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TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter III—Foreign and Territorial Compensation

[Dept. Reg. 108.363]

PART 325—ADDITIONAL COMPENSATION IN FOREIGN AREAS

DIFFERENTIAL POSTS

Effective as of the beginning of the first pay period following May 3, 1958 paragraph (d) of § 325.11 *Designation of differential posts*, is amended by the addition of the following:

Nicaro, Cuba.
Santiago de Cuba, Cuba.

(Sec. 102, Part I, E. O. 10000, 13 F. R. 5453, 3 CFR, 1948 Supp.)

For the Secretary of State.

W. K. SCOTT,
Assistant Secretary.

MAY 2, 1958.

[F. R. Doc. 58-3622; Filed, May 13, 1958; 8:52 a. m.]

TITLE 6—AGRICULTURAL CREDIT

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

Subchapter B—Loans, Purchases, and Other Operations

[1956 C. C. C. Grain Price Support Bulletin 1, Supp. 4, Barley]

PART 421—GRAINS AND RELATED COMMODITIES

SUBPART—1956-CROP BARLEY EXTENDED RESEAL LOAN PROGRAM

An extended reseal loan program has been announced for 1956-crop barley. The 1956 C. C. C. Grain Price Support Bulletin 1 (21 F. R. 3997), issued by the Commodity Credit Corporation and containing the general requirements with respect to price support operations for grains and related commodities produced in 1956, supplemented by Supplements 1, 2 and 3, barley (21 F. R. 4004, 4785, 5982, 6745, 7931 and 22 F. R. 2793, 3198 and 3222), containing the specific requirements for the 1956-crop barley price support program, is hereby further supplemented as follows:

Sec.
421.1698 Applicable sections of 1956 CCC Grain Price Support Bulletin 1, and Supplements 1, 2 and 3 Barley.
421.1699 Availability.
421.1700 Eligible barley.
421.1701 Approved storage.
421.1702 Quantity eligible for extended reseal.
421.1703 Service charges.
421.1704 Transfer of producer's equity.
421.1705 Personal liability of the producer.
421.1706 Storage and track-loading payments.
421.1707 Maturity and satisfaction.
421.1708 Support rates.

AUTHORITY: §§ 421.1698 to 421.1708 issued under sec. 4, 62 Stat. 1070, as amended; 15 U. S. C. 714b. Interpret or apply sec. 5, 62 Stat. 1072, sec. 401, 63 Stat. 1054, sec. 308, 70 Stat. 206; 15 U. S. C. 714; 7 U. S. C. 1421, 1442.

§ 421.1698 *Applicable sections of 1956 CCC Grain Price Support Bulletin 1, and Supplements 1, 2, 3, Barley.* The following sections of the 1956 CCC Grain Price Support Bulletin 1, as amended, and Supplements 1, 2 and 3, Barley, as amended, published in 21 F. R. 3997, 4004, 4785, 5982, 6745, 7931 and 22 F. R. 2793, 3198 and 3222 shall be applicable to the 1956-crop Barley Extended Reseal Loan Program: § 421.1601 *Administration;* § 421.1608 *Liens;* § 421.1610 *Set-offs;* § 421.1611 *Interest rate;* § 421.1613 *Safeguarding the commodity;* § 421.1614 *Insurance on farm-storage loans;* § 421.1615 *Loss or damage to the commodity;* § 421.1617 *Release of the commodity under loan;* § 421.1620 *Foreclosure;* § 421.1680 *Determination of quantity;* § 421.1688 *Eligible producer;* § 421.1691 *Approved forms.* Other sections of the 1956 C. C. C. Grain Price Support Bulletin 1, as amended, and Supplements 1, 2, and 3, Barley, as amended, shall be applicable to the extent indicated in this subpart.

§ 421.1699 *Availability*—(a) *Area and scope.* The extended reseal program will be available in areas in the following States where ASC State committees determine that there may be a shortage of storage space, that the barley can be safely stored on farms for the period of the extended reseal loan and that it will

(Continued on p. 3225)

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FEDERAL REGISTER

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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.

be advantageous to producers and CCC to permit producers to obtain extended reseal loans: Michigan, Minnesota, Montana, Nebraska, North Dakota, South Dakota, and Wisconsin. This program provides, under certain circumstances, for the extension of 1956-crop barley farm-storage reseal loans. Neither warehouse-storage loans nor purchase agreements will be available to producers under this program.

(b) *Time and source.* The producer who has a reseal loan and who desires to extend such loan must make application to the office of the county committee which approved his reseal loan before the final date for delivery specified in the delivery instructions issued to him by the office of the county committee.

(c) *New forms.* Where required by State law, a new producer's note and chattel mortgage shall be completed when a reseal loan is re-extended. Where new forms are not completed, re-extension of the farm-storage loan shall not affect the rights of CCC, including its right to accelerate the note, and the rights and responsibilities of the producer as set forth in this subpart and in the original forms completed by the producer.

§ 421.1700 *Eligible barley*—(a) *Requirements of eligibility.* The barley (1) must be in farm storage presently under a reseal loan; (2) must meet the requirements set forth in § 421.1678 (a), (b) and (c) (1956 C. C. C. Grain Price Support Bulletin 1, Supplement 1, Barley).

(b) *Inspection.* If a producer makes application to extend his reseal loan, the commodity loan inspector shall, with the producer, reinspect the barley and the farm-storage structure in which the barley is stored. If recommended by either the commodity loan inspector or the producer, a sample of the barley shall be taken and submitted for grade analysis.

(c) *Determination of quality.* Quality determination shall be made as set forth in § 421.1681.

§ 421.1701 *Approved storage.* Barley covered by any extended reseal loans must be stored in structures which meet the requirements for farm-storage loans as provided in § 421.1606 (a). Consent for storage for any loans extended must be obtained by the producer for the period ending June 30, 1959, if the structure is owned or controlled by someone other than the producer, or if the lease expires prior to June 30, 1959.

§ 421.1702 *Quantity eligible for extended reseal.* The quantity of barley eligible for an extended reseal loan will be the quantity shown on the original note and chattel mortgage, less any quantity delivered or redeemed.

§ 421.1703 *Service charges.* When a reseal loan is extended, the producer will not be required to pay an additional service charge.

§ 421.1704 *Transfer of producer's equity.* The producer shall not transfer either his remaining interest in or his right to redeem a commodity mortgaged as security for a farm-storage loan nor shall anyone acquire such interest or right. Subject to the provisions of § 421.1617 regarding partial redemption of loans, a producer who wishes to liquidate all or part of his loan by contracting for the sale of the commodity must obtain written prior approval of the county committee on Commodity Loan Form 12 to remove the commodity from storage when the proceeds of the sale are needed to repay all or any part of the loan. Any such approval shall be subject to the terms and conditions set out in Commodity Loan Form 12, copies of which may be obtained by producers or prospective purchasers at the office of the county committee.

§ 421.1705 *Personal liability of the producer.* The making of any fraudulent representation by the producer in the loan documents, or in obtaining the loan or the conversion or unlawful disposition of any portion of the commodity by him may render the producer subject to criminal prosecution under the Federal Law and shall render him personally liable for the amount of the loan (including interest as provided in § 421.1611) and for any resulting expense incurred by any holder of the note. A producer shall be personally liable for any damage resulting from tendering to CCC any commodity containing mercurial compounds or other substances poisonous to man or animals which is inadvertently accepted by CCC.

§ 421.1706 *Storage and track-loading payments*—(a) *Storage payment for 1957–58 storage period.* (1) A producer who extends his farm-storage reseal loan will at the time of extension of the reseal loan receive a payment for earned storage during the reseal loan period. This payment will be computed at the rate of 16 cents per bushel on the quantity of barley held in farm storage for the full reseal period, ending April 30, 1958. The reseal storage payment will be disbursed to the producer by the office of the county committee.

(2) Upon delivery of the 1956-crop barley to CCC, the actual quantity of barley held in farm storage under the extended reseal loan program will be determined by weighing. The storage payment previously made to the producer at the time the reseal loan was extended, covering the 1957–58 storage period, will then be recomputed on the basis of the actual quantity determined to have been covered by the extended reseal loan. Any amount due the producer for such storage on the quantity delivered in excess of the quantity stated in the extended reseal loan documents will be regarded as an additional credit in effecting settlement with the producer. The amount of any overpayment which is determined to have been made to the producer at the time the reseal loan was extended shall be collected from the producer.

(3) No storage payment will be made for the 1957–58 reseal loan period where the producer has made any false representation in the loan documents or in obtaining the loan, or where during or prior to the 1957–58 reseal loan period (i) the barley has been abandoned, (ii) there has been conversion on the part of the producer or (iii) the barley was damaged or otherwise impaired due to negligence on the part of the producer.

(b) *Storage payment for 1958–59 storage period.* A storage payment for the 1958–59 extended reseal storage period will be made as follows:

(1) *Storage payment for full extended resale period.* A storage payment computed at the rate of 16 cents per bushel will be made to the producer on the quantity involved if he (i) redeems barley from the loan on or after April 30, 1959, (ii) delivers barley to CCC on or after April 30, 1959, or (iii) delivers barley to CCC prior to April 30, 1959, pursuant to demand by CCC for repayment of the loan solely for the convenience of CCC.

(2) *Prorated storage payment.* A prorated storage payment computed at the rate of 0.00053 per bushel a day, but not to exceed 16 cents per bushel, according to the length of time the quantity of barley was in store after June 30, 1958, will be made to the producer (i) in the case of loss assumed by CCC under the provisions of the loan program, (ii) in the case of barley redeemed from the loan prior to April 30, 1959, and (iii) in the case of barley delivered to CCC prior to April 30, 1959, pursuant to CCC's demand and not solely for the convenience of CCC, or upon request of the producer and with the approval of CCC. In the case of losses assumed by CCC, the period for computing the storage payment shall end on the date of the loss; and in the case of redemptions, on the date of repayment.

(3) *No storage payments.* Notwithstanding the foregoing, in no case will any storage payment be made for the 1958–59 extended reseal storage period where the producer has made any false representation in the loan documents or in obtaining the loan, or where during or prior to such period (i) the barley has

been abandoned, (ii) there has been conversion on the part of the producer or (iii) the barley was damaged or otherwise impaired due to negligence on the part of the producer.

(c) *Track-loading payment.* A track-loading payment of 3 cents per bushel will be made to the producer on barley delivered to CCC, in accordance with instructions of the county office, on track at a country point.

§ 421.1707 *Maturity and satisfaction.* Extended reseal loans will mature on demand but not later than April 30, 1959. The producer must pay off his loan, plus interest, on or before maturity or deliver the mortgaged barley in accordance with the instructions of the county office. If the producer desires to deliver the barley he should, prior to maturity, give the county office notice in writing of his intention to do so. The producer may however, pay off his loan and redeem his barley at any time prior to delivery of the barley to CCC or removal of the barley by CCC. Credit will be given at the applicable settlement value according to grade and quality for the total quantity eligible for delivery. Delivery of barley will be accepted only from bin(s) in which the barley under extended reseal loan is stored. The provisions of §§ 421.1618 (a), (c), (d), (2) and (3) and (f) and 421.1685 (a) (1) and (d) shall be applicable thereto.

§ 421.1708 *Support rates.* (a) The support rate for an extended reseal loan shall remain the same as for the original loan.

(b) Any discounts or premiums established for variation in classification and quality as shown in § 421.1683 (d) (3), shall be applicable in determining the settlement value.

Issued this 8th day of May 1958.

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

[F. R. Doc. 58-3605; Filed, May 13, 1958; 8:48 a. m.]

Subchapter C—Export Programs

PART 484—FEED GRAINS

SUBPART—FEED GRAIN EXPORT PROGRAM PAYMENT IN KIND (GR-368)

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AUTHORITY: §§ 484.101 to 484.154 issued under sec. 5, 62 Stat. 1072; 15 U. S. C. 714c. Interpret or apply sec. 407, 63 Stat. 1051, as amended; sec. 201, 70 Stat. 188; 7 U. S. C. 1427, 1851.

GENERAL

§ 484.101 *General statement.* Commodity Credit Corporation (referred to in this subpart as "CCC") will conduct an export program pursuant to the following terms and conditions (referred to in this subpart as the "program") under which an exporter may agree to export feed grain, as defined in § 484.153, and may apply for an export payment in the form of a certificate which is redeemable in feed grains owned by CCC. The program is designed to encourage the exportation through normal trade channels of surplus feed grains held in private inventories and in CCC stocks in order (a) to aid the price support program by strengthening the domestic market price to producers, (b) to reduce the quantity of feed grains which would otherwise be taken into CCC's stocks under its price support program, (c) to promote the orderly liquidation of CCC stocks, and (d) to maintain and expand the market in friendly countries for United States produced feed grains. The program will be administered by Commodity Stabilization Service, United States Department of Agriculture (referred to in this subpart as CSS). Information pertaining to the program may be obtained from any CSS Commodity Office listed in § 484.140.

REQUIREMENTS FOR PARTICIPATION

§ 484.105 *General provisions.* (a) Persons desiring to participate in this program shall submit offers as provided in § 484.106 for the exportation of feed grains during a specified period at a stated export payment rate. CCC will consider and accept offers on a competitive basis. Export payments under this program will be made on the basis of the net quantity, excluding dockage, of the feed grains exported.

(b) Feed grains exported under this program must have been produced in the United States.

(c) Feed grains shall be exported under this program only to an eligible country and the feed grains so exported shall not be transshipped or caused to be transshipped by the exporter to any country other than an eligible country.

(d) To be eligible for payment under this program, the exporter shall furnish documentary evidence of export, as required in § 484.116, which has not been used, or will not subsequently be used as evidence of export in connection with any other contract entered into pursuant to § 484.107 of this program or in connection with any other export program under which CCC has paid or has agreed to pay an export allowance, or in connection with any other export program which involves the sale of feed grains for export at prices which reflect any export allowance. Nothing herein shall be construed as precluding exportations of feed grain under this program from fulfilling sales under Purchase Authorizations pursuant to Public Law 480, 83d Congress. Documentary evidence of export submitted under § 484.127 in connection with purchases of feed grains from CCC may also be submitted to CCC as evidence of export in connection with Applications for Feed Grain Export Payments.

(e) Exportations of feed grain under this program shall be started and completed in one of three periods as specified in the offer submitted by the exporter. The three periods of export shall be (1) The period beginning with the date of the opening of the offer and ending the last day of the next succeeding calendar month, (2) the two calendar months next succeeding the last day of the period described in subparagraph (1) of this paragraph, and (3) the two calendar months next succeeding the last day of the period described in subparagraph (2) of this paragraph.

§ 484.106 *Submission of offers.*—(a) Place and time: Exporters desiring to participate in this program shall submit offers in writing, by letter, telegram, TWX, or the tele-typewriter to:

Director, Grain Division, CSS, 3090 South Building, U. S. Department of Agriculture, Washington 25, D. C. TWX-WA 595

Such offers must be received in the Department of Agriculture by 3:30 p. m. (e. s. t. or e. d. t. whichever is in effect) of the day on which the exporter desires the offer to be opened, i. e. considered by CCC for acceptance. Offers to export corn will be considered for acceptance beginning Monday, May 12, 1958. Offers to export barley, grain sorghums, oats, and rye will be considered for acceptance beginning Tuesday, July 1, 1958. Offers will be considered daily subsequent to the foregoing respective dates, except that offers will not be considered for any Saturday, National Holiday or day upon which the major grain exchanges are closed, unless public announcement by CCC provides otherwise.

(b) Form: All offers must be signed by the exporter or his authorized agent and shall specifically state the following:

(1) The offer is subject to all of the terms and conditions of this subpart, and any amendments effective at the time the offer is submitted. The use of the term "GR-368" in the offer shall signify that it is submitted subject to all such terms and conditions.

(2) The date for which the offer is submitted for opening.

NOTE: This date must show on the offer and may also appear in the lower left hand corner of the envelope in which written offers are submitted.

An offer will be considered for acceptance only on the days specified and will not be considered on any other day unless the offer is resubmitted.

(3) The specific feed grain to which the offer applies, i. e. "Corn," "Barley," "Grain Sorghums," "Oats," or "Rye."

(4) The net quantity of feed grain to be exported. Grain sorghums shall be expressed in hundredweights and other feed grains in bushels.

(5) The export payment expressed in whole cents per bushel (or cwt.) for which the feed grain will be exported.

(6) The area (Atlantic/Gulf, Pacific, or a named Border point) from which export will be made.

(7) The period during which export will be started and completed, which shall be one of the three periods described in § 484.105 (d).

(8) The name and address of the offerer.

Example: The following represents an offer to export 100,000 bushels of corn from the Atlantic/Gulf area during July and August for an export payment of 10 cents per bushel submitted by John Doe Export Company.

GR-368 Corn—Open May 8.
100,000 bushels Atlantic/Gulf.
July-August, 10 cents bushel.

Signed: John Doe Export Company,
By: Richard Roe, President,
400 Blank Street,
New York, New York.

(c) An offer shall not specify more than one kind of feed grain, one quantity of feed grain, one export rate, and one export period. An exporter may separately submit more than one offer for opening on any stated date. CCC reserves the right to accept or reject any or all offers or to waive any informality in connection with such offers. Offers will be considered in their entirety only, and offers containing conditions other than those authorized in this subpart will not be considered.

§ 484.107 *Acceptance by CCC.* In the event CCC accepts an exporter's offer CCC will attempt to notify the exporter by telephone by 4:30 p. m. (e. s. t. or e. d. t. whichever is in effect) of the day on which the exporter desires the offer to be opened, and by the close of business of such day will forward to the exporter CCC Form 399 "Acceptance of Offer to Export," which shall constitute CCC's written acceptance of exporter's offer. The contract resulting from such acceptance shall consist of the exporter's offer, CCC's written acceptance, the terms and conditions of this subpart and any amendments in effect on the date of submission of the offer.

§ 484.108 *Exportation requirements.* (a) The exporter shall export or cause exportation of the feed grain to an eligible country in accordance with his contract with CCC and within the period of time specified therein. Exportation in a different period or from a different area than the area specified in the contract will be acceptable only if approved in writing by the Vice President, CCC, before or after such exportation subject to such reduction in the export payment (expressed in a rate per bushel or hundredweight) as may be specified by such Vice President.

(b) The exporter shall promptly furnish to CCC evidence of exportation as specified in § 484.116. Failure to furnish evidence of exportation within 214 calendar days from the date of CCC's acceptance of the exporter's offer or within 30 calendar days from the last date of any extension in time for exportation approved by the Vice President pursuant to paragraph (a) of this section, whichever is later, shall constitute prima facie evidence of failure to export.

(c) Failure of the exporter to export in accordance with the provisions of his contract with CCC shall constitute a default of his obligations to CCC. Exportation to an eligible country, and from the area and within the period of time specified in the exporter's contract with CCC or approved by the Vice President, CCC, are of the essence of the contract and are conditions precedent to any right to payment under this program. Exportation to an ineligible country, or during a period of time or from an area other than that specified in the exporter's contract with CCC or approved in writing by the Vice President, CCC, as provided in paragraph (a) of this section, shall not entitle the exporter to any payment under this subpart. Moreover, if the exporter does not export the quantity of feed grain specified in the exporter's contract with CCC, such breach shall give rise to liquidated damages. Inasmuch as failure of the exporter to export will cause serious and substantial losses to CCC, such as damages to CCC's export and price support programs, and the incurrence of storage, administrative and other costs, and it will be difficult, if not impossible, to prove the exact amount of such damages, the exporter shall pay to CCC liquidated damages promptly upon demand for each bushel or hundredweight of such gain not exported at the following applicable rates:

Barley	20 cents per bushel.
Corn	25 cents per bushel.
Grain sorghums	40 cents per hundredweight.
Oats	20 cents per bushel.
Rye	20 cents per bushel.

The foregoing rates are agreed by the exporter and CCC to be a reasonable estimate of the probable actual damages that would be incurred by CCC. For the purposes of assessing liquidated damages, an exportation which has not been made within 184 calendar days after the date of CCC's acceptance of the exporter's offer or which has not been made by the last date of any extension in time for exportation approved in writing by the Vice President, CCC, whichever date is the later, shall be deemed not to have been made at all. In addition to the foregoing, an exporter may be denied the right to continue participating in this program for his failure to export in accordance with the provisions of his contract with CCC.

(d) If any quantity of feed grains exported pursuant to the exporter's contract with CCC is reentered into the United States, including Alaska, Hawaii, or Puerto Rico, whether on not such reentry is caused by the exporter, or if any feed grain exported is transshipped or caused to be transshipped by the exporter to any country excluded by § 484.150, the exporter shall be in default, shall refund any payment made by CCC, and with respect to any feed grain reentered into the United States, shall pay to CCC the liquidated damages specified in paragraph (c) of this section. The exporter shall not be subject to such damages if he establishes to the satisfaction of CCC that (1) the reentry resulted from causes beyond his control and without his fault or negligence and promptly after he received notice of reentry he exported the feed grains required to be exported under his contract with CCC to an eligible country, or (2) the feed grains reentered were lost, damaged or destroyed and the physical condition is such that their reentry into the United States will not impair CCC's price support program.

FEED GRAIN EXPORT PAYMENT CERTIFICATE

§ 484.115 *Application for Feed Grain Export Payment.* An original and two (2) copies of Application for Feed Grain Export Payment, CCC Form 397, must be prepared and submitted together with the evidence of export, as provided in § 484.116, to the CSS Commodity Office shown on the acceptance of the exporter's offer. Supplies of CCC Form 397 and detailed instructions regarding the preparation and submission of the form may be obtained from the CSS Commodity Offices in Dallas, Evanston (Illinois), Kansas City (Missouri), Minneapolis, and Portland (Oregon).

§ 484.116 *Documents required as evidence of export.* (a) Each application for Feed Grain Export Payment (CCC Form 397) must be supported by the following documents as applicable.

(1) If export is by water, a nonnegotiable copy of the applicable onboard ship ocean bill of lading signed by an agent of the ocean carrier, which shows the weight of the feed grain, the name of the vessel, and that the feed grain is destined to an eligible country. In the case of bagged feed grain an ocean bill of lading showing the gross weight of the feed grain and the number of bags may be furnished, provided the ocean bill of lading also shows the weight of the bags or the exporter furnishes an acceptable certification as to the weight of the bags. Where loss, destruction or damage to the feed grain occurs subsequent to loading aboard the ocean carrier but prior to issuance of on-board ship bill of lading, one copy of a loading tally sheet or acceptable similar docu-

ment may be substituted for the ocean bill of lading.

(2) If export is by rail or truck, and not under Public Law 480, 83d Congress, one copy of Shipper's Export Declaration, authenticated by the appropriate United States Customs official, which identifies the shipment(s), the date of clearance into the foreign country and the weight of the feed grain, or if bagged, the weight of the feed grain less the weight of the bags. If export is under Public Law 480, 83d Congress, one unauthenticated copy of Shipper's Export Declaration (or photostat of an unauthenticated copy) which shall bear a statement certified by the exporter that "the authenticated copy of this Shipper's Export Declaration was forwarded to (name of banking institution) with my draft for financing of this shipment under P. A. No. _____."

(3) One copy of an Export Grain Inspection Certificate issued by an inspector licensed under the United States Grain Standards Act.

(4) On bulk feed grain, a copy of the official loading weight certificate.

(5) Such additional proof of export as may be required by CCC.

(b) If the shipper or consignor named in the on-board bills(s) of lading or the Shipper's Export Declaration(s), is other than the exporter named in the offer to export, waiver by such shipper or consignor of any interest in the application for payment in favor of such exporter is required. Such waiver must clearly identify the on-board bill(s) of lading or Shipper's Export Declaration(s) submitted to evidence export.

(c) Where exportation of the feed grain has been made by anyone or transshipment made or caused by the exporter to one or more of the countries or areas identified in § 484.150 (b) (1), (2), and (3), the bills of lading or other pertinent documentary evidence required to be furnished to CCC shall identify the license by number issued by the Bureau of Foreign Commerce, U. S. Department of Commerce, for such movement. With respect to any such movement to Hong Hong not requiring a specified license, the required documentary evidence shall contain a statement by the exporter that a specific license was not required.

§ 484.117 *Description of certificate.* Upon receipt of an Application for Feed Grain Export Payment (CCC Form 397) and satisfactory evidence of export the CSS Commodity Office will determine the amount of payment due and issue to the exporter a Feed Grain Export Payment Certificate (CCC Form 398) hereinafter referred to as "certificate" for the amount due. Such certificate will be subject to the provisions contained therein and the applicable provisions of this subpart.

(a) *Payee.* Except as provided in § 484.137, the certificate will be issued only to the exporter whose offer to export has been accepted by CCC.

(b) *Face value.* The amount shown in the space provided for the face value of the certificate will be the amount obtained by multiplying the number of net bushels (or hundredweight) of feed grain exported in accordance with the exporter's contract with CCC by the agreed export payment rate. Certificates will be accepted by CCC at face value if applied to the purchase of feed grain under contracts with CCC entered into pursuant to this subpart which specify a date of sale by CCC not more than 60 days after the date of export shown on the certificate. If a certificate is applied to the purchase of feed grain under a contract with CCC, as provided in this subpart, which specifies a date of sale by CCC more than 60 days after the date of export shown on the certificate, the value at which the certificate will be accepted will be the face value reduced by 1/10 of one percent for each day beginning on the 61st day after such date of export and ending on the date of sale specified in the CCC contract to which it is applied.

(c) *Date of export.* The date of export shown on the certificate will be the date of export as defined in § 484.151.

(d) *General provisions.* The certificate will be redeemable in feed grain which CCC makes available from its stocks for sale under this subpart. The certificate may be presented to the Evanston, Dallas, Kansas City, Minneapolis and Portland offices of CSS, as provided in § 484.140 for feed grain handled by the office to which submitted. The certificate may be transferred by endorsement subject to all terms and conditions contained in this section and in the sections beginning with § 484.120 through the end of this subpart, applicable to the person or firm to whom it was originally issued.

REDEMPTION OF FEED GRAIN EXPORT PAYMENT CERTIFICATE

§ 484.120 *Offer to purchase feed grain with certificates.* (a) Offers to purchase CCC feed grain with certificates may be submitted by letter, telegram, or orally to any CSS Commodity Office from which the exporter desires delivery. The exporter must specify the kind of feed grain, class, grade, quality and quantity desired, and the desired port or border point of delivery. CCC reserves the right to determine the kind of feed grain, classes, grades, qualities and quantities and port or border point of delivery for which offers will be considered, and to reject any offer in whole or in part.

(b) If the feed grain purchased hereunder is to be exported under Title I, Public Law 480, 83d Congress, the exporter shall advise CCC of that fact and of the number of the Public Law 480 Purchase Authorization in the offer if it is known at that time. If the number is not known at the time of the offer, it shall be furnished as soon as it becomes known to the purchaser. If there is any change in the information that has been submitted in reference to a Public Law 480 Purchase Authorization pursuant to this section, the purchaser shall immediately notify CCC.

§ 484.121 *Creation of contracts.* Preliminary negotiations for purchase of feed grain under this subpart shall be confirmed by written Confirmation of Sale which shall be issued by the CSS Commodity Office in duplicate. One copy shall be signed and returned by the exporter whose offer to purchase feed grain is accepted by CCC. Such exporter is hereinafter called "the purchaser". Confirmation of Sale, together with the terms and conditions of this subpart, and any amendments in effect on the date of sale, shall constitute the sales contract. Any provision of prior negotiations not contained in the Confirmation of Sale shall be of no effect. The term "date of sale," as used herein, shall mean the date that the parties concluded their preliminary, negotiations, and such date will be specified in the Confirmation of Sale.

§ 484.122 *Price.* The price shall be basis f. o. b. vessel, instore, or track at port or other point of export (without export allowance) as determined by CCC and shall be specified in the Confirmation of Sale.

§ 484.123 *Payment terms and financial arrangements.* (a) The amount due CCC for food grain purchased hereunder shall be paid by the purchaser by surrender to CCC of properly endorsed certificate(s). If certificates having a value in excess of the purchase price are surrendered by the purchaser to CCC, the certificates having the earliest dates of export shall be applied first to the purchase and any certificates not applied shall be returned to the purchaser. If the value of certificates applied to the purchase exceeds the purchase price, such excess will be adjusted by issuance and delivery to the purchaser of a balance certificate which may be used on a subsequent purchase from CCC. The date of export shown on the balance certificate will be the date shown on the original certificate, or if more than one certificate is applied to the purchase, the date of export shown on the balance certificate will be the latest date of export shown on a certificate applied to the purchase. The face value of the balance certificate will be determined by deducting from the face value of certificates surrendered to CCC, the purchase price of the feed grain and any discount applicable to the portion of the certificates being applied to the purchase as provided in § 484.117.

(b) Financial arrangements covering the purchase price specified in the Confirmation of Sale of any feed grain purchased from CCC hereunder shall be made prior to delivery of the feed grain by CCC in one of the following ways:

(1) Surrender to the appropriate CSS Commodity Office of certificate(s) sufficient to pay for the feed grain.

(2) If a purchaser desires delivery prior to receipt by CCC of certificates he shall make payment in cash, certified check, or cashier's check for the feed grain to be delivered. To the extent that certificates are received by CCC within 90 days after delivery of the feed grain to the purchaser, CCC shall promptly make refund to the purchaser of cash received. Any such refund shall be in an amount equivalent to the value of certificates determined acceptable by CCC.

(c) The amount of the upward adjustment in price which is provided in § 484.128 for failure to submit certificates

within 90 days after delivery shall be computed as of the date of sale, and shall be specified in the Confirmation of Sale. Financial arrangements for such price adjustment shall be made in one of the following ways:

(1) Payment in cash, certified check, or cashier's check, or

(2) Establishment of an irrevocable commercial letter of credit acceptable to CCC which shall have an effective period of at least 150 days from the date for delivery specified in the Confirmation of Sale and upon which CCC will draw drafts for the amount of the upward adjustment in price resulting from such failure to submit certificates within 90 days after delivery, supported by a statement signed by the Chief or Acting Chief of the Fiscal Division of the CSS Commodity Office, specifying the amount due CCC.

Promptly after CCC receives acceptable certificates in payment of the feed grain purchased as provided in paragraph (b) (2) of this section, CCC shall notify the bank which issued or confirmed the letter of credit that CCC consents to a reduction of such letter of credit, unless otherwise requested by the purchaser, or shall make refund to the purchaser of cash received. Any such reduction or refund shall be in an amount equivalent to the purchaser's financial coverage under this subsection related to the quantity for which payment has been received in the form of acceptable certificates by CCC.

(d) The financial arrangements provided in paragraphs (b) and (c) of this section shall be made:

(1) Prior to delivery of the feed grain by CCC on purchases which provide for delivery within 5 days following the date of the sale, and,

(2) On all other purchases, not less than 5 days prior to delivery of the feed grain by CCC, unless CCC consents in writing to a different period.

(e) If the purchaser fails to make a financial arrangement acceptable to CCC in accordance with paragraph (d) of this section CCC shall have the right to deem the purchaser in default and may avail itself of any remedy available to an unpaid seller. The purchaser shall be liable to CCC for any loss or damages resulting from such default.

§ 484.124 *Delivery.* (a) The method, time, and place of delivery will be as specified in the Confirmation of Sale.

(b) If the feed grain is to be delivered instore, delivery shall be accomplished by delivery to the purchaser of endorsed warehouse receipts, or other evidence of title. Delivery may be made by posting warehouse receipts in the mail. In the case of instore delivery the terms of continued storage thereafter shall be for determination between the purchaser and warehouseman. All warehouse charges accruing after delivery and loading out charges shall be for the account of the purchaser.

(c) If the feed grain is to be delivered other than instore, the details thereof shall be specified in the Confirmation of Sale.

(d) Title and risk of loss and damage shall pass to the purchaser upon delivery. All charges thereafter accruing shall be for the account of the purchaser: *Provided,* That if delivery is not made within 30 days after the date of sale, the purchaser shall make cash settlement with CCC for warehouse charges on the feed grain not delivered, at the rate specified in the Confirmation of Sale for the period beginning on the 31st day to and including the final date for delivery specified in the Confirmation of Sale or any written extension thereof: *Provided further,* That the purchaser shall not be responsible for such charges accruing after such 30-day period as a result of delay on the part of CCC in making delivery which is not attributable to the fault of the purchaser.

(e) If on deliveries other than instore the purchaser fails to take delivery of the feed grain within the delivery period specified in the Confirmation of Sale, or any written extension thereof CCC may at its option deliver the feed grain instore in a warehouse of its choice by delivery of endorsed warehouse receipts, or CCC shall have the right to deem the purchaser in default and the purchaser shall be liable to CCC for any loss or damages resulting from such default.

§ 484.125 *Specifications.* (a) If the feed grain is to be delivered instore, CCC shall deliver warehouse receipts or other evidence of title, representing the kind of feed grain and the quantity, class, grade and/or quality stated in the Confirmation of Sale, and CCC shall have no responsibility in the event of failure of the warehouseman to deliver in accordance with the warehouse receipts or other evidence of title.

(b) If the feed grain is to be delivered other than instore, the kind of feed grain and the quantity, class, grade, and/or quality delivered shall be that stated in the Confirmation of Sale. Determinations as to the class, grade, and/or quality of the feed grain delivered shall be made on the basis of official inspection at point of delivery, unless otherwise specified in the Confirmation of Sale. The method of determining the quantity delivered shall be as stated in the Confirmation of Sale. If the feed grain delivered is within the quality tolerance, if any, specified in the Confirmation of Sale, such delivery shall be accepted by the purchaser. If the feed grain delivered is not within the quality tolerance, if any, specified in the Confirmation of Sale, the feed grain may be rejected by the purchaser at the time of delivery or accepted subject to an adjustment in price for grade and quality difference in accordance with current market premiums and discounts, as determined by CCC. In case of rejection, CCC shall, upon request of the purchaser, replace such rejected quantity. The purchaser may reject any over deliveries in quantity. Over deliveries in quantity accepted by the purchaser shall be settled for at the contract price unless a different price has been agreed to between CCC and the purchaser. In case of under deliveries a balance certificate shall be issued by CCC or if other financial arrangements were furnished the value of certificates the purchaser is required to surrender will be reduced. In the case of over deliveries the purchaser shall tender cash or certificates to CCC. If the value of feed grain delivered exceeds the value of certificates surrendered by $3.00 or less, no adjustment will be necessary. If the value of certificates surrendered exceeds the value of feed grain delivered by $3.00 or less, a balance certificate will not be issued unless requested.

§ 484.126 *Export requirements.* (a) The purchaser shall, within 60 days after delivery by CCC of the feed grain to him or within such extension of that period as may for good cause be approved by the Vice President in writing, before or after expiration of such 60 day period, export or cause exportation to an eligible country of the same kind of feed grain, of an equal quantity, as the feed grain delivered by CCC, and from the same coast in the United States as the coast where CCC delivered the feed grain, except that when feed grain is delivered to a Gulf of Mexico port exportation must be from the same port. The feed grain exported shall not be re-entered by anyone into the United States, including Alaska, Hawaii, or Puerto Rico, nor shall the purchaser cause the feed grain exported to be transshipped to any country excluded by § 484.150.

(b) The purchaser shall, within 30 days after export, furnish to the CSS Commodity Office evidence of such export, as required in § 484.127. Failure of the purchaser to furnish CCC evidence of export within 90 days after delivery of the feed grain to him, or, in the case of extension of the time for export, within 30 days from the last date specified for export under such extension, shall constitute prima facie evidence of failure to export.

§ 484.127 *Evidence of export.* (a) Evidence of export shall be furnished within the period specified above and shall consist of:

(1) If the export is by water, a nonnegotiable copy, certified by the purchaser as true and correct, of the applicable on-board ship ocean bill of lading, signed by an agent of the ocean carrier, which shows the weight of the feed grain, the name of the vessel, that the feed grain is destined to an eligible country, the CCC sales contract number, and the Public Law 480, 83d Congress, Purchase Authorization number, if applicable. In the case of bagged feed grain, an ocean bill of lading showing the gross weight of the feed grain and number of bags may be furnished, provided the ocean bill of lading also shows the weight of the bags or the purchaser furnishes an acceptable certification as to the weight of the bags. Where loss, destruction, or damage to the feed grain occurs subsequent to loading aboard the ocean carrier but prior to issuance of on-board ship bill of lading, one copy of a loading tally sheet or acceptable similar document may be substituted for the ocean bill of lading.

(2) If export is by rail or truck, one unauthenticated copy of Shipper's Ex-

port Declaration (or photostat copy of an unauthenticated copy) which identifies the shipment(s), the date of clearance into the foreign country, the weight of the feed grain, or, if bagged, the gross weight of the bagged feed grain less the weight of the bags, the CCC sales contract number, and the Public Law 480 Purchase Authorization number, if applicable. The unauthenticated copy, or photostat copy, shall bear one of the following statements certified by the purchaser: "The authenticated copy of this Shipper's Export Declaration was forwarded to (name of banking institution) with my draft for financing under P. A. No. ------," or "The authenticated copy of this Shipper's Export Declaration was forwarded to (name of the CSS Commodity Office) with my application for Feed Grain Export Payment under Acceptance of Offer No. ------."

(3) A copy of an official Export Grain Inspection Certificate issued by an inspector licensed under the U. S. Grain Standards Act.

(4) On bulk feed grain a copy of the official loading weight certificate.

(5) Such additional proof of export as may be required by CCC.

(b) Where exportation of the feed grain has been made by anyone or transshipment made or caused by the purchaser to one or more of the countries or areas identified in § 484.150 (b) (1), (2) or (3), the bills of lading or other pertinent documentary evidence required to be furnished to CCC shall identify the license by number issued by the Bureau of Foreign Commerce, U. S. Department of Commerce, for such movement. With respect to any such movement to Hong Kong not requiring a specified license, the required documentary evidence shall contain a statement by the purchaser that a specific license was not required.

§ 484.128 *Adjusted sales price.* Sales of feed grain under this Announcement are made at prices below the statutory minimum required under Section 407 of The Agricultural Act of 1949, as amended, for sales for unrestricted use upon condition that payment in certificates is made as provided in § 484.123, and upon the further condition that all provisions of §§ 484.126 and 484.127 are complied with. In the event of failure to comply with such conditions, the sales price with respect to the quantity of feed grain for which certificates have not been received, or the quantity which is not exported, or which is reentered, or transshipped shall be the highest of the following prices in effect on the date of purchase or the date of default as determined by CCC:

(1) CCC's statutory minimum sales price for unrestricted use for the same kind, class, grade and quality of the feed grain as determined by CCC, or (2) the sales price, announced by CCC for sale for unrestricted use of the same kind, class, grade and quality of the feed grain, or (3) if no such sales price has been announced, the highest domestic market price at the point where CCC delivered the feed grain as determined by CCC. The total amount of any upward adjustment in sales price arising under this section shall be paid in cash by the purchaser to CCC promptly upon demand. Any such upward adjustment in sales price will be waived to the extent that the Vice President, CCC, or his designated representative, determines that the feed grain has not been exported or has been re-entered or transshipped for causes beyond the control, and without the fault or negligence, of the purchaser and that the quantity of feed grain involved in default (other than feed grain transshipped to a country excluded by § 484.150 is, pursuant to written approval of CCC, subsequently exported to an eligible country within the period specified by CCC, or with respect to any feed grain re-entered if as the result of its loss, damage, destruction or deterioration, the physical condition thereof is such that its entry into domestic market channels will not impair CCC's price support operations.

§ 484.129 *Inability to perform.* CCC shall not be responsible for damages for any failure to deliver, or delay in delivery of, the feed grain due to any cause beyond the control of and without the fault or negligence of CCC, including, but not restricted to, failure of warehousemen to meet delivery instructions. In case of delay in delivery due to any such causes, CCC shall make delivery to the purchaser as soon as practicable.

MISCELLANEOUS PROVISIONS

§ 484.134 *Covenant against contingent fees.* The exporter warrants that no person or selling agency has been employed or retained to solicit or secure acceptance of any offer under this subpart upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except bona fide employees or bona fide established commercial or selling agencies. For breach or violation of this warranty, CCC shall have the right to annul the contract without liability or in its discretion to require the purchaser to pay, in addition to the contract price or consideration, the full amount of such commission, percentage, brokerage, or contingent fee.

§ 484.135 *Performance guarantee.* In addition to the performance guarantee required under § 484.123 (c), CCC reserves the right to require the exporter to furnish a cash deposit, performance bond, or performance type letter of credit, acceptable to CCC, to guarantee performance of any of his obligations under this subpart.

§ 484.136 *Good faith.* If the Vice President, CCC, after affording the exporter an opportunity to present evidence determines that such exporter has not acted in good faith in connection with any transaction under this subpart, such exporter may be denied the right to continue participation in this program or the right to receive payment under this subpart in connection with any transaction previously made under this program, or both. Any such action shall not affect any other right of the Department of Agriculture or the Government.

§ 484.137 *Assignments.* No exporter shall, without the written consent of CCC, assign any right to an export payment under this subpart, except that certificates received by him may be transferred by endorsement as provided in § 484.116.

§ 484.138 *Records and accounts.* Each exporter shall maintain accurate records showing feed grains exported or to be exported in connection with this program. Such records, accounts, and other documents relating to any transaction in connection with this program shall be available during regular business hours for inspection and audit by authorized employees of the United States Department of Agriculture, and shall be preserved for two years after date of export.

§ 484.139 *Reports.* The exporter shall file reports as may be required from time to time by the CCC subject to the approval of the Bureau of the Budget.

§ 484.140 *CSS Commodity Offices.* Information concerning this program may be obtained from CSS Commodity Offices listed below:

Director, Commodity Stabilization Service Office, U. S. Department of Agriculture, 500 South Ervay Street, Dallas 1, Texas.

Director, Commodity Stabilization Service Office, U. S. Department of Agriculture, 2201 Howard Street, Evanston, Illinois.

Director, Commodity Stabilization Service Office, U. S. Department of Agriculture, 560 Westport Road, Kansas City 11, Missouri.

Director, Commodity Stabilization Service Office, U. S. Department of Agriculture, 1006 West Lake Street, Minneapolis 8, Minnesota.

Director, Commodity Stabilization Service Office, U. S. Department of Agriculture, 1218 Southwest Washington Street, Portland 5, Oregon.

§ 484.141 *Officials not to benefit.* No member or delegate to Congress, or resident commissioner, shall be admitted to any benefit that may arise from any provision of this program, but this provision shall not be construed to extend to a payment made to a corporation for its general benefit.

§ 484.142 *Amendment and termination.* This offer may be amended or terminated by filing of such amendment or termination with the FEDERAL REGISTER for publication. Any such amendment or termination shall not be applicable to contracts made prior to the time such amendment or termination becomes effective.

§ 484.143 *Right to waive any requirement.* The Vice President, CCC, if he deems such action desirable in order to prevent undue hardship, may with respect to any transaction or transactions hereunder waive any requirement of this subpart, if such action is in the best interest of the program. Any such waiver shall be in writing and shall contain a full statement of the reasons therefor.

DEFINITIONS

§ 484.150 *Eligible country.* "Eligible country" means any destination outside the continental limits of the United States, excluding Alaska, Hawaii or Puerto Rico, and also excluding (a) any country or area listed as Sub-Group A of Group R of the Comprehensive Export Schedule issued by the Bureau of Foreign Commerce, U. S. Department of

Commerce unless a license for shipment or transshipment thereto has been obtained from such Bureau; (b) Macao unless specific license for shipment or transshipment thereto has been obtained from the Bureau of Foreign Commerce, U. S. Department of Commerce; or (c) Hong Kong in the case of any commodity for which a specific license is required by regulations of the U. S. Department of Commerce under the Export Control Act of 1949, unless such specific license for shipment or transshipment thereto has been obtained from the Bureau of Foreign Commerce, U. S. Department of Commerce.

