 1.505. |
| 1.308 | 1.304, 1.505. |
| 1.309 (a) | 1.324. |
| (b) | 1.322. |
| 1.310 | 1.522. |
| 1.311 | 1.322. |
| 1.312 | 1.521, 1.522. |
| 1.313 | 1.322, 1.533. |
| 1.314 (a) | 1.313. |
| (a) and (b) | 1.531. |
| (b) and (c) | 1.323. |
| 1.315 | 1.521. |
| No 1.316 | - - -. |
| 1.317 | 1.325, 1.521, 1.522. |
| 1.318 | 1.326, 1.522. |
| 1.319 | 1,327, 1.522. |
| 1.320 | 1.328, 1.526. |
| 1.321 | 1.329. |
| 1.322 | 1.524. |
| 1.323 | 1.330, 1.524. |
| 1.324 | 1.331, 1.525. |
| 1.325 | 1.332. |
| 1.326 | 1.333. |
| 1.327 | 1.334. |
| 1.328 | 1.335. |
| 1.329 | 1.70. |
| 1.330 | 1.527. |
| 1.331 | 1.528. |
| 1.332 (c) | 1.73. |
| 1.332 (d) | 1.337. |
| 1.332 | 1.321. |
| 1.333 | 1.523. |
| 1.334 | 1.336. |
| 1.335 | Deleted. |
| 1.341 | 1.341. |
| 1.342 | 1.342. |
| 1.343 | 1.343. |

| *Old provisions included in new* | |
|---|---|
| 1.344 | Deleted. |
| No 1.345 | - - -. |
| 1.346 | 1.487. |
| 1.347 | 1.483. |
| 1.361 | 1.307, 1.545. |
| (d) | 1.306. |
| 1.362 | 1.308. |
| 1.363 | 1.309, 1.550. |
| 1.364 | 1.310. |
| 1.365 | 1.311, 1.505. |
| 1.366 | 1.312, 1.506. |
| 1.367 | 1.363. |
| 1.371 | 1.306, 1.351. |
| 1.372 | 1.353. |
| 1.373 | 1.354. |
| 1.374 | 1.357. |
| 1.375 | 1.71, 1.530. |
| 1.376 | 1.529. |
| 1.377 | 1.67. |
| 1.378 | 1.355. |
| 1.379 | 1.356. |
| 1.381 | 1.312, 1.506. |
| 1.382 | 1.361, 1.547. |
| 1.383 | 1.64. |
| 1.384 | 1.65. |
| 1.385 | 1.362, 1.548. |
| 1.386 | 1.192. |
| 1.387 | 1.140. |
| 1.388 | 1.104. |
| 1.389 | 1.141. |
| 1.390 | 1.191. |
| 1.391 | 1.364. |
| 1.401 | 1.61. |
| 1.402 | 1.62. |
| 1.403 | 1.63. |
| 1.404 | 1.72. |
| 1.410 | 1.581. |
| 1.501 | 1.442. |
| 1.502 | Deleted. |
| 1.503 | 1.444. |
| 1.504 | 1.443. |
| 1.505 | 1.443. |
| 1.506 | 1.445. |
| 1.507 | 1.443, 1.447. |
| 1.508 | 1.447. |
| 1.509 | 1.62. |
| 1.510 | 1.446. |
| 1.521 | 1.441. |
| 1.522 | 1.468. |
| 1.523 | 1.462. |
| 1.524 | 1.448, 1.450. |
| 1.525 | 1.448, 1.451. |
| 1.526 | 1.448, 1.452. |
| 1.527 (deleted) but see | 1.453. |
| 1.528 | 1.454. |
| 1.529 | Deleted. |
| 1.541 | 1.461. |
| No 1.542. | |
| 1.543 | 1.469. |
| 1.544 | 1.471. |
| 1.545 | 1.472. |
| 1.547 | 1.477. |
| 1.548 | 1.478. |
| 1.549 | 1.479. |
| 1.550 | 1.480. |
| 1.551 | 1.473. |
| 1.552 | 1.491. |
| 1.553 | 1.474. |
| 1.554 | 1.475. |
| 1.555 | 1.483. |
| 1.556 | 1.492. |
| 1.557 | 1.476, 1.487. |
| 1.558 | Deleted. |
| 1.559 | 1.484. |
| 1.560 | 1.486. |
| 1.571 | 1.411. |
| 1.572 | 1.416. |
| 1.573 | 1.417. |
| 1.574 | 1.418. |
| 1.575 | 1.421. |
| 1.576 | 1.422, 1.425. |
| 1.577 | 1.429. |
| 1.578 | 1.424. |
| 1.579 | Deleted. |
| 1.580 | 1.423. |
| 1.581 | Deleted. |
| 1.582 | 1.426. |
| 1.583 | 1.426. |