§ 484.151 *Export.* "Export" means a shipment from the continental United States destined to an eligible country. Feed grain shall be deemed to have been exported on the date which appears on the applicable on-board ocean carrier bill of lading, or, if shipment to the eligible country is by truck or rail, the date the shipment clears United States Customs, or the latest date appearing on the Loading Tally sheet or similar documents where loss, destruction or damage occurs subsequent to loading aboard ocean carrier but prior to issuance of on-board bill of lading.

§ 484.152 *Exporter.* "Exporter" means an individual, corporation, partnership, association or other business entity, which is regularly engaged in the business of buying and selling feed grain for export and for this purpose maintains a bona fide business office in the continental United States, and therein has a person, principal, or resident agent upon whom service of process may be had.

§ 484.153 *Feed grains.* "Feed grains" mean barley, corn, grain sorghums, oats and rye as defined in the Official Grain Standards of the United States and produced in the United States, and when specifically approved by the Director, Grain Division, CSS, will also include crushed, cracked, ground or otherwise similarly processed forms of such grains, provided all of the ingredients of the whole grain are included. Feed grains shall not include mixtures of barley, corn, grain sorghums, oats and rye. The net quantity of feed grains exported means the quantity determined by deducting from the total weight of the feed grain exported, the weight of any dockage indicated on the inspection certificate issued at the time of loading for export. The following quantities shall be deemed to constitute one bushel: 56 pounds of corn, 32 pounds of oats, 48 pounds of barley and 56 pounds of rye.

§ 484.154 *United States.* "United States" unless otherwise qualified means the Continental United States.

§ 484.155 *Vice President.* "Vice President" means the Executive Vice President of the Commodity Credit Corporation or his designee.

Effective date: This program is effective on May 12, 1958, with respect to corn, and on July 1, 1958, with respect to other grains covered thereby.

NOTE: The record keeping and reporting requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

Issued this 7th day of May 1958.

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

[F. R. Doc. 58-3624; Filed, May 13, 1958; 8:52 a. m.]

TITLE 7—AGRICULTURE

Chapter VII—Commodity Stabilization Service (Farm Marketing Quotas and Acreage Allotments), Department of Agriculture

PART 722—COTTON

SUBPART—REGULATIONS PERTAINING TO MARKETING QUOTAS FOR UPLAND COTTON OF THE 1958 AND SUCCEEDING CROPS

Basis and purpose. The provisions of §§ 722.1 to 722.51 are issued pursuant to the Agricultural Adjustment Act of 1938, as amended (52 Stat. 31, as amended; 7 U. S. C. 1281 et seq.). These provisions govern the identification and measurement of farms; the amount, adjustment, and review of the farm marketing quota and farm marketing excess; the issuance of marketing cards and marketing certificates; the identification of cotton which is marketed as being subject to or not subject to the penalty and lien for the penalty; the rate of the penalty and the manner in which penalties shall be paid by producers and buyers; the refunding of penalty overpayments; the records and reports required to be made by cotton producers, ginners, buyers, warehousemen, and others; and other miscellaneous matters regarding the production and marketing of cotton.

Notice of proposed formulation of marketing quota regulations for upland cotton of the 1958 and succeeding crops when marketing quotas are in effect for upland cotton was published in the FEDERAL REGISTER on April 12, 1958 (23 F. R. 2406) in accordance with section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U. S. C. 1003) and the data and recommendations received in response to such notice have been duly considered.

GENERAL

AUTHORITY: §§ 722.1 to 722.51 issued under sec. 375, 52 Stat. 66, as amended; 7 U. S. C. 1375. Interpret or apply secs. 301, 362, 363, 365–368, 372–374, 388, 52 Stat. 38, as amended, 62, as amended, 63–65, as amended, 68, secs. 344–347, 63 Stat. 670, as amended, 674, 675, as amended; 7 U. S. C. 1301, 1362, 1363, 1365–1368, 1372–1374, 1388, 1344–1347.

GENERAL

§ 722.1 *Applicability.* The provisions of §§ 722.1 to 722.51 apply to cotton produced in 1958 and succeeding years when marketing quotas are in effect and to carry-over cotton which is marketed by producers in the 1958–59 and succeeding marketing years.

§ 722.2 *Definitions.* As used in §§ 722.1 to 722.51 and in all forms and documents in connection therewith, unless the context or subject matter otherwise requires, the following terms shall have the following meanings and the masculine shall include the feminine and neuter genders and the singular shall include the plural number:

(a) *Terms relating to administrative organization.* (1) "Secretary" means the Secretary of Agriculture of the United States or the officer of the Department of Agriculture acting in his stead pursuant to delegated authority.

(2) "Deputy Administrator" means the Deputy Administrator or Acting Deputy Administrator, Production Adjustment, Commodity Stabilization Service, United States Department of Agriculture.

(3) "Director" means the Director or Acting Director, Cotton Division, Commodity Stabilization Service, United States Department of Agriculture.

(4) "State committee" means the group of persons designated for a State by the Secretary as the Agricultural Stabilization and Conservation State Committee under section 8 (b) of the Soil Conservation and Domestic Allotment Act, as amended.

(5) "State administrative officer" means the person employed to execute the policies of the State committee and to be responsible for the day-to-day operations of the office of the State committee (hereinafter referred to as the "State office"), or the person acting in such capacity.

(6) "Review committee" means the the group of persons appointed by the Secretary as a review committee pursuant to section 363 of the act.

(7) "County committee" means the group of persons elected within a county as the county committee pursuant to the Secretary's regulations governing the selection and functions of Agricultural Stabilization and Conservation County and Community Committees (Part 7 of this title; 21 F. R. 8385), as amended.

(8) "Community committee" means the group of persons elected within a community as the community committee pursuant to the Secretary's regulations governing the selection and functions of Agricultural Stabilization and Conservation County and Community Committees (Part 7 of this title; 21 F. R. 8385), as amended.

(9) "County office manager" means the person employed by the county committee to execute the policies of the county committee and to be responsible for the day-to-day operations of the office of the county committee (hereinafter referred to as the "county office"), or the person acting in such capacity.

(10) "Treasurer" means the county office manager or the person designated by him to act as county committee treasurer.

(b) *Terms relating to farm.* (1) "Farm" as defined in Part 718 of this chapter (22 F. R. 3747, 5675, 7418) as heretofore or hereafter amended, shall apply to the regulations in §§ 722.1 to 722.51.

(2) "Farm allotment" means a cotton acreage allotment established for a farm under the applicable acreage allotment regulations.

(3) "Acreage planted to cotton on the farm" for a crop year, for purposes of §§ 722.1 to 722.51 shall be the acreage seeded to cotton on the farm in such year, excluding any acreage in excess of the farm allotment which (i) is destroyed by causes beyond the producer's control prior to expiration of the period established under applicable acreage allotment regulations for disposing of excess cotton acreage or (ii) is disposed of in accordance with applicable acreage allotment regulations.

(4) "Farm base period" means the three years immediately preceding the year for which the farm allotment is established.

(5) "New cotton farm" means a farm on which no acreage was planted to cotton during the farm base period applicable to a year in which cotton is to be planted.

(6) "Normal yield" for any year means the average yield per harvested acre of lint cotton for the farm, adjusted for abnormal weather conditions, during the five calendar years immediately preceding the year in which such normal yield is determined. If for any such year, actual yield data are not available or there was no actual yield, the normal yield for the farm shall be appraised by the county committee taking into consideration abnormal weather conditions, the normal yield for the county, and the yield in years for which data are available. In the case of new cotton farms, the county committee may also take into consideration the normal yields of other farms in the locality which are similar with respect to soil and other physical factors affecting the production of cotton.

(7) "Normal production" of any number of acres for a crop year means the normal yield of lint cotton per acre for the farm for such year multiplied by such number of acres.

(8) "Actual production" of cotton on the farm for a crop year means the total number of pounds of lint cotton determined to have been produced on the farm in such year. Cotton will be considered to have been produced in the crop year in which the acreage from which it was harvested was planted.

(9) "Actual yield" per acre for a crop year means the number of pounds of lint cotton determined by dividing the actual production of cotton on the farm in such year by the acreage planted to cotton on the farm in such year.

(10) "Farm marketing quota" for a crop year means a cotton marketing quota established for the farm for such year under § 722.9.

(11) "Farm marketing excess" for a crop year means the amount of cotton determined for the farm for such year under § 722.10 or § 722.12, whichever is applicable.

(12) "Farm with no farm marketing excess" for a crop year means a farm on which the acreage planted to cotton in such year is not in excess of the farm allotment for such year.

(13) "Farm with a farm marketing excess" for a crop year means a farm on which the acreage planted to cotton in such year is in excess of the farm allotment for such year.

(14) "Farm serial number" means the serial number assigned to a farm by the county committee for purposes of identification.

(15) "Producer" means a person on a farm who, as owner or landlord (other than the landlord of a standing-rent tenant, fixed-rent tenant, or cash tenant), cash tenant, standing-rent tenant, fixed-rent tenant, share tenant, or sharecropper, is entitled to all or a share of the cotton produced thereon during the year in which the cotton is planted (or cotton on hand from a prior crop) or the proceeds thereof.

(16) "Owner or landlord" means a person who owns farmland and rents such land to another person or who operates such land.

(17) "Operator" means the person who is in charge of the supervision and conduct of the farming operations on the entire farm.

(18) "Cash tenant," "standing-rent tenant," or "fixed-rent tenant" means a person who rents land from another for a fixed amount of cash or a commodity to be paid as rent.

(19) "Share tenant" means a person other than a sharecropper who rents land from another person and pays as rent a share of the crops or the proceeds thereof.

(20) "Sharecropper" means a person who works a farm in whole or in part under the general supervision of the operator and is entitled to receive for his labor a share of the crops produced thereon or the proceeds thereof.

(21) "Seed cotton" means the harvested fruit of the cotton plant before ginning.

(22) "Lint cotton" means the fiber taken from seed cotton by ginning.

(c) *Terms relating to harvesting and marketing.* (1) "Harvest" means the act of extracting seed cotton from the cotton plant by manual or mechanical means or grazing by livestock.

(2) "Harvested" and "harvesting" shall have corresponding meanings to the term "harvest" in the connection in which they are used. Salvage operations shall be considered as harvesting.

(3) "Available for harvest" means the stage of maturity when bolls are sufficiently open to permit harvest.

(4) "Market" means to dispose of cotton in raw or processed form by voluntary or involuntary sale, barter, or exchange, or by gift inter vivos.

(i) The term "sale" means any transfer of title to cotton by a producer to another by any means other than barter or exchange or gift inter vivos.

(ii) The terms "barter" and "exchange" mean transfer of title to cotton by a producer to another in exchange for cotton or any other commodity, service, or property in cases where the value of the cotton or such other commodity, service, or property is not considered in terms of money, or the transfer of title to cotton by a producer to another in

payment of a fixed rental or other charge for land.

(iii) The term "gift inter vivos" means any transfer of title, accompanied by delivery, to cotton by a producer to another which takes effect immediately and irrevocably and is made without any consideration or compensation therefor.

(iv) "Marketed", "marketing", and "for market" shall have corresponding meanings to the term "market" in the connection in which they are used.

(5) "Marketing year" means the period beginning August 1 of a crop year and ending July 31 of the following year, both dates inclusive.

(6) "Buyer" means a person who acquires cotton from a producer by purchase. An agricultural cooperative association which makes purchase and sale agreements with producers, or marketing agreements under which the title to cotton passes upon delivery of cotton by the producer and the association is authorized to deal with such cotton as owner, shall be deemed to be a "buyer" with respect to any cotton acquired pursuant to such an agreement which is subject to marketing quotas as provided in § 722.8.

(7) "Transferee" means a person who receives cotton from a producer by barter or exchange, or by gift inter vivos.

(8) "Ginner" means a person engaged in the business of ginning cotton.

(9) "Ginning" means the process by which lint cotton is removed from the cotton seed.

(10) "Gin bale number or mark" means the number entered on the bale tag or any other mark made or used by the ginner to identify a bale of cotton.

(11) "Warehouse receipt number" means the number on the warehouse receipt and on the warehouse bale tag used by the warehouseman to identify a bale of cotton.

(d) *Miscellaneous terms.* (1) "Act" means the Agricultural Adjustment Act of 1938 and any amendments thereto, heretofore, or hereafter made.

(2) "Person" means an individual, partnership, firm, joint-stock company, corporation, association, trust, estate, or other legal entity, or a State, political subdivision of a State, or any agency thereof, or the Federal Government, or any agency thereof. The term "person" shall include two or more persons having a joint or comon interest.

(3) "Upland cotton" (referred to in §§ 722.1 to 722.51 as "cotton") means any cotton other than extra long staple cotton.

(4) "Extra long staple cotton" means American-Egyptian, Sea Island, and Sealand cotton, and all other varieties of the Barbadense species, and any hybrid thereof, and any other cotton in which one or more of these varieties predominate as provided under section 347 (a) of the act.

(5) "Carry-over cotton" for any year means the unmarketed cotton from any previous crop which the producer thereof has on hand as of August 1 of such year.

(6) "State and county code" means the applicable number assigned by the Commodity Stabilization Service to each State and county for the purpose of identification.

(7) "County" means county or parish of a State.

(8) "Normal yield for any county" for a crop year means the average yield per harvested acre of lint cotton for the county, adjusted for abnormal weather conditions, during the five calendar years immediately preceding the year in which such normal yield is determined, as established by the Director, with the approval of the Administrator of Commodity Stabilization Service. If for any year of such five-year period actual yield data are not available or there was no actual yield, the yield for such year shall be appraised by taking into consideration the yields in years for which data are available, abnormal weather conditions, and the yields for such year in nearby counties in which the type of soil, topography, and farming practices are similar. If because of drought, flood, insect pests, plant disease, or other uncontrollable natural cause, the yield in any year of such five-year period is less than 75 percent of the average (computed without regard to such year), such year shall be eliminated in calculating the normal yield per acre for the county. The normal yield determined for a county shall be kept readily available to the public in the county office and the normal yield determined for each county in a State shall be kept readily available to the public in the State office.

(9) "Penalty" for any year means the amount payable with respect to the farm marketing excess for such year as determined under section 346 of the act and § 722.26.

(10) "Crop year" means the calendar year in which the cotton is planted.

§ 722.3 *Issuance of forms and instructions.* The Director shall cause to be prepared such forms and instructions with respect to internal management as are necessary for carrying out §§ 722.1 to 722.51. The forms shall be issued by the Director with the approval of the Deputy Administrator and the instructions shall be issued by the Deputy Administrator. Copies of such forms and instructions shall be furnished free to persons needing them upon request made to the State or county office or to the Director.

§ 722.4 *Extent of calculations and rule of fractions.* In making any computation in connection with §§ 722.1 to 722.51, the amount of lint cotton shall be rounded to the nearest whole pound and the amount of penalties or refunds shall be rounded to the nearest whole cent. Fractions of exactly five-tenths of a pound or cent shall be dropped. The acreage of each field of cotton on the farm shall be expressed in hundredths of an acre, and thousandths of an acre shall be dropped. The total acreage of cotton on the farm shall be expressed in tenths of an acre, and hundredths of an acre shall be dropped.

IDENTIFICATION AND MEASUREMENT OF FARMS

§ 722.5 *Identification of farms.* Each farm as operated for a crop year shall be identified by a farm serial number and all records pertaining to marketing quotas for such crop year and farm shall be identified by the farm serial number.

§ 722.6 *Measurement of farms.* The county committee shall provide for measurement each crop year of the acreage planted to cotton on farms in accordance with acreage allotment regulations applicable to the crop year.

§ 722.7 *Reports and records of farm measurements.* The county committee shall keep a record for each crop year of the measurements made on all farms. It shall file with the State office a written report for each crop year on Form MQ-94—Cotton (Upland) setting forth for each farm with a farm marketing excess the following: (a) Farm serial number, (b) name of operator, (c) farm allotment, (d) acreage planted to cotton, and (e) total acreage in cultivation.

FARM MARKETING QUOTA AND FARM MARKETING EXCESS

§ 722.8 *Cotton subject to marketing quota provisions.* Marketing quotas for each crop of cotton shall be applicable to any cotton of that crop notwithstanding that the cotton may be available for marketing prior to or subsequent to the marketing year which begins in the year when the cotton is planted. Carryover cotton marketed during any marketing year shall be subject to §§ 722.1 to 722.51 to the extent applicable.

§ 722.9 *Farm marketing quotas.* The farm marketing quota for each crop year for any farm shall be that number of pounds of lint cotton produced on the farm less the amount of the farm marketing excess for such crop year. In addition, lint cotton which producers have on hand from any previous crop (except cotton on which a penalty was incurred and has not been paid) may also, when properly identified, be marketed penalty free.

§ 722.10 *Amount of farm marketing excess.* The farm marketing excess for each crop year shall be the normal production of the acreage planted to cotton on the farm in excess of the farm allotment for such crop year. For a farm having a zero allotment or no allotment, the entire acreage planted to cotton shall be used in determining the farm marketing excess for such crop year. Where it is established to the satisfaction of the county committee, by any producer on the farm in connection with an application filed by him or by any other producer on the farm, in accordance with § 722.12 that the actual production of cotton on the farm in a crop year is less than the normal production of the acreage planted to cotton on the farm in such crop year, the farm marketing excess shall be adjusted downward to the amount by which such actual production exceeds the normal production of the farm allotment.

§ 722.11 *Notice of farm marketing quota and farm marketing excess.* Written notice of the farm marketing quota and, where applicable, the farm marketing excess, established for a farm for any crop year shall be mailed to the

operator of such farm. Notice so given shall constitute notice to each producer having an interest in the cotton produced or to be produced on the farm in such crop year. Each notice shall contain a brief statement of the procedure whereby application for a review of the farm marketing quota or farm marketing excess, or any determination made in connection therewith, may be had in accordance with section 363 of the act. A record of the date of mailing the notice to the operator of the farm shall be kept among the records of the county office and upon request a copy of the notice shall be furnished without charge to any producer on the farm for which the notice is given. Such notice shall contain the information necessary in each case to inform the producer as to the basis for the determinations set forth in the notice and the effect thereof.

§ 722.12 *Farm marketing excess adjustment*—(a) *Application for adjustment in the farm marketing excess.* Any producer having an interest in the cotton produced in any crop year on a farm with a farm marketing excess may apply in writing to the county committee as provided herein for a downward adjustment in the amount of the farm marketing excess on the basis of the amount of cotton produced in such crop year on the farm. Any such application shall be filed with the county committee not later than the earlier of (1) 60 days after harvest of such cotton crop is completed on the farm or by such later date as is approved by the State committee on the basis of a recommendation by the county committee and a showing that the producer's failure to apply for such adjustment within the 60-day period was due to circumstances beyond his control or (2) March 15 of the year following the year in which the cotton was planted. If the harvesting of cotton on the farm has not been completed by March 15 of the year following the year in which the cotton was planted but an application has been timely filed under the foregoing provisions of this paragraph, the producer may request the county committee to provide for an estimate to be made of the amount of unharvested cotton on the farm in order that a final determination of the actual production on the farm for such crop year may be made. The county committee shall keep a record of each application so made and the date thereof. The county committee shall establish a time and place at which each application will be considered and shall notify the applicant of the time and place of the hearing. Insofar as practicable, applications shall be considered and acted upon in the order in which applications are made. Unless application for an adjustment in the farm marketing excess is made within the period of time provided for in this paragraph, the farm marketing excess as determined pursuant to § 722.10 shall be final as to the producers on the farm. Notwithstanding the foregoing provisions of this paragraph, whenever the county committee determines that no cotton has been or will be produced on a farm with a farm marketing excess for the year for which such farm marketing excess is determined, the county committee may adjust the farm marketing excess and notify the operator of such adjustment, as provided in paragraph (b) of this section.

(b) *Procedure in connection with an application for an adjustment in the farm marketing excess.* The county committee shall consider each application on the basis of facts known by or made available to it and on the basis of such evidence as may be presented to it by the applicant. Official measurement of the cotton acreage on the farm for the crop year in question must have been made before the county committee approves a determination of the actual production of cotton on the farm. The actual production of cotton in such crop year on any farm shall be determined in view of the relevant facts, including the measured acreage planted to cotton in such crop year on the farm, the past production on the farm, the actual yields per acre in such crop year for other farms in the community which are similar with regard to farming practices followed, type of soil and productivity; the harvesting, ginning, and sales of the cotton produced on the farm in such crop year; and weather conditions and other factors in such crop year affecting the production of cotton on the farm and in the locality in which the farm is situated. In the consideration of any application for adjustment in the farm marketing excess the producer shall have the burden of proof. The evidence presented by the applicant may be in the form of written statements or other documentary evidence or of oral testimony in a hearing before the county committee during its consideration of the application. In order to expedite the consideration of applications, the county committee shall receive, in advance of the time fixed for consideration of the application, any written statement or documentary evidence offered by or on behalf of the applicant, and the application may be disposed of upon the basis of such statement or evidence, together with any other information bearing on or establishing the facts, which is available to the county committee, unless the applicant appears before the county committee at the time fixed for consideration of the application and requests a hearing for the purpose of offering additional documentary evidence or oral testimony in support of the application. Every such hearing shall be open to the public. The county committee shall make its determination in connection with each application not later than five calendar days next succeeding the day on which the consideration of the application was concluded. The determination of the county committee shall be in writing and shall contain (1) a concise statement of the grounds upon which the applicant sought an adjustment in the amount of the farm marketing excess, (2) a concise statement of the findings of the county committee upon the question of fact, and (3) the determination of the county committee as to the farm marketing quota, the actual production of cotton on the farm, the farm marketing excess, and the penalty due on the farm marketing excess. A notice showing the result of the determination made as aforesaid, shall be mailed to the operator of the farm and also to the applicant if he is not such operator.

(c) *Application for adjustment in the farm marketing excess in cases where the initial notice of farm marketing excess mailed after thirty days prior to expiration of filing period established under paragraph (a) of this section.* Notwithstanding the provisions of paragraph (a) of this section, in any case where the initial notice of farm marketing excess is mailed to the farm operator after thirty days prior to expiration of the filing period established for the crop year under paragraph (a) of this section, any producer having an interest in the cotton produced on the farm in such crop year may apply in writing to the county committee for a downward adjustment in the amount of the farm marketing excess on the basis of the amount of cotton produced in such crop year on the farm. Any such application shall be filed with the county committee not later than thirty days after the date of mailing of such notice of farm marketing excess to the farm operator. The county committee shall keep a record of each application so made and the date thereof. The county committee shall establish a time and place at which each application will be considered and shall notify the applicant of the time and place of the hearing. Insofar as practicable, applications shall be considered and acted upon in the order in which applications are made. Unless application for an adjustment in the farm marketing excess in cases arising under this paragraph is made within the period of time provided for in this paragraph, the farm marketing excess as determined pursuant to § 722.10 shall be final as to the producers on the farm. The procedures provided in paragraph (b) of this section shall be followed to the extent practicable in cases arising under this paragraph.

§ 722.13 *Publication of the farm allotment, normal yield, marketing quota, and marketing excess.* A record of the farm allotment, normal yield, farm marketing quota, and farm marketing excess established for farms in the county shall be made available for public inspection in the county office for a period of not less than 30 calendar days. The records containing the information shall be kept where the public may freely examine them. At the end of the 30-day period the records shall be filed in the county office and remain available for further inspection upon request. There may be used for this purpose listing sheets, copies of notices, or other compilations upon which the pertinent data are shown.

§ 722.14 *Marketing quotas not transferable.* A farm marketing quota established for a farm may not be assigned or otherwise transferred in whole or in part to any other farm. Under sections 345 and 347 of the act, farm marketing quotas are established for each crop year for both upland and extra long staple cotton. The farm marketing quota es-

tablished under the provisions of §§ 722.8 to 722.16 for a crop of upland cotton may not be used in whole or in part in connection with the marketing of extra long staple cotton.

§ 722.15 *Successors-in-interest.* Any person who succeeds to the interest of a producer in a farm, or in a cotton crop produced on a farm, for which a farm marketing quota and a farm marketing excess were established, including a farm on which cotton was planted in a crop year but for which a farm cotton allotment was not established for such crop year, shall, to the same extent as his predecessor, be entitled to all the rights and privileges incident to such marketing quota and marketing excess and be subject to the penalty on the farm marketing excess and to the lien on the entire crop of cotton and to the restrictions on the marketing of cotton.

§ 722.16 *Review of quotas*—(a) *Review committee.* Any producer who is dissatisfied with the farm marketing quota and farm marketing excess determined for his farm may, by making application in writing within 15 days after the mailing to him of the notice provided for in § 722.11 or § 722.12, have such farm marketing quota and farm marketing excess reviewed by a review committee pursuant to section 363 of the act. Unless such application is made within such 15 days, the determination of the county committee shall be final. All applications for review shall be made in accordance with the Marketing Quota Review Regulations issued by the Secretary, a copy of which may be obtained from the county committee. If a determination of the county committee for the crop year, as for example, the farm allotment, has previously been reviewed by a review committee, and such determination as approved by the review committee has become final under the Marketing Quota Review Regulations, it may not be reconsidered in a subsequent review proceeding concerning the farm marketing quota and farm marketing excess. In all cases, the review committee shall consider only such matters as, under the applicable provisions of the act and the applicable regulations in this part, are required or permitted to be considered by the county committee in determining the farm marketing quota or farm marketing excess.

(b) *Court review.* If the producer is dissatisfied with the determination of the review committee, he may, within 15 days after notice of such determination is mailed to him by registered mail, institute proceedings against the review committee to have the determination of the review committee reviewed by a court in accordance with section 365 of the act.

MARKETING CARDS, MARKETING CERTIFICATES AND LOAN DOCUMENTS

§ 722.17 *Eligibility for and issuance of marketing cards*—(a) *Producers eligible to receive marketing cards.* Except as otherwise provided in this section the operator and any other producer on a farm, or an official of a publicly owned agricultural experiment station, shall be eligible to receive a marketing card (Form MQ–76—Upland Cotton) for each crop of cotton if for such crop (1) no farm marketing excess is determined for the farm, or (2) an amount equal to the penalty on the farm marketing excess has been received by the county committee treasurer for the county in which the farm is located, except that a marketing card shall not be issued under subparagraph (1) or (2) of this paragraph if any producer on the farm has on hand any cotton produced in previous crop years on which the penalty was incurred and has not been paid.

(b) *Multiple farm producers eligible to receive marketing cards.* Any person who is a cotton producer on more than one farm in a county in a crop year shall not be eligible to receive a marketing card for any such farm in the county for such crop year until, in accordance with the provisions of paragraph (a) of this section, he is eligible to receive a marketing card for each of such farms. Any other producers on a farm who are eligible to receive marketing cards pursuant to paragraph (a) of this section shall receive marketing cards with respect to the farm notwithstanding the ineligibility of the multiple farm producer, unless the county committee determines that, in order to enforce the provisions of the act, such producers should not receive marketing cards for such farm with no farm marketing excess. Where a producer is engaged in the production of cotton in more than one county in the same year (in the same State or two or more States), the procedure outlined in this section for issuing marketing cards for multiple farms in a county may be followed in such year with respect to all such farms, wherever situated, if the county committees of the respective counties so decide, or if the State committee has reason to believe that such procedure would be necessary to enforce the provisions of the act. The State committee may require any multiple farm producer to file with it a list of all farms on which he is engaged in the production of cotton, together with any other information deemed necessary to enforce the provisions of the act.

(c) *Producers to whom marketing cards will not be issued to enforce the provisions of the act.* Notwithstanding any other provisions of this section, the county committee shall deny any producer a marketing card for a crop year if it determines that such action is necessary to enforce the provisions of the act in such crop year.

(d) *Preparation and issuance of marketing cards to producers.* A marketing card shall be issued to the operator of the farm for any year if he is eligible to receive it under the foregoing provisions of this section and, if the county committee or the county office manager determines that it will serve a useful purpose, marketing cards for such year shall also be issued to the other eligible producers on the farm. Each marketing card when completed shall be serially numbered and shall show: (1) The State and county code and farm serial number, (2) the name and address of the farm operator, (3) the name and address of the producer to whom issued, (4) the farm allotment and the acreage planted to cotton, (5) such additional information and data as may be prescribed by the deputy administrator, and (6) either (i) the actual or facsimile signature of the county office manager or a member of the county committee, or (ii) the name of the county office manager as written by an employee of the county office, and the signature of the producer. A facsimile signature may be affixed by the person whose name is being affixed or by an employee of the county office. Where the name of the issuing officer is affixed by an employee of the county office, such employee shall place his initials immediately below the name of the issuing officer on the marketing card. Where the producer designates an agent to use his marketing card, the card shall also show: (*a*) The name and address of the agent authorized to use the marketing card and (*b*) the signatures of the producer and the agent.

(e) *Preparation and issuance of marketing cards to experiment station officials.* The county office manager shall, upon the written application of a responsible official of any publicly owned agricultural experiment station having cotton exempt from the penalty as provided in the applicable acreage allotment regulations, issue a marketing card for such experiment station.

§ 722.18 *Marketing certificates and loan documents*—(a) *Use of marketing certificates.* There shall be issued to a producer upon his request a marketing certificate (Form MQ–91—Cotton (Upland)) to permit the marketing of cotton (1) by any such producer (i) who has an unexpired marketing card for use in identifying the cotton to be marketed or is eligible to receive such a marketing card and who desires to market such cotton by telegraph, telephone, mail, or by any other means or method other than directly to and in the presence of the buyer or transferee; (ii) who desires to market cotton which he has on hand from any prior crop, except cotton from a previous crop on which the penalty was incurred and has not been paid; (iii) who desires to market cotton produced by him on a farm with no farm marketing excess but he is not eligible to receive a marketing card under § 722.17 (b) because he or another producer on such farm is also a cotton producer on a farm with a farm marketing excess and the penalty has not been paid; or (iv) who desires to market his share of the cotton produced on a farm with no farm marketing excess or on a farm on which the penalty on the farm marketing excess has been paid but he was denied a marketing card by the county committee because it deemed such action necessary to enforce the provisions of the act, and (2) any other producer who has cotton not subject to the penalty or on which the penalty has been paid and such producer is not eligible to receive a marketing card or does not have a loan document as prescribed in § 722.24. In instances where the acreage planted to cotton on the farm has not been determined through no fault of the operator, and he, in applying for marketing certificates, certifies that he has cotton produced in

that crop year available for marketing and that to the best of his knowledge and belief the acreage planted to cotton on the farm does not exceed the farm allotment, the county committee, with the approval of the State committee, may issue marketing certificates for his farm in a total amount not exceeding the product of the farm allotment for that crop year multiplied by the smaller of the county normal yield per acre for that crop year or the estimated actual yield per acre for such crop year on the farm. Also, certificates shall be issued in any case where a person has loose cotton such as sample trimmings, floor sweepings, and cotton picked up from the roadside provided that such person establishes to the satisfaction of the county committee that such cotton was acquired through normal off-farm handling or trade customs, was waste cotton picked up on the roadside or similar location, or was acquired in some other similar manner.

(b) *Preparation and delivery of marketing certificates.* Each marketing certificate shall show (1) the name and address of the producer to whom issued, (2) the names of the county and State and the serial number of the farm, (3) the serial number of the marketing card issued for the farm, where applicable, and the crop year in which the cotton was produced, (4) the description and amount of the cotton to be marketed, (5) the signature of the producer and the date thereof, and (6) either (i) the actual or facsimile signature of the county office manager or a member of the county committee, or (ii) the name of the county office manager as written by an employee of the county office. A facsimile signature may be affixed by the person whose name is being affixed or by an employee of the county office. Where the name of the issuing officer is affixed by an employee of the county office, such employee shall place his initials immediately below the name of the issuing officer on the marketing certificate. The county committee shall, for each crop year, estimate or otherwise determine the actual production on each farm for which a marketing card has not been issued and for which marketing certificates are to be issued, and certificates shall not be issued in an amount in excess of such production as estimated or otherwise determined by the county committee. The "buyer's copy," "producer's copy," and "county office copy" of the marketing certificate shall be delivered to the producer to whom issued, and such producer, upon marketing the cotton described in the marketing certificate shall deliver all such copies to the buyer.

(c) *Use of loan documents in lieu of marketing certificates to identify carryover CCC loan cotton.* Any producer who desires to sell his equity in carryover cotton which is pledged as collateral security for a Commodity Credit Corporation loan or to sell carry-over cotton on which such a loan has been repaid may, as provided in § 722.24, identify such cotton as being penalty-free by presenting to the buyer or transferee thereof a loan document covering such cotton, and the buyer or transferee shall accept such document as evidence to him that the cotton described therein is not subject to the penalty or the lien for the penalty.

§ 722.19 *Lost, destroyed, or stolen marketing cards or marketing certificates—(a) Report of loss, destruction, or theft.* In case a marketing card or marketing certificate delivered to a producer is lost, destroyed, or stolen, any person having knowledge thereof shall, insofar as he is able, immediately notify the county committee of the following: (1) The name of the producer to whom the marketing card or certificate was issued; (2) the serial number of the marketing card or certificate; and (3) whether in his knowledge or judgment it was lost, destroyed, or stolen and by whom.

(b) *Investigation and findings by county office manager and county committee.* If the county office manager finds that an unexpired marketing card or certificate issued to a producer has been lost, destroyed, or stolen, he shall investigate to determine whether there has been any collusion or connivance on the part of the producer to or for whom the marketing card or certificate was issued to fraudulently obtain a second marketing card or certificate. If investigation discloses no evidence of collusion or connivance, a replacement marketing card or certificate may be issued to the producer by the county office manager and a notice in writing cancelling the lost, destroyed or stolen marketing card or certificate shall be signed by the county office manager and mailed to the last known address of such producer. Where circumstances appear to warrant investigation by the county committee before a replacement marketing card or certificate is issued, the case should be referred to the county committee for a determination as to the action to be taken. Each marketing card or certificate issued under this section shall bear across its face in bold letters the word "Duplicate". In case the lost, destroyed, or stolen marketing card or certificate is not recovered promptly, the county office manager shall notify the ginners and buyers in the county or in the immediate vicinity that the marketing card or certificate has been cancelled and that a duplicate has been issued. A report of the findings and action of the county office manager and of any action by the county committee shall be kept among the county office records. Any ginner or buyer or any other person coming into possession or control of a marketing card or certificate which has been canceled shall immediately return it to the county office which issued it.

§ 722.20 *Cancellation of marketing cards and marketing certificates issued in error.* In the event any marketing card or marketing certificate was erroneously issued, the producer to whom it was issued shall be requested to return it to the county office and upon its being returned it shall be canceled by the county office manager by endorsing thereon in bold letters the word "Canceled". Without awaiting its return, the county office manager shall notify the producer in writing at his last known address that it is void and of no effect. A copy of the notice, containing a notation thereon of the date of mailing, shall be kept among the records of the county office. The county office manager shall notify the ginners and buyers in the county, or in the immediate vicinity that the marketing card or certificate has been canceled.

IDENTIFICATION OF COTTON

§ 722.21 *Time and manner of identification.* Each producer of cotton may, at the time he markets any cotton, identify the cotton to the buyer or transferee, in the manner hereinafter provided, as not subject to the penalty provided in § 722.26 and the lien for the penalty as provided in § 722.27 and any such cotton not so identified shall be taken as being subject to the penalty and the lien for penalty as provided in § 722.25.

§ 722.22 *Identification by marketing card.* A marketing card (Form MQ–76—Upland Cotton) shall, when presented to the buyer or transferee by the producer to whom issued, be evidence to the buyer or transferee that the cotton produced on the farm in the crop year for which the marketing card was issued may be purchased by him without collection, deduction, or payment of the penalty, and that such cotton is not subject to the lien for the penalty.

§ 722.23 *Identification by marketing certificate.* A marketing certificate (Form MQ–91—Cotton (Upland)) shall, when presented to the buyer or transferee by the producer to whom it was issued, be evidence to the buyer or transferee that the cotton described on such certificate may be purchased by him without the collection, deduction, or payment of the penalty, and that such cotton is not subject to the lien for the penalty.

§ 722.24 *Identification by loan document.* A loan document (the original or the producer's copy) shall, when presented to the buyer or transferee by the producer in whose favor it is drawn, be evidence to the buyer or transferee that the carryover cotton described in such loan document my be purchased by him without the collection, deduction, or payment of the penalty, and that such cotton is not subject to the lien for the penalty. Any one of the following forms shall constitute a "loan document" for purposes of the foregoing provisions of this paragraph: Cotton Producer's Note and Loan Agreement (CCC Cotton Form A); Producer's Loan Statement—A; or Producer's Warranty and Agreement (CCC Cotton Form G–2).

§ 722.25 *Cotton not identified by a marketing card, marketing certificate or loan document.* All cotton marketed by a producer which is not identified by a marketing card, marketing certificate, or loan document, as provided in § 722.22, § 722.23, or § 722.24 shall be presumed to be subject to penalty and lien for the penalty and shall be taken by the buyer or transferee thereof as subject to penalty at the rate prescribed in § 722.26 and to the lien for the penalty. All

cotton purchased or acquired by a person which is not identified by a marketing card, marketing certificate, or loan document shall be presumed to have been marketed by a producer unless it is established that such cotton was purchased or acquired from a person other than the producer thereof. The buyer or transferee shall report the purchase of all such unidentified cotton on Form MQ-82—Cotton (Upland) and shall remit to the county committee treasurer the penalty collected, or deducted from the purchase price of the cotton.

§ 722.26 *Rate of penalty.* The rate of penalty for lint cotton is 50 percent of the parity price for cotton as of June 15 of the year in which the cotton is planted, as provided in section 346 (a) of the act. Section 722.51 will be amended annually to set forth the exact rate of the penalty for each crop year.

§ 722.27 *Lien for the penalty.* Until the penalty on the farm marketing excess for any crop year is paid, all cotton produced on the farm in such crop year and marketed shall be subject to the penalty at the rate prescribed in § 722.26 and a lien on such entire crop of cotton produced on the farm shall be in effect in favor of the United States.

§ 722.28 *Interest on unremitted penalty.* The person liable for the payment or collection of the penalty shall be liable also for interest on the amount of penalty which is not remitted in accordance with § 722.29 (b), (d), or § 722.30 (c), as the case may be, at the rate of 6 percent per annum from the final date for remitting the penalty until the date such penalty is remitted. The computation of interest on any penalty due shall be made beginning with the day following the final date for remitting the penalty.

§ 722.29 *Payment of penalty by producers*—(a) *Producer liable for payment of penalty.* Each producer having an interest in the crop of cotton on any farm produced in a crop year for which a farm marketing excess has been determined shall be liable for the entire amount of the penalty on the farm marketing excess. The amount of the penalty which any producer shall pay shall nevertheless be reduced by the amount of the penalty which is paid by another producer or a buyer of cotton produced on the farm.

(b) *Time when penalty becomes due and payable.* The farm marketing excess for a farm shall be regarded as available for marketing and the penalty thereon shall become due at the time any cotton produced on the farm is harvested or is available for harvest. The amount of the penalty on the farm marketing excess for any farm shall be remitted on the date it becomes due or not later than March 15 of the year following the year in which the cotton was planted, even though the cotton is not harvested: *Provided, however,* That the penalty on any bale or lot of cotton marketed (1) from a farm for which the penalty on the farm marketing excess has not been paid or (2) without being properly identified by a marketing card, marketing certificate, or loan document as provided in § 722.22, § 722.23 or § 722.24, shall be due on the date of such marketing and shall be remitted not later than seven calendar days next succeeding the end of the calendar week in which the cotton was marketed.

(c) *Apportionment of the penalty.* The county committee may, upon application of any producer made prior to the expiration of the time allowed for remitting the penalty on the farm marketing excess, determine his proportionate share of the penalty on the farm marketing excess if, pursuant to the application, the producer establishes that he is unable to arrange with other producers on the farm for the payment of the penalty on the entire farm marketing excess, that his share of the cotton crop produced on the farm is marketed by him separately, and that he exercises no control over the marketing of the shares of the other producers in the cotton crop. The producer's proportionate share of the penalty on the farm marketing excess shall be that proportion of the entire penalty on the farm marketing excess which his share in the cotton produced on the farm in the crop year bears to the total amount of cotton produced on the farm in such crop year. When the producer pays his proportionate share of the penalty, he shall not be liable for the remainder of the penalty on the farm marketing excess and he shall be entitled to receive marketing certificates issued in accordance with § 722.18 for his share of the cotton crop produced on the farm in such crop year.

(d) *Time when penalty becomes due in cases where the initial notice of farm marketing quota and farm marketing excess mailed after thirty days prior to time when penalty would become due under paragraph (b) of this section.* Notwithstanding the provisions of paragraph (b) of this section, in any case where the initial notice of farm marketing quota and farm marketing excess is mailed to the farm operator after thirty days prior to the time when penalty would become due under paragraph (b) of this section, the penalty on the farm marketing excess shall become due thirty days after mailing of such notice of farm marketing quota and farm marketing excess to the farm operator.

§ 722.30 *Payment of penalty by buyers and transferees*—(a) *Buyers and transferees liable for payment of penalty.* Each person within the United States who buys or acquires from the producer any cotton subject to the lien for the penalty shall be liable for and shall pay the penalty thereon. Cotton shall be presumed to be subject to the lien for the penalty unless the producer presents to the buyer or transferee a marketing card (Form MQ-76—Upland Cotton), a marketing certificate (Form MQ-91—Cotton (Upland)), or a loan document, as provided in §§ 722.22, 722.23, and 722.24.

(b) *Payment of penalty on account of lien for the penalty.* Each person within the United States who buys or acquires cotton from the producer which is subject to the lien for the penalty shall pay the amount of the penalty on each pound thereof in satisfaction of the lien thereon.

(c) *Time when penalty becomes due.* The penalty to be paid by any buyer or transferee pursuant to paragraphs (a) and (b) of this section shall become due at the time the cotton is marketed and shall be remitted not later than seven calendar days next succeeding the end of the calendar week in which the cotton was marketed. Cotton shall be deemed to be sold when either title to or actual or constructive possession of the cotton is delivered by or on behalf of the producer or any part of the purchase price is paid. Cotton shall be deemed to have been marketed by barter or exchange when it is delivered to the transferee of the cotton by actual or constructive delivery or the transferee has received any part of the property, goods, or services for which the cotton is being bartered or exchanged. Cotton shall be deemed to have been marketed by gift inter vivos when there is actual or constructive delivery of the cotton to the transferee during the lifetime of the producer. Cotton shall be deemed to have been marketed in processed form when the producer, or some person on his behalf, converts cotton into an article of trade and thereby causes the cotton to lose its identity as lint cotton. An article of trade within the meaning of this provision is any article made in whole or in part from cotton for the purpose of marketing such article.

(d) *Manner of deducting penalty and issuance of receipts.* The buyer may deduct from the price paid for any cotton an amount equivalent to the amount of the penalty to be paid by the buyer pursuant to paragraphs (a) and (b) of this section. Any buyer who deducts an amount equivalent to the penalty shall issue to the person from whom the cotton was purchased a receipt for the amount so deducted which shall be on Form MQ-82—Cotton (Upland).

§ 722.31 *Remittance of penalty to the county committee treasurer.* The county committee treasurer for and on behalf of the Secretary, shall receive the penalty and any interest due thereon and issue a receipt therefor to the person remitting the penalty as required by established fiscal procedure. The penalty and interest shall be remitted only in legal tender, or by check, draft, or money order drawn payable to the order of Commodity Stabilization Service, U. S. D. A. All checks, drafts, or money orders tendered in payment of the penalty and interest shall be received by the county committee treasurer subject to collection and payment at par.

§ 722.32 *Deposit of funds.* All funds received by the county committee treasurer in connection with penalties for cotton shall be scheduled and transmitted by him on the day received or not later than the morning of the next succeeding business day, to the State committee, which, in accordance with applicable instructions, shall cause such funds to be deposited to the credit of the Treasurer of the United States. In the event the funds so received are in the form of cash, the county committee treasurer shall deposit such cash in the county committee bank account and issue a check in the amount thereof pay-

able to Commodity Stabilization Service, U. S. D. A. and transmit such check to the State committee. The county committee treasurer shall make and keep a record of each amount received by him, showing the name of the person who remitted the funds, the identification of the farm or farms for which the funds were remitted, and the names of the persons who marketed the cotton in connection with which the funds were remitted.

§ 722.33 *Refunds of money in excess of the penalty*—(a) *Determination of refunds.* The county committee and the county committee treasurer, upon their own motion or upon the request of any interested person, shall review the amount of money received in connection with the penalty for any farm to determine for each producer the amount thereof, if any, which is in excess of the penalty incurred. The excess amount shall be refunded. Any refund shall be made only to persons who bore the burden of the payment and who have not been reimbursed therefor. The excess sum shall be first applied, insofar as the sum will permit, so as to make refunds to eligible persons other than producers and the remainder, if any, shall be applied so as to make refunds to the eligible producers. The amount to be refunded to each producer shall be either (1) the amount agreed upon in writing by each and every cotton producer on the farm or (2) in the event that such producers cannot agree to the division of such refund or if all of the producers on the farm are not available to apply for such refund, the amount determined by apportioning the excess among all of the producers on the farm on the basis of the amount of the penalty borne by each producer, as determined by the county committee. No refund shall be made to any buyer or transferee of any amount which he collected from the producer, deducted from the price or other consideration for the cotton or for which he was liable.

(b) *Certification of refunds.* A member of the county committee, or the county committee treasurer shall notify the State committee of the amount which the county committee determines may be refunded to each person with respect to the farm, and the State committee shall cause to be certified to the appropriate Disbursing Officer of the Treasury Department for payment such amounts as are approved by it. No refund of money shall be certified under this section unless the money has been collected and transmitted to the State committee but has not been covered into the general fund of the Treasury of the United States.

§ 722.34 *Refund of penalty erroneously, illegally, or wrongfully collected.* Whenever a claim for refund of any sum of money erroneously, illegally, or wrongfully collected as a penalty with respect to cotton is duly filed in accordance with section 372 of the act and the regulations pertaining to Refunds of Penalties Erroneously, Illegally or Wrongfully Collected with Respect to Marketing in Excess of Marketing Quotas (§§ 714.21 to 714.28 of this chapter; 13 F. R. 6210, Oct. 22, 1948; 19 F. R. 395, Jan. 22, 1954), as amended, and a determination is duly made that a part or all of the penalty was erroneously, illegally, or wrongfully collected, a refund of such penalty or part thereof shall be made as provided in the regulations pertaining to refunds of penalties (§§ 714.21 to 714.28 of this chapter).

§ 722.35 *Report of violations and court proceedings to collect penalty.* It shall be the duty of the county office manager to report in writing to the State administrative officer each case of failure or refusal to pay the penalty or to remit the same as provided in §§ 722.1 to 722.51 to the county committee treasurer when collected. It shall be the duty of the State administrative officer to report each such case in writing to the Office of the General Counsel of the United States Department of Agriculture, in accordance with instructions issued by the deputy administrator, with a view to the institution of proceedings by the United States Attorney for the appropriate district, under the direction of the Attorney General of the United States, to collect the penalties as provided in section 376 of the act.

RECORDS AND REPORTS

§ 722.36 *Records to be kept and reports to be made by ginners*—(a) *Necessity for records and reports.* Each ginner shall, in conformity with section 373 (a) of the act, keep the records and make the reports prescribed by this section which the Secretary hereby finds to be necessary to enable him to carry out, with respect to cotton, the provisions of the act.

(b) *Ginner's record of cotton ginned.* Each ginner shall keep, for each crop year, as a part of or in addition to the records maintained by him in the conduct of his business, a record showing with respect to each bale, and each lot of cotton less than a bale, ginned by him the following information: (1) The date of ginning; (2) the name of the operator of the farm on which the cotton was produced; (3) the name of the producer of the cotton; (4) the name and address of the person who delivered the cotton to the gin in those cases where the ginner has doubt as to the accuracy of the name of the farm operator or producer of the cotton as furnished; (5) the county and State in which the farm on which the cotton was produced is located; (6) the gin bale number or mark or other identification; (7) the serial number of the gin ticket or receipt prepared or issued by the ginner; (8) the gross weight of each bale of cotton and the net weight of each lot of lint cotton less than a bale ginned by the ginner; and (9) the kind of bagging used on each bale if other than jute.

(c) *Requests for reports.* Each ginner, upon written request of the State committee or county committee, shall make a report showing the information provided for in this section, or any part thereof as specified in the request, with respect to cotton ginned for the person or persons specified in the request or for the period of time specified in the request. This report shall be filed not later than the date designated by the State committee or county committee in the written request for such report.

(d) *Manner of submitting reports.* The county committee treasurer designated in the request for such report, or his successor in office, is hereby authorized and empowered to receive each such report on behalf of the Secretary. Each report shall be mailed or delivered directly to the said treasurer.

§ 722.37 *Records to be kept and reports to be made by buyers*—(a) *Necessity for records and reports.* Each person who buys or acquires seed cotton or lint cotton from the producer thereof, in conformity with section 373 (a) of the act, shall keep the records and make the reports prescribed by this section which the Secretary hereby finds to be necessary to enable him to carry out, with respect to cotton, the provisions of the act.

(b) *Nature of records.* Each buyer shall keep for each crop year, as a part of or in addition to the records maintained by him in the conduct of his business, a record which shall show with respect to each bale of cotton, and each lot of cotton less than a bale, which is purchased by him from the producer thereof the following information: (1) The name and address of the producer from whom the cotton was purchased; (2) the date on which the cotton was purchased; (3) the original gin bale number or if there is no gin bale number, the gin bale mark or other information showing the origin or source of the cotton and in the case of seed cotton purchased, the number of pounds of seed cotton and the known or estimated amount of lint in such seed cotton; (4) the number of pounds of lint cotton in each bale, and each lot of lint cotton less than a bale, purchased from the producer; (5) the amount of any penalty required to be collected under §§ 722.1 to 722.51 and the amount of penalty collected in connection with the cotton purchased from the producer; and (6) the serial number of the marketing card or marketing certificate or a brief description of the loan document by which the cotton was identified when marketed (if a loan number appears on the loan document, the buyer shall keep a record of such number and the crop year; otherwise, the buyer shall keep a record of the form number of the CCC loan document and the date of the loan). It shall be presumed that the cotton was not identified in the manner provided in §§ 722.1 to 722.51 if the serial number of the marketing card or marketing certificate or a brief description of the loan document does not appear on the records as required by this paragraph. The county committee shall, upon the request of any buyer, furnish to him without cost blank copies of Form MQ–100—Cotton (Upland) which may be used by him for the purpose of keeping the records required pursuant to this paragraph.

(c) *Reports in connection with marketing of cotton not identified by marketing cards, marketing certificates, or loan documents.* The buyer of cotton which is not identified by a marketing card, marketing certificate or loan document, as provided in §§ 722.22, 722.23 and

722.24 when marketed by a producer shall, with respect to each such purchase, make a written report on Form MQ–82—Cotton (Upland) of the following information: (1) The name and address of the producer from whom the cotton was purchased; (2) the date on which the cotton was purchased; (3) the original gin bale number or, if there is no gin bale number, the gin bale mark or other information showing the origin or source of the cotton; (4) the net weight of each bale of cotton, and of each lot of lint cotton less than a bale; and (5) the amount of the penalty collected in connection with the cotton purchased. The report shall be prepared and executed in triplicate; the "Producer's Copy" shall be delivered to the producer, the "Buyer's Copy" shall be retained by the buyer and the buyer shall mail or deliver the "County Office Copy" to the county committee treasurer for the county in which such cotton was produced.

(d) *Exports in connection with cotton identified by marketing certificates.* The buyer of cotton which is identified, when marketed, by a marketing certificate, Form MQ–91—Cotton (Upland), as provided in § 722.23, shall make a report in connection with the transaction by executing the certificate in triplicate and by mailing or delivering the "County Office Copy" to the county committee treasurer for the county in which such certificate was issued. The "Buyer's Copy" shall be retained by the buyer and the "Producer's Copy" shall be delivered to the producer to whom such certificate was issued. The manner in which the marketing certificate shall be executed and distributed, in case the marketing is to a buyer not within the United States, is provided for in § 722.42 (b).

(e) *Receipts to producers for penalties.* Where the cotton is not identified by a marketing card, marketing certificate, or loan document at the time of marketing, the "Producer's Copy" of the executed Form MQ–82—Cotton (Upland) shall be the receipt from the buyer to the producer for the penalty collected. The buyer shall report the giving of each such receipt to the producer by forwarding the "County Office Copy" of Form MQ–82—Cotton (Upland) to the county committee treasurer for the county in which such cotton was produced, as provided in paragraph (c) of this section.

(f) *Time for making reports.* Each report required by the foregoing provisions of this section shall be made not later than seven calendar days next succeeding the end of the calendar week in which the cotton covered thereby was marketed.

(g) *Buyer's record and report.* In the event the county committee, or the State committee, has reason to believe that any buyer failed or refused to collect or to remit the penalty required to be collected by him for any cotton which he purchased, or otherwise in any manner failed or refused to comply with §§ 722.1 to 722.51, the buyer shall, within fifteen days after a written request therefor by either such committee is sent to him by certified mail at his last known address, make a report verified as true and correct on Form MQ–100—Cotton (Upland) to the designated county committee treasurer with respect to cotton purchased or acquired by him from the person or persons specified in the request or purchased or acquired by him during the period of time specified in the request. Such report shall include the following information for each bale of cotton, and each lot of cotton less than a bale, purchased by such buyer: (1) The name and address of the producer from whom the cotton was purchased; (2) the date on which the cotton was purchased; (3) the original gin bale number, or if there is no gin bale number, the gin bale mark or other information showing the origin or source of the cotton and, in the case of cotton purchased in the seed, the number of pounds of seed cotton and the known or estimated amount of lint in such seed cotton; (4) the net weight of each bale of cotton, and of each lot of lint cotton less than a bale, purchased from the producers; (5) the amount of penalty required to be collected under §§ 722.1 to 722.51 and the amount of any penalty collected in connection with the cotton purchased from the producer; and (6) the serial number of the marketing card or marketing certificate or a brief description of the loan document by which the cotton was identified when marketed (if the cotton was identified by a loan document when marketed, enter the loan number and the crop year or the form number of the CCC loan document and the date of the loan).

(h) *Manner of submitting reports.* The county committee treasurer for the county in which the cotton covered by the report was produced is hereby authorized and empowered to receive, for and on behalf of the Secretary, each report required pursuant to this section. Each report shall be mailed or delivered directly to the said treasurer. Notwithstanding any other provisions of this paragraph, each report on Form MQ–82—Cotton (Upland) in connection with the purchase of cotton marketed without the use of the means of identification provided by §§ 722.1 to 722.51 may be mailed or delivered directly to the county committee treasurer from whom the blank copy of the form was obtained.

§ 722.38 *Records to be kept and reports to be made by transferees.* Each transferee who acquires seed cotton or lint cotton from the producer thereof shall keep the same records and make the same reports which are required to be kept and made by buyers pursuant to § 722.37. Also, transferees shall execute applicable certificates which are necessary to enable the producer to keep the records and make the reports required of him.

§ 722.39 *Records to be kept by warehousemen, processors, and others.* Each warehouseman, processor (including compressmen), common carrier, or other person, as defined in section 373 (a) of the act, who stores, processes (including compressing), transports as a common carrier or otherwise deals with cotton from, for, or on behalf of the producer thereof shall for each crop year keep the records relating to such cotton which are normally kept by persons engaged in the same or similar business. The Secretary hereby finds such records to be necessary to enable him to carry out, with respect to cotton, the provisions of the act.

§ 722.40 *Availability of records kept by ginners, buyers, transferees, warehousemen, and others.* Each ginner, buyer, transferee, warehouseman, processor (including compressmen), common carrier, or other person as defined in section 373 (a) of the act, who gins, buys, stores, processes (including compressing), transports as a common carrier, or otherwise deals with cotton from, for, or on behalf of the producer thereof, shall make available for examination and inspection by the Secretary or by any authorized representative of the Secretary, the records kept in his business concerning such cotton, for the purpose of ascertaining the correctness of any report made or record kept pursuant to §§ 722.1 to 722.51 or of obtaining the information required to be furnished in any report pursuant to §§ 722.1 to 722.51 but not so furnished. The records to be kept pursuant to the provisions of §§ 722.36, 722.37, 722.38 and 722.39 shall be kept available for examination and inspection by the Secretary, or by any authorized representative of the Secretary, until December 31 of the second year following the year in which the cotton is planted, for the purpose of ascertaining the correctness of any report made or record kept pursuant to §§ 722.1 to 722.51 or of obtaining the information required to be furnished in any report pursuant to §§ 722.1 to 722.51 but not so furnished. Such records shall be kept for such longer period of time as may be requested in writing by the director.

§ 722.41 *Penalty for failure or refusal to keep records or make reports.* Any ginner, buyer, transferee, warehouseman, processor (including compressmen), common carrier, or other person, as defined in section 373 (a) of the act who gins, buys, acquires, stores, processes (including compressing), transports as a common carrier, or otherwise deals with cotton from, for or on behalf of the producer thereof who fails to keep the records, make the reports as required by § 722.36, § 722.37, § 722.38, or § 722.39 or who makes any false report or false record shall, as provided for in section 373 (a) of the act, be deemed guilty of a misdemeanor and upon conviction thereof, shall be subject to a fine of not more than $500 for each such offense.

§ 722.42 *Records to be kept and reports to be made by producers*—(a) *Necessity for records and reports.* Each person who produces or who has produced in any crop year, cotton which is subject to the provisions of §§ 722.1 to 722.51 shall, in conformity with section 373 (b) of the act, keep the records and make the reports prescribed by this section, which records and reports the Secretary hereby finds to be necessary to enable him to carry out, with respect to cotton, the provisions of the act. The

records required to be kept pursuant to this section shall be kept until December 31 of the second year following the year in which the cotton is planted, or for such longer period of time as may be requested in writing by the director.

(b) *Cotton marketed to persons not within the United States.* In each case where cotton for which a marketing certificate has been issued pursuant to § 722.18 is marketed to any person not within the United States the producer shall enter the name and address of the buyer or transferee and indicate in the space provided for the signature of the buyer or transferee on each copy of the marketing certificate that such person is not within the United States. The producer shall retain the "Producer's Copy" of the certificate. Not later than 15 calendar days next succeeding the day on which the cotton was marketed the "County Office Copy" and the "Buyer's Copy" shall be mailed or delivered by such producer to the county committee treasurer for the county in which the certificate was issued.

(c) *Farm operator's report.* The operator of the farm shall file with the county committee treasurer for the county in which the farm is located a farm operator's report on Form MQ–98—Cotton (Upland) in the following cases: (1) Where the producer is making an application for a downward adjustment in the farm marketing excess pursuant to § 722.12 except that the county committee may waive this requirement in case it determines that the evidence otherwise submitted by the producer is satisfactory evidence of the actual production of cotton on the farm; (2) where a farm marketing excess is determined for the farm but an application for downward adjustment in the farm marketing excess has not been filed and the county committee or the State committee requests the report in writing; and (3) where a farm marketing excess is not established but the State committee or the county committee determines that a farm operator's report is necessary for proper administration of §§ 722.1 to 722.51 and requests such report in writing. Upon written request by the county committee or by the State committee for a farm operator's report on Form MQ–98—Cotton (Upland), the operator of the farm shall make the report in the manner specified in this paragraph not later than the date designated by such committee in its request. Form MQ–98—Cotton (Upland) shall show for the farm the following information or any part thereof as specified in such request for a specified crop year: (i) The date harvesting of the crop of cotton was completed on the farm, the date of the last ginning of cotton produced on the farm, and the acreage planted to cotton on the farm; (ii) the total number of pounds of lint cotton ginned from the crop of cotton; (iii) the name and address of each ginner who ginned such cotton and the number of and net weight of bales or lots less than a bale ginned by him; (iv) the total amount of seed cotton of the crop marketed; (v) the total amount of the crop lint cotton marketed; (vi) the amount of unmarketed cotton of the crop on hand; (vii) the total number of pounds of lint cotton produced from such crop; (viii) the name and address of each buyer or transferee of such crop lint or seed cotton and the amount thereof marketed to him; and (ix) the amount of penalty paid by the producer or collected by the buyer or transferee.

(d) *Manner of submitting reports.* The county committee treasurer for the county in which the cotton covered by the report was produced is hereby authorized and empowered to receive, for and on behalf of the Secretary, each report required pursuant to this section. Each report shall be mailed or delivered directly to such treasurer.

§ 722.43 *Data to be kept confidential.* Except as provided in § 722.48 all data reported to or acquired by the Secretary pursuant to and in the manner provided in §§ 722.36 to 722.40 inclusive and § 722.42 shall be kept confidential by all officers and employees of the United States Department of Agriculture, members of county committees and State committees, county agents, and the employees of such committees and county agents' offices, and shall not be disclosed to anyone not having an interest in or responsibility for any cotton, farm, or transaction covered by the particular data, record, information, report, or form; and only such data so reported or acquired as the Secretary deems relevant shall be disclosed by them to anyone not having such an interest or not being employed in the administration of the act and then only in a suit or administrative hearing under the provisions of the act.

§ 722.44 *Enforcement.* It shall be the duty of the county office manager to report in writing in quadruplicate to the State administrative officer each case of failure or refusal to make any report or keep any record as required by §§ 722.1 to 722.51 and so to report each case of making any false report or record. It shall be the duty of the State administrative officer to report each such case in writing, in triplicate, to the Office of the General Counsel of the United States Department of Agriculture, in accordance with instructions issued by the deputy administrator, with a view to the institution of proceedings by the United States Attorney for the appropriate district, under the direction of the Attorney General of the United States, to enforce the provisions of the act.

SPECIAL PROVISIONS AND EXCEPTIONS

§ 722.45 *Cotton produced by publicly owned agricultural experiment stations.* Cotton produced by publicly owned agricultural experiment stations shall be handled pursuant to applicable acreage allotment regulations.

§ 722.46 *Erroneous notices*—(a) *Erroneous notice of cotton allotment.* In any case where through error the producer is officially notified in writing of a farm allotment larger than the final approved farm allotment and it is found by the county committee that such producer, acting solely on the information contained in the erroneous notice, planted an acreage to cotton in excess of the final approved farm allotment, the producer will not be considered to have exceeded the farm allotment unless he planted an acreage in excess of the allotment shown on the erroneous notice. Before a producer can be said to have relied upon the erroneous notice the circumstances must have been such that the producer had no cause to believe that the allotment notice was in error. To determine this fact, the date of any corrected notice in relation to the time of planting; the size of the farm; the amount of cotton customarily planted; and all other pertinent facts should be taken into consideration. The determination by the county committee under this section shall be subject to the approval of the State committee. The acreage planted to cotton on the farm in excess of the final approved allotment shall be considered as excess acreage for purposes of § 722.47.

(b) *Erroneous notice of planted acreage.* In any case where it is discovered after all the cotton acreage on the farm has been picked one or more times that the farm operator was officially notified in writing through error of an acreage planted to cotton which is less than the acreage actually planted but the acreage actually planted is in excess of the farm allotment, the county committee shall determine whether or not the following conditions are met:

(1) The lack of compliance was caused by reliance in good faith by the farm operator on an erroneous notice of measured acreage issued hereunder.

(2) Neither the farm operator nor any producer on the farm had actual knowledge of the error in time to adjust the excess acreage in accordance with applicable regulations.

(3) The incorrect notice was the result of an error made by an employee of the county or State office in reporting, computing, or recording the cotton acreage for upland cotton for the farm.

(4) Neither the farm operator nor any producer on the farm was in any way responsible for the error.

(5) The extent of the error in the erroneous notice was such that the farm operator would not reasonably be expected to question the acreage of which he was erroneously notified.

If the county committee determines that all five of the conditions are met, and the State administrative officer concurs upon review of the county committee determination, the acreage planted to cotton on the farm will be considered as an acreage equal to the farm allotment.

§ 722.47 *No credit for overplanting the farm allotment.* Any acreage planted to cotton in any crop year in excess of the farm allotment for such crop of cotton shall not be taken into account in establishing State, county, and farm allotments for subsequent crops of cotton.

§ 722.48 *Availability of records.* The State and county committees shall make available for inspection by owners or operators of farms receiving cotton allotments all records pertaining to cotton allotments and marketing quotas.

§ 722.49 *Designation of representatives of the Secretary to examine records*—(a) *Designation of representatives.* In order to carry out the provisions of §§ 722.36 to 722.40, relating to the examination of records, the deputy administrator is hereby authorized and directed to designate in writing with the counter signature of the State administrative officer, an appropriate number of persons from the officers or employees of the Department of Agriculture to act as the authorized representatives of the Secretary for the purposes of said provisions. In addition, investigators and accountants (special agents), Compliance and Investigation Division, Commodity Stabilization Service, United States Department of Agriculture, are hereby designated as authorized representatives of the Secretary for the purposes of said provisions.

(b) *Proof of designation.* Each person designated pursuant to this section shall be furnished with a copy of his designation.

(c) *Authorization to administer oaths.* Each person designated pursuant to this section to act as the authorized representative of the Secretary is hereby authorized and empowered, pursuant to the act of Congress approved January 31, 1925 (sec. 1, 43 Stat. 803; 5 U. S. C. 521), to administer to or take from any person an oath, affirmation, or affidavit whenever such oath, affirmation, or affidavit is for use in any prosecution or proceeding under or in the enforcement of the cotton marketing quota provisions of the act or §§ 722.1 to 722.51.

§ 722.50 *County normal yields for each crop year.* This section will be amended annually to establish county normal yields for each crop year pursuant to § 722.2 (d) (8).

§ 722.51 *Penalty rate for each crop year.* This section will be amended annually to establish the penalty rate for each crop year pursuant to § 722.26.

NOTE: The record keeping and reporting requirements of these regulations have been approved by and subsequent reporting requirements will be subject to the approval of the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

Done at Washington, D. C., this 8th day of May 1958. Witness my hand and the seal of the Department of Agriculture.

[SEAL] TRUE D. MORSE,
Acting Secretary.

[F. R. Doc. 58-3586; Filed, May 13, 1958; 8:45 a. m.]

PART 722—COTTON

SUBPART — REGULATIONS PERTAINING TO MARKETING QUOTAS FOR EXTRA LONG STAPLE COTTON OF THE 1958 AND SUCCEEDING CROPS

Basis and purpose. The provisions of §§ 722.101 to 722.152 are issued pursuant to the Agricultural Adjustment Act of 1938, as amended (52 Stat. 31, as amended; 7 U. S. C. 1281 et seq.). These provisions govern the identification and measurement of farms; the amount, adjustment, and review of the farm marketing quota and farm marketing excess; the issuance of marketing cards and marketing certificates; the identification of extra long staple cotton (hereinafter referred to as "ELS cotton") which is marketed as being subject to or not subject to the penalty and lien for the penalty; the rate of the penalty and the manner in which penalties shall be paid by producers and buyers; the refunding of penalty overpayments; the records and reports required to be made by ELS cotton producers, ginners, buyers, warehousemen, and others; and other miscellaneous matters regarding the production and marketing of ELS cotton.

Notice of proposed formulation of marketing quota regulations for ELS cotton of the 1958 and succeeding crops when marketing quotas are in effect for such cotton was published in the FEDERAL REGISTER on April 12, 1958 (23 F. R. 2407) in accordance with section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U. S. C. 1003) and the data and recommendations received in response to such notice have been duly considered.

GENERAL

AUTHORITY: §§ 722.101 to 722.152 issued under sec. 375, 52 Stat. 66, as amended; 7 U. S. C. 1375. Interpret or apply secs. 301, 362, 363, 365–368, 372–374, 388, 52 Stat. 38, as amended, 62, as amended, 63–65, as amended, 68, secs. 344–347, 63 Stat. 670, as amended, 674, 675, as amended; 7 U. S. C. 1301, 1362, 1363, 1365–1368, 1372–1374, 1388, 1344–1347.

GENERAL

§ 722.101 *Applicability.* The provisions of §§ 722.101 to 722.152 apply to ELS cotton produced in 1958 and succeeding years when marketing quotas are in effect and to carry-over ELS cotton which is marketed by producers in the 1958–59 and succeeding marketing years.

§ 722.102 *Definitions.* As used in §§ 722.101 to 722.152 and in all forms and documents in connection therewith, unless the context or subject matter otherwise requires, the following terms shall have the following meanings and the masculine shall include the feminine and neuter genders and the singular shall include the plural number:

(a) *Terms relating to administrative organization.* (1) "Secretary" means the Secretary of Agriculture of the United States or the officer of the Department of Agriculture acting in his stead pursuant to delegated authority.

(2) "Deputy Administrator" means the Deputy Administrator or Acting Deputy Administrator, Production Adjustment, Commodity Stabilization Service, United States Department of Agriculture.

(3) "Director" means the Director or Acting Director, Cotton Division, Commodity Stabilization Service, United States Department of Agriculture.

(4) "State committee" means the group of persons designated for a State by the Secretary as the Agricultural Stabilization and Conservation State Committee under section 8 (b) of the Soil Conservation and Domestic Allotment Act, as amended. In Puerto Rico the Caribbean ASC Area Committee shall, insofar as applicable, perform the functions of the State committee.

(5) "State administrative officer" means the person employed to execute the policies of the State committee and to be responsible for the day-to-day operations of the office of the State committee (hereinafter referred to as the "State office"), or the person acting in such capacity.

(6) "Review committee" means the group of persons appointed by the Secretary as a review committee pursuant to section 363 of the act.

(7) "County committee" means the group of persons elected within a county as the county committee pursuant to the Secretary's regulations governing the selection and functions of Agricultural Stabilization and Conservation County and Community Committees (Part 7 of this title; 21 F. R. 8385), as amended. In Puerto Rico the Caribbean ASC Area Committee shall, insofar as applicable, perform the functions of the county committee.

(8) "Community committee" means the group of persons elected within a community as the community committee pursuant to the Secretary's regulations governing the selection and functions of Agricultural Stabilization and Conservation County and Community Committees (Part 7 of this title; 21 F. R. 8385), as amended.

(9) "County office manager" means the person employed by the county committee to execute the policies of the county committee and to be responsible for the day-to-day operations of the office of the county committee (hereinafter referred to as the "county office"), or the person acting in such capacity.

(10) "Treasurer" means the county office manager or the person designated by him to act as county committee treasurer. In Puerto Rico the Director, ASC Caribbean Area Office, shall designate one or more of the ASC employees to perform the duties and functions of the county committee treasurer.

(b) *Terms relating to farm.* (1) "Farm" as defined in Part 718 of this chapter (22 F. R. 3747, 5675, 7418) as heretofore or hereafter amended, shall apply to the regulations in §§ 722.101 to 722.152.

(2) "Farm allotment" means an ELS cotton acreage allotment established for a farm under the applicable acreage allotment regulations.

(3) "Acreage planted to ELS cotton on the farm" for a crop year, for purposes of §§ 722.101 to 722.152 shall be the acreage seeded to ELS cotton on the farm in such year, excluding any acreage in excess of the farm allotment which (i) is destroyed by causes beyond the producer's control prior to expiration of the period established under applicable acreage allotment regulations for disposing of excess ELS cotton acreage or (ii) is disposed of in accordance with applicable acreage allotment regulations.

(4) "Farm base period" means the three years immediately preceding the year for which the farm allotment is established.

(5) "New ELS cotton farm" means a farm on which no acreage was planted to ELS cotton during the farm base period applicable to a year in which such cotton is to be planted.

(6) "Normal yield" for any year means the average yield per harvested acre of ELS lint cotton for the farm, adjusted for abnormal weather conditions, during the five calendar years immediately preceding the year in which such normal yield is determined. If for any such year, actual yield data are not available or there was no actual yield, the normal yield for the farm shall be appraised by the county committee taking into consideration abnormal weather conditions, the normal yield for the county, and the yield in years for which data are available. In the case of new ELS cotton farms, the county committee may also take into consideration the normal yields of other farms in the locality which are similar with respect to soil and other physical factors affecting the production of ELS cotton.

(7) "Normal production" of any number of acres for a crop year means the normal yield of ELS lint cotton per acre for the farm for such year multiplied by such number of acres.

(8) "Actual production" of ELS cotton on the farm for a crop year means the total number of pounds of ELS lint cotton determined to have been produced on the farm in such year. ELS cotton will be considered to have been produced in the crop year in which the acreage from which it was harvested was planted.

(9) "Actual yield" per acre for a crop year means the number of pounds of ELS lint cotton determined by dividing the actual production of ELS cotton on the farm in such year by the acreage planted to ELS cotton on the farm in such year.

(10) "Farm marketing quota" for a crop year means an ELS cotton marketing quota established for the farm for such year under § 722.109.

(11) "Farm marketing excess" for a crop year means the amount of ELS cotton determined for the farm for such year under § 722.110 or § 722.112, whichever is applicable.

(12) "Farm with no farm marketing excess" for a crop year means a farm on which the acreage planted to ELS cotton in such year is not in excess of the farm allotment for such year.

(13) "Farm with a farm marketing excess" for a crop year means a farm on which the acreage planted to ELS cotton in such year is in excess of the farm allotment for such year.

(14) "Farm serial number" means the serial number assigned to a farm by the county committee for purposes of identification.

(15) "Producer" means a person on a farm who, as owner or landlord (other than the landlord of a standing-rent tenant, fixed-rent tenant, or cash tenant), cash tenant, standing-rent tenant, fixed-rent tenant, share tenant, or sharecropper, is entitled to all or a share of the ELS cotton produced thereon during the year in which the ELS cotton is planted (or ELS cotton on hand from a prior crop) or the proceeds thereof.

(16) "Owner or landlord" means a person who owns farmland and rents such land to another person or who operates such land.

(17) "Operator" means the person who is in charge of the supervision and conduct of the farming operations on the entire farm.

(18) "Cash tenant", "standing-rent tenant", or "fixed-rent tenant" means a person who rents land from another for a fixed amount of cash or a commodity to be paid as rent.

(19) "Share tenant" means a person other than a sharecropper who rents land from another person and pays as rent a share of the crops or the proceeds thereof.

(20) "Shareeropper" means a person who works a farm in whole or in part under the general supervision of the operator and is entitled to receive for his labor a share of the crops produced thereon or the proceeds thereof.

(21) "Seed cotton" means the harvested fruit of the ELS cotton plant before ginning.

(22) "ELS lint cotton" means the fiber taken from seed cotton by ginning.

(c) *Terms relating to harvesting and marketing.* (1) "Harvest" means the act of extracting ELS seed cotton from the ELS cotton plant by manual or mechanical means or grazing by livestock.

(2) "Harvested" and "harvesting" shall have corresponding meanings to the term "harvest" in the connection in which they are used. Salvage operations shall be considered as harvesting.

(3) "Available for harvest" means the stage of maturity when bolls are sufficiently open to permit harvest.

(4) "Market" means to dispose of ELS cotton in raw or processed form by voluntary or involuntary sale, barter, or exchange, or by gift inter vivos.

(i) The term "sale" means any transfer of title to ELS cotton by a producer to another by any means other than barter or exchange or gift inter vivos.

(ii) The terms "barter" and "exchange" mean transfer of title to ELS cotton by a producer to another in exchange for ELS cotton or any other commodity, service, or property in cases where the value of the ELS cotton or such other commodity, service, or property is not considered in terms of money, or the transfer of title to ELS cotton by a producer to another in payment of a fixed rental or other charge for land.

(iii) The term "gift inter vivos" means any transfer of title, accompanied by delivery, to ELS cotton by a producer to another which takes effect immediately and irrevocably and is made without any consideration or compensation therefor.

(iv) "Marketed", "marketing", and "for market" shall have corresponding meanings to the term "market" in the connection in which they are used.

(5) "Marketing year" means the period beginning August 1 of a crop year and ending July 31 of the following year, both dates inclusive.

(6) "Buyer" means a person who acquires ELS cotton from a producer by purchase. An agricultural cooperative association which makes purchase and sale agreements with producers, or marketing agreements under which the title to ELS cotton passes upon delivery of such cotton by the producer and the association is authorized to deal with such cotton as owner, shall be deemed to be a "buyer" with respect to any ELS cotton acquired pursuant to such an agreement which is subject to marketing quotas as provided in § 722.108.

(7) "Transferee" means a person who receives ELS cotton from a producer by barter or exchange, or by gift inter vivos.

(8) "Ginner" means a person engaged in the business of ginning ELS cotton.

(9) "Ginning" means the process by which ELS lint cotton is removed from the cotton seed.

(10) "Gin bale number or mark" means the number entered on the bale tag or any other mark made or used by the ginner to identify a bale of ELS cotton.

(11) "Warehouse receipt number" means the number on the warehouse receipt and on the warehouse bale tag used by the warehouseman to identify a bale of ELS cotton.

(d) *Miscellaneous terms.* (1) "Act" means the Agricultural Adjustment Act of 1938 and any amendments thereto, heretofore, or hereafter made.

(2) "Person" means an individual, partnership, firm, joint-stock company, corporation, association, trust, estate, or other legal entity, or a State, political subdivision of a State, or any agency thereof, or the Federal Government, or any agency thereof. The term "person" shall include two or more persons having a joint or common interest.

(3) "Upland cotton" means any cotton other than extra long staple cotton.

(4) "Extra long staple cotton" (referred to in §§ 722.101 to 722.152 as "ELS cotton") means American-Egyptian, Sea Island, and Sealand cotton, and all other varieties of the Barbadense species, and any hybrid thereof, and any other cotton in which one or more of these varieties predominate as provided under section 347 (a) of the act.

(5) "Carry-over ELS cotton" for any year means the unmarketed ELS cotton from any previous crop which the producer thereof has on hand as of August 1 of such year.

(6) "State and county code" means the applicable number assigned by the Commodity Stablization Service to each State and county for the purpose of identification.

(7) "County" means county (parish in Louisiana) of a State or in the case of Puerto Rico, the Northern Area and the Southern Area each shall be considered as a county.

(8) "Normal yield for any county" for a crop year means the average yield per harvested acre of ELS lint cotton for the county, adjusted for abnormal weather conditions, during the five calendar years immediately preceding the year in which such normal yield is determined, as established by the director, with the approval of the Administrator of Commodity Stabilization Service. If for any year of such five-year period actual yield data are not available or there was no actual yield, the yield for such year shall be appraised by taking into consideration the yields in years for which data are available, abnormal weather conditions, and the yields for such year in nearby counties in which the type of soil, topography, and farming practices are similar. If because of drought, flood, insect pests, plant disease, or other uncontrollable natural cause, the yield in any year of such five-year period is less than 75 percent of the average (computed without regard to such year), such year shall be eliminated in calculating the normal yield per acre for the county. The normal yield determined for a county shall be kept readily available to the public in the county office and the normal yield determined for each county in a State shall be kept readily available to the public in the State office.

(9) "Penalty" for any year means the amount payable with respect to the farm marketing excess for such year as determined under sections 346 and 347 of the act and § 722.126.

(10) "Crop year" means the calendar year in which the ELS cotton is planted.

§ 722.103 *Issuance of forms and instructions.* The director shall cause to be prepared such forms and instructions with respect to internal management as are necessary for carrying out §§ 722.101 to 722.152. The forms shall be issued by the director with the approval of the deputy administrator and the instructions shall be issued by the deputy administrator. Copies of such forms and instructions shall be furnished free to persons needing them upon request made to the State or county office or to the director.

§ 722.104 *Extent of calculations and rule of fractions.* In making any computation in connection with §§ 722.101 to 722.152, the amount of ELS lint cotton shall be rounded to the nearest whole pound and the amount of penalties or refunds shall be rounded to the nearest whole cent. Fractions of exactly five-tenths of a pound or cent shall be dropped. The acreage of each field of ELS cotton on the farm shall be expressed in hundredths of an acre, and thousandths of an acre shall be dropped. The total acreage of ELS cotton on the farm shall be expressed in tenths of an acre, and hundredths of an acre shall be dropped.

IDENTIFICATION AND MEASUREMENT OF FARMS

§ 722.105 *Identification of farms.* Each farm as operated for a crop year shall be identified by a farm serial number and all records pertaining to marketing quotas for such crop year and farm shall be identified by the farm serial number.

§ 722.106 *Measurement of farms.* The county committee shall provide for measurement each crop year of the acreage planted to ELS cotton on farms in accordance with acreage allotment regulations applicable to the crop year.

§ 722.107 *Reports and records of farm measurements.* The county committee shall keep a record for each crop year of the measurements made on all farms. It shall file with the State office a written report for each crop year on Form MQ-94—Cotton (ELS) setting forth for each farm with a farm marketing excess the following: (a) Farm serial number, (b) name of operator, (c) farm allotment, (d) acreage planted to ELS cotton, and (e) total acreage in cultivation.

FARM MARKETING QUOTA AND FARM MARKETING EXCESS

§ 722.108 *ELS cotton subject to marketing quota provisions.* Marketing quotas for each crop of ELS cotton shall be applicable to any ELS cotton of that crop nowithstanding that such cotton may be available for marketing prior to or subsequent to the marketing year which begins in the year when the ELS cotton is planted. Carry-over ELS cotton marketed during any marketing year shall be subject to §§ 722.101 to 722.152 to the extent applicable.

§ 722.109 *Farm marketing quotas.* The farm marketing quota for each crop year for any farm shall be that number of pounds of ELS lint cotton produced on the farm less the amount of the farm marketing excess for such crop year. In addition, ELS lint cotton which producers have on hand from any previous crop (except ELS cotton on which a penalty was incurred and has not been paid) may also, when properly identified, be marketed penalty free.

§ 722.110 *Amount of farm marketing excess.* The farm marketing excess for each crop year shall be the normal production of the acreage planted to ELS cotton on the farm in excess of the farm allotment for such crop year. For a farm having a zero allotment or no allotment, the entire acreage planted to ELS cotton shall be used in determining the farm marketing excess for such crop year. Where it is established to the satisfaction of the county committee, by any producer on the farm in connection with an application filed by him or by any other producer on the farm, in accordance with § 722.112 that the actual production of ELS cotton on the farm in a crop year is less than the normal production of the acreage planted to ELS cotton on the farm in such crop year, the farm marketing excess shall be adjusted downward to the amount by which such actual production exceeds the normal production of the farm allotment.

§ 722.111 *Notice of farm marketing quota and farm marketing excess.* Written notice of the farm marketing quota and, where applicable, the farm marketing excess, established for a farm for any crop year shall be mailed to the operator of such farm. Notice so given shall constitute notice to each producer having an interest in the ELS cotton produced or to be produced on the farm in such crop year. Each notice shall contain a brief statement of the procedure whereby application for a review of the farm marketing quota or farm marketing excess, or any determination made in connection therewith, may be

had in accordance with section 363 of the act. A record of the date of mailing the notice to the operator of the farm shall be kept among the records of the county office and upon request a copy of the notice shall be furnished without charge to any producer on the farm for which the notice is given. Such notice shall contain the information necessary in each case to inform the producer as to the basis for the determinations set forth in the notice and the effect thereof.

§ 722.112 *Farm marketing excess adjustment*—(a) *Application for adjustment in the farm marketing excess.* Any producer having an interest in the ELS cotton produced in any crop year on a farm with a farm marketing excess may apply in writing to the county committee as provided herein for a downward adjustment in the amount of the farm marketing excess on the basis of the amount of ELS cotton produced in such crop year on the farm. Any such application shall be filed with the county committee not later than the earlier of (1) 60 days after harvest of such ELS cotton crop is completed on the farm or by such later date as is approved by the State committee on the basis of a recommendation by the county committee and a showing that the producer's failure to apply for such adjustment within the 60-day period was due to circumstances beyond his control or (2) March 15 (June 15 in the case of the Southern Area of Puerto Rico) of the year following the year in which the ELS cotton was planted. If the harvesting of ELS cotton on the farm has not been completed by March 15 (June 15 in the case of the Southern Area of Puerto Rico) of the year following the year in which the ELS cotton was planted but an application has been timely filed under the foregoing provisions of this paragraph, the producer may request the county committee to provide for an estimate to be made of the amount of unharvested ELS cotton on the farm in order that a final determination of the actual production on the farm for such crop year may be made. The county committee shall keep a record of each application so made and the date thereof. The county committee shall establish a time and place at which each application will be considered and shall notify the applicant of the time and place of the hearing. Insofar as practicable, applications shall be considered and acted upon in the order in which applications are made. Unless application for an adjustment in the farm marketing excess is made within the period of time provided for in this paragraph, the farm marketing excess as determined pursuant to § 722.110 shall be final as to the producers on the farm. Notwithstanding the foregoing provisions of this paragraph, whenever the county committee determines that no ELS cotton has been or will be produced on a farm with a farm marketing excess for the year for which such farm marketing excess is determined, the county committee may adjust the farm marketing excess and notify the operator of such adjustment, as provided in paragraph (b) of this section.

(b) *Procedure in connection with an application for an adjustment in the farm marketing excess.* The county committee shall consider each application on the basis of facts known by or made available to it and on the basis of such evidence as may be presented to it by the applicant. Official measurement of the ELS cotton acreage on the farm for the crop year in question must have been made before the county committee approves a determination of the actual production of ELS cotton on the farm. The actual production of ELS cotton in such crop year on any farm shall be determined in view of the relevant facts, including the measured acreage planted to ELS cotton in such crop year on the farm, the past production on the farm, the actual yields per acre in such crop year for other farms in the community which are similar with regard to farming practices followed, type of soil and productivity; the harvesting, ginning, and sales of the ELS cotton produced on the farm in such crop year; and weather conditions and other factors in such crop year affecting the production of ELS cotton on the farm and in the locality in which the farm is situated. In the consideration of any application for adjustment in the farm marketing excess the producer shall have the burden of proof. The evidence presented by the applicant may be in the form of written statements or other documentary evidence or of oral testimony in a hearing before the county committee during its consideration of the application. In order to expedite the consideration of applications, the county committee shall receive, in advance of the time fixed for consideration of the application, any written statement or documentary evidence offered by or on behalf of the applicant, and the application may be disposed of upon the basis of such statement or evidence, together with any other information bearing on or establishing the facts, which is available to the county committee, unless the applicant appears before the county committee at the time fixed for consideration of the application and requests a hearing for the purpose of offering additional documentary evidence or oral testimony in support of the application. Every such hearing shall be open to the public. The county committee shall make its determination in connection with each application not later than five calendar days next succeeding the day on which the consideration of the application was concluded. The determination of the county committee shall be in writing and shall contain (1) a concise statement of the grounds upon which the applicant sought an adjustment in the amount of the farm marketing excess, (2) a concise statement of the findings of the county committee upon the question of fact, and (3) the determination of the county committee as to the farm marketing quota, the actual production of ELS cotton on the farm, the farm marketing excess, and the penalty due on the farm marketing excess. A notice showing the result of the determination made as aforesaid, shall be mailed to the operator of the farm and also to the applicant if he is not such operator.