| *Old provisions* | *included in new* |
|---|---|
| 1.584 | 1.427. |
| 1.585 | Deleted. |
| 1.586 | 1.427. |
| 1.587 | 1.428. |
| 1.588 | 1.430. |
| 1.589 | 1.430. |
| 1.590 | 1.463. |
| 1.591 | 1.463. |
| 1.592 | Deleted. |
| 1.701 | 1.15. |
| 1.702 | Deleted. |
| 1.703 | 1.18. |
| 1.711 | 1.21. |
| 1.712 | 1.22. |
| 1.713 | 1.23. |
| 1.714 | 1.24. |
| 1.715 | 1.25. |
| 1.716 | 1.140. |
| 1.721 | 1.11. |
| 1.722 | 1.104. |
| 1.723 | 1.105. |
| 1.724 | 1.106. |
| 1.725 | 1.141. |
| 1.726 (c) | 1.16. |
| 1.727 | 1.10, 1.11. |
| (a) | 1.41. |
| 1.728 | 1.17. |
| 1.729 | Deleted. |
| 1.730 | 1.13. |
| 1.741 | 1.41. |
| 1.742 | 1.41. |
| 1.743 (a) | 1.41. |
| 1.744 | 1.41. |
| 1.745 | 1.43. |
| 1.746 | 1.44. |
| 1.747 | 1.45. |
| 1.748 | 1.42. |
| 1.749 | 1.46. |
| 1.750 | 1.47. |
| 1.751 | 1.51. |
| 1.761 | 1.50. |
| 1.762 | 1.52. |
| 1.763 | 1.53. |
| 1.764 | 1.54. |
| 1.765 | 1.55. |
| 1.766 | Deleted. |
| 1.767 | 1.56. |
| 1.768 | 1.14. |
| 1.801 | 1.10. |
| 1.802 | 1.102. |
| 1.803 | 1.103. |
| 1.811 | 1.113. |
| 1.812 | 1.112. |
| 1.813 | 1.111. |
| 1.821 (a) | 1.122. |
| (b) | 1.123 |
| 1.822 | 1.129. |
| (a) | 1.124. |
| (b) | 1.125. |
| 1.823 | 1.126. |
| 1.824 | 1.127. |
| 1.825 | 1.128, 1.129. |
| 1.826 | 1.128. |
| 1.831 | 1.131. |
| 1.832 | 1.132. |
| 1.833 | 1.133. |
| 1.834 | 1.134. |
| 1.840 | Deleted. |
| 1.841 | Deleted. |
| 1.842 | 1.142. |
| 1.843 | 1.143. |
| 1.844 | 1.144. |
| 1.845 | Deleted. |
| 1.846 | 1.146. |
| 1.847 | 1.147. |
| 1.848 | 1.148. |
| 1.849 | 1.149. |
| 1.850 | 1.150. |
| 1.851 | 1.151. |
| 1.852 | 1.152. |
| 1.853 | 1.153. |
| 1.854 | 1.154. |
| 1.855 | 1.155. |
| 1.856 | 1.156. |
| 1.857 | 1.157. |
| 1.858 | Deleted. |
| 1.859 | 1.158. |
| 1.871 | 1.171. |
| 1.872 | 1.172. |
| 1.873 | 1.173. |
| 1.874 | 1.174. |
| 1.875 | 1.175. |
| 1.876 | 1.176. |
| 1.877 | 1.177. |
| 1.878 | 1.178. |
| 1.879 | 1.179. |
| 1.880 | 1.180. |
| 1.881 | 1.181. |
| 1.891 | Deleted. |
| 1.892 | 1.191. |
| 1.893 | 1.191. |
| 1.894 | 1.191. |
| 1.895 | 1.191. |
| 1.896 | Deleted. |
| Appendix 1 | 1.455. |
| Appendix 2 | Appendix. |

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