(c) *Application for adjustment in the farm marketing excess in cases where the initial notice of farm marketing excess mailed after thirty days prior to expiration of filing period established under paragraph (a) of this section.* Notwithstanding the provisions of paragraph (a) of this section, in any case where the initial notice of farm marketing excess is mailed to the farm operator after thirty days prior to expiration of the filing period established for the crop year under paragraph (a) of this section, any producer having an interest in the ELS cotton produced on the farm in such crop year may apply in writing to the county committee for a downward adjustment in the amount of the farm marketing excess on the basis of the amount of ELS cotton produced in such crop year on the farm. Any such application shall be filed with the county committee not later than thirty days after the date of mailing of such notice of farm marketing excess to the farm operator. The county committee shall keep a record of each application so made and the date thereof. The county committee shall establish a time and place at which each application will be considered and shall notify the applicant of the time and place of the hearing. Insofar as practicable, applications shall be considered and acted upon in the order in which applications are made. Unless application for an adjustment in the farm marketing excess in cases arising under this paragraph is made within the period of time provided for in this paragraph, the farm marketing excess as determined pursuant to § 722.110 shall be final as to the producers on the farm. The procedures provided in paragraph (b) of this section shall be followed to the extent practicable in cases arising under this paragraph.

§ 722.113 *Publication of the farm allotment, normal yield, marketing quota, and marketing excess.* A record of the farm allotment, normal yield, farm marketing quota, and farm marketing excess established for farms in the county shall be made available for public inspection in the county office for a period of not less than 30 calendar days. The records containing the information shall be kept where the public may freely examine them. At the end of the 30-day period the records shall be filed in the county office and remain available for further inspection upon request. There may be used for this purpose listing sheets, copies of notices, or other compilations upon which the pertinent data are shown.

§ 722.114 *Marketing quotas not transferable.* A farm marketing quota established for a farm may not be assigned or otherwise transferred in whole or in part to any other farm. Under sections 345 and 347 of the act, farm marketing quotas are established for each crop year for both upland and extra long staple cotton. The farm marketing quota established under the provisions of §§ 722.108 to 722.116 for a crop of ELS cotton may not be used in whole or in

part in connection with the marketing of upland cotton.

§ 722.115 *Successors-in-interest.* Any person who succeeds to the interest of a producer in a farm, or in an ELS cotton crop produced on a farm, for which a farm marketing quota and a farm marketing excess were established, including a farm on which ELS cotton was planted in a crop year but for which a farm ELS cotton allotment was not established for such crop year, shall, to the same extent as his predecessor, be entitled to all the rights and privileges incident to such marketing quota and marketing excess and be subject to the penalty on the farm marketing excess and to the lien on the entire crop of ELS cotton and to the restrictions on the marketing of such cotton.

§ 722.116 *Review of quotas*—(a) *Review committee.* Any producer who is dissatisfied with the farm marketing quota and farm marketing excess determined for his farm may, by making application in writing within 15 days after the mailing to him of the notice provided for in § 722.111 or § 722.112 have such farm marketing quota and farm marketing excess reviewed by a review committee pursuant to section 363 of the act. Unless such application is made within such 15 days, the determination of the county committee shall be final. All applications for review shall be made in accordance with the Marketing Quota Review Regulations issued by the Secretary, a copy of which may be obtained from the county committee. If a determination of the county committee for the crop year, as for example, the farm allotment, has previously been reviewed by a review committee, and such determination as approved by the review committee has become final under the Marketing Quota Review Regulations, it may not be reconsidered in a subsequent review proceeding concerning the farm marketing quota and farm marketing excess. In all cases, the review committee shall consider only such matters as, under the applicable provisions of the act and the applicable regulations in this part, are required or permitted to be considered by the county committee in determining the farm marketing quota or farm marketing excess.

(b) *Court review.* If the producer is dissatisfied with the determination of the review committee, he may, within 15 days after notice of such determination is mailed to him by registered mail, institute proceedings against the review committee to have the determination of the review committee reviewed by a court in accordance with section 365 of the act.

MARKETING CARDS, MARKETING CERTIFICATES AND LOAN DOCUMENTS

§ 722.117 *Eligibility for and issuance of marketing cards*—(a) *Producers eligible to receive marketing cards.* Except as otherwise provided in this section the operator and any other producer on a farm, or an official of a publicly owned agricultural experiment station, shall be eligible to receive a marketing card (Form MQ-76—ELS Cotton) for each crop of ELS cotton if for such crop (1) no farm marketing excess is determined for the farm, or (2) an amount equal to the penalty on the farm marketing excess has been received by the county committee treasurer for the county in which the farm is located, except that a marketing card shall not be issued under subparagraph (1) or (2) of this paragraph if any producer on the farm has on hand any ELS cotton produced in previous crop years on which the penalty was incurred and has not been paid.

(b) *Multiple farm producers eligible to receive marketing cards.* Any person who is an ELS cotton producer on more than one farm in a county in a crop year shall not be eligible to receive a marketing card for any such farm in the county for such crop year until, in accordance with the provisions of paragraph (a) of this section, he is eligible to receive a marketing card for each of such farms. Any other producers on a farm who are eligible to receive marketing cards pursuant to paragraph (a) of this section shall receive marketing cards with respect to the farm notwithstanding the ineligibility of the multiple farm producer, unless the county committee determines that, in order to enforce the provisions of the act, such producers should not receive marketing cards for such farm with no farm marketing excess. Where a producer is engaged in the production of ELS cotton in more than one county in the same year (in the same State or two or more States), the procedure outlined in this section for issuing marketing cards for multiple farms in a county may be followed in such year with respect to all such farms, wherever situated, if the county committees of the respective counties so decide, or if the State committee has reason to believe that such procedure would be necessary to enforce the provisions of the act. The State committee may require any multiple farm producer to file with it a list of all farms on which he is engaged in the production of ELS cotton, together with any other information deemed necessary to enforce the provisions of the act.

(c) *Producers to whom marketing cards will not be issued to enforce the provisions of the act.* Notwithstanding any other provisions of this section, the county committee shall deny any producer a marketing card for a crop year if it determines that such action is necessary to enforce the provisions of the act in such crop year.

(d) *Preparation and issuance of marketing cards to producers.* A marketing card shall be issued to the operator of the farm for any year if he is eligible to receive it under the foregoing provisions of this section and, if the county committee or the county office manager determines that it will serve a useful purpose, marketing cards for such year shall also be issued to the other eligible producers on the farm. Each marketing card when completed shall be serially numbered and shall show: (1) The State and county code and farm serial number, (2) the name and address of the farm operator, (3) the name and address of the producer to whom issued, (4) the farm allotment and the acreage planted to ELS cotton, (5) such additional information and data as may be prescribed by the deputy administrator, and (6) either (i) the actual or facsimile signature of the county office manager or a member of the county committee, or (ii) the name of the county office manager as written by an employee of the county office, and the signature of the producer. A facsimile signature may be affixed by the person whose name is being affixed or by an employee of the county office. Where the name of the issuing officer is affixed by an employee of the county office, such employee shall place his initials immediately below the name of the issuing officer on the marketing card. Where the producer designates an agent to use his marketing card, the card shall also show: (*a*) The name and address of the agent authorized to use the marketing card and (*b*) the signatures of the producer and the agent.

(e) *Preparation and issuance of marketing cards to experiment station officials.* The county office manager shall, upon the written application of a responsible official of any publicly owned agricultural experiment station having ELS cotton exempt from the penalty as provided in the applicable acreage allotment regulations, issue a marketing card for such experiment station.

§ 722.118 *Marketing certificates and loan documents*—(a) *Use of marketing certificates.* There shall be issued to a producer upon his request a marketing certificate (Form MQ-91—Cotton (ELS)) to permit the marketing of ELS cotton (1) by any such producer (i) who has an unexpired marketing card for use in identifying the ELS cotton to be marketed or is eligible to receive such a marketing card and who desires to market such cotton by telegraph, telephone, mail, or by any other means or method other than directly to and in the presence of the buyer or transferee; (ii) who desires to market ELS cotton which he has on hand from any prior crop, except ELS cotton from a previous crop on which the penalty was incurred and has not been paid; (iii) who desires to market ELS cotton produced by him on a farm with no farm marketing excess but he is not eligible to receive a marketing card under § 722.117 (b) because he or another producer on such farm is also an ELS cotton producer on a farm with a farm marketing excess and the penalty has not been paid, or (iv) who desires to market his share of the ELS cotton produced on a farm with no farm marketing excess or on a farm on which the penalty on the farm marketing excess has been paid but he was denied a marketing card by the county committee because it deemed such action necessary to enforce the provisions of the act, and (2) any other producer who has ELS cotton not subject to the penalty or on which the penalty has been paid and such producer is not eligible to receive a marketing card or does not have a loan document as prescribed in § 722.124. In instances where the acreage planted to ELS cotton on the farm has not been determined through no fault of the operator, and he, in applying for marketing certificates, certifies that he has ELS

cotton produced in that crop year available for marketing and that to the best of his knowledge and belief the acreage planted to ELS cotton on the farm does not exceed the farm allotment, the county committee, with the approval of the State committee, may issue marketing certificates for his farm in a total amount not exceeding the product of the farm allotment for that crop year multiplied by the smaller of the county normal yield per acre for that crop year or the estimated actual yield per acre for such crop year on the farm. Also, certificates shall be issued in any case where a person has loose ELS cotton such as sample trimmings, floor sweepings, and ELS cotton picked up from the roadside provided that such person establishes to the satisfaction of the county committee that such cotton was acquired through normal off-farm handling or trade customs, was waste cotton picked up on the roadside or similar location, or was acquired in some other similar manner.

(b) *Preparation and delivery of marketing certificates.* Each marketing certificate shall show (1) the name and address of the producer to whom issued, (2) the names of the county and State and the serial number of the farm, (3) the serial number of the marketing card issued for the farm, where applicable, and the crop year in which the ELS cotton was produced, (4) the description and amount of the ELS cotton to be marketed, (5) the signature of the producer and the date thereof, and (6) either (i) the actual or facsimile signature of the county office manager or a member of the county committee, or (ii) the name of the county office manager as written by an employee of the county office. A facsimile signature may be affixed by the person whose name is being affixed or by an employee of the county office. Where the name of the issuing officer is affixed by an employee of the county office, such employee shall place his initials immediately below the name of the issuing officer on the marketing certificate. The county committee shall, for each crop year, estimate or otherwise determine the actual production on each farm for which a marketing card has not been issued and for which marketing certificates are to be issued, and certificates shall not be issued in an amount in excess of such production as estimated or otherwise determined by the county committee. The "buyer's copy", "producer's copy", and "county office copy" of the marketing certificate shall be delivered to the producer to whom issued, and such producer, upon marketing the ELS cotton described in the marketing certificate shall deliver all such copies to the buyer.

(c) *Use of loan documents in lieu of marketing certificates to identify carry-over CCC loan ELS cotton.* Any producer who desires to sell his equity in carry-over ELS cotton which is pledged as collateral security for a Commodity Credit Corporation loan or to sell carry-over ELS cotton on which such a loan has been repaid may, as provided in § 722.124, identify such cotton as being penalty-free by presenting to the buyer or transferee thereof a loan document covering such cotton, and the buyer or transferee shall accept such document as evidence to him that the ELS cotton described therein is not subject to the penalty or the lien for the penalty.

§ 722.119 *Lost, destroyed, or stolen marketing cards or marketing certificates—*(a) *Report of loss, destruction, or theft.* In case a marketing card or marketing certificate delivered to a producer is lost, destroyed, or stolen, any person having knowledge thereof shall, insofar as he is able, immediately notify the county committee of the following: (1) The name of the producer to whom the marketing card or certificate was issued; (2) the serial number of the marketing card or certificate; and (3) whether in his knowledge or judgment it was lost, destroyed, or stolen and by whom.

(b) *Investigation and findings by county office manager and county committee.* If the county office manager finds that an unexpired marketing card or certificate issued to a producer has been lost, destroyed, or stolen, he shall investigate to determine whether there has been any collusion or connivance on the part of the producer to or for whom the marketing card or certificate was issued to fraudulently obtain a second marketing card or certificate. If investigation discloses no evidence of collusion or connivance, a replacement marketing card or certificate may be issued to the producer by the county office manager and a notice in writing cancelling the lost, destroyed, or stolen marketing card or certificate shall be signed by the county office manager and mailed to the last known address of such producer. Where circumstances appear to warrant investigation by the county committee before a replacement marketing card or certificate is issued, the case should be referred to the county committee for a determination as to the action to be taken. Each marketing card or certificate issued under this section shall bear across its face in bold letters the word "Duplicate". In case the lost, destroyed, or stolen marketing card or certificate is not recovered promptly, the county office manager shall notify the ginners and buyers in the county or in the immediate vicinity that the marketing card or certificate has been canceled and that a duplicate has been issued. A report of the findings and action of the county office manager and of any action by the county committee shall be kept among the county office records. Any ginner or buyer or any other person coming into possession or control of a marketing card or certificate which has been canceled shall immediately return it to the county office which issued it.

§ 722.120 *Cancellation of marketing cards and marketing certificates issued in error.* In the event any marketing card or marketing certificate was erroneously issued, the producer to whom it was issued shall be requested to return it to the county office and upon its being returned it shall be canceled by the county office manager by endorsing thereon in bold letters the word "Canceled". Without awaiting its return the county office manager shall notify the producer in writing at his last known address that it is void and of no effect. A copy of the notice, containing a notation thereon of the date of mailing, shall be kept among the records of the county office. The county office manager shall notify the ginners and buyers in the county, or in the immediate vicinity that the marketing card or certificate has been canceled.

IDENTIFICATION OF ELS COTTON

§ 722.121 *Time and manner of identification.* Each producer of ELS cotton may, at the time he markets any such cotton, identify the ELS cotton to the buyer or transferee, in the manner hereinafter provided, as not subject to the penalty provided in § 722.126 and the lien for the penalty as provided in § 722.127 and any such cotton not so identified shall be taken as being subject to the penalty and the lien for penalty as provided in § 722.125.

§ 722.122 *Identification by marketing card.* A marketing card (Form MQ–76—ELS Cotton) shall, when presented to the buyer or transferee by the producer to whom issued, be evidence to the buyer or transferee that the ELS cotton produced on the farm in the crop year for which the marketing card was issued may be purchased by him without collection, deduction, or payment of the penalty, and that such cotton is not subject to the lien for the penalty.

§ 722.123 *Identification by marketing certificate.* A marketing certificate (Form MQ–91—Cotton (ELS)) shall, when presented to the buyer or transferee by the producer to whom it was issued, be evidence to the buyer or transferee that the cotton described on such certificate may be purchased by him without the collection, deduction, or payment of the penalty, and that such cotton is not subject to the lien for the penalty.

§ 722.124 *Identification by loan document.* A loan document (the original or the producer's copy) shall, when presented to the buyer or transferee by the producer in whose favor it is drawn, be evidence to the buyer or transferee that the carry-over ELS cotton described in such loan document may be purchased by him without the collection, deduction, or payment of the penalty, and that such cotton is not subject to the lien for the penalty. Any one of the following forms shall constitute a "loan document" for purposes of the foregoing provisions of this paragraph: Cotton Producer's Note and Loan Agreement (CCC Cotton Form A); Producer's Loan Statement—A; or Producer's Warranty and Agreement (CCC Cotton Form G–2).

§ 722.125 *ELS cotton not identified by a marketing card, marketing certificate or loan document.* All ELS cotton marketed by a producer which is not identified by a marketing card, marketing certificate, or loan document, as provided in § 722.122, § 722.123, or § 722.124 shall be presumed to be subject to penalty and lien for the penalty and

shall be taken by the buyer or transferee thereof as subject to penalty at the rate prescribed in § 722.126 and to the lien for the penalty. All ELS cotton purchased or acquired by a person which is not identified by a marketing card, marketing certificate, or loan document shall be presumed to have been marketed by a producer unless it is established that such cotton was purchased or acquired from a person other than the producer thereof. The buyer or transferee shall report the purchase of all such unidentified ELS cotton on Form MQ–82—Cotton (ELS) and shall remit to the county committee treasurer the penalty collected, or deducted from the purchase price of the ELS cotton.

§ 722.126 *Rate of penalty.* The rate of penalty for ELS lint cotton is the higher of 50 percent of the parity price for ELS cotton as of June 15 of the year in which the ELS cotton is planted, or 50 percent of the support price for such crop of ELS cotton as provided in sections 346 (a) and 347 (c) of the act. Section 722.152 will be amended annually to set forth the exact rate of the penalty for each crop year.

§ 722.127 *Lien for the penalty.* Until the penalty on the farm marketing excess for any crop year is paid, all ELS cotton produced on the farm in such crop year and marketed shall be subject to the penalty at the rate prescribed in § 722.126 and a lien on such entire crop of ELS cotton produced on the farm shall be in effect in favor of the United States.

§ 722.128 *Interest on unremitted penalty.* The person liable for the payment or collection of the penalty shall be liable also for interest on the amount of penalty which is not remitted in accordance with § 722.129 (b), (d), or § 722.130 (c), as the case may be, at the rate of 6 percent per annum from the final date for remitting the penalty until the date such penalty is remitted. The computation of interest on any penalty due shall be made beginning with the day following the final date for remitting the penalty.

§ 722.129 *Payment of penalty by producers*—(a) *Producer liable for payment of penalty.* Each producer having an interest in the crop of ELS cotton on any farm produced in a crop year for which a farm marketing excess has been determined shall be liable for the entire amount of the penalty on the farm marketing excess. The amount of the penalty which any producer shall pay shall nevertheless be reduced by the amount of the penalty which is paid by another producer or a buyer of ELS cotton produced on the farm.

(b) *Time when penalty becomes due and payable.* The farm marketing excess for a farm shall be regarded as available for marketing and the penalty thereon shall become due at the time any ELS cotton produced on the farm is harvested or is available for harvest. The amount of the penalty on the farm marketing excess for any farm shall be remitted on the date it becomes due or not later than March 15 (June 15 in the case of the Southern Area of Puerto Rico) of the year following the year in which the ELS cotton was planted, even though the ELS cotton is not harvested: *Provided, however,* That the penalty on any bale or lot of ELS cotton marketed (1) from a farm for which the penalty on the farm marketing excess has not been paid or (2) without being properly identified by a marketing card, marketing certificate, or loan document as provided in § 722.122, § 722.123 or § 722.124, shall be due on the date of such marketing and shall be remitted not later than seven calendar days next succeeding the end of the calendar week in which the ELS cotton was marketed.

(c) *Apportionment of the penalty.* The county committee may, upon application of any producer made prior to the expiration of the time allowed for remitting the penalty on the farm marketing excess, determine his proportionate share of the penalty on the farm marketing excess if, pursuant to the application, the producer establishes that he is unable to arrange with other producers on the farm for the payment of the penalty on the entire farm marketing excess, that his share of the ELS cotton crop produced on the farm is marketed by him separately, and that he exercises no control over the marketing of the shares of the other producers in the ELS cotton crop. The producer's proportionate share of the penalty on the farm marketing excess shall be that proportion of the entire penalty on the farm marketing excess which his share in the ELS cotton produced on the farm in the crop year bears to the total amount of ELS cotton produced on the farm in such crop year. When the producer pays his proportionate share of the penalty, he shall not be liable for the remainder of the penalty on the farm marketing excess and he shall be entitled to receive marketing certificates issued in accordance with § 722.118 for his share of the ELS cotton crop produced on the farm in such crop year.

(d) *Time when penalty becomes due in cases where the initial notice of farm marketing quota and farm marketing excess mailed after thirty days prior to time when penalty would become due under paragraph (b) of this section.* Notwithstanding the provisions of paragraph (b) of this section, in any case where the initial notice of farm marketing quota and farm marketing excess is mailed to the farm operator after thirty days prior to the time when penalty would become due under paragraph (b) of this section, the penalty on the farm marketing excess shall become due thirty days after mailing of such notice of farm marketing quota and farm marketing excess to the farm operator.

§ 722.130 *Payment of penalty by buyers and transferees*—(a) *Buyers and transferees liable for payment of penalty.* Each person within the United States (including Puerto Rico) who buys or acquires from the producer any ELS cotton subject to the lien for the penalty shall be liable for and shall pay the penalty thereon. ELS cotton shall be presumed to be subject to the lien for the penalty unless the producer presents to the buyer or transferee a marketing card (Form MQ–76—ELS Cotton), a marketing certificate (Form MQ–91—Cotton (ELS)), or a loan document, as provided in §§ 722.122, 722.123, and 722.124.

(b) *Payment of penalty on account of lien for the penalty.* Each person within the United States (including Puerto Rico) who buys or acquires ELS cotton from the producer which is subject to the lien for the penalty shall pay the amount of the penalty on each pound thereof in satisfaction of the lien thereon.

(c) *Time when penalty becomes due.* The penalty to be paid by any buyer or transferee pursuant to paragraphs (a) and (b) of this section shall become due at the time the ELS cotton is marketed and shall be remitted not later than seven calendar days next succeeding the end of the calendar week in which the ELS cotton was marketed. ELS cotton shall be deemed to be sold when either title to or actual or constructive possession of such cotton is delivered by or on behalf of the producer or any part of the purchase price is paid. ELS cotton shall be deemed to have been marketed by barter or exchange when it is delivered to the transferee of the ELS cotton by actual or constructive delivery or the transferee has received any part of the property, goods, or services for which the ELS cotton is being bartered or exchanged. ELS cotton shall be deemed to have been marketed by gift inter vivos when there is actual or constructive delivery of the ELS cotton to the transferee during the lifetime of the producer. ELS cotton shall be deemed to have been marketed in processed form when the producer, or some person on his behalf, converts ELS cotton into an article of trade and thereby causes such cotton to lose its identity as ELS lint cotton. An article of trade within the meaning of this provision is any article made in whole or in part from ELS cotton for the purpose of marketing such article.

(d) *Manner of deducting penalty and issuance of receipts.* The buyer may deduct from the price paid for any ELS cotton an amount equivalent to the amount of the penalty to be paid by the buyer pursuant to paragraphs (a) and (b) of this section. Any buyer who deducts an amount equivalent to the penalty shall issue to the person from whom the ELS cotton was purchased a receipt for the amount so deducted which shall be on Form MQ–82—Cotton (ELS).

§ 722.131 *Remittance of penalty to the county committee treasurer.* The county committee treasurer for and on behalf of the Secretary, shall receive the penalty and any interest due thereon and issue a receipt therefor to the person remitting the penalty as required by established fiscal procedure. The penalty and interest shall be remitted only in legal tender, or by check, draft, or money order drawn payable to the order of Commodity Stabilization Service, U. S. D. A. All checks, drafts, or money orders tendered in payment of the penalty and interest shall be received by the county committee treasurer subject to collection and payment at par.

§ 722.132 *Deposit of funds.* All funds received by the county committee treasurer in connection with penalties

for ELS cotton shall be scheduled and transmitted by him on the day received, or not later than the morning of the next succeeding business day, to the State committee, which, in accordance with applicable instructions, shall cause such funds to be deposited to the credit of the Treasurer of the United States. In the event the funds so received are in the form of cash, the county committee treasurer shall deposit such cash in the county committee bank account and issue a check in the amount thereof payable to Commodity Stabilization Service, U. S. D. A., and transmit such check to the State committee. The county committee treasurer shall make and keep a record of each amount received by him, showing the name of the person who remitted the funds, the identification of the farm or farms for which the funds were remitted, and the names of the persons who marketed the ELS cotton in connection with which the funds were remitted.

§ 722.133 *Refunds of money in excess of the penalty*—(a) *Determination of refunds.* The county committee and the county committee treasurer, upon their own motion or upon the request of any interested person, shall review the amount of money received in connection with the penalty for any farm to determine for each producer the amount thereof, if any, which is in excess of the penalty incurred. The excess amount shall be refunded. Any refund shall be made only to persons who bore the burden of the payment and who have not been reimbursed therefor. The excess sum shall be first applied, insofar as the sum will permit, so as to make refunds to eligible persons other than producers and the remainder, if any, shall be applied so as to make refunds to the eligible producers. The amount to be refunded to each producer shall be either (1) the amount agreed upon in writing by each and every ELS cotton producer on the farm or (2) in the event that such producers cannot agree to the division of such refund or if all of the producers on the farm are not available to apply for such refund, the amount determined by apportioning the excess among all of the producers on the farm on the basis of the amount of the penalty borne by each producer, as determined by the county committee. No refund shall be made to any buyer or transferee of any amount which he collected from the producer, deducted from the price or other consideration for the ELS cotton or for which he was liable.

(b) *Certification of refunds.* A member of the county committee, or the county committee treasurer shall notify the State committee of the amount which the county committee determines may be refunded to each person with respect to the farm, and the State committee shall cause to be certified to the appropriate Disbursing Officer of the Treasury Department for payment such amounts as are approved by it. No refund of money shall be certified under this section unless the money has been collected and transmitted to the State committee but has not been covered into the general fund of the Treasury of the United States.

§ 722.134 *Refund of penalty erroneously, illegally, or wrongfully collected.* Whenever a claim for refund of any sum of money erroneously, illegally, or wrongfully collected as a penalty with respect to ELS cotton is duly filed in accordance with section 372 of the act and the regulations pertaining to Refunds of Penalties Erroneously, Illegally or Wrongfully Collected with Respect to Marketing in Excess of Marketing Quotas (§§ 714.21 to 714.28 of this chapter; 13 F. R. 6210, Oct. 22, 1948; 19 F. R. 395, Jan. 22, 1954), as amended, and a determination is duly made that a part or all of the penalty was erroneously, illegally, or wrongfully collected, a refund of such penalty or part thereof shall be made as provided in the regulations pertaining to refunds of penalties (§§ 714.21 to 714.28 of this chapter).

§ 722.135 *Report of violations and court proceedings to collect penalty.* It shall be the duty of the county office manager to report in writing to the State administrative officer each case of failure or refusal to pay the penalty or to remit the same as provided in §§ 722.101 to 722.152 to the county committee treasurer when collected. It shall be the duty of the State administrative officer to report each such case in writing to the Office of the General Counsel of the United States Department of Agriculture, in accordance with instructions issued by the deputy administrator, with a view to the institution of proceedings by the United States Attorney for the appropriate district, under the direction of the Attorney General of the United States, to collect the penalties as provided in section 376 of the act.

RECORDS AND REPORTS

§ 722.136 *Records to be kept and reports to be made by ginners*—(a) *Necessity for records and reports.* Each ginner shall, in conformity with section 373 (a) of the act, keep the records and make the reports prescribed by this section which the Secretary hereby finds to be necessary to enable him to carry out, with respect to ELS cotton, the provisions of the act.

(b) *Ginner's record of ELS cotton ginned.* Each ginner shall keep, for each crop year, as a part of or in addition to the records maintained by him in the conduct of his business, a record showing with respect to each bale, and each lot of ELS cotton less than a bale, ginned by him the following information: (1) The date of ginning; (2) the name of the operator of the farm on which the ELS cotton was produced; (3) the name of the producer of the ELS cotton; (4) the name and address of the person who delivered the ELS cotton to the gin in those cases where the ginner has doubt as to the accuracy of the name of the farm operator or producer of the ELS cotton as furnished; (5) the county and State in which the farm on which the ELS cotton was produced is located; (6) the gin bale number or mark or other identification; (7) the serial number of the gin ticket or receipt prepared or issued by the ginner; (8) the gross weight of each bale of ELS cotton and the net weight of each lot of ELS lint cotton less than a bale ginned by the ginner; and (9) the kind of bagging used on each bale if other than jute.

(c) *Requests for reports.* Each ginner, upon written request of the State committee or county committee, shall make a report showing the information provided for in this section, or any part thereof as specified in the request, with respect to ELS cotton ginned for the person or persons specified in the request or for the period of time specified in the request. This report shall be filed not later than the date designated by the State committee or county committee in the written request for such report.

(d) *Manner of submitting reports.* The county committee treasurer designated in the request for such report, or his successor in office, is hereby authorized and empowered to receive each such report on behalf of the Secretary. Each report shall be mailed or delivered directly to the said treasurer.

§ 722.137 *Records to be kept and reports to be made by buyers*—(a) *Necessity for records and reports.* Each person who buys or acquires ELS seed cotton or ELS lint cotton from the producer thereof, in conformity with section 373 (a) of the act, shall keep the records and make the reports prescribed by this section which the Secretary hereby finds to be necessary to enable him to carry out, with respect to ELS cotton, the provisions of the act.

(b) *Nature of records.* Each buyer shall keep for each crop year, as a part of or in addition to the records maintained by him in the conduct of his business, a record which shall show with respect to each bale of ELS cotton, and each lot of ELS cotton less than a bale, which is purchased by him from the producer thereof the following information: (1) The name and address of the producer from whom the ELS cotton was purchased; (2) the date on which the ELS cotton was purchased; (3) the original gin bale number or if there is no gin bale number, the gin bale mark or other information showing the origin or source of the ELS cotton and in the case of ELS seed cotton purchased, the number of pounds of such seed cotton and the known or estimated amount of lint in such seed cotton; (4) the number of pounds of ELS lint cotton in each bale, and each lot of ELS lint cotton less than a bale, purchased from the producer; (5) the amount of any penalty required to be collected under §§ 722.101 to 722.152 and the amount of penalty collected in connection with the ELS cotton purchased from the producer; and (6) the serial number of the marketing card or marketing certificate or a brief description of the loan document by which the ELS cotton was identified when marketed (if a loan number appears on the loan document, the buyer shall keep a record of such number and the crop year; otherwise, the buyer shall keep a record of the form number of the CCC loan document and the date of the loan). It shall be presumed that the ELS cotton was not identified in the manner provided in §§ 722.101 to 722.152 if the serial number of the marketing card or marketing certificate or a brief description of the loan document does not appear on the records as required by this paragraph.

The county committee shall, upon the request of any buyer, furnish to him without cost blank copies of Form MQ-100—Cotton (ELS) which may be used by him for the purpose of keeping the records required pursuant to this paragraph.

(c) *Reports in connection with marketing of ELS cotton not identified by marketing cards, marketing certificates, or loan documents.* The buyer of ELS cotton which is not identified by a marketing card, marketing certificate or loan document, as provided in §§ 722.122, 722.123 and 722.124 when marketed by a producer shall, with respect to each such purchase, make a written report on Form MQ-82—Cotton (ELS) of the following information: (1) The name and address of the producer from whom the ELS cotton was purchased; (2) the date on which the ELS cotton was purchased; (3) the original gin bale number or, if there is no gin bale number, the gin bale mark or other information showing the origin or source of the ELS cotton; (4) the net weight of each bale of ELS cotton, and of each lot of ELS lint cotton less than a bale; and (5) the amount of the penalty collected in connection with the ELS cotton purchased. The report shall be prepared and executed in triplicate; the "Producer's Copy" shall be delivered to the producer, the "Buyer's Copy" shall be retained by the buyer and the buyer shall mail or deliver the "County Office Copy" to the county committee treasurer for the county in which such cotton was produced.

(d) *Reports in connection with ELS cotton identified by marketing certificates.* The buyer of ELS cotton which is identified, when marketed, by a marketing certificate, Form MQ-91—Cotton (ELS), as provided in § 722.123, shall make a report in connection with the transaction by executing the certificate in triplicate and by mailing or delivering the "County Office Copy" to the county committee treasurer for the county in which such certificate was issued. The "Buyer's Copy" shall be retained by the buyer and the "Producer's Copy" shall be delivered to the producer to whom such certificate was issued. The manner in which the marketing certificate shall be executed and distributed, in case the marketing is to a buyer not within the United States (including Puerto Rico), is provided for in § 722.142 (b).

(e) *Receipts to producers for penalties.* Where the ELS cotton is not identified by a marketing card, marketing certificate, or loan document at the time of marketing, the "Producer's Copy" of the executed Form MQ-82—Cotton (ELS) shall be the receipt from the buyer to the producer for the penalty collected. The buyer shall report the giving of each such receipt to the producer by forwarding the "County Office Copy" of Form MQ-82—Cotton (ELS) to the county committee treasurer for the county in which such cotton was produced, as provided in paragraph (c) of this section.

(f) *Time for making reports.* Each report required by the foregoing provisions of this section shall be made not later than seven calendar days next succeeding the end of the calendar week in which the ELS cotton covered thereby was marketed.

(g) *Buyer's record and report.* In the event the county committee, or the State committee, has reason to believe that any buyer failed or refused to collect or to remit the penalty required to be collected by him for any ELS cotton which he purchased, or otherwise in any manner failed or refused to comply with §§ 722.101 to 722.152, the buyer shall, within fifteen days after a written request therefor by either such committee is sent to him by certified mail at his last known address, make a report verified as true and correct on Form MQ-100—Cotton (ELS) to the designated county committee treasurer with respect to ELS cotton purchased or acquired by him from the person or persons specified in the request or purchased or acquired by him during the period of time specified in the request. Such report shall include the following information for each bale of ELS cotton, and each lot of ELS cotton less than a bale, purchased by such buyer: (1) The name and address of the producer from whom the ELS cotton was purchased; (2) the date on which the ELS cotton was purchased; (3) the original gin bale number, or if there is no gin bale number, the gin bale mark or other information showing the origin or source of the ELS cotton and, in the case of ELS cotton purchased in the seed, the number of pounds of ELS seed cotton and the known or estimated amount of lint in such ELS seed cotton; (4) the net weight of each bale of ELS cotton, and of each lot of ELS lint cotton less than a bale, purchased from the producers; (5) the amount of penalty required to be collected under §§ 722.101 to 722.152 and the amount of any penalty collected in connection with the ELS cotton purchased from the producer; and (6) the serial number of the marketing card or marketing certificate or a brief description of the loan document by which the ELS cotton was identified when marketed (if the ELS cotton was identified by a loan document when marketed, enter the loan number and the crop year or the form number of the CCC loan document and the date of the loan).

(h) *Manner of submitting reports.* The county committee treasurer for the county in which the ELS cotton covered by the report was produced is hereby authorized and empowered to receive, for and on behalf of the Secretary, each report required pursuant to this section. Each report shall be mailed or delivered directly to the said treasurer. Notwithstanding any other provisions of this paragraph, each report on Form MQ-82—Cotton (ELS) in connection with the purchase of ELS cotton marketed without the use of the means of identification provided by §§ 722.101 to 722.152 may be mailed or delivered directly to the county committee treasurer from whom the blank copy of the form was obtained.

§ 722.138 *Records to be kept and reports to be made by transferees.* Each transferee who acquires ELS seed cotton or ELS lint cotton from the producer thereof shall keep the same records and make the same reports which are required to be kept and made by buyers pursuant to § 722.137. Also, transferees shall execute applicable certificates which are necessary to enable the producer to keep the records and make the reports required of him.

§ 722.139 *Records to be kept by warehousemen, processors, and others.* Each warehouseman, processor (including compressmen), common carrier, or other person, as defined in section 373 (a) of the act, who stores, processes (including compressing), transports as a common carrier or otherwise deals with ELS cotton from, for, or on behalf of the producer thereof shall for each crop year keep the records relating to such cotton which are normally kept by persons engaged in the same or similar business. The Secretary hereby finds such records to be necessary to enable him to carry out, with respect to ELS cotton, the provisions of the act.

§ 722.140 *Availability of records kept by ginners, buyers, transferees, warehousemen, and others.* Each ginner, buyer, transferee, warehouseman, processor (including compressmen), common carrier, or other person as defined in section 373 (a) of the act, who gins, buys, stores, processes (including compressing), transports as a common carrier, or otherwise deals with ELS cotton from, for, or on behalf of the producer thereof, shall make available for examination and inspection by the Secretary or by any authorized representative of the Secretary, the records kept in his business concerning such cotton, for the purpose of ascertaining the correctness of any report made or record kept pursuant to §§ 722.101 to 722.152 or of obtaining the information required to be furnished in any report pursuant to §§722.101 to 722.152 but not so furnished. The records to be kept pursuant to the provisions of §§722.136, 722.137, 722.138, and 722.139 shall be kept available for examination and inspection by the Secretary, or by any authorized representative of the Secretary, until December 31 of the second year following the year in which the ELS cotton is planted, for the purpose of ascertaining the correctness of any report made or record kept pursuant to §§ 722.101 to 722.152 or of obtaining the information required to be furnished in any report pursuant to §§ 722.101 to 722.152 but not so furnished. Such records shall be kept for such longer period of time as may be requested in writing by the director.

§ 722.141 *Penalty for failure or refusal to keep records or make reports.* Any ginner, buyer, transferee, warehouseman, processor (including compressmen), common carrier, or other person, as defined in section 373 (a) of the act who gins, buys, acquires, stores, processes (including compressing), transports as a common carrier, or otherwise deals with ELS cotton from, for or on behalf of the producer thereof who fails to keep the records, make the reports as required by § 722.136, § 722.137, § 722.138, or § 722.139 or who makes any false report or false record shall, as provided for in section 373 (a) of the act, be deemed guilty

of a misdemeanor and upon conviction thereof, shall be subject to a fine of not more than $500 for each such offense.

§ 722.142 *Records to be kept and reports to be made by producers*—(a) *Necessity for records and reports.* Each person who produces or who has produced in any crop year, ELS cotton which is subject to the provisions of §§ 722.101 to 722.152 shall, in conformity with section 373 (b) of the act, keep the records and make the reports prescribed by this section, which records and reports the Secretary hereby finds to be necessary to enable him to carry out, with respect to ELS cotton, the provisions of the act. The records required to be kept pursuant to this section shall be kept until December 31 of the second year following the year in which the ELS cotton is planted, or for such longer period of time as may be requested in writing by the director.

(b) *ELS cotton marketed to persons not within the United States.* In each case where ELS cotton for which a marketing certificate has been issued pursuant to § 722.118 is marketed to any person not within the United States (including Puerto Rico) the producer shall enter the name and address of the buyer or transferee and indicate in the space provided for the signature of the buyer or transferee on each copy of the marketing certificate that such person is not within the United States (including Puerto Rico). The producer shall retain the "Producer's Copy" of the certificate. Not later than 15 calendar days next succeeding the day on which the ELS cotton was marketed the "County Office Copy" and the "Buyer's Copy" shall be mailed or delivered by such producer to the county committee treasurer for the county in which the certificate was issued.

(c) *Farm operator's report.* The operator of the farm shall file with the county committee treasurer for the county in which the farm is located a farm operator's report on Form MQ–98—Cotton (ELS) in the following cases: (1) Where the producer is making an application for a downward adjustment in the farm marketing excess pursuant to § 722.112 except that the county committee may waive this requirement in case it determines that the evidence otherwise submitted by the producer is satisfactory evidence of the actual production of ELS cotton on the farm; (2) where a farm marketing excess is determined for the farm but an application for downward adjustment in the farm marketing excess has not been filed and the county committee or the State committee requests the report in writing; and (3) where a farm marketing excess is not established but the State committee or the county committee determines that a farm operator's report is necessary for proper administration of §§ 722.101 to 722.152 and requests such report in writing. Upon written request by the county committee or by the State committee for a farm operator's report on Form MQ–98—Cotton (ELS), the operator of the farm shall make the report in the manner specified in this paragraph not later than the date designated by such committee in its request. Form MQ–98—Cotton (ELS) shall show for the farm the following information or any part thereof as specified in such request for a specified crop year: (i) The date harvesting of the crop of ELS cotton was completed on the farm, the date of the last ginning of ELS cotton produced on the farm, and the acreage planted to ELS cotton on the farm; (ii) the total number of pounds of ELS lint cotton ginned from the crop of ELS cotton; (iii) the name and address of each ginner who ginned such cotton and the number of and net weight of bales or lots less than a bale ginned by him; (iv) the total amount of ELS seed cotton of the crop marketed; (v) the total amount of the crop ELS lint cotton marketed; (vi) the amount of unmarketed ELS cotton of the crop on hand; (vii) the total number of pounds of ELS lint cotton produced from such crop; (viii) the name and address of each buyer or transferee of such crop ELS lint or ELS seed cotton and the amount thereof marketed to him; and (ix) the amount of penalty paid by the producer or collected by the buyer or transferee.

(d) *Manner of submitting reports.* The county committee treasurer for the county in which the ELS cotton covered by the report was produced is hereby authorized and empowered to receive, for and on behalf of the Secretary, each report required pursuant to this section. Each report shall be mailed or delivered directly to such treasurer.

§ 722.143 *Data to be kept confidential.* Except as provided in § 722.148 all data reported to or acquired by the Secretary pursuant to and in the manner provided in §§ 722.136 to 722.140 inclusive and § 722.142 shall be kept confidential by all officers and employees of the United States Department of Agriculture, members of county committees and State committees, county agents, and the employees of such committees and county agents' offices, and shall not be disclosed to anyone not having an interest in or responsibility for any ELS cotton, farm, or transaction covered by the particular data, record, information, report, or form; and only such data so reported or acquired as the Secretary deems relevant shall be disclosed by them to anyone not having such an interest or not being employed in the administration of the act and then only in a suit or administrative hearing under the provisions of the act.

§ 722.144 *Enforcement.* It shall be the duty of the county office manager to report in writing in quadruplicate to the State administrative officer each case of failure or refusal to make any report or keep any record as required by §§ 722.101 to 722.152 and so to report each case of making any false report or record. It shall be the duty of the State administrative officer to report each such case in writing, in triplicate, to the Office of the General Counsel of the United States Department of Agriculture, in accordance with instructions issued by the deputy administrator, with a view to the institution of proceedings by the United States Attorney for the appropriate district, under the direction of the Attorney General of the United States, to enforce the provisions of the act.

SPECIAL PROVISIONS AND EXCEPTIONS

§ 722.145 *ELS cotton produced by publicly owned agricultural experiment stations.* ELS cotton produced by publicly owned agricultural experiment stations shall be handled pursuant to applicable acreage allotment regulations.

§ 722.146 *Erroneous notices*—(a) *Erroneous notice of ELS cotton allotment.* In any case where through error the producer is officially notified in writing of a farm allotment larger than the final approved farm allotment and it is found by the county committee that such producer, acting solely on the information contained in the erroneous notice, planted an acreage to ELS cotton in excess of the final approved farm allotment, the producer will not be considered to have exceeded the farm allotment unless he planted an acreage in excess of the allotment shown on the erroneous notice. Before a producer can be said to have relied upon the the erroneous notice the circumstances must have been such that the producer had no cause to believe that the allotment notice was in error. To determine this fact, the date of any corrected notice in relation to the time of planting; the size of the farm; the amount of ELS cotton customarily planted; and all other pertinent facts should be taken into consideration. The determination by the county committee under this section shall be subject to the approval of the State committee. The acreage planted to ELS cotton on the farm in excess of the final approved allotment shall be considered as excess acreage for purposes of § 722.147.

(b) *Erroneous notice of planted acreage.* In any case where it is discovered after all the ELS cotton acreage on the farm has been picked one or more times that the farm operator was officially notified in writing through error of an acreage planted to ELS cotton which is less than the acreage actually planted but the acreage actually planted is in excess of the farm allotment, the county committee shall determine whether or not the following conditions are met:

(1) The lack of compliance was caused by reliance in good faith by the farm operator on an erroneous notice of measured acreage issued hereunder.

(2) Neither the farm operator nor any producer on the farm had actual knowledge of the error in time to adjust the excess acreage in accordance with applicable regulations.

(3) The incorrect notice was the result of an error made by an employee of the county or State office in reporting, computing, or recording the ELS cotton acreage for the farm.

(4) Neither the farm operator nor any producer on the farm was in any way responsible for the error.

(5) The extent of the error in the erroneous notice was such that the farm operator would not reasonably be expected to question the acreage of which he was erroneously notified.

If the county committee determines that all five of the conditions are met, and the State administrative officer concurs upon review of the county committee determination, the acreage planted to ELS cotton on the farm will be considered as an acreage equal to the farm allotment.

§ 722.147 *No credit for overplanting the farm allotment.* Any acreage planted to ELS cotton in any crop year in excess of the farm allotment for such crop of ELS cotton shall not be taken into account in establishing State, county, and farm allotments for subsequent crops of ELS cotton.

§ 722.148 *Availability of records.* The State and county committees shall make available for inspection by owners or operators of farms receiving ELS cotton allotments all records pertaining to ELS cotton allotments and marketing quotas.

§ 722.149 *Designation of representatives of the Secretary to examine records*—(a) *Designation of representatives.* In order to carry out the provisions of §§ 722.136 to 722.140, relating to the examination of records, the deputy administrator is hereby authorized and directed to designate in writing, with the counter signature of the State administrative officer, an appropriate number of persons from the officers or employees of the Department of Agriculture to act as the authorized representatives of the Secretary for the purposes of said provisions. In addition, investigators and accountants (special agents), Compliance and Investigation Division, Commodity Stabilization Service, United States Department of Agriculture, are hereby designated as authorized representatives of the Secretary for the purposes of said provisions.

(b) *Proof of designation.* Each person designated pursuant to this section shall be furnished with a copy of his designation.

(c) *Authorization to administer oaths.* Each person designated pursuant to this section to act as the authorized representative of the Secretary is hereby authorized and empowered, pursuant to the act of Congress approved January 31, 1925 (sec. 1, 43 Stat. 803; 5 U. S. C. 521), to administer to or take from any person an oath, affirmation, or affidavit whenever such oath, affirmation, or affidavit is for use in any prosecution or proceeding under or in the enforcement of the cotton marketing quota provisions of the act or §§ 722.101 to 722.152.

§ 722.150 *Delivery of notices in Puerto Rico.* Notwithstanding the provisions of §§ 722.101 to 722.152 where it is impractical or impossible to use the United States mail to serve the producer in Puerto Rico with the notice provided for therein, use shall be made of such other method of service as is available; however, when such other method is used the county committee shall make provision for keeping an accurate record of the date and method of delivery to the producer of any such notice.

§ 722.151 *County normal yields for each crop year.* This section will be amended annually to establish county normal yields for each crop year pursuant to § 722.102 (d) (8).

§ 722.152 *Penalty rate for each crop year.* This section will be amended annually to establish the penalty rate for each crop year pursuant to § 722.126.

NOTE: The record keeping and reporting requirements of these regulations have been approved by and subsequent reporting requirements will be subject to the approval of the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

Done at Washington, D. C., this 8th day of May 1958. Witness my hand and the seal of the Department of Agriculture.

[SEAL] TRUE D. MORSE,
Acting Secretary.

[F. R. Doc. 58-3585; Filed, May 13, 1958; 8:45 a. m.]

PART 730—RICE

SUBPART—1958-59 MARKETING YEAR

DETERMINATION OF COUNTY NORMAL YIELDS FOR 1958 CROP

The regulations contained in § 730.908 are issued pursuant to and in conformity with the rice marketing quota provisions of the Agricultural Adjustment Act of 1938, as amended, including the amendments to section 301 of that Act which are contained in section 502 of the Agricultural Act of 1956. These amendments provide definitions for county normal yields as follows:

(D) "Normal yield" for any county, in the case of rice, shall be the average yield per acre of rice for the county during the five calendar years immediately preceding the year for which such normal yield is determined, adjusted for abnormal weather conditions and for trends in yields. If for any such year data are not available, or there is no actual yields, an appraised yield for such year, determined in accordance with regulations issued by the Secretary, taking into consideration the yields obtained in surrounding counties during such year and the yield in years for which data are available, shall be used as the actual yield for such year.

(F) In applying subparagraph (D) and (E), if on account of drought, flood, insect pests, plant disease, or other uncontrollable natural cause, the yield for any year of such five-year period is less than 75 per centum of the average, 75 per centum of such average shall be substituted therefor in calculating the normal yield per acre. If, on account of abnormally favorable weather conditions, the yield for any year of such five-year period is in excess of 125 per centum of the average, 125 per centum of such average shall be substituted therefor in calculating the normal yield per acre.

Prior to the issuance of the regulations for determining county normal yields for 1958 and the determination of county normal yields thereunder, public notice (22 F. R. 7865) was given in accordance with the provisions of the Administrative Procedure Act (5 U. S. C. 1003). No data, views, or recommendations pertaining thereto were submitted pursuant to such notice.

Section 730.908 is issued to provide the regulations for determining county normal yields and to proclaim the yields for the 1958 crop of rice determined thereunder.

§ 730.908 *County normal yields for 1958 crop rice*—(a) *Regulations.* County normal yields for 1958 crop rice shall be determined by computing the average yield per harvested acre of rice for each county producing rice during the years 1953 through 1957, adjusted for abnormal weather conditions and other uncontrollable natural causes and for trends in yields. Where data for any year are not available, or there was no actual yield, an appraised yield for such year shall be determined on the basis of the yields obtained in surrounding counties during such year and the yield in years for which data are available. Adjustments for abnormal weather conditions and other uncontrollable natural causes shall be made as follows: For any annual yield, including an appraised yield, which is less than 75 per centum of the 5-year 1953–57 average yield, 75 per centum of such average shall be substituted therefor; and for any annual yield, including an appraised yield, which is in excess of 125 per centum of the 5-year 1953–57 average yield, 125 per centum of such average yield shall be substituted therefor. The adjustment for trends in yields shall be made by computing the simple average of (1) the average yield per harvested acre of rice for the county during the 5 calendar years 1953–57, adjusted for abnormal weather conditions and other uncontrollable natural causes as provided in the preceding sentence, and (2) the average yield per harvested acre of rice for the county during the 2 calendar years 1956 and 1957, similarly adjusted.

(b) *Proclamation of county normal yields.* County normal yields for 1958 crop rice, determined in accordance with paragraph (a) of this section, are as follows:

ARKANSAS

County	Normal yield (pounds)	County	Normal yield (pounds)
Arkansas	3,224	Lafayette	2,666
Ashley	3,069	Lawrence	2,990
Chicot	3,170	Lee	2,982
Clark	2,792	Lincoln	3,103
Clay	2,944	Little River	2,556
Conway	2,897	Lonoke	3,054
Craighead	3,092	Miller	2,692
Crittenden	3,104	Mississippi	3,233
Cross	2,976	Monroe	2,842
Dallas	2,722	Perry	2,716
Desha	3,180	Phillips	2,894
Drew	3,136	Poinsett	3,038
Faulkner	2,960	Prairie	3,102
Grant	2,581	Pulaski	2,906
Greene	2,986	Randolph	2,900
Hot Spring	2,850	St. Francis	3,077
Independence	2,972	White	3,022
Jackson	3,110	Woodruff	2,999
Jefferson	3,111	State	3,073

CALIFORNIA

Butte	3,785	Riverside	2,000
Colusa	3,845	Sacramento	3,654
Fresno	3,884	San Joaquin	3,175
Glenn	3,904	Stanislaus	3,709
Imperial	1,745	Sutter	3,948
Kern	3,220	Tulare	2,462
Kings	2,792	Yolo	3,811
Madera	3,748	Yuba	3,182
Merced	3,385	State	3,764
Placer	3,486		

FLORIDA

Palm Beach	1,633

ILLINOIS

Adams	2,728

LOUISIANA

County	Normal yield (pounds)	County	Normal yield (pounds)
Acadia	2,694	Madison	3,324
Allen	2,662	Morehouse	3,532
Ascension	2,440	Plaquemines	2,536
Assumption	2,252	Rapides	2,590
Avoyelles	2,684	Richland	3,318
Beauregard	2,032	St. Charles	2,700
Bossier	2,755	St. James	2,388
Calcasieu	2,084	St. John the Baptist	2,414
Cameron	2,184	St. Landry	2,609
Concordia	2,847	St. Martin	2,698
East Carroll	3,638	St. Mary	2,633
Evangeline	2,608	St. Tammany	1,978
Franklin	2,986	Tensas	3,280
Grant	2,904	Terrebonne	2,252
Iberia	2,204	Vermilion	2,586
Iberville	2,396	West Carroll	3,461
Jefferson Davis	2,706	State	2,557
Lafayette	2,514		
Lafourche	2,220		

MISSISSIPPI

Bolivar	2,892	Quitman	3,036
Coahoma	2,998	Sharkey	2,892
De Soto	3,260	Sunflower	2,828
Hancock	2,702	Tallahatchie	2,632
Humphreys	2,991	Tate	2,584
Issaquena	2,456	Tunica	3,041
Leflore	2,974	Washington	2,843
Panola	3,231	State	2,909

MISSOURI

Butler	3,377	New Madrid	2,548
Dunklin	3,331	Pemiscot	3,328
Lafayette	2,912	Ripley	2,784
Lewis	2,699	St. Charles	2,617
Lincoln	2,705	Scott	3,131
Marion	2,880	Stoddard	2,856
Mississippi	2,671	State	3,053

NORTH CAROLINA

Brunswick	2,040	State	1,725
Hyde	1,660		

OKLAHOMA

McCurtain	2,663

SOUTH CAROLINA

County	Normal yield (pounds)	County	Normal yield (pounds)
Berkeley	1,922	Horry	1,782
Charleston	1,264	Jasper	1,630
Colleton	1,144	State	1,466
Georgetown	1,005		

TENNESSEE

Dyer	1,970	Lauderdale	3,334
Fayette	1,975	State	3,110

TEXAS

Austin	3,125	Liberty	2,674
Bowie	2,832	Matagorda	3,238
Brazoria	2,972	Newton	2,778
Calhoun	2,810	Orange	2,652
Chambers	2,666	Polk	2,808
Colorado	3,285	San Jacinto	2,545
Fort Bend	3,014	Victoria	3,068
Galveston	3,008	Walker-Houston	2,565
Hardin	2,742	Waller	3,080
Harris	3,055	Washington	3,113
Jackson	3,236	Wharton	3,160
Jasper	2,636	State	2,972
Jefferson	2,659		
Lavaca	3,042		

(Sec. 375, 52 Stat. 66, as amended; 7 U. S. C. 1375. Interprets or applies sec. 301, 52 Stat. 38, as amended; 7 U. S. C. 1301)

Done at Washington, D. C., this 8th day of May 1958.

[SEAL] TRUE D. MORSE,
Acting Secretary.

[F. R. Doc. 58-3627; Filed, May 13, 1958; 8:53 a. m.]

Chapter VIII—Commodity Stabilization Service (Sugar), Department of Agriculture

Subchapter B—Sugar Requirements and Quotas

[Sugar Reg. 811, Amdt. 2]

PART 811—CONTINENTAL SUGAR REQUIREMENTS AND AREA QUOTAS

1958 DETERMINATION AND PRORATION OF QUOTA DEFICITS

Basis and purpose. This amendment is issued pursuant to the Sugar Act of 1948, as amended, hereinafter called the "act" for the purpose of determining and prorating additional deficits in the quotas for Hawaii and Puerto Rico for sugar to be marketed in the continental United States in 1958.

Section 204 (a) of the act provides that the Secretary shall from time to time determine whether any area will be unable to market its quota and prescribes the manner in which any deficit in a quota for a domestic area or Cuba is to be prorated to other such areas able to supply the additional sugar. Such section provides that any deficit in any domestic producing area occurring by reason of inability to market that part of the quota for such area allotted under the provisions of section 202 (a) (2) of the act, shall first be prorated to other domestic areas on the basis of the quotas than in effect, and the remainder of such deficit to be prorated to other domestic areas and Cuba on the basis of quotas then in effect.

The act also provides that the quota for any area as established under the provisions of section 202 shall not be reduced by reason of any determination of a deficit.

In order to afford sellers of sugar in affected areas an adequate opportunity to plan marketings and to market the additional sugar authorized by this amendment, and thereby protect the interest of consumers, it is essential that this amendment be made effective immediately. Therefore, it is hereby determined and found that compliance with the notice, procedure and effective date requirements of the Administrative Procedure Act is unnecessary, impracticable and contrary to the public interest and the amendment herein shall become effective when published in the FEDERAL REGISTER.

By virtue of the authority vested in the Secretary of Agriculture by the Sugar Act of 1948, as amended (61 Stat. 922, as amended) and the Administrative Procedure Act (60 Stat. 237) § 811.4 of Sugar Regulation 811 (23 F. R. 2785) is hereby amended to read as follows:

§ 811.4 *Determination and proration of area deficits and adjusted quotas*—(a) *Deficit in quotas established in § 811.2.* It is hereby determined, pursuant to subsection (a) of section 204 of the act, that for the calendar year 1958, Hawaii and Puerto Rico will be unable by 200,000 and 250,000 short tons, raw value, of sugar, respectively, to market the quotas established for such areas in § 811.2.

(b) *Quotas in effect upon proration of deficits in parts of quotas established pursuant to section 202 (a) (2).* The part of the deficits determined in paragraph (a) of this section applicable to that portion of the quotas in § 811.2 established pursuant to the provisions of section 202 (a) (2) of the act, which amounts to 47,643 short tons, raw value, is hereby prorated on the basis of the quotas established in § 811.2 to domestic areas to the extent each such area is able to supply additional quantities. The quotas for such areas in effect upon publication of this paragraph in the FEDERAL REGISTER shall be those established in § 811.2 plus the quantities prorated herein, as follows:

[Short tons, raw value]

Area	Prorated herein	Quotas including prorations herein
Domestic beet sugar	30,433	1,945,620
Mainland cane sugar	11,211	598,667
Hawaii	0	1,065,513
Puerto Rico	0	1,114,130
Virgin Island	0	15,193

(c) *Quotas in effect upon proration of deficits in part of quotas otherwise established.* Immediately after the quotas established in paragraph (b) of this section become effective, the quantity by which the deficit determined in paragraph (a) of this section exceeds the quantity prorated in paragraph (b) of this section, which amounts to 402,357 short tons, raw value, is hereby prorated on the basis of the quotas in effect pursuant to paragraph (b) of this section for domestic areas and pursuant to § 811.3 for Cuba, to the domestic areas able to supply additional sugar and Cuba. Thereupon, the following quotas shall be in effect, such quotas consisting of those established in paragraph (b) of this section for domestic areas and in § 811.3 for Cuba plus the quantities prorated in this paragraph:

[Short tons, raw value]

Area	Prorated herein	Quotas including prorations herein and in paragraph (b) of this section
Domestic beet sugar	142,686	2,088,306
Mainland cane sugar	43,906	642,573
Hawaii	0	1,065,513
Puerto Rico	0	1,114,130
Virgin Islands	0	15,193
Cuba	215,765	3,157,880

Quotas for foreign countries other than Cuba remain as established in § 811.3.

STATEMENT OF BASES AND CONSIDERATIONS

On April 23, 1958, deficits of 200,000 tons in the quota for Puerto Rico and 100,000 tons in the quota for Hawaii were prorated to the Domestic Beet and Mainland Cane Sugar Areas and Cuba.

Production of sugar in Puerto Rico through April is significantly below production for the same period last year when total production for the year was 990,000 short tons, raw value. Thus, it appears that the supply of sugar will be

insufficient to fill the 1958 mainland and local quotas for Puerto Rico by at least 250,000 tons.

The strike of sugar workers in Hawaii continues to decrease the potential production of sugar and it appears that the supply will be insufficient to fill the 1958 mainland and local quotas by 200,000 tons.

The Virgin Islands will be unable to fill any part of the deficits herein determined.

Accordingly, deficits of 200,000 and 250,000 short tons, raw value, in the mainland quotas for Hawaii and Puerto Rico, respectively, are hereby determined, and pursuant to section 204 (a) of the act, 47,643 tons are prorated to domestic areas able to market additional sugar on the basis of the quotas for such areas as established in S. R. 811 (22 F. R. 10732), and 402,357 tons are prorated to such domestic areas and Cuba on the basis of the quotas in effect after proration of the 47,643 tons.

(Sec. 403, 61 Stat. 932; 7 U. S. C. 1153. Interprets or applies secs. 202, 204; 61 Stat. 924, 925; 7 U. S. C. 1112, 1114)

Done at Washington, D. C., this 8th day of May 1958.

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

[F. R. Doc. 58-3626; Filed, May 13, 1958; 8:53 a. m.]

TITLE 14—CIVIL AVIATION

Chapter I—Civil Aeronautics Board

Subchapter B—Economic Regulations

[Reg. ER-233]

PART 241—UNIFORM SYSTEM OF ACCOUNTS AND REPORTS FOR CERTIFICATED AIR CARRIERS

CONFIDENTIAL TREATMENT OF PRELIMINARY YEAR-END SCHEDULES

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 8th day of May 1958.

Section 241.22 (b) of Part 241 presently provides for automatic confidential treatment of preliminary year-end Form 41 reports unless directed otherwise by the Board.

Notwithstanding the fact that confidential treatment has been accorded these preliminary reports, portions of such reports in some instances have been used publicly by the carrier. In these instances, as well as in cases where a carrier would not necessarily have requested confidential treatment of its reports, the Board's staff nevertheless is precluded from making public disclosure of these reports. In attempting to deal with this and related problems, the Board found that the present procedure of granting automatic confidential treatment of preliminary year-end reports is administratively impractical.

Accordingly, the Board issued Draft Release No. 88 (22 F. R. 10759), dated December 5, 1957, to advise the carriers that it proposed to correct this situation by deleting the provision in § 241.22 (b) providing for automatic confidential treatment of preliminary year-end reports and by amending § 399.25 of Part 399 Statements of General Policy by providing that when a request for such treatment is granted, it will be the general policy of the Board to restrict the preliminary report until such time as (1) the final report is filed, (2) the final report is due, or (3) information covered by the preliminary report is publicly released by the carrier concerned, whichever first occurs.

The comments received in response to Draft Release No. 88 generally recognized that the present requirements with respect to confidential treatment of preliminary reports are unfair to the Board. However, all such comments recommended that this be remedied by amending the provisions of § 241.22 (b) so as to provide that at the request of the air carrier, the preliminary year-end schedules would be withheld from public disclosure until such time as (1) the final report is filed, (2) the final report is due, or (3) information covered by the preliminary report is publicly released by the carrier concerned, whichever first occurs.

The Board has considered all the relevant comments received and is of the opinion that because the amendment suggested by the industry would provide for the automatic granting of requests for confidential treatment of preliminary year-end reports, such an amendment would perpetuate the disadvantages which the proposed rule was designed to remove and is therefore unacceptable to the Board. It is the Board's belief that it should maintain the right to determine in each case whether a carrier's request for confidential treatment presents a basis for finding that disclosure by the Board would adversely affect the carrier's interests and would not be in the public interest. However, the Board does see merit in the suggestion that the Board's policy in granting confidential treatment continue to appear in Part 241.

In accordance with the foregoing, § 241.22 (b) is amended to provide that each air carrier may request confidential treatment of its preliminary year-end reports but must justify such a request. In addition, § 241.22 (b) is further amended by the adoption of a third limitation to a grant, i. e. that confidential treatment would terminate if the information covered by the preliminary report is publicly released by the carrier concerned.

Inasmuch as the Board's policy with respect to the confidential treatment of preliminary year-end reports is set forth in the proposed amendment to § 241.22 (b), an amendment to Part 399 eliminating the provisions of § 399.25 is being made contemporaneously herewith.[1]

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

In consideration of the foregoing, the Civil Aeronautics Board hereby amends Part 241 of the Economic Regulations (14 CFR Part 241) effective June 12, 1958, as follows:

1. By amending the second sentence under § 241.22 (b) to read as follows: "At the request of an air carrier, and upon a showing by such air carrier that public disclosure of its preliminary year-end report would adversely affect its interests and would not be in the public interest, the Board will withhold such preliminary year-end report from public disclosure until such time as (1) the final report is filed, (2) the final report is due, or (3) information covered by the preliminary report is publicly released by the carrier concerned, whichever first occurs."

(Sec. 205, 52 Stat. 984; 49 U. S. C. 425. Interpret or apply secs. 407, 1104, 52 Stat. 1000, 1026, 49 U. S. C. 487, 674)

By the Civil Aeronautics Board.

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

[F. R. Doc. 58-3618; Filed, May 13, 1958; 8:51 a. m.]

Subchapter D—Policy Statements

[Reg. Policy Statement 4]

PART 399—STATEMENTS OF GENERAL POLICY

CONFIDENTIAL TREATMENT OF PRELIMINARY YEAR-END REPORTS

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 8th day of May 1958.

Section 399.25 of Part 399 adopted May 25, 1955, states that it is the Board's policy to accord confidential treatment to preliminary year-end carrier reports upon request until final reports are filed or until the date such reports are due, whichever first occurs.

Contemporaneously herewith, the Board is adopting an amendment to Part 241 of the Economic Regulations[1] setting forth its future policy with respect to the confidential treatment of preliminary year-end reports. Under this amendment the Board will decide on the merits of each case, as presented by the carrier, whether or not confidential treatment of individual preliminary reports is in the public interest.

The policy set forth in § 399.25 having thus been superseded by the amendment to Part 241, this amendment to Part 399 is being adopted to repeal the provisions of § 399.25.

Since this rule relates only to statements of policy, notice and public procedure hereon are unnecessary, and the regulation may be made effective upon less than 30 days' notice.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends Subpart B of Part 399 effective May 8, 1958, as follows:

By repealing § 399.25.

(Sec. 205, 52 Stat. 984, as amended; 49 U. S. C. 425)

By the Civil Aeronautics Board.

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

[F. R. Doc. 58-3619; Filed, May 13, 1958; 8:51 a. m.]

[1] See F. R. Doc. 58-3619, Part 399 of this chapter, *infra.*

[1] See F. R. Document 58-3618, Part 241 of this chapter, *supra.*

TITLE 29—LABOR

Chapter I—National Labor Relations Board

REVISION OF CHAPTER

Chapter I of Title 29, Code of Federal Regulations, is revised to read as set forth below.

FRANK M. KLEILER,
Executive Secretary.

PART 101—STATEMENTS OF PROCEDURE, SERIES 7

AUTHORITY: §§ 101.1 to 101.34 issued under sec. 6, 49 Stat. 452, as amended; 29 U. S. C. 156.

SUBPART A—GENERAL STATEMENT

§ 101.1 *General statement.* By virtue of the authority vested in it by the National Labor Relations Act, 49 Stat. 449, as amended by the Labor Management Relations Act, 1947, Public Law 101, Eightieth Congress, first session, the National Labor Relations Board hereby issues and causes to be published in the FEDERAL REGISTER Series 7 of its Statements of Procedure, which are promulgated to carry out the provisions of the act. Said series shall become effective upon the signing of the original by the members of the Board and the publication thereof in the FEDERAL REGISTER. The Statements of Procedure, Series 7, shall be in force and effect until amended or rescinded by the Board.

SUBPART B—UNFAIR LABOR PRACTICE CASES UNDER SECTION 10 (a) TO (i) OF THE ACT AND TELEGRAPH MERGER ACT CASES

§ 101.2 *Initiation of unfair labor practice cases.* The investigation of an alleged violation of the National Labor Relations Act is initiated by the filing of a charge, which must be in writing and signed, and must either be notarized or must contain a declaration by the person signing it, under the penalties of the Criminal Code, that its contents are true and correct to the best of his knowledge and belief. The charge is filed with the regional director for the region in which the alleged violations have occurred or are occurring. A blank form for filing such charge is supplied by the regional office upon request. The charge contains the name and address of the person against whom the charge is made and a statement of the facts constituting the alleged unfair labor practices. Any person may file a charge, but no complaint will be issued upon a charge filed by a labor organization unless that labor organization is in compliance with section 9 (f), (g), and (h) of the act. (See § 101.3.)

§ 101.3 *Compliance with section 9 (f), (g), and (h) of the act.* (a) If a charge (or petition) is filed by a labor organization, that labor organization and every national or international labor organization of which it is an affiliate or constituent unit must have complied with section 9 (f) (B) (2) of the act. At the time of filing the charge (or petition) or prior thereto, or within a reasonable period of time thereafter not to exceed 10 days, the labor organization must present the duplicate copy of a letter from the United States Department of Labor showing that it has filed the material required under section 9 (f) and (g) of the act and a declaration executed by an authorized agent stating the labor organization has complied with section 9 (f) (B) (2) and setting forth the method by which compliance was made.

(b) In addition, the labor organization and every national or international labor organization of which it is an affiliate or constituent unit must have complied with section 9 (h) of the act as follows: At the time of filing the charge (or petition) or prior thereto, or within a reasonable period not to exceed 10 days thereafter, the national or international labor organization shall have on file with the general counsel in Washington, D. C., and the local labor organization shall have on file with the regional director in the region in which the proceeding is pending, or in which it customarily files cases, a declaration by an authorized agent executed contemporaneously or within the preceding 12-month period listing the titles of all offices of the filing organization and stating the names of the incumbents, if any, in each such office and the date of expiration of each incumbent's term, and an affidavit from each such officer, executed contemporaneously or within the preceding 12-month period, stating that he is not a member of the Communist Party or affiliated with such party and that he does not believe in, and is not a member of, nor supports any organization that believes in or teaches the overthrow of the United States Government by force or by any illegal or unconstitutional methods.

(c) In determining who is occupying an office and must, therefore, file an affidavit as an "officer," the Board will normally rely upon the designation of offices appearing in the constitution of the labor organization. Where, however, the Board has reasonable cause to believe that a labor organization has omitted from its constitution the designation of any position as an office for the purpose of evading or circumventing the filing requirements of section 9 (h) of the act, the Board may require affidavits from additional persons.

(d) Whenever all the requirements have been met, the Board in Washington, D. C., or the regional director, whichever is appropriate, issues to the labor organization appropriate notice of such compliance.

§ 101.4 *Investigation of charges.* When the charge is received in the regional office it is filed, docketed, and assigned a case number. The regional director will, on request of the charging party, and may in any case cause a copy of the charge to be served upon the person against whom the charge is made, but timely service of a copy of the charge within the meaning of the proviso to section 10 (b) of the act is the exclusive responsibility of the charging party and not of the general counsel or his agents. The regional director requests the person filing the charge to submit evidence in its support. The person against whom the charge is filed, hereinafter called the respondent, is asked to submit a written statement of his position in respect to the allegations. The case is then assigned to a member of the field staff for investigation, who interviews representatives of all parties and those persons who have knowledge as to the charges. In the investigation and in all other stages of the proceedings, charges alleging violation of section 8 (b) (4) (A), (B), and (C) are given priority over all other cases in the office in which they are pending except cases of like character, and charges alleging violation of section 8 (b) (4) (D) are given priority over all cases except section 8 (b) (4) (A), (B), and (C) cases and other cases alleging violation of section 8 (b) (4)

(D). After full investigation, the case may be disposed of through informal methods such as withdrawal, dismissal, and settlement; or, the case may necessitate formal methods of disposition. Some of the informal methods of handling unfair labor practice cases will be stated first.

§ 101.5 *Withdrawal of charges.* If investigation reveals that there has been no violation of the National Labor Relations Act or the evidence is insufficient to substantiate the charge, the regional director recommends withdrawal of the charge by the person who filed. The complainant may also, on its own initiative, request withdrawal. If the complainant accepts the recommendation of the director or requests withdrawal on its own initiative, the respondent is immediately notified of the withdrawal of the charge.

§ 101.6 *Dismissal of charges and appeals to general counsel.* If the complainant refuses to withdraw the charge as recommended, the regional director dismisses the charge. The regional director thereupon informs the parties of his action, together with a simple statement of the grounds therefor, and the complainant of his right of appeal to the general counsel in Washington, D. C., within 10 days. If the complainant appeals to the general counsel, the entire file in the case is sent to Washington, D. C., where the case is fully reviewed by the general counsel with the assistance of his staff. Following such review, the general counsel may sustain the regional director's dismissal, stating the grounds of his affirmance, or may direct the regional director to take further action.

§ 101.7 *Settlements.* Before any complaint is issued or other formal action taken, the regional director affords an opportunity to all parties for the submission and consideration of facts, argument, offers of settlement, or proposals of adjustment, except where time, the nature of the proceeding, and the public interest do not permit. Normally prehearing conferences are held, the principal purpose of which is to discuss and explore such submissions and proposals of adjustment. The regional office provides Board-prepared forms for such settlement agreements, as well as printed notices for posting by the respondent. These agreements, which are subject to the approval of the regional director, provide for an appeal to the general counsel, as described in § 101.6, by a complainant who will not join in a settlement or adjustment deemed adequate by the regional director. Proof of compliance is obtained by the regional director before the case is closed. If the respondent fails to perform his obligations under the informal agreement, the regional director may determine to institute formal proceedings.

§ 101.8 *Complaints.* If the charge appears to have merit and efforts to dispose of it by informal adjustment are unsuccessful, the regional director institutes formal action by issuance of a complaint and notice of hearing. In certain types of cases, involving novel and complex issues, the regional director, at the discretion of the general counsel, must submit the case for advice from the general counsel before issuing complaint. The complaint, which is served on all parties, sets forth the facts upon which the Board bases its jurisdiction and the facts relating to the alleged violations of law by the respondent. The respondent must file an answer to the complaint within 10 days of its receipt, setting forth a statement of its defense.

§ 101.9 *Settlement after issuance of complaint.* (a) Even though formal proceedings have begun, the parties again have full opportunity at every stage to dispose of the case by amicable adjustment and in compliance with the law. Thus, after the complaint has been issued and a hearing scheduled or even begun, the attorney in charge of the case and the regional director afford all parties every opportunity for the submission and consideration of facts, argument, offers of settlement, or proposals of adjustment, except where time, the nature of the proceeding, and the public interest do not permit.

(b) All settlement stipulations which provide for the entry of an order by the Board are subject to the approval of the Board in Washington, D. C. If the settlement provides for the entry of an order by the Board, the parties agree to waive their right to hearing and agree further that the Board may issue an order requiring the respondent to take action appropriate to the terms of the adjustment. Usually the settlement stipulation also contains the respondent's consent to the Board's application for the entry of a decree by the appropriate circuit court of appeals enforcing the Board's order.

(c) In the event the respondent fails to comply with the terms of a settlement stipulation, upon which a Board order and court decree are based, the Board may petition that court to adjudge the respondent in contempt. If the respondent refuses to comply with the terms of a stipulation settlement providing solely for the entry of a Board order, the Board may petition the court for enforcement of its order, pursuant to section 10 of the National Labor Relations Act.

§ 101.10 *Hearings.* (a) Except in extraordinary situations the hearing is open to the public and usually conducted in the region where the charge originated. A duly designated trial examiner presides over the hearing. The Government's case is conducted by an attorney attached to the Board's regional office, who has the responsibility of presenting the evidence in support of the complaint. The rules of evidence applicable in the district courts of the United States under the Rules of Civil Procedure adopted by the Supreme Court are, so far as practicable, controlling. Counsel for the general counsel, all parties to the proceeding, and the trial examiner have the power to call, examine, and cross-examine witnesses and to introduce evidence into the record. They may also submit briefs, engage in oral argument, and submit proposed findings and conclusions to the trial examiner. The attendance and testimony of witnesses and the production of evidence material to any matter under investigation may be compelled by subpena.

(b) The functions of all trial examiners and other Board agents or employees participating in decisions in conformity with section 8 of the Administrative Procedure Act are conducted in an impartial manner and any such trial examiner, agent, or employee may at any time withdraw if he deems himself disqualified because of bias or prejudice. The Board's attorney has the burden of proof of violations of section 8 of the National Labor Relations Act and section 222 (f) of the Telegraph Merger Act. In connection with hearings subject to the provisions of section 7 of the Administrative Procedure Act:

(1) No sanction is imposed or rule or order issued except upon consideration of the whole record or such portions thereof as may be cited by any party and as supported by and in accordance with the preponderance of the reliable, probative, and substantial evidence;

(2) Every party has the right to present his case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts; and

(3) Where any decision rests on official notice of a material fact not appearing in the evidence in the record, any party is on timely request afforded a reasonable opportunity to show the contrary.

§ 101.11 *Intermediate report (recommended decision).* (a) At the conclusion of the hearing the trial examiner prepares an intermediate report (recommended decision) stating findings of fact and conclusions, as well as the reasons for his determinations on all material issues, and making recommendations as to action which should be taken in the case. The trial examiner may recommend dismissal or sustain the complaint, in whole or in part, and recommend that the respondent cease and desist from the unlawful acts found and take action to remedy their effects.

(b) The intermediate report is filed with the Board in Washington, D. C., and copies are simultaneously served on each of the parties. At the same time the Board, through its executive secretary, issues and serves on each of the parties an order transferring the case to the Board. The parties may accept and comply with the recommendations of the trial examiner, and thus normally conclude the entire proceedings at this point. Or, the parties or counsel for the Board may file exceptions to the intermediate report with the Board and may also request permission to appear and argue orally before the Board in Washington, D. C. They may also submit proposed findings and conclusions to the Board. Oral argument is very frequently granted.

§ 101.12 *Board decision and order.* (a) If any party files exceptions to the intermediate report, the Board, with the assistance of the legal assistants to each

Board member who function in much of the same manner as law clerks do for judges, reviews the entire record, including the trial examiner's report and recommendations, the exceptions thereto, the complete transcript of evidence, and the exhibits, briefs, and arguments. The Board does not consult with members of the trial examining staff or with any agent of the general counsel in its deliberations. It then issues its decision and order in which it may adopt, modify, or reject the findings and recommendations of the trial examiner. The decision and order contains detailed findings of fact, conclusions of law, and basic reasons for decision on all material issues raised, and an order either dismissing the complaint in whole or in part or requiring the respondent to cease and desist from its unlawful practices and to take appropriate affirmative action.

(b) If no exceptions are filed to the intermediate report, and the respondent does not comply with its recommendations, the Board adopts the report and recommendations of the trial examiner. All objections and exceptions, whether or not previously made during or after the hearing, are deemed waived for all purposes.

(c) If no exceptions are filed to the intermediate report and its recommendations and the respondent complies therewith, the case is normally closed but the Board may, if it deems necessary in order to effectuate the policies of the act, adopt the report and recommendations of the trial examiner.

§ 101.13 *Compliance with Board decision and order.* (a) Shortly after the Board's decision and order is issued the director of the regional office in which the charge was filed communicates with the respondent for the purpose of obtaining compliance. Conferences may be held to arrange the details necessary for compliance with the terms of the order.

(b) If the respondent effects full compliance with the terms of the order, the regional director submits a report to that effect to Washington, D. C., after which the case may be closed. Despite compliance, however, the Board's order is a continuing one; therefore, the closing of a case on compliance is necessarily conditioned upon the continued observance of that order; and in some cases it is deemed desirable, notwithstanding compliance, to implement the order with an enforcing decree. Subsequent violations of the order may become the basis of further proceedings.

§ 101.14 *Judicial review of Board decision and order.* If the respondent does not comply with the Board's order, or the Board deems it desirable to implement the order with a court decree, the Board may petition the appropriate Federal court for enforcement. Or, the respondent may petition the circuit court of appeals to review and set aside the Board's order. Upon such review or enforcement proceedings, the court reviews the record and the Board's findings and order and sustains them if they are in accordance with the requirements of law. The court may enforce, modify, or set aside in whole or in part the Board's findings and order, or it may remand the case to the Board for further proceedings as directed by the court. Following the court's decree, either the Government or the private party may petition the Supreme Court for review upon writ of certiorari. Such applications for review to the Supreme Court are handled by the Board through the Solicitor General of the United States.

§ 101.15 *Compliance with court decree.* After a Board order has been enforced by a court decree, the Board has the responsibility of obtaining compliance with that decree. Investigation is made by the regional office of the respondent's efforts to comply. If it finds that the respondent has failed to live up to the terms of the court's decree, the general counsel may, on behalf of the Board, petition the court to hold him in contempt of court. The court may order immediate remedial action and impose sanctions and penalties.

§ 101.16 *Back-pay proceedings.* After a Board order directing the payment of back pay has been enforced by a court order, the regional office computes the amount of back pay due each employee. If informal efforts to dispose of the matter prove unsuccessful, the regional director is then authorized to issue a "back-pay specification" in the name of the Board and a notice of hearing before a trial examiner, both of which are served on the parties involved. The specification sets forth the computations showing how the regional director arrived at the net back pay due each employee. The respondent must file an answer within 15 days of the receipt of the specification, setting forth a particularized statement of its defense. The procedure before the trial examiner or the Board is substantially the same as that described in §§ 101.10 to 101.14, inclusive.

SUBPART C—REPRESENTATION CASES UNDER SECTION 9 (c) OF THE ACT

§ 101.17 *Initiation of representation case.* The investigation of the question as to whether a union represents a majority of an appropriate grouping of employees is initiated by the filing of a petion by any person or labor organization acting on behalf of a substantial number of employees or by an employer when one or more individuals or labor organizations present to him a claim to be recognized as the exclusive bargaining representative. If there is a certified or currently recognized representative, any employee, or group of employees, or any individual or labor organization acting in their behalf may also file decertification proceedings to test the question of whether the certified or recognized agent is still the representative of the employees. The petition must be in writing and signed, and either must be notarized or must contain a declaration by the person signing it, under the penalties of the Criminal Code, that its contents are true and correct to the best of his knowledge and belief. It is filed with the regional director for the region in which the proposed or actual bargaining unit exists. Petition forms, which are supplied by the regional office upon request, provide, among other things, for a description of the contemplated or existing appropriate bargaining unit, the approximate number of employees involved, and the names of all labor organizations which claim to represent the employees. If the petition is filed by a labor organization, no investigation will be made of any question of representation raised by such labor organization unless such labor organization is in compliance with section 9 (f), (g), and (h) of the act. (See § 101.3.) If a petition is filed by a labor organization or in the case of a petition to decertify a certified or recognized bargaining agent, the petitioner must supply, within 48 hours after filing but in no event later than the last day on which the petition might timely be filed, evidence of representation. Such evidence is usually in the form of cards authorizing the labor organization to represent the employees or authorizing the petitioner to file a decertification proceeding.

§ 101.18 *Investigation of petition.* (a) Upon receipt of the petition in the regional office, it is docketed and assigned to a member of the staff, usually a field examiner, for investigation. He conducts an investigation to ascertain (1) whether the employer's operations affect commerce within the meaning of the act, (2) the appropriateness of the unit of employees for the purposes of collective bargaining and the existence of a bona fide question concerning representation within the meaning of the act, (3) whether the election would effectuate the policies of the act and reflect the free choice of employees in the appropriate unit, and (4) whether, if the petitioner is a labor organization seeking recognition, there is a sufficient probability, based on the evidence of representation of the petitioner, that the employees have selected it to represent them. The evidence of representation submitted by the petitioning labor organization or by the person seeking decertification is ordinarily checked to determine the number or proportion of employees who have designated the petitioner, it being the Board's administrative experience that in the absence of special factors the conduct of an election serves no purpose under the statute unless the petitioner has been designated by at least 30 percent of the employees. However, in the case of a petition by an employer, no proof of representation on the part of the labor organization claiming a majority is required and the regional director proceeds with the case if other factors require it unless the labor organization withdraws its claim to majority representation. The field examiner, or other member of the staff, attempts to ascertain from all interested parties whether or not the grouping or unit of employees described in the petition constitutes an appropriate bargaining unit.

(b) The petitioner may on its own initiative request the withdrawal of the petition if the investigation discloses that no question of representation exists within the meaning of the statute, because, among other possible reasons, the

unit is not appropriate, or a written contract precludes further investigation at that time, or where the petitioner is a labor organization or a person seeking decertification and the showing of representation among the employees is insufficient to warrant an election under the 30-percent principle stated in paragraph (a) of this section.

(c) For the same or similar reasons the regional director may request the petitioner to withdraw its petition. If, despite the regional director's recommendations, the petitioner refuses to withdraw the petition, the regional director then dismisses the petition stating the grounds for his dismissal and informing the petitioner of his right of appeal to the Board in Washington, D. C. The petitioner may within 10 days appeal from the regional director's dismissal by filing such request with the Board in Washington, D. C. After a full review of the file with the assistance of its staff, the Board may sustain the dismissal, stating the grounds of its affirmance, or may direct the regional director to take further action.

§ 101.19 *Consent adjustments before formal hearing.* The Board has devised and makes available to the parties two types of informal consent procedures through which representation issues can be resolved without recourse to formal procedures. These informal arrangements are commonly referred to as (a) consent-election agreement, followed by regional director's determination, and (b) consent-election agreement, followed by Board certification. Forms for use in these informal procedures are available in the regional offices.

(a) (1) The consent-election agreement followed by the regional director's determination of representatives is the most frequently used method of informal adjustment of representation cases. The terms of the agreement providing for this form of adjustment are set forth in printed forms, which are available upon request at the Board's regional offices. Under these terms the parties agree with respect to the appropriate unit, the payroll to be used as the basis of eligibility to vote in an election, and the place, date, and hours of balloting. A Board agent arranges the details incident to the mechanics and conduct of the election. For example, he usually arranges preelection conferences in which the parties check the list of voters and attempt to resolve any questions of eligibility. Also, prior to the date of election, official notices of election are, whenever possible, posted conspicuously in the plant. These notices reproduce a sample ballot and outline such election details as location of polls, time of voting, and eligibility rules.

(2) The actual polling is always conducted and supervised by Board agents. Appropriate representatives of each party may assist them and observe the election. As to the mechanics of the election, a ballot is given to each eligible voter by the Board's agents. The ballots are marked in the secrecy of a voting booth. The Board agents and authorized observers have the privilege of challenging for reasonable cause employees who apply for ballots.

(3) Customarily the Board agents, in the presence and with the assistance of the authorized observers, count and tabulate the ballots immediately after the closing of the polls. A complete tally of the ballots is served upon the parties upon the conclusion of the count.

(4) If challenged ballots are sufficient in number to affect the results of the count, the regional director conducts an investigation and rules on the challenges. Similarly, if objections to the conduct of the election are filed within 5 days of the issuance of the tally of ballots, the regional director likewise conducts an investigation and rules upon the objections. If, after investigation, the objections are found to have merit, the regional director may void the election results and conduct a new election.

(5) This form of agreement provides that the rulings of the regional director on all questions relating to the election (for example, eligibility to vote and the validity of challenges and objections) are final and binding. Also, the agreement provides for the conduct of a runoff election, in accordance with the provisions of Part 102 of this chapter (the Board's rules and regulations), if two or more labor organizations appear on the ballot and no one choice receives the majority of the valid votes cast.

(6) The regional director issues to the parties a certification of the results of the election, including certification of representatives where appropriate, with the same force and effect as if issued by the Board.

(b) The consent-election agreement followed by a Board determination provides that disputed matters following the agreed-upon election, if determinative of the results, shall be the basis of a formal decision by the Board instead of an informal determination by the regional director. Thus, it is provided that the Board, rather than the regional director, makes the final determination of questions raised concerning eligibility, challenged votes, and objections to the conduct of the election. Thus, if challenged ballots are sufficient in number to affect the results of the count, the regional director conducts an investigation and issues a report on the challenges instead of ruling thereon. Similarly, if objections to the conduct of the election are filed within 5 days after issuance of the tally of ballots, the regional director likewise conducts an investigation and issues a report instead of ruling upon the validity of the objections. In either event, the regional director's report is served upon the parties, who may file exceptions thereto within 10 days with the Board in Washington, D. C. The Board then reviews the entire record made and may, if a substantial issue is raised, direct a hearing on the challenged ballots or the objections to the conduct of the election. Or, the Board may, if no substantial issues are raised, affirm the regional director's report and take appropriate action in termination of the proceedings. If a hearing is held upon the challenged ballots or objections, all parties are heard and, if directed by the Board, a report containing findings of fact and recommendations as to the disposition of the challenges or objections, or both, and resolving issues of credibility is issued by the hearing officer and served upon the parties, who may file exceptions thereto within 10 days with the Board in Washington, D. C. The record made on the hearing is reviewed by the Board with the assistance of its legal assistants and a final determination made thereon. If the objections are found to have merit, the election results may be voided and a new election conducted under the supervision of the regional director. If the union has been selected as the representative, the Board or the regional director, as the case may be, issues its certification, and the proceeding is terminated. If upon a decertification or employer petition the union loses the election, the Board or the regional director, as the case may be, certifies that the union is not the chosen representative.

§ 101.20 *Formal hearing.* If no informal adjustment of the question concerning representation has been effected and it appears to the regional director that formal action is necessary, the regional director will institute formal proceedings by issuance of a notice of hearing on the issues, which is followed by Board decision and direction of election or dismissal of the case. In certain types of cases, involving novel or complex issues, the regional director may submit the case for advice to the general counsel before issuing notice of hearing.

§ 101.21 *Hearing; procedure after hearing.* (a) The notice of hearing, together with a copy of the petition, is served upon the unions and employer filing or named in the petition and upon other known persons or labor organizations claiming to have been designated by employees involved in the proceeding.

(b) The hearing, usually open to the public, is held before a hearing officer who normally is an attorney or field examiner attached to the regional office but may be another qualified official. The hearing, which is nonadversary in character, is part of the investigation in which the primary interest of the Board's agents is to insure that the record contains as full a statement of the pertinent facts as may be necessary for determination of the case by the Board. The parties are afforded full opportunity to present their respective positions and to produce the significant facts in support of their contentions. In most cases a substantial number of the relevant facts are undisputed and stipulated. The parties are permitted to argue orally on the record before the hearing officer.

(c) Upon the close of the hearing, the entire record in the case is forwarded to the Board in Washington, D. C. The hearing officer also transmits an analysis of the issues and the evidence, but makes no recommendations in regard to resolution of the dispute. All parties may file briefs with the Board within 7 days after the close of the hearing and may also request to be heard orally by the Board. Because of the nature of the proceedings, however, permission to argue orally is rarely granted. After re-

view of the entire case, the Board issues its decision either dismissing the petition or directing that an election be held. In the latter event, the election is conducted under the supervision of the regional director in the manner already described in § 101.19.

(d) The parties have the same rights, and the same procedure is followed, with respect to objections to the conduct of the election and challenged ballots, as has already been described in connection with the postelection procedures in cases involving consent elections to be followed by Board certifications.

(e) If the election involves two or more labor organizations and if the election results are inconclusive because no choice on the ballot received the majority of valid votes cast, a runoff election is held as provided in Part 102 of this chapter (the Board's rules and regulations).

SUBPART D—REFERENDUM CASES UNDER SECTION 9 (e) (1) AND (2) OF THE ACT

§ 101.22 *Initiation of recission of authority cases.* The investigation of the question as to whether the authority of a labor organization to make an agreement requiring membership in a labor organization as a condition of employment is to be rescinded is initiated by the filing of a petition by an employee or group of employees on behalf of 30 percent or more of the employees in a bargaining unit covered by an agreement between their employer and a labor organization requiring membership in such labor organization. The petition must be in writing and signed, and either must be notarized or must contain a declaration by the person signing it, under the penalties of the Criminal Code, that its contents are true and correct to the best of his knowledge and belief. It is filed with the regional director for the region in which the alleged appropriate bargaining unit exists or, if the bargaining unit exists in two or more regions, with the regional director for any such regions. The blank form, which is supplied by the regional office upon request, provides, among other things, for a description of the bargaining unit covered by the agreement, the approximate number of employees involved, and the names of any other labor organizations which claim to represent the employees. Petitioner must supply with the petition, or within 48 hours after filing, its evidence of authorization from the employees.

§ 101.23 *Investigation of petition; withdrawals and dismissals.* (a) Upon receipt of the petition in the regional office, it is filed, docketed, and assigned to a member of the staff, usually a field examiner, for investigation. He conducts an investigation to ascertain (1) whether the employer's operations affect commerce within the meaning of the act, (2) whether there is in effect an agreement requiring as a condition of employment membership in a labor organization, (3) whether petitioner has been authorized by at least 30 percent of the employees to file such a petition, and (4) whether an election would effectuate the policies of the act by providing for a free expression of choice by the employees. The evidence of designation submitted by petitioner, usually in the form of cards signed by individual employees authorizing the filing of such a petition, is checked to determine the proportion of employees who desire rescission.

(b) Petitioner may on its own initiative request the withdrawal of the petition if the investigation discloses that an election is inappropriate, because, among other possible reasons, petitioner's card-showing is insufficient to meet the 30-percent statutory requirement referred to in paragraph (a) of this section.

(c) For the same or similar reasons the regional director may request the petitioner to withdraw its petition. If petitioner, despite the regional director's recommendation, refuses to withdraw the petition, the regional director then dismisses the petition, stating the grounds for his dismissal and informing petitioner of his right of appeal to the Board in Washington, D. C. The petitioner may within 10 days appeal from the regional director's dismissal by filing such request with the Board in Washington, D. C. The request shall contain a complete statement setting forth the facts and reasons upon which the request is made. After a full review of the file, the Board, with the assistance of its staff, may sustain the dismissal, stating the grounds for its affirmance, or may direct the regional director to take further action.

§ 101.24 *Consent agreements providing for election.* The Board makes available to the parties two types of informal consent procedures through which authorization issues can be resolved without resort to formal procedures. These informal agreements are commonly referred to as (a) consent-election agreement, followed by regional director's determination, and (b) consent-election agreement, followed by Board certification. Forms for use in these informal procedures are available in regional offices. The procedures to be used in connection with a consent-election agreement providing for regional director's determination and a consent-election agreement providing for Board certification are the same as those already described in Subpart C of this part in connection with representation cases under section 9 (c) of the act, except that no provision is made for runoff elections.

§ 101.25 *Procedure respecting election conducted without hearing.* If the regional director determines that the case is an appropriate one for election without formal hearing, an election is conducted as quickly as possible among the employees and upon the conclusion of the election the regional director furnishes to the parties a tally of the ballots. The parties, however, have an opportunity to make appropriate challenges and objections to the conduct of the election and they have the same rights, and the same procedure is followed, with respect to objections to the conduct of the election and challenged ballots, as has already been described in Subpart C of this part in connection with the postelection procedures in representation cases under section 9 (c) of the act, except that no provision is made for a runoff election. If no such objections are filed within 5 days and if the challenged ballots are insufficient in number to affect the results of the election, the regional director issues to the parties a certification of the results of the election, with the same force and effect as if issued by the Board.

§ 101.26 *Formal hearing and procedure respecting election conducted after hearing.* (a) If the preliminary investigation indicates that there are substantial issues which require Board determination before an appropriate election may be held, the regional director will institute formal proceedings by issuance of a notice of hearing on the issues which, after hearing, is followed by Board decision and direction of election or dismissal. The notice of hearing together with a copy of the petition is served upon petitioner, the employer, and upon any other known persons or labor organizations claiming to have been designated by employees involved in the proceeding.

(b) The hearing, usually open to the public, is held before a hearing officer who normally is an attorney or field examiner attached to the regional office but may be another qualified official. The hearing, which is nonadversary in character, is part of the investigation in which the primary interest of the Board's agents is to insure that the record contains as full a statement of the pertinent facts as may be necessary for determination of the case by the Board. The parties are afforded full opportunity to present their respective positions and to produce the significant facts in support of their contentions. In most cases a substantial number of the relevant facts are undisputed and stipulated. The parties are permitted to argue orally on the record before the hearing officer.

(c) Upon the close of the hearing, the entire record in the case is then forwarded to the Board in Washington, D. C., together with an informal analysis by the hearing officer of the issues and the evidence but without recommendations. All parties may file briefs with the Board within 7 days after the close of the hearing and may also request to be heard orally by the Board. Because of the nature of the proceedings, however, permission to argue orally is rarely granted. After review of the entire case, the Board issues its decision either dismissing the petition or directing that an election be held. In the latter event, the election is conducted under the supervision of the regional director in the manner already described in § 101.19.

(d) The parties have the same rights, and the same procedure is followed, with respect to objections to the conduct of the election and challenged ballots as has already been described in connection with the postelection procedures in cases involving consent elections to be followed by Board certifications.

SUBPART E—JURISDICTIONAL DISPUTE CASES UNDER SECTION 10 (k) OF THE ACT

§ 101.27 *Initiation of proceedings to hear and determine jurisdictional dis-*

putes under section 10 (k). The investigation of a jurisdictional dispute under section 10 (k) is initiated by the filing of a charge, as described in § 101.2, by any person alleging a violation of paragraph (4) (D) of section 8 (b).

§ 101.28 *Investigation of charges; withdrawal of charges; dismissal of charges and appeals to Board.* These matters are handled as described in §§ 101.3 to 101.7, inclusive. Cases involving violation of paragraph (4) (D) of section 8 (b) are given priority over all other cases in the office except cases under paragraphs (4) (A), (4) (B), and (4) (C) of section 8 (b).

§ 101.29 *Initiation of formal action; settlement.* If, after investigation, it appears to the regional director that the Board should determine the dispute under section 10 (k) of the act, he issues a notice of filing of the charge together with a notice of hearing which includes a simple statement of issues involved in the jurisdictional dispute and which is served on all parties to the dispute out of which the unfair labor practice is alleged to have arisen. The hearing is scheduled for not less than 10 days after service of the notice of hearing. If the parties present to the regional director satisfactory evidence that they have adjusted the dispute, the regional director withdraws the notice of hearing and either permits the withdrawal of the charge or dismisses the charge. If the parties submit to the regional director satisfactory evidence that they have agreed upon methods for the voluntary adjustment of the dispute, the regional director shall defer action upon the charge and shall withdraw the notice of hearing if issued. The parties may agree on an arbitrator, a proceeding under section 9 (c) of the act, or any other satisfactory method to resolve the dispute.

§ 101.30 *Hearing.* If the parties have not adjusted the dispute or agreed upon methods of voluntary adjustment, a hearing, usually open to the public, is held before a hearing officer. The hearing is nonadversary in character, and the primary interest of the hearing officer is to insure that the record contains as full a statement of the pertinent facts as may be necessary for a determination of the issues by the Board. All parties are afforded full opportunity to present their respective positions and to produce evidence in support of their contentions. The parties are permitted to argue orally on the record before the hearing officer. At the close of the hearing, the case is transmitted to the Board for decision. The hearing officer prepares an analysis of the issues and the evidence, but makes no recommendations in regard to resolution of the dispute.

§ 101.31 *Procedure before the Board.* The parties have 7 days after the close of the hearing, subject to any extension that may have been granted, to file briefs with the Board and to request oral argument which the Board may or may not grant. The Board then considers the evidence taken at the hearing and the hearing officer's analysis together with any briefs that may be filed and the oral argument, if any, and issues its determination of the labor organization or the particular trade, craft, or class of employees which shall perform the particular work tasks in issue or make other disposition of the matter.

§ 101.32 *Compliance with determination; further proceedings.* After the issuance of determination by the Board, the regional director in the region in which the proceeding arose communicates with the parties for the purpose of ascertaining their intentions in regard to compliance. Conferences may be held for the purpose of working out details. If the regional director is satisfied that the parties are complying with the determination, he dismisses the charge. If the regional director is not satisfied that the parties are complying, he issues a compliant and notice of hearing, charging violation of section 8 (b) (4) (D) of the act, and the proceeding follows the procedure outlined in §§ 101.8 to 101.15, inclusive.

SUBPART F—PROCEDURE UNDER SECTION 10 (j) AND (l) OF THE ACT

§ 101.33 *Application for temporary relief or restraining orders.* Whenever the regional director deems it advisable to seek temporary injunctive relief under section 10 (j), or whenever he determines that complaint should issue alleging violation of section 8 (b) (4) (A), (B), or (C), or whenever he deems it appropriate to seek temporary injunctive relief for a violation of section 8 (b) (4) (D), the officer or regional attorney to whom the matter has been referred will make application for appropriate temporary relief or restraining order in the district court of the United States within which the unfair labor practice is alleged to have occurred or within which the party sought to be enjoined resides or transacts business.

§ 101.34 *Change of circumstances.* Whenever a temporary injunction has been obtained pursuant to section 10 (j) and thereafter the trial examiner hearing the complaint, upon which the determination to seek such injunction was predicated, recommends dismissal of such complaint, in whole or in part, the officer or regional attorney handling the case for the Board suggests to the district court which issued the temporary injunction the possible change in circumstances arising out of the findings and recommendations of the trial examiner.

PART 102—RULES AND REGULATIONS, SERIES 7

Subpart A—Definitions

Subpart B—Procedure Under Section 10 (a) to (i) of the Act for the Prevention of Unfair Labor Practices

AUTHORITY: §§ 102.1 to 102.102 issued under sec. 6, 49 Stat. 452, as amended; 29 U. S. C. 156.

SUBPART A—DEFINITIONS

§ 102.1 *Terms defined in section 2 of the act.* The terms "person," "employer," "employee," "representative," "labor organization," "commerce," "affecting commerce," and "unfair labor practice," as used in this part, shall have the meanings set forth in section 2 of the National Labor Relations Act, as amended by title I of the Labor Management Relations Act, 1947.

§ 102.2 *Act; Board; Board agent.* The term "act" as used in this part shall mean the National Labor Relations Act, as amended. The term "Board" shall mean the National Labor Relations Board and shall include any group of three or more members designated pursuant to section 3 (b) of the act. The term "Board agent" shall mean any member, agent, or agency of the Board, including its general counsel.

§ 102.3 *General counsel.* The term "general counsel" as used in this part shall mean the general counsel under section 3 (d) of the act.

§ 102.4 *Region.* The term "region" as used in this part shall mean that part of the United States or any Territory thereof fixed by the Board as a particular region.

§ 102.5 *Regional director; regional attorney.* The term "regional director" as used in this part shall mean the agent designated by the Board as regional director for a particular region. The term "regional attorney" as used in this part shall mean the attorney designated by the Board as regional attorney for a particular region.

§ 102.6 *Trial examiner; hearing officer.* The term "trial examiner" as used in this part shall mean the agent of the Board conducting the hearing in an unfair labor practice or Telegraph Merger Act proceeding. The term "hearing officer" as used in this part shall mean the agent of the Board conducting the hearing in a proceeding under section 9 or in a dispute proceeding under section 10 (k) of the act.

§ 102.7 *State.* The term "State" as used in this part shall include the District of Columbia and all States, Territories, and possessions of the United States.

§ 102.8 *Party.* The term "party" as used in this part shall mean the regional director in whose region the proceeding is pending and any person named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party, in any Board proceeding, including, without limitation, any person filing a charge or petition under the act, any person named as respondent, as employer, or as party to a contract in any proceeding under the act, and any labor organization alleged to be dominated, assisted, or supported in violation of section 8 (a) (1) or 8 (a) (2) of the act; but nothing in this part shall be construed to prevent the Board or its designated agent from limiting any party to participate in the proceedings to the extent of his interest only.

SUBPART B—PROCEDURE UNDER SECTION 10 (a) TO (i) OF THE ACT FOR THE PREVENTION OF UNFAIR LABOR PRACTICES [1]

CHARGE

§ 102.9 *Who may file; withdrawal and dismissal.* A charge that any person

[1] Procedure under sec. 10 (j) to (l) of the act is governed by Subparts E and F of this part.

has engaged in or is engaging in any unfair labor practice affecting commerce may be made by any person: *Provided*, That if such charge is filed by a labor organization, no complaint will be issued pursuant thereto, unless such labor organization is in compliance with the requirements of section 9 (f), (g), and (h) of the act, within the meaning of § 102.13. Any such charge may be withdrawn, prior to the hearing, only with the consent of the regional director with whom such charge was filed; at the hearing and until the case has been transferred to the Board pursuant to § 102.45, upon motion, with the consent of the trial examiner designated to conduct the hearing; and after the case has been transferred to the Board pursuant to § 102.45, upon motion, with the consent of the Board. Upon withdrawal of any charge, any complaint based thereon shall be dismissed by the regional director issuing the complaint, the trial examiner designated to conduct the hearing, or the Board.

§ 102.10 *Where to file.* Except as provided in § 102.33 such charge shall be filed with the regional director for the region in which the alleged unfair labor practice has occurred or is occurring. A charge alleging that an unfair labor practice has occurred or is occurring in two or more regions may be filed with the regional director for any of such regions.

§ 102.11 *Forms; jurat; or declaration.* Such charge shall be in writing and signed, and either shall be sworn to before a notary public, Board agent, or other person duly authorized by law to administer oaths and take acknowledgments or shall contain a declaration by the person signing it, under the penalties of the Criminal Code, that its contents are true and correct to the best of his knowledge and belief. Three additional copies of such charge shall be filed together with one additional copy for each named party respondent.[3]

§ 102.12 *Contents.* Such charge shall contain the following:

(a) The full name and address of the person making the charge.

(b) If the charge is filed by a labor organization, the full name and address of any national or international labor organization of which it is an affiliate or constituent unit.

(c) The full name and address of the person against whom the charge is made (hereinafter referred to as the "respondent").

(d) A clear and concise statement of the facts constituting the alleged unfair labor practices affecting commerce.

§ 102.13 *Compliance with section 9 (f), (g), and (h) of the act.* (a) For the purpose of the rules and regulations in this part, compliance with section 9 (f) and (g) of the act means (1) that the Secretary of Labor has issued to the labor organization, pursuant to the rules of the Department of Labor, a letter showing that the labor organization has filed the material required under section 9 (f) and (g) of the act; (2) that the labor organization has filed with the general counsel in Washington, D. C., or with the regional director, either as part of the charge (or petition) or otherwise, the duplicate copy of such compliance letter; and (3) that the labor organization has filed with the general counsel or with the regional director for the region in which the proceeding is pending or in which it customarily files cases, either as part of the charge (or petition) or otherwise, a declaration executed by an authorized agent stating that the labor organization has complied with section 9 (f) (B) (2) of the act requiring that it furnish to all of its members copies of the financial report filed with the Department of Labor, and setting forth the method by which such compliance was made.

(b) For the purpose of the rules and regulations in this part, compliance with section 9 (h) of the act means that, in the case of a national or international labor organization, it has filed with the general counsel in Washington, D. C., and, in the case of a local labor organization, that any national or international labor organization of which it is an affiliate or constituent body has filed with the general counsel in Washington, D. C., and that the labor organization has filed with the regional director in the region in which the proceeding is pending:

(1) A declaration by an authorized representative of the labor organization, executed contemporaneously with the charge (or petition) or within the preceding 12-month period, listing the titles of all offices of the filing organization and stating the name of the incumbent, if any, in each such office and the date of expiration of each incumbent's term.

(2) An affidavit by each officer referred to in subparagraph (1) of this paragraph, executed contemporaneously with the charge (or petition) or within the preceding 12-month period, stating that he is not a member of the Communist Party or affiliated with such party, and that he does not believe in, and is not a member of or supports any organization that believes in or teaches, the overthrow of the United States Government by force or by any illegal or unconstitutional methods.

(3) The term "officer" as used in subparagraph (2) of this paragraph shall mean any person occupying a position identified as an office in the constitution of the labor organization; except, however, that where the Board has reasonable cause to believe that a labor organization has omitted from its constitution the designation of any position as an office for the purpose of evading or circumventing the filing requirements of section 9 (h) of the act, the Board may, upon appropriate notice, conduct an investigation to determine the facts in that regard, and where the facts appear to warrant such action the Board may require affidavits from persons other than incumbents of positions identified by the constitution as offices before the labor organization will be recognized as having complied with section 9 (h) of the act.

§ 102.14 *Service of charge.* Upon the filing of a charge, the charging party shall be responsible for the timely and proper service of a copy thereof upon the person against whom such charge is made. The regional director will, as a matter of course, cause a copy of such charge to be served upon the person against whom the charge is made, but he shall not be deemed to assume responsibility for such service.

Complaint

§ 102.15 *When and by whom issued; contents; service.* After a charge has been filed, if it appears to the regional director that formal proceedings in respect thereto should be instituted, he shall issue and cause to be served upon all the other parties a formal complaint in the name of the Board stating the unfair labor practices and containing a notice of hearing before a trial examiner at a place therein fixed and at a time not less than 10 days after the service of the complaint.

§ 102.16 *Hearing; extension.* Upon his own motion or upon proper cause shown by any other party, the regional director issuing the complaint may extend the date of such hearing.

§ 102.17 *Amendment.* Any such complaint may be amended upon such terms as may be deemed just, prior to the hearing, by the regional director issuing the complaint; at the hearing and until the case has been transferred to the Board pursuant to § 102.45, upon motion, by the trial examiner designated to conduct the hearing; and after the case has been transferred to the Board pursuant to § 102.45, at any time prior to the issuance of an order based thereon, upon motion, by the Board.

§ 102.18 *Withdrawal.* Any such complaint may be withdrawn before the hearing by the regional director on his own motion.

§ 102.19 *Review by the general counsel of refusal to issue.* If, after the charge has been filed, the regional director declines to issue a complaint, he shall so advise the parties in writing, accompanied by a simple statement of the procedural or other grounds. The person making the charge may obtain a review of such action by filing a request therefor with the general counsel in Washington, D. C., and filing a copy of the request with the regional director, within 10 days from the service of the notice of such refusal by the regional director. The request shall contain a complete statement setting forth the facts and reasons upon which the request is based.

Answer

§ 102.20 *Answer to complaint; time for filing; contents; allegations not denied deemed admitted.* The respondent shall, within 10 days from the service of the complaint, file an answer thereto. The respondent shall specifically admit, deny, or explain each of the facts alleged in the complaint, unless the respondent is without knowledge, in which case the respondent shall so state, such statement operating as a denial. All allegations in the complaint, if no answer

[3] A blank form for making a charge will be supplied by the regional director upon request.

is filed, or any allegation in the complaint not specifically denied or explained in an answer filed, unless the respondent shall state in the answer that he is without knowledge, shall be deemed to be admitted to be true and shall be so found by the Board, unless good cause to the contrary is shown.

§ 102.21 *Where to file; service upon the parties; form.* An original and four copies of the answer shall be filed with the regional director issuing the complaint. Immediately upon the filing of his answer, respondent shall serve a copy thereof on each of the other parties. An answer of a party represented by counsel shall be signed by at least one attorney of record in his individual name, whose address shall be stated. A party who is not represented by an attorney shall sign his answer and state his address. Except when otherwise specifically provided by rule or statute, an answer need not be verified or accompanied by affidavit. The signature of an attorney constitutes a certificate by him that he has read the answer; 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 an answer is not signed or is signed with intent to defeat the purpose of this rule, it may be stricken as sham and false and the action may proceed as though the answer had not been served. For a willful violation of this rule an attorney may be subjected to appropriate disciplinary action. Similar action may be taken if scandalous or indecent matter is inserted.

§ 102.22 *Extension of time for filing.* Upon his own motion or upon proper cause shown by any other party the regional director issuing the complaint may by written order extend the time within which the answer shall be filed.

§ 102.23 *Amendment.* The respondent may amend his answer at any time prior to the hearing. During the hearing or subsequent thereto, he may amend his answer in any case where the complaint has been amended, within such period as may be fixed by the trial examiner or the Board. Whether or not the complaint has been amended, the answer may, in the discretion of the trial examiner or the Board, upon motion, be amended upon such terms and within such periods as may be fixed by the trial examiner or the Board.

MOTIONS

§ 102.24 *Motions; where to file prior to hearing and during hearing; contents; service on other parties.* All motions made prior to the hearing shall be filed in writing with the regional director issuing the complaint, and shall briefly state the order or relief applied for and the grounds for such motion. The moving party shall file an original and four copies of all such motions and immediately serve a copy thereof upon each of the other parties. All motions made at the hearing shall be made in writing to the trial examiner or stated orally on the record.

§ 102.25 *Ruling on motions; where to file motions after hearing and before transfer of case to Board.* The trial examiner designated to conduct the hearing shall rule upon all motions (except as provided in §§ 102.16, 102.22, 102.29, and 102.47). The trial examiner may, before the hearing, rule on motions filed prior to the hearing, and shall cause copies of his ruling to be served upon all the parties. All motions filed subsequent to the hearing, but before the transfer of the case to the Board pursuant to § 102.45, shall be filed with the trial examiner, care of the chief trial examiner in Washington, D. C., or associate chief trial examiner, San Francisco, California, as the case may be, and a copy thereof shall be served on each of the parties. Rulings by the trial examiner on motions, and any orders in connection therewith, if announced at the hearing, shall be stated orally on the record; in all other cases such rulings and orders shall be issued in writing. The trial examiner shall cause a copy of the same to be served upon each of the other parties, or shall make his ruling in the intermediate report. Whenever the trial examiner has reserved his ruling on any motion, and the proceeding is thereafter transferred to and continued before the Board pursuant to § 102.50, the Board shall rule on such motion.

§ 102.26 *Motions; rulings and orders part of the record; rulings not to be appealed directly to Board without special permission; requests for special permission to appeal.* All motions, rulings, and orders shall become part of the record, except that rulings on motions to revoke subpenas shall become a part of the record only upon the request of the party aggrieved thereby, as provided in § 102.31. Unless expressly authorized by the rules and regulations in this part, rulings by the regional director and by the trial examiner on motions, by the trial examiner on objections, and orders in connection therewith, shall not be appealed directly to the Board except by special permission of the Board, but shall be considered by the Board in reviewing the record, if exception to the ruling or order is included in the statement of exceptions filed with the Board, pursuant to § 102.46. Requests to the Board for special permission to appeal from such rulings of the regional director or the trial examiner shall be filed promptly, in writing, and shall briefly state the grounds relied on. The moving party shall immediately serve a copy thereof on each other party.

§ 102.27 *Review of granting of motion to dismiss entire complaint; reopening of record.* If any motion in the nature of a motion to dismiss the complaint in its entirety is granted by the trial examiner before filing his intermediate report, any party may obtain a review of such action by filing a request therefor with the Board in Washington, D. C., stating the grounds for review and immediately on such filing shall serve a copy thereof on the regional director and the other parties. Unless such request for review is filed within 10 days from the date of the order of dismissal, the case shall be closed.

§ 102.28 *Filing of answer or other participation in proceedings not a waiver of rights.* The right to make motions or to make objections to rulings upon motions shall not be deemed waived by the filing of an answer or by other participation in the proceedings before the trial examiner or the Board.

INTERVENTION

§ 102.29 *Intervention; requisites; rulings on motions to intervene.* Any person desiring to intervene in any proceeding shall file a motion in writing or, if made at the hearing, may move orally on the record, stating the grounds upon which such person claims an interest. Prior to the hearing, such a motion shall be filed with the regional director issuing the complaint; during the hearing such motion shall be made to the trial examiner. An original and four copies of written motions shall be filed. Immediately upon filing such motion, the moving party shall serve a copy thereof upon each of the other parties. The regional director shall rule upon all such motions filed prior to the hearing, and shall cause a copy of said rulings to be served upon each of the other parties, or may refer the motion to the trial examiner for ruling. The trial examiner shall rule upon all such motions made at the hearing or referred to him by the regional director, in the manner set forth in § 102.25. The regional director or the trial examiner, as the case may be, may by order permit intervention in person or by counsel or other representative to such extent and upon such terms as he may deem proper.

WITNESSES, DEPOSITIONS, AND SUBPENAS

§ 102.30 *Examination of witnesses; depositions.* Witnesses shall be examined orally under oath, except that for good cause shown after the issuance of a complaint, testimony may be taken by deposition.

(a) Applications to take depositions shall be in writing setting forth the reasons why such depositions should be taken, the name and post office address of the witness, the matters concerning which it is expected the witness will testify, and the time and place proposed for the taking of the deposition, together with the name and address of the person before whom it is desired that the deposition be taken (for the purposes of this section hereinafter referred to as the "officer"). Such application shall be made to the regional director prior to the hearing, and to the trial examiner during and subsequent to the hearing but before transfer of the case to the Board pursuant to § 102.45 or § 102.50. Such application shall be served upon the regional director or the trial examiner, as the case may be, and upon all other parties, not less than 7 days (when the deposition is to be taken within the continental United States) and 15 days (if the deposition is to be taken elsewhere) prior to the time when it is desired that the deposition be taken. The regional director or trial examiner, as the case may be, shall upon receipt of the application, if in his discretion good cause has been shown, make and serve upon the parties an order which will specify the

name of the witness whose deposition is to be taken and the time, the place, and the designation of the officer before whom the witness is to testify, who may or may not be the same officer as that specified in the application. Such order shall be served upon all the other parties by the regional director or upon all parties by the trial examiner.

(b) Such deposition may be taken before any officer authorized to administer oaths by the laws of the United States or of the place where the examination is held, including any agent of the Board authorized to administer oaths. If the examination is held in a foreign country, it may be taken before any secretary of embassy or legation, consul general, consul, vice consul, or consular agent of the United States.

(c) At the time and place specified in said order the officer designated to take such deposition shall permit the witness to be examined and cross-examined under oath by all the parties appearing, and his testimony shall be reduced to typewriting by the officer or under his direction. All objections to questions or evidence shall be deemed waived unless made at the examination. The officer shall not have power to rule upon any objections but he shall note them upon the deposition. The testimony shall be subscribed by the witness in the presence of the officer who shall attach his certificate stating that the witness was duly sworn by him, that the deposition is a true record of the testimony and exhibits given by the witness, and that said officer is not of counsel or attorney to any of the parties nor interested in the event of the proceeding or investigation. If the deposition is not signed by the witness because he is ill, dead, cannot be found, or refuses to sign it, such fact shall be included in the certificate of the officer and the deposition may then be used as fully as though signed. The officer shall immediately deliver an original and two copies of said transcript, together with his certificate, in person or by registered mail to the regional director or the trial examiner, care of the chief trial examiner in Washington, D. C., or associate chief trial examiner, San Francisco, California, as the case may be.

(d) The trial examiner shall rule upon the admissibility of the deposition or any part thereof.

(e) All errors or irregularities in compliance with the provisions of this section shall be deemed waived unless a motion to suppress the deposition or some part thereof is made with reasonable promptness after such defect is or, with due diligence, might have been ascertained.

(f) If the parties so stipulate in writing, depositions may be taken before any person at any time or place, upon any notice and in any manner, and when so taken may be used like other depositions.

§ 102.31 *Issuance of subpenas; petitions to revoke subpenas; right to inspect or copy data.* (a) Any member of the Board shall, on the written application of any party, forthwith issue subpenas requiring the attendance and testimony of witnesses and the production of any evidence, including books, records, correspondence, or documents in their possession or under their control. Applications for subpenas, if filed prior to the hearing, shall be filed with the regional director. Applications for subpenas filed during the hearing shall be filed with the trial examiner. Either the regional director or the trial examiner, as the case may be, shall grant the application, on behalf of any member of the Board. Applications for subpenas may be made *ex parte*. The subpena shall show on its face the name and address of the party at whose request the subpena was issued.

(b) Any person served with a subpena, whether *ad testificandum* or *duces tecum*, if he does not intend to comply with the subpena, shall, within 5 days after the date of service of the subpena upon him, petition in writing to revoke the subpena. All petitions to revoke subpenas shall be served upon the party at whose request the subpena was issued. Such petition to revoke, if made prior to the hearing, shall be filed with the regional director and the regional director shall refer the petition to the trial examiner or the Board for ruling. Petitions to revoke subpenas filed during the hearing shall be filed with the trial examiner. Notice of the filing of petitions to revoke shall be promptly given by the regional director or the trial examiner, as the case may be, to the party at whose request the subpena was issued. The trial examiner or the Board, as the case may be, shall revoke the subpena if in its opinion the evidence whose production is required does not relate to any matter under investigation or in question in the proceedings or the subpena does not describe with sufficient particularity the evidence whose production is required, or if for any other reason sufficient in law the subpena is otherwise invalid. The trial examiner or the Board, as the case may be, shall make a simple statement of procedural or other grounds for the ruling on the petition to revoke. The petition to revoke, any answer filed thereto, and any ruling thereon shall not become part of the official record except upon the request of the party aggrieved by the ruling.

(c) Persons compelled to submit data or evidence at a public proceeding are entitled to retain or, on payment of lawfully prescribed costs, to procure copies or transcripts of the data or evidence submitted by them. Persons compelled to submit data or evidence in the nonpublic investigative stages of proceedings may, for good cause, be limited by the regional director to inspection of the official transcript of their testimony, but shall be entitled to make copies of documentary evidence or exhibits which they have produced.

(d) Upon the failure of any person to comply with a subpena issued upon the request of a private party, the general counsel shall, in the name of the Board but on relation of such private party, institute proceedings in the appropriate district court for the enforcement thereof, unless in the judgment of the Board the enforcement of such subpena would be inconsistent with law and with the policies of the act. Neither the general counsel nor the Board shall be deemed thereby to have assumed responsibility for the effective prosecution of the same before the court.

§ 102.32 *Payment of witness fees and mileage; fees of persons taking depositions.* Witnesses summoned before the trial examiner shall be paid the same fees and mileage that are paid witnesses in the courts of the United States, and witnesses whose depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like services in the courts of the United States. Witness fees and mileage shall be paid by the party at whose instance the witnesses appear and the person taking the deposition shall be paid by the party at whose instance the deposition is taken.

TRANSFER, CONSOLIDATION, AND SEVERANCE

§ 102.33 *Transfer of charge and proceeding from region to region; consolidation of proceedings in same region; severance.* Whenever the general counsel deems it necessary in order to effectuate the purposes of the act or to avoid unnecessary costs or delay, he may permit a charge to be filed with him in Washington, D. C., or may, at any time after a charge has been filed with a regional director pursuant to § 102.10, order that such charge and any proceeding which may have been initiated with respect thereto:

(a) Be transferred to and continued before him for the purpose of investigation or consolidation with any other proceeding which may have been instituted in a regional office or with him; or

(b) Be consolidated with any other proceeding which may have been instituted in the same region; or

(c) Be transferred to and continued in any other region for the purpose of investigation or consolidation with any proceeding which may have been instituted in or transferred to such other region.

The provisions of §§ 102.9 to 102.32, inclusive, shall, insofar as applicable, govern proceedings before the general counsel pursuant to this section, and the powers granted to regional directors in such provisions shall, for the purpose of this section, be reserved to and exercised by the general counsel. After the transfer of any charge and any proceeding which may have been instituted with respect thereto from one region to another pursuant to this section, the provisions of this subpart shall, insofar as applicable, govern such charge and such proceeding as if the charge had originally been filed in the region to which the transfer is made. Motions to sever proceedings may be filed before hearing, with the regional director, and during the hearing, with the trial examiner. The regional director shall refer all such motions filed with him to the trial examiner for ruling. Rulings by the trial examiner on motions to sever may be appealed to the Board in accordance with § 102.26.

HEARINGS

§ 102.34 *Who shall conduct; to be public unless otherwise ordered.* The hearing for the purpose of taking evidence upon a complaint shall be conducted by a trial examiner designated by the chief trial examiner in Washington, D. C., or the associate chief trial examiner, San Francisco, California, as the case may be, unless the Board or any member thereof presides. At any time a trial examiner may be designated to take the place of the trial examiner previously designated to conduct the hearing. Such hearings shall be public unless otherwise ordered by the Board or the trial examiner.

§ 102.35 *Duties and powers of trial examiners.* It shall be the duty of the trial examiner to inquire fully into the facts as to whether the respondent has engaged in or is engaging in an unfair labor practice affecting commerce as set forth in the complaint or amended complaint. The trial examiner shall have authority, with respect to cases assigned to him, between the time he is designated and transfer of the case to the Board, subject to the rules and regulations of the Board and within its powers:

(a) To administer oaths and affirmations;

(b) To grant applications for subpenas;

(c) To rule upon petitions to revoke subpenas;

(d) To rule upon offers of proof and receive relevant evidence;

(e) To take or cause depositions to be taken whenever the ends of justice would be served thereby;

(f) To regulate the course of the hearing and, if appropriate or necessary, to exclude persons or counsel from the hearing for contemptuous conduct and to strike all related testimony of witnesses refusing to answer any proper question;

(g) To hold conferences for the settlement or simplification of the issues by consent of the parties, but not to adjust cases;

(h) To dispose of procedural requests or similar matters, including motions referred to the trial examiner by the regional director and motions to amend pleadings; also to dismiss complaints or portions thereof, and to order hearings reopened prior to issuance of intermediate reports (recommended decisions);

(i) To make and file intermediate reports in conformity with section 8 of the Administrative Procedure Act;

(j) To call, examine, and cross-examine witnesses and to introduce into the record documentary or other evidence;

(k) To take any other action necessary under the foregoing and authorized by the published rules and regulations of the Board.

§ 102.36 *Unavailability of trial examiners.* In the event the trial examiner designated to conduct the hearing becomes unavailable to the Board after the hearing has been concluded and before the filing of his intermediate report, the Board may transfer the case to itself for purposes of further hearing or issuance of an intermediate report or both on the record as made, or may request the chief trial examiner in Washington, D. C., or associate chief trial examiner, San Francisco, California, as the case may be, to designate another trial examiner for such purposes.

§ 102.37 *Disqualification of trial examiners.* A trial examiner may withdraw from a proceeding whenever he deems himself disqualified. Any party may request the trial examiner, at any time following his designation by the chief trial examiner or associate chief trial examiner and before filing of his intermediate report, to withdraw on ground of personal bias or disqualification, by filing with him promptly upon the discovery of the alleged facts a timely affidavit setting forth in detail the matters alleged to constitute grounds for disqualification. If, in the opinion of the trial examiner, such affidavit is filed with due diligence and is sufficient on its face, he shall forthwith disqualify himself and withdraw from the proceeding. If the trial examiner does not disqualify himself and withdraw from the proceeding, he shall so rule upon the record, stating the grounds for his ruling and proceed with the hearing, or if the hearing has closed, he shall proceed with issuance of his intermediate report, and the provisions of § 102.26, with respect to review of rulings of trial examiners, shall thereupon apply.

§ 102.38 *Rights of parties.* Any party shall have the right to appear at such hearing in person, by counsel, or by other representative, to call, examine, and cross-examine witnesses, and to introduce into the record documentary or other evidence, except that the participation of any party shall be limited to the extent permitted by the trial examiner: *And provided further,* That documentary evidence shall be submitted in duplicate.

§ 102.39 *Rules of evidence controlling so far as practicable.* Any such proceeding shall, so far as practicable, be conducted in accordance with the rules of evidence applicable in the district courts of the United States under the rules of civil procedure for the district courts of the United States, adopted by the Supreme Court of the United States pursuant to the act of June 19, 1934 (U. S. C., title 28, secs. 723–B, 723–C).

§ 102.40 *Stipulations of fact admissible.* In any such proceeding stipulations of fact may be introduced in evidence with respect to any issue.

§ 102.41 *Objection to conduct of hearing; how made; objections not waived by further participation.* Any objection with respect to the conduct of the hearing, including any objection to the introduction of evidence, may be stated orally or in writing, accompanied by a short statement of the grounds of such objection, and included in the record. No such objection shall be deemed waived by further participation in the hearing.

§ 102.42 *Filing of briefs and proposed findings with the trial examiner and oral argument at the hearing.* Any party shall be entitled, upon request, to a reasonable period at the close of the hearing for oral argument, which shall be included in the stenographic report of the hearing. Any party shall be entitled, upon request made before the close of the hearing, to file a brief or proposed findings and conclusions, or both, with the trial examiner who may fix a reasonable time for such filing, but not in excess of 35 days from the close of the hearing. Requests for further extensions of time shall be made to the chief trial examiner in Washington, D. C., or associate chief trial examiner, San Francisco, California, as the case may be. No request will be considered unless received at least 3 days prior to the expiration of the time fixed for the filing of briefs or proposed findings and conclusions. Notice of the request for any extension shall be immediately served upon all other parties, and proof of service shall be furnished. Three copies of the brief or proposed findings and conclusions shall be filed with the trial examiner, and copies shall be served upon each of the other parties, and proof of such service shall be furnished.

§ 102.43 *Continuance and adjournment.* In the discretion of the trial examiner, the hearing may be continued from day to day, or adjourned to a later date or to a different place, by announcement thereof at the hearing by the trial examiner, or by other appropriate notice.

§ 102.44 *Misconduct at hearing before trial examiner or the Board; refusal of witness to answer questions.* (a) Misconduct at any hearing before a trial examiner or before the Board shall be ground for summary exclusion from the hearing.

(b) Such misconduct of an aggravated character, when engaged in by an attorney or other representative of a party, shall be ground for suspension or disbarment by the Board from further practice before it after due notice and hearing.

(c) The refusal of a witness at any such hearing to answer any question which has been ruled to be proper shall, in the discretion of the trial examiner, be ground for striking all testimony previously given by such witness on related matters.

INTERMEDIATE REPORT AND TRANSFER OF CASE TO THE BOARD

§ 102.45 *Intermediate report and recommended order; contents; service; transfer of the case to the Board; contents of record in case.* (a) After hearing for the purpose of taking evidence upon a complaint, the trial examiner shall prepare an intermediate report and recommended order, but the initial decision shall be made by the Board. Such report shall contain findings of fact, conclusions, and the reasons or basis therefor, upon all material issues of fact, law, or discretion presented on the record, and the recommended order shall contain recommendations as to what disposition of the case should be made, which may include, if it be found that the respondent has engaged in or is engaging in the alleged unfair labor practices, a recommendation for such affirmative action by the respondent as will effectuate the

policies of the act. The trial examiner shall file the original of the intermediate report and recommended order with the Board and cause a copy thereof to be served upon each of the parties. Upon the filing of the report and recommended order, the Board shall enter an order transferring the case to the Board and shall serve copies of the order, setting forth the date of such transfer, upon all the parties. Service of the intermediate report and of the order transferring the case to the Board shall be complete upon mailing.

(b) The charge upon which the complaint was issued and any amendments thereto, the complaint and any amendments thereto, notice of hearing, answer and any amendments thereto, motions, rulings, orders, the stenographic report of the hearing, stipulations, exhibits, documentary evidence, and depositions, together with the intermediate report and recommended order and exceptions, shall constitute the record in the case.

EXCEPTIONS TO THE RECORD AND PROCEEDINGS

§ 102.46 *Exceptions or supporting briefs; time for filing; where to file; service on parties; extension of time; effect of failure to include matter in exceptions; oral arguments.* (a) Within 20 days, or within such further period as the Board may allow, from the date of the service of the order transferring the case to the Board, pursuant to § 102.45, any party may (in accordance with section 10 (c) of the act and §§ 102.90 and 102.91) file with the Board in Washington, D. C., 7 copies of a statement in writing setting forth exceptions to the intermediate report and recommended order or to any other part of the record or proceedings (including rulings upon all motions or objections), together with 7 copies of a brief in support of said exceptions and immediately upon such filing copies shall be served on each of the other parties; and any party may, within the same period, file 7 copies of a brief in support of the intermediate report and recommended order. Copies of such exceptions and briefs shall immediately be served on each of the other parties. Statements of exceptions and briefs shall designate by precise citation of page and line the portions of the record relied upon. Upon special leave of the Board, any party may file a reply brief upon such terms as the Board may impose. Requests for such leave or for extension of the time in which to file exceptions or briefs under authority of this section shall be in writing and copies thereof shall be immediately served on each of the other parties. Requests for an extension must be received by the Board 3 days prior to the due date.

(b) No matter not included in a statement of exceptions may thereafter be urged before the Board, or in any further proceeding.

(c) Should any party desire permission to argue orally before the Board, request therefor must be made in writing to the Board simultaneously with the statement of any exceptions filed pursuant to the provisions of paragraph (a) of this section with proof of service on all other parties furnished with such request. The Board shall notify the parties of the time and place of oral argument, if such permission is granted.

(d) Oral arguments are limited to 30 minutes for each party entitled to participate. No request for additional time will be granted unless timely application is made in advance of oral argument.

(e) Exceptions to intermediate reports and recommended orders, or to the record, briefs in support of exceptions, and briefs in support of intermediate reports and recommended orders shall be legibly printed or otherwise legibly duplicated: *Provided, however,* That carbon copies of typewritten matter shall not be filed and if submitted will not be accepted.

§ 102.47 *Filing of motion after transfer of case to Board.* All motions filed after the case has been transferred to the Board pursuant to § 102.45 shall be filed with the Board in Washington, D. C., by transmitting seven copies thereof, together with an affidavit of service, upon each of the parties. Such motions shall be legibly printed or otherwise duplicated: *Provided, however,* That carbon copies of typewritten matter shall not be filed and if submitted will not be accepted.

PROCEDURE BEFORE THE BOARD

§ 102.48 *Action of Board upon expiration of time to file exceptions to intermediate report.* (a) In the event no statement of exceptions is filed as provided in this part, the findings, conclusions, and recommendations of the trial examiner as contained in his intermediate report and recommended order shall be adopted by the Board and become its findings, conclusions, and order, and all objections and exceptions thereto shall be deemed waived for all purposes. However, the Board may, in its discretion, order such case closed upon compliance.

(b) Upon the filing of a statement of exceptions and briefs, as provided in § 102.46, the Board may decide the matter forthwith upon the record, or after oral argument, or may reopen the record and receive further evidence before a member of the Board or other Board agent or agency, or may close the case upon compliance with recommendations of the intermediate report, or may make other disposition of the case.

§ 102.49 *Modification or setting aside of order of Board before record filed in court; action thereafter.* Within the limitations of the provisions of section 10 (c) of the act, and § 102.48, until a transcript of the record in a case shall have been filed in a court, within the meaning of section 10 of the act, the Board may at any time upon reasonable notice modify or set aside, in whole or in part, any findings of fact, conclusions of law, or order made or issued by it. Thereafter, the Board may proceed pursuant to § 102.50, insofar as applicable.

§ 102.50 *Hearings before Board or member thereof.* Whenever the Board deems it necessary in order to effectuate the purpose of the act or to avoid unnecessary costs or delay, it may, at any time after a complaint has issued pursuant to § 102.15 or § 102.33, order that such complaint and any proceeding which may have been instituted with respect thereto be transferred to and continued before it or any member of the Board. The provisions of this subpart shall, insofar as applicable, govern proceedings before the Board or any member pursuant to this section, and the powers granted to trial examiners in such provisions shall, for the purpose of this section, be reserved to and exercised by the Board or the member thereof who shall preside.

§ 102.51 *Settlement or adjustment of issues.* At any stage of a proceeding prior to hearing, where time, the nature of the proceeding, and the public interest permit, all interested parties shall have opportunity to submit to the regional director, with whom the charge was filed, for consideration facts, arguments, offers of settlement, or proposals of adjustment.

BACK-PAY PROCEEDINGS

§ 102.52 *Initiation of proceedings.* After the entry of a court decree enforcing an order of the Board directing the payment of back pay, if it appears to the regional director that there has arisen a controversy between the Board and a respondent concerning the amount of back pay due which cannot be resolved without a formal proceeding, the regional director shall issue and cause to be served upon the respondent a back-pay specification in the name of the Board. The specification shall contain or be accompanied by a notice of hearing before a trial examiner at a place therein fixed and at a time not less than 15 days after the service of the specification.

§ 102.53 *Contents of back-pay specification.* The specification shall specifically and in detail show, for each employee, the back-pay periods broken down by calendar quarters, the specific figures and basis of computation as to gross back pay and interim earnings, the expenses for each quarter, the net back pay due, and any other pertinent information.

§ 102.54 *Answer to back-pay specification*—(a) *Filing and service of answer.* The respondent shall, within 15 days from the service of the specification, file an answer thereto; an original and 4 copies shall be filed with the regional director issuing the specification, and a copy thereof shall immediately be served on any other respondent jointly liable.

(b) *Contents of the answer.* The answer shall be in writing, the original being signed and sworn to by the respondent or by a duly authorized agent with appropriate power of attorney affixed, and shall contain the post office address of the respondent. The respondent shall specifically admit, deny, or explain each and every allegation of the specification, unless the respondent is without knowledge, in which case the respondent shall so state, such statement operating as a denial. Denials shall fairly meet the substance of the allegations denied. When a respondent intends to deny only a part of an allega-

tion, the respondent shall specify so much of it as is true and shall deny only the remainder. As to all matters within the knowledge of the respondent, including but not limited to the various factors entering into the computation of gross back pay, a general denial shall not suffice. As to such matters, if the respondent disputes either the accuracy of the figures in the specification or the premises on which they are based, he shall specifically state the basis for his disagreement, setting forth in detail his position as to the applicable premises and furnishing the appropriate supporting figures.

(c) *Effect of failure to answer or to plead specifically and in detail.* If the respondent fails to file any answer within the time prescribed by this section, the Board may, either with or without taking evidence in support of the allegations of the specification and without notice to the respondent, find the specification to be true and enter such order as may be appropriate. If the respondent files an answer but fails to deny any allegation of the specification in the manner required by paragraph (b) of this section, and the failure so to deny is not adequately explained, such allegation shall be deemed to be admitted to be true, and may be so found by the Board without the taking of evidence supporting such allegation, and the respondent shall be precluded from introducing any evidence controverting said allegation.

§ 102.55 *Extension of time for filing.* Upon his own motion or upon proper cause shown by any respondent, the regional director issuing the specification may by written order extend the time within which the answer shall be filed.

§ 102.56 *Extension of date of hearing.* Upon his own motion or upon proper cause shown, the regional director issuing the specification may extend the date of hearing.

§ 102.57 *Amendment.* After the issuance of the notice of hearing, the specification and the answer may be amended upon leave of the trial examiner or the Board, as the case may be, good cause therefor appearing.

§ 102.58 *Withdrawal.* Any such specification may be withdrawn before the hearing by the regional director on his own motion.

§ 102.59 *Hearing; posthearing procedure.* After the issuance of a notice of hearing, the procedures provided in §§ 102.24 to 102.51, inclusive, shall be followed insofar as applicable.

SUBPART C—PROCEDURE UNDER SECTION 9 (c) OF THE ACT FOR THE DETERMINATION OF QUESTIONS CONCERNING REPRESENTATION OF EMPLOYEES

§ 102.60 *Petition for certification or decertification; who may file; where to file; withdrawal.* A petition for investigation of a question concerning representation of employees under paragraphs (1) (A) (i) and (1) (B) of section 9 (c) of the act (hereinafter called a petition for certification) may be filed by an employee or group of employees or any individual or labor organization acting in their behalf or by an employer. A petition under paragraph (1) (A) (ii) of section 9 (c) of the act, alleging that the individual or labor organization which has been certified or is being currently recognized as the bargaining representative is no longer such representative (hereinafter called a petition for decertification), may be filed by any employee or group of employees or any individual or labor organization acting in their behalf. When any such petition is filed by a labor organization, no investigation shall be made of any question of representation raised by such labor organization unless such labor organization is in compliance with the requirements of section 9 (f), (g), and (h) of the act, within the meaning of § 102.13. Petitions under this section shall be in writing and signed,* and either shall be sworn to before a notary public, Board agent, or other person duly authorized by law to administer oaths and take acknowledgments or shall contain a declaration by the person signing it, under the penalties of the Criminal Code, that its contents are true and correct to the best of his knowledge and belief. Four copies of the petition shall be filed. Except as provided in § 102.72, such petitions shall be filed with the regional director for the region wherein the bargaining unit exists, or, if the bargaining unit exists in two or more regions, with the regional director for any of such regions. Prior to the close of the hearing, pursuant to § 102.63, the petition may be withdrawn only with the consent of the regional director with whom such petition was filed. After the close of the hearing, the petition may be withdrawn only with the consent of the Board. Whenever the regional director or the Board, as the case may be, approves the withdrawal of any petition, the case shall be closed.

§ 102.61 *Contents of petition for certification; contents of petition for decertification.* (a) A petition for certification, when filed by an employee or group of employees or an individual or labor organization acting in their behalf, shall contain the following:

(1) The name of the employer.

(2) The address of the establishments involved.

(3) The general nature of the employer's business.

(4) A description of the bargaining unit which the petitioner claims to be appropriate.

(5) The names and addresses of any other persons or labor organizations who claim to represent any employees in the alleged appropriate unit, and brief descriptions of the contracts, if any, covering the employees in such unit.

(6) The number of employees in the alleged appropriate unit.

(7) A statement that the employer declines to recognize the petitioner as the representative within the meaning of section 9 (a) of the act or that the labor organization is currently recognized but desires certification under the act.

(8) The name, affiliation, if any, and address of the petitioner.

(9) Any other relevant facts.

(b) A petition for certification, when filed by an employer, shall contain the following:

(1) The name and address of the petitioner.

(2) The general nature of the petitioner's business.

(3) A brief statement setting forth that one or more individuals or labor organizations have presented to the petitioner a claim to be recognized as the exclusive representative of all employees in the unit claimed to be appropriate; a description of such unit; and the number of employees in the unit.

(4) The name or names, affiliation, if any, and addresses of the individuals or labor organizations making such claim for recognition.

(5) A statement whether the petitioner has contracts with any labor organization or other representatives of employees and, if so, their expiration date.

(6) Any other relevant facts.

(c) Petitions for decertification shall contain the following:

(1) The name of the employer.

(2) The address of the establishments and a description of the bargaining unit involved.

(3) The general nature of the employer's business.

(4) Name and address of the petitioner and affiliation, if any.

(5) Name or names of the individuals or labor organizations, who have been certified or are being currently recognized by the employer and who claim to represent any employees in the unit involved, and the expiration date of any contracts covering such employees.

(6) An allegation that the individuals or labor organizations who have been certified or are currently recognized by the employer are no longer the representative in the appropriate unit as defined in section 9 (a) of the act.

(7) The number of employees in the unit.

(8) Any other relevant facts.

§ 102.62 *Consent-election agreements.* (a) Where a petition has been duly filed, the employer and any individuals or labor organizations representing a substantial number of employees involved may, with the approval of the regional director, enter into a consent-election agreement leading to a determination by the regional director of the facts ascertained after such consent election. Such agreement shall include a description of the appropriate unit, the time and place of holding the election, and the payroll to be used in determining what employees within the appropriate unit shall be eligible to vote. Such consent election shall be conducted under the direction and supervision of the regional director. The method of conducting such consent election shall be consistent with the method followed by the regional director in conducting elections pursuant to §§ 102.69 and 102.70 except that the rulings and determinations by the regional director

* Blank forms for filing such petitions will be supplied by the regional office upon request.

of the results thereof shall be final, and the regional director shall issue to the parties a certification of the results of the election, including certification of representatives where appropriate, with the same force and effect as if issued by the Board, provided further that rulings or determinations by the regional director in respect to any amendment of such certification shall also be final.

(b) Where a petition has been duly filed, the employer and any individuals or labor organizations representing a substantial number of the employees involved may, with the approval of the regional director, enter into an agreement providing for a waiver of hearing and a consent election leading to a determination by the Board of the facts ascertained after such consent election, if such a determination is necessary. Such agreement shall also include a description of the appropriate bargaining unit, the time and place of holding the election, and the payroll to be used in determining which employees within the appropriate unit shall be eligible to vote. Such consent election shall be conducted under the direction and supervision of the regional director. The method of conducting such election and the post-election procedure shall be consistent with that followed by the regional director in conducting elections pursuant to §§ 102.69 and 102.70.

§ 102.63 *Investigation of petition by regional director; notice of hearing; service of notice; withdrawal of notice.* After a petition has been filed, if no agreement such as that provided in § 102.62 is entered into and if it appears to the regional director that there is reasonable cause to believe that a question of representation affecting commerce exists, that the policies of the act will be effectuated, and that an election will reflect the free choice of employees in the appropriate unit, he shall prepare and cause to be served upon the parties and upon any known individuals or labor organizations purporting to act as representatives of any employees directly affected by such investigation, a notice of hearing before a hearing officer at a time and place fixed therein. A copy of the petition shall be served with such notice of hearing. Any such notice of hearing may be amended or withdrawn before the close of the hearing by the regional director on his own motion.

§ 102.64 *Conduct of hearing.* (a) Hearings shall be conducted by a hearing officer and shall be open to the public unless otherwise ordered by the hearing officer. At any time, a hearing officer may be substituted for the hearing officer previously presiding. It shall be the duty of the hearing officer to inquire fully into all matters in issue and necessary to obtain a full and complete record upon which the Board may discharge its duties under section 9 (c) of the act.

(b) The hearing officer may, in his discretion, continue the hearing from day to day, or adjourn it to a later date or to a different place, by announcement thereof at the hearing or by other appropriate notice.

§ 102.65 *Motions; interventions.* (a) All motions, including motions for intervention pursuant to paragraph (b) of this section, shall be in writing or, if made at the hearing, may be stated orally on the record and shall briefly state the order or relief sought and the grounds for such motion. An original and four copies of written motions shall be filed and a copy thereof immediately shall be served upon each of the other parties to the proceeding. Motions made prior to the hearing shall be filed with the regional director, and motions made during the hearing shall be filed with the hearing officer. After the close of the hearing all motions shall be filed with the Board. Such motions to the Board shall be legibly printed or otherwise legibly duplicated: *Provided, however,* That carbon copies of typewritten matter shall not be filed and if submitted will not be accepted. Seven copies of such motions shall be filed with the Board. The regional director may rule upon all motions filed with him, causing a copy of said ruling to be served upon each of the parties, or he may refer the motion to the hearing officer: *Provided,* That if the regional director grants a motion to dismiss the petition the petitioner may obtain a review of such ruling in the manner prescribed in § 102.71. The hearing officer shall rule, either orally on the record or in writing, upon all motions filed at the hearing or referred to him as hereinabove provided, except that he shall refer to the Board for appropriate action all motions to dismiss petitions, at such time as the Board considers the entire record.

(b) Any person desiring to intervene in any proceeding shall make a motion for intervention, stating the grounds upon which such person claims to have an interest in the proceeding. The regional director or the hearing officer, as the case may be, may by order permit intervention in person or by counsel or other representative to such extent and upon such terms as he may deem proper, and such intervenor shall thereupon become a party to the proceeding.

(c) All motions, rulings, and orders shall become a part of the record, except that rulings on motions to revoke subpenas shall become a part of the record only upon the request of the party aggrieved, as provided in § 102.66 (c). Unless expressly authorized by the rules and regulations in this part, rulings by the regional director and by the hearing officer shall not be appealed directly to the Board except by special permission of the Board, but shall be considered by the Board when it reviews the entire record. Requests to the Board for special permission to appeal ffom such rulings of the regional director or the hearing officer shall be filed promptly, in writing, and shall briefly state the grounds relied on. The moving party shall immediately serve a copy thereof on each other party.

(d) The right to make motions or to make objections to rulings on motions shall not be deemed waived by participation in the proceeding.

§ 102.66 *Introduction of evidence; rights of parties at hearing; subpenas.* (a) Any party shall have the right to appear at any hearing in person, by counsel, or by other representative, and any party and the hearing officer shall have power to call, examine, and cross-examine witnesses and to introduce into the record documentary and other evidence. Witnesses shall be examined orally under oath. The rules of evidence prevailing in courts of law or equity shall not be controlling. Stipulations of fact may be introduced in evidence with respect to any issue.

(b) Any objection with respect to the conduct of the hearing, including any objection to the introduction of evidence, may be stated orally or in writing, accompanied by a short statement of the grounds of such objection, and included in the record. No such objection shall be deemed waived by further participation in the hearing.

(c) Any party may file applications for subpenas in writing with the regional director if made prior to hearing, or with the hearing officer if made at the hearing. Applications for subpenas may be made *ex parte*. The regional director or the hearing officer, as the case may be, shall forthwith grant the subpenas requested. Any person served with a subpena, whether *ad testificandum* or *duces tecum*, if he does not intend to comply with the subpena, shall, within 5 days after the date of service of the subpena, petition in writing to revoke the subpena. Such petition shall be filed with the regional director who may either rule upon it or refer it for ruling to the hearing officer: *Provided, however,* That if the evidence called for is to be produced at a hearing and the hearing has opened, the petition to revoke shall be filed with the hearing officer. Notice of the filing of petitions to revoke shall be promptly given by the regional director or hearing officer, as the case may be, to the party at whose request the subpena was issued. The regional director or the hearing officer, as the case may be, shall revoke the subpena if, in his opinion, the evidence whose production is required does not relate to any matter under investigation or in question in the proceedings or the subpena does not describe with sufficient particularity the evidence whose production is required, or if for any other reason sufficient in law the subpena is otherwise invalid. The regional director or the hearing officer, as the case may be, shall make a simple statement of procedural or other grounds for his ruling. The petition to revoke, any answer filed thereto, and any ruling thereon shall not become part of the record except upon the request of the party aggrieved by the ruling. Persons compelled to submit data or evidence are entitled to retain or, on payment of lawfully prescribed costs, to procure copies or transcripts of the data or evidence submitted by them.

(d) (1) Misconduct at any hearing before a hearing officer or before the Board shall be ground for summary exclusion from the hearing.

(2) Such misconduct of an aggravated character, when engaged in by an attorney or other representative of a party,

shall be ground for suspension or disbarment by the Board from further practice before it after due notice and hearing.

(3) The refusal of a witness at any such hearing to answer any question which has been ruled to be proper shall, in the discretion of the hearing officer, be ground for striking all testimony previously given by such witness on related matters.

(e) Any party shall be entitled, upon request, to a reasonable period at the close of the hearing for oral argument, which shall be included in the stenographic report of the hearing.

(f) The hearing officer may submit an analysis of the record to the Board but he shall make no recommendations.

(g) Witness fees and mileage shall be paid by the party at whose instance the witness appears.

§ 102.67 *Record; what constitutes; transmission to Board.* Upon the close of the hearing the regional director shall forward to the Board in Washington, D. C., the petition, notice of hearing, motions, rulings, orders, the stenographic report of the hearing, stipulations, exhibits, documentary evidence, and depositions, all of which shall constitute the record in the proceeding.

§ 102.68 *Proceedings before the Board; further hearing; briefs; Board direction of election; certification of results.* The Board shall thereupon proceed, either forthwith upon the record, or after oral argument or the submission of briefs, or further hearing, as it may determine, to direct a secret ballot of the employees or to make other disposition of the matter. Should any party desire to file a brief with the Board, 7 copies thereof shall be filed with the Board in Washington, D. C., within 7 days after the close of the hearing: *Provided, however*, That prior to the close of the hearing and for good cause, the hearing officer may grant an extension of that time not to exceed an additional 14 days. Such brief shall be legibly printed or otherwise legibly duplicated: *Provided, however*, That carbon copies of typewritten matter shall not be filed and if submitted will not be accepted. Copies shall be served on all other parties to the proceeding, and proof of such service shall be filed with the Board at the time the briefs are filed. Requests for extension of time in which to file a brief under authority of this section not addressed to the hearing officer during the hearing shall be in writing and copies thereof shall immediately be served on each of the other parties. Requests for extension of time shall be made not later than 3 days before the date such briefs are due in Washington, D. C. No reply brief may be filed except upon special leave of the Board.

§ 102.69 *Election procedure; tally of ballots; objections; certification by regional director; report on challenged ballots; report on objections; exceptions; action of the Board; hearing.* (a) Unless otherwise directed by the Board, all elections shall be conducted under the supervision of the regional director in whose region the proceeding is pending. All elections shall be by secret ballot. Whenever two or more labor organizations are included as choices in an election, either participant may, upon its prompt request to and approval thereof by the regional director, whose decision shall be final, have its name removed from the ballot: *Provided, however*, That in a proceeding involving an employer filed petition or a petition for decertification the labor organization certified, currently recognized, or found to be seeking recognition may not have its name removed from the ballot without giving timely notice in writing to all parties, including the regional director, disclaiming any representation interest among the employees in the unit. Any party may be represented by observers of his own selection, subject to such limitations as the regional director may prescribe. Any party and Board agents may challenge, for good cause, the eligibility of any person to participate in the election. The ballots of such challenged persons shall be impounded. Upon the conclusion of the election, the regional director shall cause to be furnished to the parties a tally of the ballots. Within 5 days after the tally of ballots has been furnished, any party may file with the regional director 4 copies of objections to the conduct of the election or conduct affecting the results of the election, which shall contain a short statement of the reasons therefor. Such filing must be timely whether or not the challenged ballots are sufficient in number to affect the results of the election. Copies of such objections shall immediately be served upon each of the other parties by the party filing them, and proof of service shall be made.

(b) If no objections are filed within the time set forth above, if the challenged ballots are insufficient in number to affect the result of the election, and if no runoff election is to be held pursuant to § 102.70, the regional director shall forthwith issue to the parties a certification of the results of the election, including certification of representatives where appropriate, with the same force and effect as if issued by the Board, and the proceeding will thereupon be closed.

(c) If objections are filed to the conduct of the election or conduct affecting the result of the election, or if the challenged ballots are sufficient in number to affect the result of the election, the regional director shall investigate such objections or challenges, or both, and shall prepare and cause to be served upon the parties a report on challenged ballots or objections, or both, including his recommendations, which report, together with the tally of ballots, he shall forward to the Board in Washington, D. C. Within 10 days from the date of issuance of the report on challenged ballots or objections, or both, or within such further period as the Board may allow upon written request to the Board for an extension made not later than 3 days before such exceptions are due in Washington, D. C., with copies of such request served on each of the other parties, any party may file with the Board in Washington, D. C., 7 copies of exceptions to such report which shall be legibly printed or otherwise legibly duplicated. Immediately upon the filing of such exceptions, the party filing the same shall serve a copy thereof upon each of the other parties and shall file a copy with the regional director. Proof of service shall be made to the Board. If no exceptions are filed to such report, the Board, upon the expiration of the period for filing such exceptions, may decide the matter forthwith upon the record or may make other disposition of the case. The report on challenged ballots may be consolidated with the report on objections in appropriate cases.

(d) If exceptions are filed, either to the report on challenged ballots or objections, or both if it be a consolidated report, and it appears to the Board that such exceptions do not raise substantial and material issues with respect to the conduct or results of the election, the Board may decide the matter forthwith upon the record, or may make other disposition of the case. If it appears to the Board that such exceptions raise substantial and material factual issues, the Board may direct the regional director or other agent of the Board to issue and cause to be served upon the parties a notice of hearing on said exceptions before a hearing officer. The hearing shall be conducted in accordance with the provisions of §§ 102.64, 102.65, and 102.66, insofar as applicable. Upon the close of the hearing the agent conducting the hearing, if directed by the Board, shall prepare and cause to be served upon the parties a report resolving questions of credibility and containing findings of fact and recommendations to the Board as to the disposition of the challenges or objections, or both if it be a consolidated report. The agent conducting the hearing shall forward to the Board in Washington, D. C., the notice of hearing, motions, rulings, orders, stenographic report of the hearing, stipulations, exceptions, documentary evidence, all of which, together with the objection to the conduct of the election or conduct affecting the results of the election, the report on such objections, the report on challenged ballots, and exceptions to the report on objections or to the report on challenged ballots, and the record previously made, together with his report, if any, shall constitute the record in the case. In any case in which the Board has directed that a report be prepared and served, any party may within 10 days from the date of issuance of the report on challenged ballots or objections, or both, file with the Board in Washington, D. C., 7 copies of exceptions to such report: *Provided, however*, That in any proceeding wherein a representation case has been consolidated with an unfair labor practice case for purposes of hearing the provisions of § 102.46 shall govern with respect to the filing of exceptions to the intermediate report and recommended order. Immediately upon the filing of such exceptions, the party filing the same shall serve a copy thereof upon each of the other parties and shall file a copy with the regional director. Proof of service shall be made to the Board. If no exceptions are filed to such report, the

Board, upon the expiration of the period for filing such exceptions, may decide the matter forthwith upon the record or may make other disposition of the case. The Board shall thereupon proceed pursuant to § 102.68.

(e) In any such case in which the Board, upon a ruling on challenged ballots, has directed the regional director to open and count such ballots and to issue a revised tally of ballots, and no objection to such revised tally is filed by any party within 3 days after the revised tally of ballots has been furnished, the regional director shall forthwith issue to the parties certification of the results of the election, including certification of representatives where appropriate, with the same force and effect as if issued by the Board. The proceeding shall thereupon be closed.

§ 102.70 *Runoff election.* (a) The regional director shall conduct a runoff election, without further order of the Board, when an election in which the ballot provided for not less than 3 choices (i. e., at least 2 representatives and "neither") results in no choice receiving a majority of the valid ballots cast and no objections are filed as provided in § 102.69. Only one runoff shall be held pursuant to this section.

(b) Employees who were eligible to vote in the election and who are employed in an eligible category on the date of the runoff election shall be eligible to vote in the runoff election.

(c) The ballot in the runoff election shall provide for a selection between the two choices receiving the largest and second largest number of votes.

(d) In the event the number of votes cast in an inconclusive election in which the ballot provided for a choice among two or more representatives and "neither" or "none" is equally divided among the several choices; or in the event the number of ballots cast for one choice in such election is equal to the number cast for another of the choices but less than the number cast for the third choice, the regional director shall declare the first election a nullity and shall conduct another election, providing for a selection from among the three choices afforded in the original ballot; and he shall thereafter proceed in accordance with paragraphs (a), (b), and (c) of this section. In the event two or more choices receive the same number of ballots and another choice receives no ballots and there are no challenged ballots that would affect the results of the election, and if all eligible voters have cast valid ballots, there shall be no runoff election and the petition shall be dismissed. Only one such further election pursuant to this paragraph may be held.

(e) Upon the conclusion of the runoff election, the provisions of § 102.69 shall govern, insofar as applicable.

§ 102.71 *Refusal to issue notice of hearing; appeals to Board from action of the regional director.* If, after a petition has been filed, it shall appear to the regional director that no notice of hearing should issue as provided in § 102.63, the regional director may dismiss the petition and shall so advise the petitioner in writing, accompanied by a simple statement of the procedural or other grounds. The petitioner may obtain a review of such action by filing a request therefor with the Board in Washington, D. C., and filing a copy of such request with the regional director and each of the other parties within 10 days of service of such notice of dismissal. The request shall be submitted in seven copies and shall contain a complete statement setting forth the facts and reasons upon which the request is based. Requests for an extension of time within which to file the request for review shall be filed with the Board in Washington, D. C., and proof of service shall accompany such request.

§ 102.72 *Filing petition with general counsel; investigation upon motion of general counsel; transfer of petition and proceeding from region to general counsel or to another region; consolidation of proceedings in same region; severance; procedure before general counsel in cases over which he has assumed jurisdiction.* Whenever the general counsel deems it necessary in order to effectuate the purposes of the act, or to avoid unnecessary costs or delay, he may permit a petition to be filed with him in Washington, D. C., or may, at any time after a petition has been filed with a regional director pursuant to § 102.60, order that such petition and any proceeding that may have been instituted with respect thereto:

(a) Be transferred to and continued before him, for the purpose of investigation or consolidation with any other proceeding which may have been instituted in a regional office or with him; or

(b) Be consolidated with any other proceeding which may have been instituted in the same region; or

(c) Be transferred to and continued in any other region, for the purpose of investigation or consolidation with any proceeding which may have been instituted in or transferred to such region; or

(d) Be severed from any other proceeding with which it may have been consolidated pursuant to this section.

The provisions of §§ 102.60 to 102.71, inclusive, shall, insofar as applicable, apply to proceedings before the general counsel pursuant to this section, and the powers granted to regional directors in such provisions shall, for the purpose of this section, be reserved to and exercised by the general counsel. After the transfer of any petition and any proceeding which may have been instituted in respect thereto from one region to another pursuant to this section, the provisions of this subpart shall, insofar as applicable, govern such petition and such proceeding as if the petition had originally been filed in the region to which the transfer is made.

SUBPART D—PROCEDURE FOR REFERENDUM UNDER SECTION 9 (e) OF THE ACT

§ 102.73 *Petition for referendum under section 9 (e) (1) of the act; who may file; where to file; withdrawal.* A petition to rescind the authority of a labor organization to make an agreement requiring as a condition of employment membership in such labor organization may be filed by an employee or group of employees on behalf of 30 percent or more of the employees in a bargaining unit covered by such an agreement. The petition shall be in writing and signed, and either shall be sworn to before a notary public, Board agent, or other person duly authorized by law to administer oaths and take acknowledgments or shall contain a declaration by the person signing it, under the penalties of the Criminal Code, that its contents are true and correct to the best of his knowledge and belief.[*] Four copies of the petition shall be filed with the regional director wherein the bargaining unit exits or, if the unit exists in two or more regions, with the regional director for any of such regions. The petition may be withdrawn only with the approval of the regional director with whom such petition was filed, except that if the proceeding has been transferred to the Board, pursuant to § 102.67, the petition may be withdrawn only with the consent of the Board. Upon approval of the withdrawal of any petition the case shall be closed.

§ 102.74 *Contents of petition to rescind authority.* (a) The name of the employer.

(b) The address of the establishments involved.

(c) The general nature of the employer's business.

(d) A description of the bargaining unit involved.

(e) The name and address of the labor organization whose authority it is desired to rescind.

(f) The number of employees in the unit.

(g) The date of execution and of expiration of any contract in effect covering the unit involved.

(h) The name and address of the person designated to accept service of documents for petitioners.

(i) Any other relevant facts.

§ 102.75 *Investigation of petition by regional director; consent referendum; directed referendum.* Where a petition has been filed pursuant to § 102.73 and it appears to the regional director that the petitioner has made an appropriate showing, in such form as the regional director may determine, that 30 percent or more of the employees within a unit covered by an agreement between their employer and a labor organization requiring membership in such labor organization desire to rescind the authority of such labor organization to make such an agreement, he shall proceed to conduct a secret ballot of the employees involved on the question whether they desire to rescind the authority of the labor organization to make such an agreement with their employer: *Provided, however,* That in any case in which it appears to the regional director that the proceeding raises questions which should be decided by the Board before election, he may issue and cause to be served on the parties a notice of hearing before a hearing officer at a

[*] Forms for filing such petitions will be supplied by the regional office upon request.

time and place fixed therein. The regional director shall fix the time and place of the election, eligibility requirements for voting, and other arrangements of the balloting, but the parties may enter into an agreement, subject to the approval of the regional director, fixing such arrangements. In any such consent agreements, provision may be made for final determination of all questions arising with respect to the balloting by the regional director or by the Board.

§ 102.76 *Hearing; posthearing procedure.* The method of conducting the hearing and the procedure following the hearing, including transfer of the case to the Board, shall be governed, insofar as applicable, by §§ 102.63 to 102.68, inclusive.

§ 102.77 *Method of conducting balloting; postballoting procedure.* The method of conducting the balloting and the postballoting procedure shall be governed by the provisions of § 102.69, insofar as applicable.

§ 102.78 *Refusal to conduct referendum; appeal to Board.* If, after a petition has been filed, it shall appear to the regional director that no referendum should be conducted, he shall dismiss the petition. Such dismissal shall be in writing and accompanied by a simple statement of the procedural or other grounds. The petitioner may obtain a review of such action by filing a request therefor with the Board in Washington, D. C., and filing a copy of such request with the regional director and each of the other parties within 10 days from the service of notice of such dismissal. The request shall contain a complete statement setting forth the facts and reasons upon which the request is based.

SUBPART E—PROCEDURE TO HEAR AND DETERMINE DISPUTES UNDER SECTION 10 (k) OF THE ACT

§ 102.79 *Initiation of proceedings.* Whenever it is charged that any person has engaged in an unfair labor practice within the meaning of paragraph (4) (D) of section 8 (b), the regional director shall investigate such charge, giving it priority over all other cases in the office except cases under paragraph (4) (A), (4) (B), and (4) (C) of section 8 (b) and other cases under paragraph (4) (D) of section 8 (b).

§ 102.80 *Notice of hearing; hearing; proceedings before the Board; briefs; determination of dispute.* If it appears to the regional director that the charge has merit and the parties to the dispute have not submitted satisfactory evidence to the regional director that they have adjusted, or have agreed upon methods for the voluntary adjustment of, the dispute out of which such unfair labor practice shall have arisen, he shall cause to be served on all parties to such dispute a notice of the filing of said charge together with a notice of hearing under section 10 (k) of the act before a hearing officer at a time and place fixed therein which shall be not less than 10 days after service of the notice of hearing. The notice of hearing shall contain a simple statement of the issues involved in such dispute. Hearings shall be conducted by a hearing officer, and the procedure shall conform, insofar as applicable, to the procedure set forth in §§ 102.64 to 102.67, inclusive. Upon the close of the hearing, the Board shall proceed either forthwith upon the record, or after oral argument, or the submission of briefs, or further hearing, to determine the dispute or make other disposition of the matter. Should any party desire to file a brief with the Board, 7 copies thereof shall be filed with the Board at Washington, D. C., within 7 days after the close of the hearing. Immediately upon such filing, a copy shall be served on the other parties. Such brief shall be legibly printed or otherwise legibly duplicated: *Provided, however,* That carbon copies of typewritten matter shall not be filed and if submitted will not be accepted. Requests for extension of time in which to file a brief under authority of this section shall be in writing and received by the Board in Washington, D. C., 3 days prior to the due date with copies thereof served on each of the other parties. No reply brief may be filed except upon special leave of the Board.

§ 102.81 *Compliance with determination; further proceedings.* If, after issuance of the determination by the Board, the parties submit to the regional director satisfactory evidence that they have complied with the determination, the regional director shall dismiss the charge. If no satisfactory evidence of compliance is submitted, the regional director shall proceed with the charge under paragraph (4) (D) of section 8 (b) and section 10 of the act and the procedure prescribed in §§ 102.9 to 102.51, inclusive, shall, insofar as applicable, govern.

§ 102.82 *Review of determination.* The record of the proceeding under section 10 (k) and the determination of the Board thereon shall become a part of the record in such unfair labor practice proceeding and shall be subject to judicial review, insofar as it is in issue, in proceedings to enforce or review the final order of the Board under section 10 (e) and (f) of the act.

§ 102.83 *Alternative procedure.* If, either before or after service of the notice of hearing, the parties submit to the regional director satisfactory evidence that they have adjusted the dispute, the regional director shall dismiss the charge and shall withdraw the notice of hearing if notice has issued. If, either before or after issuance of notice of hearing, the parties submit to the regional director satisfactory evidence that they have agreed upon methods for the voluntary adjustment of the dispute, the regional director shall defer action upon the charge and shall withdraw the notice of hearing if notice has issued. If it appears to the regional director that the dispute has not been adjusted in accordance with such agreed-upon methods and that an unfair labor practice within the meaning of section 8 (b) (4) (D) of the act is occurring or has occurred, he may issue a complaint under § 102.15, and the procedure prescribed in §§ 102.9 to 102.51, inclusive, shall, insofar as applicable, govern; and §§ 102.80 to 102.82, inclusive, are inapplicable.

SUBPART F—PROCEDURE IN CASES UNDER SECTION 10 (j) AND (l) OF THE ACT

§ 102.84 *Expeditious processing of section 10 (j) cases.* (a) Whenever temporary relief or a restraining order pursuant to section 10 (j) of the act has been procured by the Board, the complaint which has been the basis for such temporary relief or restraining order shall be heard expeditiously and the case shall be given priority by the Board in its successive steps following the issuance of the complaint (until ultimate enforcement or dismissal by the appropriate circuit court of appeals) over all other cases except cases of like character and cases under section 10 (l) of the act.

(b) In the event the trial examiner hearing a complaint, concerning which the Board has procured temporary relief or a restraining order pursuant to section 10 (j), recommends a dismissal in whole or in part of such complaint, the chief law officer shall forthwith suggest to the district court which issued such temporary relief or restraining order the possible change in circumstances arising out of the findings and recommendations of the trial examiner.

§ 102.85 *Priority of cases pursuant to section 10 (l) of the act.* Whenever a charge is filed alleging the commission of an unfair labor practice within the meaning of paragraph 4 (A), (B), or (C) of section 8 (b) of the act, the regional office in which such charge is filed or to which it is referred shall give it priority over all other cases in the office except cases of like character.

§ 102.86 *Issuance of complaint promptly.* Whenever the regional attorney or other Board officer to whom the matter may be referred seeks injunctive relief of a district court pursuant to section 10 (l) of the act, a complaint against the labor organization sought to be enjoined, covering the same subject matter as such application for injunctive relief, shall be issued promptly, normally within 5 days of the date upon which such injunctive relief is first sought.

§ 102.87 *Expeditious processing of section 10 (l) cases in successive stages.* Any complaint issued pursuant to § 102.85 shall be heard expeditiously and the case shall be given priority in its successive steps following its issuance (until ultimate enforcement or dismissal by the appropriate circuit court of appeals) over all cases except cases of like character.

SUBPART G—SERVICE AND FILING OF PAPERS

§ 102.88 *Service of process and papers; proof of service.* (a) Charges, complaints and accompanying notices of hearing, final orders, intermediate reports, and subpenas of the Board, its member, agent, or agency, may be served personally or by registered mail or by telegraph or by leaving a copy thereof at the principal office or place of business of the person required to be served. The verified return by the individual so serving the same, setting forth the manner of such service, shall be proof of the

same, and the return post office receipt or telegraph receipt therefor when registered and mailed or telegraphed as aforesaid shall be proof of service of the same.

(b) Process and papers of the Board, other than those specifically named in paragraph (a) of this section, may be forwarded by certified mail. The return post office receipt therefor shall be proof of service of the same.

§ 102.89 *Same; by parties; proof of service.* Service of papers by a party on other parties shall be made by registered mail, or by certified mail, or in any manner provided for the service of papers in a civil action by the law of the State in which the hearing is pending. When service is made by registered mail, or by certified mail, the return post office receipt shall be proof of service. When service is made in any manner provided by such law, proof of service shall be made in accordance with such law.

§ 102.90 *Date of service; filing of proof of service.* (a) The date of service shall be the day when the matter served is deposited in the United States mail or is delivered in person, as the case may be. In computing the time from such date, the provisions of § 102.91 apply.

(b) The person or party serving the papers or process on other parties in conformance with §§ 102.88 and 102.89 shall submit a written statement of service thereof to the Board stating the names of the parties served and the date and manner of service. Proof of service as defined in § 102.89 shall be required by the Board only if subsequent to the receipt of the statement of service a question is raised with respect to proper service. Failure to make proof of service does not affect the validity of the service.

§ 102.91 *Time; additional time after service by mail.* (a) In computing any period of time prescribed or allowed by the rules in this part, the day of the act, event, or default after which the designated period of time begins to run, is not to be included. The last day of the period so computed is to be included, unless it is a Sunday or a legal holiday, in which event the period runs until the end of the next day, which is neither a Sunday nor a legal holiday. When the period of time prescribed or allowed is less than 7 days, intermediate Sundays and holidays shall be excluded in the computation. For the purpose of this section a Saturday on which the Board's offices are not open for business shall be considered as a holiday, but a half holiday shall be considered as other days and not as a holiday. Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after service of a notice or other paper upon him, and the notice or paper is served upon him by mail, 3 days shall be added to the prescribed period: *Provided, however,* That 3 days shall not be added if any extension of such time may have been granted.

(b) When the act or any of the rules in this part require the filing of a motion, brief, exception, or other paper in any proceeding, such document must be received by the Board or the officer or agent designated to receive such matter before the close of business of the last day of the time limit, if any, for such filing or extension of time that may have been granted.

SUBPART H—CERTIFICATION AND SIGNATURE OF DOCUMENTS

§ 102.92 *Certification of papers and documents.* The executive secretary of the Board or, in the event of his absence or disability, whosoever may be designated by the Board in his place and stead shall certify copies of all papers and documents which are a part of any of the files or records of the Board as may be necessary or desirable from time to time.

§ 102.93 *Signature of orders.* The executive secretary or the associate executive secretary or, in the event of their absence or disability, whosoever may be designated by the Board in their place and stead is hereby authorized to sign all orders of the Board.

SUBPART I—RECORDS AND INFORMATION

§ 102.94 *Files, records, etc., in exclusive custody of Board and not subject to inspection; formal documents and final opinions and orders subject to inspection.* (a) The formal documents described as the record in the case or proceeding and defined in §§ 102.45, 102.67, and 102.69 are matters of official record and are available for inspection and examination by persons properly and directly concerned, during usual business hours, at the appropriate regional office of the Board or in Washington, D. C., as the case may be. True and correct copies thereof will be certified upon submission of such copies a reasonable time in advance of need and payment of lawfully prescribed costs: *Provided, however,* That if the Board, the general counsel, or the regional director with whom the documents are filed shall find in a particular instance good cause why a matter of official record should be kept confidential, such matter shall not be available for public inspection or examination. Application for such inspection, if desired to be made at the Board's office in Washington, D. C., shall be made to the executive secretary or the general counsel, as the case may be, and, if desired to be made at any regional office, shall be made to the regional director. The executive secretary, the general counsel, or the regional director may, in his discretion, require that the application be made in writing and under oath and set forth the facts upon which the applicant relies to show that he is properly and directly concerned with such inspection and examination. Should the executive secretary, the general counsel, or the regional director, as the case may be, deny any such application, he shall give prompt notice thereof, accompanied by a simple statement of procedural or other grounds.

(b) All final opinions or orders of the Board in the adjudication of cases (except those required for good cause to be held confidential and not cited as precedents) and its rules and regulations are available to public inspection during regular business hours at the Board's offices in Washington, D. C. Copies may be obtained upon request made to any regional office of the Board at its address as published in the FEDERAL REGISTER, or to the director of information in Washington, D. C. Subject to the provisions of §§ 102.31 and 102.66, all files, documents, reports, memoranda, and records pertaining to the internal management of the Board or to the investigation or disposition of charges or petitions during the nonpublic investigative stages of proceedings and before the institution of formal proceedings, and all matters of evidence obtained by the Board or any of its agents in the course of investigation, which have not been offered in evidence at a hearing before a trial examiner or hearing officer or have not been made part of an official record by stipulation, whether in the regional offices of the Board or in its principal office in the District of Columbia, are for good cause found by the Board held confidential and are not matters of official record or available to public inspection, unless permitted by the Board, its chairman, the general counsel, or any regional director.

§ 102.95 *Same; Board employees prohibited from producing files, records, etc., pursuant to subpena ad testificandum or subpena duces tecum, prohibited from testifying in regard thereto.* No regional director, field examiner, trial examiner, attorney, specially designated agent, general counsel, member of the Board, or other officer or employee of the Board shall produce or present any files, documents, reports, memoranda, or records of the Board or testify in behalf of any party to any cause pending in any court or before the Board, or any other board, commission, or other administrative agency of the United States, or of any State, Territory, or the District of Columbia with respect to any information, facts, or other matter coming to his knowledge in his official capacity or with respect to the contents of any files, documents, reports, memoranda, or records of the Board, whether in answer to a subpena, *subpena duces tecum*, or otherwise, without the written consent of the Board or the chairman of the Board if the official or document is subject to the supervision or control of the Board; or the general counsel if the official or document is subject to the supervision or control of the general counsel. Whenever any *subpena ad testificandum* or *subpena duces tecum*, the purpose of which is to adduce testimony or require the production of records as described hereinabove, shall have been served upon any such persons or other officer or employee of the Board, he will, unless otherwise expressly directed by the Board or the chairman of the Board or the general counsel, as the case may be, move pursuant to the applicable procedure, whether by petition to revoke, motion to quash, or otherwise, to have such subpena invalidated on the ground that the evidence sought is privileged against disclosure by this rule.

SUBPART J—PRACTICE BEFORE THE BOARD OF FORMER EMPLOYEES

§ 102.96 *Prohibition of practice before Board of its former regional employees in cases pending in region during employ-*

ment. No person who has been an employee of the Board and attached to any of its regional offices shall engage in practice before the Board or its agents in any respect or in any capacity in connection with any case or proceeding which was pending in any regional office to which he was attached during the time of his employment with the Board.

§ 102.97 *Same; application to former employees of Washington staff.* No person who has been an employee of the Board and attached to the Washington staff shall engage in practice before the Board or its agents in any respect or in any capacity in connection with any case or proceeding pending before the Board or any regional offices during the time of his employment with the Board.

SUBPART K—CONSTRUCTION OF RULES

§ 102.98 *Rules to be liberally construed.* The rules and regulations in this part shall be liberally construed to effectuate the purposes and provisions of the act.

SUBPART L—ENFORCEMENT OF RIGHTS, PRIVILEGES, AND IMMUNITIES GRANTED OR GUARANTEED UNDER SECTION 222 (f), COMMUNICATIONS ACT OF 1934, AS AMENDED, TO EMPLOYEES OF MERGED TELEGRAPH CARRIERS

§ 102.99 *Enforcement.* All matters relating to the enforcement of rights, privileges, or immunities granted or guaranteed under section 222 (f) of the Communications Act of 1934, as amended, shall be governed by the provisions of Subparts A, B, G, H, I, and K of this part, insofar as applicable, except that reference in Subpart B to "unfair labor practices" or "unfair labor practices affecting commerce" shall for the purposes of this article mean the denial of any rights, privileges, or immunities granted or guaranteed under section 222 (f) of the Communications Act of 1934, as amended.

SUBPART M—AMENDMENTS

§ 102.100 *Amendment or rescission of rules.* Any rule or regulation may be amended or rescinded by the Board at any time.

§ 102.101 *Petitions for issuance, amendment, or repeal of rules.* Any interested person may petition the Board, in writing, for the issuance, amendment, or repeal of a rule or regulation. An original and five copies of such petition shall be filed with the Board in Washington, D. C., and shall state the rule or regulation proposed to be issued, amended, or repealed, together with a statement of grounds in support of such petition.

§ 102.102 *Action on petition.* Upon the filing of such petition, the Board shall consider the same and may thereupon either grant or deny the petition in whole or in part, conduct an appropriate hearing thereon, or make other disposition of the petition. Should the petition be denied in whole or in part, prompt notice shall be given of the denial, accompanied by a simple statement of the grounds unless the denial is self-explanatory.

[F. R. Doc. 58-3649; Filed, May 13, 1958; 8:54 a. m.]

TITLE 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

Subchapter B—Food and Food Products

PART 120—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

TOLERANCES FOR RESIDUES OF *S*-(*p*-CHLOROPHENYLTHIO) METHYL *O,O*-DIETHYL PHOSPHORODITHIOATE

A petition was filed with the Food and Drug Administration by Stauffer Chemical Company, Richmond, California, requesting the establishment of tolerances for residues of *S*-(*p*-chlorophenylthio) methyl *O*-*O*-diethyl phosphorodithioate in or on various raw agricultural commodities. Subsequently, the petitioner withdrew his request with respect to certain commodities.

The Secretary of Agriculture has certified that his pesticide chemical is useful for the purposes for which tolerances are being established.

After consideration of the data submitted in the modified petition and other relevant material which show that the tolerances established in this order will protect the public health, and by virtue of the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 408 (d) (2), 68 Stat. 512; 21 U. S. C. 346a (d) (2)) and delegated to the Commissioner of Food and Drugs by the Secretary (21 CFR 120.7 (g)), the regulations for tolerances for pesticide chemicals in or on raw agricultural commodities (21 CFR 120.156 (22 F. R. 7502)) are amended by changing § 120.156 to read as follows:

§ 120.156 *Tolerances for residues of S-(p-chlorophenylthio) methyl O,O-diethyl phosphorodithioate.* Tolerances for residues of *S*-(*p*-chlorophenylthio) methyl *O,O*-diethyl phosphorodithioate in or on raw agricultural products are established as follows:

(a) 5 parts per million in or on sugar beets (roots), sugar beets (tops).

(b) 2 parts per million in or on almond hulls, grapefruit, lemons, limes, oranges, tangelos, tangerines.

(c) 0.8 part per million in or on apples, apricots, beans, snap (succulent form); beans, lima (succulent form); beets, garden (roots); beets, garden (tops); cantaloups, cherries, crabapples, eggplants, grapes, nectarines, olives, peaches, pears, peas (succulent form), peppers, pimentos, plums (fresh prunes), quinces, soybeans (succulent form), spinach, strawberries, tomatoes, watermelons.

Any person who will be adversely affected by the foregoing order may, at any time prior to the thirtieth day from the effective date thereof, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington 25, D. C., written objections thereto. Objections shall show wherein the person filing will be adversely affected by this order, specify with particularity the provisions of the order deemed objectionable and reasonable grounds for the objections, and request a public hearing upon the objections. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed in quintuplicate.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER.

(Sec. 408 (d) (2), 68 Stat. 512; 21 U. S. C. 346a (d) (2))

Dated: May 8, 1958.

[SEAL] GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F. R. Doc. 58-3656; Filed, May 13, 1958; 8:54 a. m.]

TITLE 32A—NATIONAL DEFENSE, APPENDIX

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

[BDSA Reg. 2 (Formerly NPA Reg. 2); Direction 7, Amendment 1, of May 9, 1958]

BDSA REG. 2—BASIC RULES OF THE PRIORITIES SYSTEM

REG. 2, DIR. 7, AMDT. 1—LIMITATION ON USE OF RATINGS TO OBTAIN NICKEL—ELIMINATION OF NOTIFICATION REQUIREMENT AND CERTAIN USE LIMITATIONS

This amendment is found necessary and appropriate to promote the national defense and is issued pursuant to the Defense Production Act of 1950, as amended. In the formulation of this amendment, there has been consultation with industry representatives, including trade association representatives, and consideration has been given to their recommendations.

This amendment affects direction 7 to BDSA Reg. 2 by amending paragraph (b) of section 3 of said direction. The notification requirement and use limitations contained in said paragraph are eliminated.

Paragraph (b) of section 3 of direction 7 to BDSA Reg. 2 is amended to read as follows:

(b) If at any time any person who has generated scrap in the course of producing alloys containing nickel to fill mandatory acceptance orders has on hand such scrap containing a quantity of usable nickel which exceeds the quantity of such nickel needed by him to fill mandatory acceptance orders received by him, he may use it himself or dispose of it unless otherwise ordered or directed by BDSA.

(Sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. 2154)

This amendment shall take effect May 9, 1958.

BUSINESS AND DEFENSE SERVICES ADMINISTRATION,
H. B. MCCOY,
Administrator.

[F. R. Doc. 58-3614; Filed, May 13, 1958; 8:50 a. m.]

[BDSA Reg. 2 (Formerly NPA Reg. 2): Amendment 5, of May 9, 1958]

BDSA REG. 2—BASIC RULES OF THE PRIORITIES SYSTEM

REG. 2, AMDT. 5—LIMITATION ON USE AND DISPOSITION OF MATERIALS ACQUIRED WITH PRIORITIES ASSISTANCE

This amendment is found necessary and appropriate to promote the national defense and is issued pursuant to the Defense Production Act of 1950, as amended. In the formulation of this amendment, consultation with industry representatives has been rendered impracticable because this amendment applies to all trades and industries.

This amendment affects BDSA Reg. 2 (formerly NPA Reg. 2) as amended by amendment 2 dated June 1, 1954, and amendment 4 dated January 11, 1957, by amending paragraph 17 of said regulation in the following respects. List B of said regulation is deleted. Persons who acquire materials with a rating or a specific authorization or a directive of BDSA are required to use, so far as possible, such materials, or the products into which such materials are incorporated, to fulfill other priority orders to the extent that such materials or products cannot be used for the purpose for which priority assistance was given. In certain cases, cancellations of priority ratings on unfilled rated purchase orders are required. Special rules relating to use and disposition of primary nickel are eliminated, and this material is made subject to the general rules relating to use and disposition of materials.

Section 17 of BDSA Reg. 2 (formerly NPA Reg. 2) dated March 23, 1953, as amended by amendment 2 dated June 1, 1954, is hereby amended to read as follows:

Sec. 17. *Use or disposition of material acquired under this regulation.* (a) Any person who gets material with a rating or through a specific authorization or a directive of BDSA must, if possible, use or dispose of it (or of the product into which it has been incorporated) for the purpose for which the assistance was given. However, material obtained with any DO rating may be used to fill any DX rated order. Physical segregation is not required as long as the restrictions applicable to any specific lot of material or product are observed with respect to an equivalent amount of the same material or product.

(b) When a material acquired with a rating or through a specific authorization or directive of BDSA, or when a product into which such material has been incorporated, can no longer be used for the purpose for which the priority assistance was given, the following rules apply:

(1) To the extent that such material or product can be used to fill other orders then on hand which are accompanied by a rating or a specific authorization or directive of BDSA, and with respect to which such holder has not already received other material of the same kind by the use of priority assistance for the purpose of filling such other orders, it must be so used.

(2) To the extent that such material or product can be used for the purpose specified in subparagraph (1) of this paragraph but where material of the same kind to fill such other orders has been ordered by the use of priority assistance and has not been received, it must be so used, and the provisions of section 12 (b) apply.

(3) To the extent that such material or product cannot be used for the purpose and in the manner specified in subparagraphs (1) and (2) of this paragraph, the holder of such material or product may use it himself or dispose of it, unless otherwise ordered or directed by BDSA.

List B of BDSA Reg. 2 and the footnote to list B are deleted.

(Sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. 2154)

This amendment shall take effect May 9, 1958.

BUSINESS AND DEFENSE SERVICES ADMINISTRATION,
H. B. MCCOY,
Administrator.

[F. R. Doc. 58-3615; Filed, May 13, 1958; 8:50 a. m.]

TITLE 43—PUBLIC LANDS: INTERIOR

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

Appendix—Public Land Orders

[Public Land Order 1633]

[1119031]

CALIFORNIA AND NEVADA

PARTIALLY REVOKING EXECUTIVE ORDER NO. 4203 OF APRIL 14, 1925, WHICH WITHDREW LANDS IN AID OF CLASSIFICATION

By virtue of the authority vested in the President by section 1 of 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:

1. Executive Order No. 4203 of April 14, 1925, which withdrew for classification the public lands within such of the following-described areas described in the act of Congress approved February 20, 1925 (43 Stat. 952) as were not then parts of any national forest

MOUNT DIABLO MERIDIAN

T. 37 N., R. 1 E.,
Sec. 1.
Ts. 38, 39, 40, 41, 42, 43 and 44 N., R. 1 E.
T. 45 N., R. 1 E.,
Secs. 19, 20, 29, and 30.
Ts. 37, 38, 39, 40, 41 and 42 N., R. 2 E.
T. 37 N., R. 3 E.
Sec. 1, N½;
Secs. 3, 4, 5, 6, 9, 10, 15, and 16.
Ts. 38, 39 and 40 N., R. 3 E.
T. 22 N., R. 4 E.,
Secs. 1, 12, and 13.
T. 23 N., R. 4 E.
T. 37 N., R. 4 E.,
Sec. 6, N½.
T. 38 N., R. 4 E.,
Secs. 6, 7, and 8.
T. 39 N., R. 4 E.,
Secs. 30 and 31.
Ts. 40 and 41 N., R. 4 E.
T. 20 N., R. 6 E.,
Secs. 1, 2, 3, 10, 11, 12, 13, 14, 15, 22, 23, 24, 25, 26, 27, 34, 35, and 36.
Ts. 26 and 27 N., R. 6 E.
Ts. 20, 21, 26 and 27 N., R. 7 E.
Ts. 21 and 27 N., R. 8 E.
T. 17 N., R. 9 E.,
Secs. 13, 24, 25, and 36.
T. 18 N., R. 9 E.,
Secs. 28 and 29.
T. 24 N., R. 9 E.,
Secs. 10, 11, 16, 22, 23, and 24.
T. 27 N., R. 9 E.,
Secs. 34, 35, and 36.
T. 14 N., R. 10 E.,
Secs. 1, 12, 13, 24, and 25.
T. 15 N., R. 10 E.,
Secs. 13, 24, 25, and 36.
T. 16 N., R. 10 E.,
Secs. 1, 2, 11, 13, 23, 24, 25, 26, 27, and 29.
Ts. 17 and 18 N., R. 10 E.
T. 23 N., R. 10 E.,
Sec. 1, N½.
T. 24 N., R. 10 E.,
Secs. 19, 28, 29, and 36.
T. 26 N., R. 10 E.,
Secs. 31, 32, and 33.
Ts. 14, 16, 17, 22, 23 and 24 N., R. 11 E.
T. 29 N., R. 11 E.,
Secs. 25 to 36, inclusive.
T. 10 N., R. 12 E.,
Secs. 1, 2, 3, 10 to 15, inclusive, 22 to 29, inclusive, 32 to 36, inclusive.
T. 11 N., R. 12 E.,
Secs. 25 to 29, inclusive, 32 to 36, inclusive.
Ts. 22 and 28 N., R. 12 E.
T. 29 N., R. 12 E.,
Secs. 26 to 35, inclusive.
T. 8 N., R. 13 E.,
Secs. 1, 2, 3, 10, 11, 12, 13, 14, 15, 22, 23, 24, 25, 26, 27, 34, 35, and 36.
Ts. 9, 10, 11, 21, 22 and 23 N., R. 13 E.
T. 4 N., R. 14 E.,
Secs. 1, 2, 11, 12, 13, 14, 23, 24, 25, and 26.
T. 5 N., R. 14 E.,
Secs. 1, 2, 11, 12, 13, 14, 23, 24, 25, 26, 35, and 36.
T. 6 N., R. 14 E.,
Secs. 1, 2, 3, 4, 9 to 16, inclusive, 21 to 28, inclusive, 33 to 36, inclusive.
Ts. 7 and 8 N., R. 14 E.
T. 20 N., R. 14 E.,
Secs. 9, 16, 21 to 24, inclusive.
T. 21 N., R. 14 E.,
Secs. 5, 6, 7, 8, 17, 18, 19, 20, 29, 30, 31, and 32.
T. 22 N., R. 14 E.,
Secs. 29, 30, 31, and 32.
T. 23 N., R. 14 E.,
Secs. 7, 16 to 21, inclusive, 28, 29, 30, and 33.
T. 2 N., R. 15 E.,
Secs. 1 to 12, inclusive.
Ts. 18, 19 and 20 N., R. 15 E.
T. 2 N., R. 16 E.,
Secs. 2 to 10, inclusive, 15, 16, and 21.
Ts. 18, 19 and 20 N., R. 16 E.
T. 25 N., R. 16 E.,
Sec. 15, N½;
Sec. 16.
Ts. 18, 19 and 20 N., R. 17 E.
T. 12 N., R. 18 E.,
Secs. 3 to 11, inclusive, 14 to 23, inclusive, 26 to 34, inclusive.
T. 13 N., R. 18 E.,
Fractional secs. 31 and 32 in California;
Secs. 1, 2, 3, 9 to 16, inclusive, 21 to 27, inclusive, 34, 35, and 36 in Nevada.
Ts. 14 and 15 N., R. 18 E., in Nevada.
T. 17 N., R. 18 E., Nevada,
Secs. 4, 5, and 6.
T. 18 N., R. 18 E., California and Nevada.
T. 13 N., R. 19 E., Nevada,
Secs. 5, 6, 7, 8, 17, 18, 19, 20, 29, 30, 31, and 32.
T. 14 N., R. 19 E., Nevada,
Secs. 4, 5, 6, 7, 8, 9, 16, 17, 18, 19, 20, 21, 28, 29, 30, 31, 32, and 33.
T. 15 N., R. 19 E., Nevada,
Secs. 4, 5, 6, 7, 8, 9, 16, 17, 18, 19, 20, 21, 28, 29, 30, 31, 32, and 33.

T. 1 S., R. 16 E.,
Secs. 1 to 5, inclusive, 8 to 15, inclusive, 22 to 27, inclusive, 34, 35, and 36.
Ts. 39, 40, 41, 42, 43 and 44 N., R. 1 W.
T. 45 N., R. 1 W.
Secs. 19 to 36, inclusive.
Ts. 39, 40, 41, 43 and 44 N., R. 2 W.
Ts. 39 and 40 N., R. 3 W.
T. 43 N., R. 3 W.,
Secs. 1, 2, 13, 14, 15, 16, 20, 21, 22, 23, and 24.
T. 37 N., R. 4 W.
T. 38 N., R. 4 W.,
Secs. 1, 2, 3, 10 to 17, inclusive, 20, 22, 27, 28, 29, 31, 32, and 33.
T. 39 N., R. 4 W.
T. 40 N., R. 4 W.
Secs. 2 to 6, inclusive, 10 to 15, inclusive, 19 and 22 to 36, inclusive.
Ts. 41 and 42 N., R. 4 W.
T. 36 N., R. 5 W.,
Secs. 1 to 11, inclusive, 15, 16, and 17.
Ts. 37, 38, 39 and 40 N., R. 5 W.
T. 41 N., R. 5 W.,
Secs. 1, 9 to 16, inclusive, 21 to 28, inclusive, 33, 34, 35, and 36.
T. 42 N., R. 5 W.,
Sec. 36.
T. 41 N., R. 7 W.,
Secs. 28 and 29.
T. 40 N., R. 9 W.,
Secs. 4 and 5.

is hereby revoked so far as it affects any lands other than the following-described lands:

MOUNT DIABLO MERIDIAN

T. 41 N., R. 1 E.,
Sec. 24, SW¼SW¼.
T. 37 N., R. 3 E.,
Sec. 10, NE¼NW¼, N½SE¼, and SE¼SE¼;
Sec. 15, S½NW¼ and SW¼.
T. 16 N., R. 10 E.,
Sec. 13, lots 3 to 10, inclusive, S½SE¼, and NE¼SE¼;
Sec. 23, lots 9 to 15, inclusive.
T. 17 N., R. 10 E.,
Sec. 21, W½SE¼NE¼;
Sec. 34, part of N½NW¼ within old Mineral Lot 41.
T. 18 N., R. 10 E.,
Sec. 29, lots 5 and 8;
Sec. 31, lots 4 to 7, inclusive, lots 9 and 10;
Sec. 32, lot 1.
Also those parts of lot 42 in sections 29, 31, and 32 not embraced in M. S. 76 and 77.
T. 14 N., R. 11 E.,
Sec. 15, lots 1 to 3, inclusive, S½ of lot 5, and S½ of lot 6;
Sec. 19, fractional part of SE¼ except M. S. 58, 59, and 63;
Sec. 20, fractional E½NE¼NE¼;
Sec. 21, lots 2, 3, 5, 7, to 15, inclusive.
T. 17 N., R. 11 E.,
Sec. 32, W½SW¼;
Sec. 34, N½ and S½SW¼.
T. 20 N., R. 15 E.,
Sec. 6, E½SE¼.
T. 20 N., R. 17 E.,
Sec. 24, NW¼SE¼.
T. 13 N., R. 18 E., Nevada,
Sec. 35, lots 4 and 5, E½E½, NW¼SE¼;
Sec. 26, SE¼SE¼.

The areas described aggregate approximately 2,477.46 acres.

2. All the lands in Nevada released from withdrawal by this order and most of those in California have been included in national forests. The following lands in California are hereby opened to filing of applications, selections and locations, subject to existing valid rights and the requirements of applicable law:

MOUNT DIABLO MERIDIAN, CALIFORNIA

T. 39 N., R. 2 E.,
Sec. 16, SE¼NE¼ and E½SE¼.
T. 37 N., R. 3 E.,
Sec. 16, N½NE¼, SW¼NE¼, and SE¼NW¼.
T. 23 N., R. 4 E.,
Sec. 8, SE¼SE¼SE¼;
Sec. 9, SE¼SE¼;
Sec. 17, W½SW¼SW¼;
Sec. 19, NE¼, E½NW¼, NE¼SE¼, N½SE¼SE¼, and NE¼SW¼SE¼;
Sec. 29, E½NE¼SE¼, exclusive of patented M. S. 4413;
Sec. 30, W½NW¼NE¼.
T. 29 N., R. 11 E.,
Sec. 25, N½NW¼, less patented M. S. 6148, 6086, 5302, and 6462;
Sec. 30, lots 1 and 2, S½ of lot 6, and N½ of lot 7;
Sec. 33, SE¼SE¼;
Sec. 34, S½SE¼;
Sec. 35, NW¼SE¼.
T. 29 N., R. 12 E.,
Sec. 31, lot 4.
T. 20 N., R. 15 E.,
Sec. 5, lot 2 of NW¼;
Sec. 6, lots 1 and 2 of NE¼.
T. 25 N., R. 16 E.,
Sec. 15, NE¼NE¼, S½NE¼, and E½NW¼.
T. 18 N., R. 18 E.,
Sec. 7, lot 13.
T. 37 N., R. 4 W.,
Sec. 4, SW¼SW¼.

The areas described aggregate approximately 1,405.95 acres.

3. The lands are widely scattered throughout northern California and generally occupy foothill and mountainous regions. The character of the lands varies from gentle, moderately rolling slopes of the lava beds of eastern Shasta County, California, to steeper slopes lying above the west branch of Feather River, to the more or less open sagebrush plains east of the Sierra escarpment. The soil is for the most part various clays and sands derived from volcanic parent material and other igneous rocks. The vegetation varies from the pine covered slopes of the lower foothills of the Sierra Nevada to the sagebrush plains. Adverse topography renders the lands generally unsuitable for agricultural purposes other than grazing by livestock.

4. No application for the restored lands may be allowed under the homestead, desert land, small tract, or any other nonmineral public land law unless the lands have already been classified as valuable or suitable for such type of application, or shall be so classified upon the consideration of an application. Any application that is filed will be considered on its merits. The lands will not be subject to occupancy or disposition until they have been classified.

5. Subject to any valid existing rights and the requirements of applicable law, the restored lands are hereby opened to filing of applications, selections, and locations in accordance with the following:

a. Applications and selections under the nonmineral public land laws may be presented to the Manager mentioned below, beginning on the date of this order. Such applications and selections will be considered as filed on the hour and respective dates shown for the various classes enumerated in the following paragraphs:

(1) Applications by persons having prior existing valid settlement rights, preference rights conferred by existing laws, or equitable claims subject to allowance and confirmation will be adjudicated on the facts presented in support of each claim or right. All applications presented by persons other than those referred to in this paragraph will be subject to the applications and claims mentioned in this paragraph.

(2) All valid applications under the Homestead, Desert Land, and Small Tract Laws by qualified veterans of World War II or of the Korean Conflict, and by others entitled to preference rights under the act of September 27, 1944 (58 Stat. 747; 43 U. S. C. 279–284) as amended, presented prior to 10:00 a. m. on June 13, 1958, will be considered as simultaneously filed at that hour. Rights under such preference right applications filed after that hour and before 10:00 a. m. on September 12, 1958, will be governed by the time of filing.

(3) All valid applications and selections under the nonmineral public land laws, other than those coming under paragraphs (1) and (2) above, presented prior to 10:00 a. m. on September 12, 1958, will be considered as simultaneously filed at that hour. Rights under such applications and selections filed after that hour will be governed by the time of filing.

b. The lands have been open to applications and offers under the mineral-leasing laws, and to location for metalliferous minerals. They will be open to location for non-metalliferous minerals under the United States mining laws beginning at 10:00 a. m. on September 12, 1958.

6. Persons claiming veterans preference rights must enclose with their applications proper evidence of military or naval service, preferably a complete photostatic copy of the certificate of honorable discharge. Persons claiming preference rights based upon valid settlement, statutory preference, or equitable claims must enclose properly corroborated statements in support of their claims. Detailed rules and regulations governing applications which may be filed pursuant to this notice can be found in Title 43 of the Code of Federal Regulations.

Inquiries concerning the lands shall be addressed to the Manager, Land Office, Bureau of Land Management, Sacramento, California.

ROGER ERNST,
Assistant Secretary of the Interior.

MAY 8, 1958.

[F. R. Doc. 58-3589; Filed, May 13, 1958; 8:45 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 6]

MIGRATORY BIRDS

NOTICE OF PROPOSED RULE MAKING

Pursuant to section 4 (a) of the Administrative Procedure Act approved June 11, 1946 (60 Stat. 237), notice is hereby given that the Director, Bureau of Sport Fisheries and Wildlife, proposes to recommend the adoption by the Secretary of the Interior, under authority contained in section 3 of the Migratory Bird Treaty Act of July 3, 1918, as amended (40 Stat. 755; 16 U. S. C. 704), of amendments to Part 6, Title 50, Code of Federal Regulations, which will specify open seasons, certain closed seasons, hunting methods, shooting hours, and bag limits for migratory game birds.

The proposed amendments specifying open seasons and bag limits for migratory game birds, except waterfowl, coots and Wilson's snipe (but including scoter, eider and old-squaw ducks in open coastal waters beyond outer harbor lines in certain North Atlantic Coastal States and waterfowl, coots and Wilson's snipe in Alaska), and those relating to other matters will be proposed for final adoption not later than August 1, 1958, to become effective September 1, 1958. Proposed amendments specifying open seasons, bag limits, and shooting hours for other waterfowl, coots and Wilson's snipe will be proposed for adoption not later than September 1, 1958, to become effective not later than October 1, 1958.

On the basis of final decisions to be reached at the conclusion of studies now in progress, the said Director may recommend the adoption by the Secretary of other amendments to Part 6 to accomplish the following purposes:

1. Section 6.3 (b) (9) would be amended to make more clear what constitutes the illegal taking of migratory game birds by bait. No substantive change is contemplated in the section.

2. Section 6.6 (c) would be amended to make its provisions applicable to shipments within a State as well as into or out of the State.

3. Section 6.6 (d) would be amended to substitute the word "species" for the word "kinds". It is proposed to make a similar amendment wherever the word "kinds" when used in reference to migratory game birds, appears in the Regulations.

4. Section 6.7 (b) would be amended to make it clear that migratory game birds imported from Canada may be entered with or without the heads and feet attached.

5. Section 6.9 would be amended to include commercial picking establishments within the meaning of its provisions.

6. Section 6.11 would be amended to prohibit persons other than those with a permit from possessing or transporting live migratory waterfowl acquired in any lawful manner after September 1, 1958.

7. Sections 6.12 and 6.13 would be amended by combining the said sections and by making the provisions presently contained in § 6.13 with reference to the commercial use of feathers, applicable to all migratory game birds rather than to wild ducks and wild geese as is presently the case.

Interested persons are hereby afforded an opportunity to participate in preparation of the amended regulations to be adopted as set forth above, by submitting their views, data or arguments in writing to the Director, Bureau of Sport Fisheries and Wildlife, Washington 25, D. C., on or before June 20, 1958.

Dated: May 9, 1958.

D. H. JANZEN,
Director, Bureau of Sport Fisheries and Wildlife.

[F. R. Doc. 58-3588; Filed, May 13, 1958; 8:45 a. m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 922]

VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

APPROVAL OF EXPENSES AND FIXING OF RATE OF ASSESSMENT FOR 1957–58 FISCAL YEAR

Consideration is being given to the following proposals submitted by the Valencia Orange Administrative Committee, established under the marketing agreement and Order No. 22, as amended (7 CFR Part 922), regulating the handling of Valencia oranges grown in Arizona and designated part of California, originally effective March 31, 1954, 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), as the agency to administer the terms and provisions thereof: (1) That the Secretary of Agriculture find that expenses not to exceed $170,000.00 will be necessarily incurred during the fiscal year November 1, 1957, through October 31, 1958, for the maintenance and functioning of the committee established under the aforesaid marketing agreement and order, as amended, and (2) that the Secretary of Agriculture fix, as the share of such expenses which each handler who first handles oranges shall pay during the fiscal year in accordance with the aforesaid marketing agreement and order, as amended, the rate of assessment of $0.0075 per carton of oranges handled by such handler as the first handler thereof during such fiscal year.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals should file the same with the Director, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, Room 2077, South Building, Washington 25, D. C., not later than the 10th day after the publication of this notice in the FEDERAL REGISTER. All documents should be filed in quadruplicate.

As used herein, "handle," "handler," "oranges," "fiscal year," and "carton" shall have the same meaning as is given to each such term in said marketing agreement and order, as amended.

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

Dated: May 9, 1958.

[SEAL] FLOYD F. HEDLUND,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F. R. Doc. 58-3623; Filed, May 13, 1958; 8:52 a. m.]

CIVIL AERONAUTICS BOARD

[14 CFR Parts 4b, 40, 41, 42, 43, 45]

[Draft Release 58-11]

EMERGENCY EXITS FOR AIRPLANES CARRYING PASSENGERS FOR HIRE

NOTICE OF PROPOSED RULE MAKING

Pursuant to authority delegated by the Civil Aeronautics Board to the Bureau of Safety, notice is hereby given that the Bureau will propose to the Board the adoption of amendments to Special Civil Air Regulation No. SR–389A as hereinafter set forth.

Interested persons may participate in the making of the proposed rules by submitting such written data, views, or arguments as they may desire. Communications should be submitted in duplicate to the Civil Aeronautics Board, attention Bureau of Safety, Washington 25, D. C. In order to insure their consideration by the Board before taking further action on the proposed rules, communications must be received by July 15, 1958. Copies of such communications will be available after July 17, 1958, for examination by interested persons at the Docket Section of the Board, Room 5412, Department of Commerce Building, Washington, D. C.

Special Civil Air Regulation No. SR–389 (17 F. R. 9895) was adopted by the Civil Aeronautics Board on October 27, 1952, and became effective on the same date. This special regulation was promulgated by the Board because a study of existing type airplanes had indicated that in some instances the exit facilities had become marginal for the number of occupants carried and that further increases in occupancy should be more strictly related to the number of exits available. The study further revealed that even in some of the airplane types which were not considered marginal in this respect further increases in occupancy should not be permitted without the installation of additional exits.

On September 13, 1957, the Board adopted and made effective SR–389A (22

F. R. 7462) which superseded SR–389. All of the provisions of SR–389 were retained in SR–389A. The latter special regulation, however, contained an addition to the table which authorized the Viscount 700 series airplane to be operated with 49 occupants with 7 exits. SR–389A was amended further on October 17, 1957 (22 F. R. 8258) by changing the maximum number of occupants permitted on the Viscount 700 series airplane to 53 occupants with 7 exits.

SR–389A requires that all large airplanes (more than 12,500 pounds maximum certificated take-off weight), while carrying passengers for hire, comply with § 4b.362 (a), (b), and (c) of Part 4b of the Civil Air Regulations, as amended by Amendment 4b–4, effective December 20, 1951, with the exception of those airplanes listed in the table set forth in the regulation. The latter airplanes may comply with the values of maximum number of occupants listed in the table in SR–389A. In excepting these airplanes from strict compliance with the effective provisions of Amendment 4b–4, the Board took into account that such compliance would have required substantial modifications which would not have been commensurate with the resulting increase in safety, and would, therefore, have imposed an unreasonable burden on the operator.

Upon further review of this special regulation, it appears that additional changes are required as indicated.

SR–389A includes a provision that additional occupants above the numbers listed in the table may be carried if additional exits are provided, except that in no case shall more than 8 additional occupants be carried for any one additional exit and that the type, size, and location of such additional exit shall be approved by the Administrator. In this provision, it was intended that no more than 8 additional occupants could be authorized if the most effective exit for emergency evacuation were provided. Since the effectiveness of the exit varies with the type, size, and location, it was intended that less than 8 additional occupants would be authorized if the exit provided was not the most effective exit for evacuation. Since this objective was not fully spelled out, there is contained herein a proposed amendment to this provision to make this intent clearer.

SR–389A does not contain provisions regarding the maximum number of occupants permitted when the number of existing exits is reduced. As a consequence, considerable administrative difficulty has resulted when operators desired to reduce the number of exits and occupants of the airplane from those listed in the table in SR–389A. In order to remedy such difficulty, this notice proposes a method for decreasing the number of authorized passengers when the number of exits installed is less than that listed in the table while still maintaining a safe occupant/exit relationship.

In addition, the table in SR–389A has caused some confusion with respect to the CV–440 and L–1049 airplanes, since the CV–440 was manufactured under the same type certificate as the CV–340 and there have been many different models of the L–1049. It is, therefore, proposed to amend the table by listing the "L–1049 series" in lieu of the "L–1049," and by listing the "CV–340 and CV–440" in lieu of the "CV–340."

In view of the foregoing, notice is hereby given that it is proposed to recommend to the Board that Special Civil Air Regulation No. SR–389A be amended:

1. By amending the second sentence of the paragraph preceding the table to read as follows: "Additional occupants above the values listed in the table shall be authorized if additional approved emergency exits are provided, on the basis that not more than 8 additional occupants shall be authorized when an additional floor level exit not less than 24 inches wide by 48 inches high is provided, and a lesser number of occupants shall be authorized as determined by the Administrator when an emergency exit is added which is less effective for emergency evacuation."

2. By adding the following to the paragraph preceding the table: "The maximum number of occupants listed in the table shall be reduced if the number of approved exits available is less than that shown in the table. The reduction in the maximum number of occupants for each exit eliminated shall be determined by the Administrator taking due account of the effectiveness of the remaining exits for emergency evacuation, except that the maximum number of occupants shall be reduced by at least 8 for each eliminated exit. In no case shall the resulting ratio of occupants to exits be greater than 14:1, and there shall be at least one exit on each side of the fuselage irrespective of the number of occupants. When the first exit is eliminated on those airplanes which have a ratio of occupants to exits greater than 14:1, as computed from the table in this special regulation, the maximum number of occupants shall be reduced so that the ratio of occupants to exits is no greater than 14:1."

3. By amending the column titled "Airplane type" by deleting "CV–340" and inserting in lieu thereof "CV–340 and CV–440" and by deleting "L–1049" and inserting in lieu thereof "L–1049 series".

These amendments are proposed under the authority of Title VI of the Civil Aeronautics Act of 1938, as amended. The proposals may be changed in the light of comment received in response to this notice of proposed rule making.

(Sec. 205, 52 Stat. 984; 49 U. S. C. 425. Interpret or apply secs. 601–610, 52 Stat. 1007, 1012, as amended; 49 U. S. C. 551–560)

Dated at Washington, D. C., May 7, 1958.

By the Bureau of Safety.

[SEAL] OSCAR BAKKE,
Director.

[F. R. Doc. 58–3617; Filed, May 13, 1958; 8:51 a. m.]

NOTICES

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

NEW MEXICO

NOTICE OF PROPOSED WITHDRAWAL AND RESERVATION OF LANDS

MAY 6, 1958.

The Bureau of Reclamation of the United States Department of the Interior has filed two applications, Serial Nos. New Mexico 037689 and New Mexico 038148, for the withdrawal of lands described below, under the First Form of Withdrawal as provided by section 3 of the Act of June 17, 1902 (32 Stat. 388), from all forms of appropriation, except grazing, mineral leasing and mining location, so long as these uses do not interfere with the primary purpose of the withdrawal.

The applicant desires the lands for the establishment of permanent gravel production areas and rights-of-way in connection with channelization program along the Rio Grande.

For a period of thirty 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, P. O. Box 1251, Santa Fe, New Mexico.

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:

NEW MEXICO PRINCIPAL MERIDIAN

T. 3 S., R. 1 E.,
Sec. 31, Lots 4, 12, 13, 17, 18, and 19.
T. 4 S., R. 1 E.,
Sec. 5, Lots 19 and 20;
Sec. 6, Lot 1;
Sec. 8, Lot 43;
Sec. 17, Lot 19;
Sec. 21, Lots 12, 13, 14, 17, and 18;
Sec. 28, Lots 18 and 21;
Sec. 33, Lots 13 and 14.

The areas described aggregate 249.65 acres.

E. R. SMITH,
State Supervisor.

[F. R. Doc. 58–3590; Filed, May 13, 1958; 8:45 a. m.]

[California .544]

CALIFORNIA

SMALL TRACT CLASSIFICATION ORDER

MAY 6, 1958.

1. Pursuant to authority delegated to me by the California State Supervisor, Bureau of Land Management, under Part II, Document 4, California State Office,

dated November 19, 1954 (19 F. R. 7697), I hereby classify the following described public lands in Shasta County, California, as suitable for disposition for residence purposes under the Small Tract Act of June 1, 1938 (52 Stat. 609; 43 U. S. C. 682a), as amended:

MOUNT DIABLO MERIDIAN

T. 31 N., R. 5 W.,
Section 16, E½NE¼, NE¼NW¼NE¼, S½NW¼NW¼NE¼, S½NW¼NE¼, SW¼NE¼, SE¼.
Containing 315 acres, subdivided into approximately 40 small tracts of which 6 are covered by applications from persons entitled to preference under 43 CFR 257.5 (a).

2. Classification of the above-described lands by this order segregates them from all appropriations, including locations under the mining laws, except as to applications under the mineral leasing laws.

3. The lands classified by this order shall not become subject to application under the Small Tract Act of June 1, 1938 (52 Stat. 609; 43 U. S. C. 682a), as amended, until it is so provided by an order to be issued by an authorized officer, opening the lands to application or bid with a preference right to veterans of World War II and of the Korean Conflict and other qualified persons entitled to preference under the act of September 27, 1944 (58 Stat. 497; 43 U. S. C. 279–284) as amended.

4. All valid applications filed prior to May 6, 1958, will be granted, as soon as possible, the preference right provided for by 43 CFR 257.5 (a).

R. G. SPORLEDER,
Officer in Charge,
Northern Field Group,
Sacramento, California.

[F. R. Doc. 58-3591; Filed, May 13, 1958; 8:46 a. m.]

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order 46]

SAN FRANCISCO PORT AUTHORITY

APPLICATION TO CHANGE LOCATION OF FOREIGN-TRADE ZONE NO. 3

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (48 Stat. 998–1003; 19 U. S. C. 81a–81u), the Foreign-Trade Zones Board has adopted the following order which is promulgated for the information and guidance of all concerned:

Whereas, the San Francisco Port Authority, as Grantee of Foreign-Trade Zone No. 3 filed an application dated March 19, 1958, requesting permission to change the location of Foreign-Trade Zone No. 3 from its present location at Pier No. 45, to Pier No. 46C, otherwise known as 33 Berry Street, and the adjacent warehouse located at 128–136 King Street for a period of not to exceed three (3) years.

Whereas, the San Francisco Port Authority states that Order No. 43 approved December 20, 1956, changing the location from Pier No. 45 to Piers Nos. 46B and 46C, and Order No. 44, making the move mandatory by April 11, 1958, could not be made effective.

Whereas, the Port Authority, by action of the State Legislature in 1958 will seek funds for a port improvement program; and, until such time the foreign-trade zone must operate in temporary quarters.

Now, therefore, the Foreign-Trade Zones Board, after full consideration and a finding that the proposal is in the public interest, hereby orders: That the boundaries of Foreign-Trade Zone No. 3 be, and they are hereby reestablished on a temporary basis not to exceed three (3) years from the date of publication of this order in the FEDERAL REGISTER, from its present location on Pier No. 45 to Pier No. 46C, otherwise known as 33 Berry Street, and adjacent warehouse at 128–136 King Street to conform with Exhibits 1, 3, 6, 8, 10, and 13 filed with the application.

It is found that compliance with the notice, public rule making procedure, and effective date requirements of the Administrative Procedure Act (5 U. S. C. 1003) is unnecessary in connection with the issuance of this order, because its application is restricted to one foreign-trade zone, and is of a nature that it imposes no burden on the parties of interest. This order supersedes orders Nos. 43 and 44, and the effective date is, therefore, upon publication in the FEDERAL REGISTER.

Signed at Washington, D. C., this 5th day of May 1958.

[SEAL] FOREIGN-TRADE ZONES BOARD,
SINCLAIR WEEKS,
Secretary of Commerce, Chairman and Executive Officer, Foreign-Trade Zones Board.

Attest:

JOSEPH M. MARRONE,
Executive Secretary,
Foreign-Trade Zones Board.

[F. R. Doc. 58-3587; Filed, May 13, 1958; 8:45 a. m.]

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Dept. Circ. 570, Rev. Apr. 20, 1943, 1958, Supp. 182]

WABASH FIRE AND CASUALTY INSURANCE CO.

SURETY COMPANIES ACCEPTABLE ON FEDERAL BONDS

MAY 1, 1958.

A Certificate of Authority has been issued by the Secretary of the Treasury to the following company under the Act of Congress approved July 30, 1947, 6 U. S. C. 6–13, as an acceptable surety on Federal Bonds. An underwriting limitation of $314,000.00 has been established for the company. Further details as to the extent and localities with respect to which the company is acceptable as surety on Federal bonds will appear in the next issue of Treasury Department Form 356, copies of which, when issued, may be obtained from the Treasury Department, Bureau of Accounts, Surety Bonds Branch, Washington 25, D. C.

Name of company, location of principal executive office and State in which incorporated. Wabash Fire and Casualty Insurance Company, Indianapolis, Ind.

[SEAL] JULIAN B. BAIRD,
Acting Secretary of the Treasury.

[F. R. Doc. 58-3612; Filed, May 13, 1958; 8:49 a. m.]

[Dept. Circ. 570, Rev. Apr. 20, 1943, 1958, Supp. 183]

FLORIDA HOME INSURANCE CO.

SURETY COMPANIES ACCEPTABLE ON FEDERAL BONDS

MAY 1, 1958.

A Certificate of Authority has been issued by the Secretary of the Treasury to the following company under the Act of Congress approved July 30, 1947, 6 U. S. C. 6–13, as an acceptable surety on Federal Bonds. An underwriting limitation of $96,000.00 has been established for the company. Further details as to the extent and localities with respect to which the company is acceptable as surety on Federal bonds will appear in the next issue of Treasury Department Form 356, copies of which, when issued, may be obtained from the Treasury Department, Bureau of Accounts, Surety Bonds Branch, Washington 25, D. C.

Name of company, location of principal executive office and State in which incorporated. Florida Home Insurance Company, Miami, Florida.

[SEAL] JULIAN B. BAIRD,
Acting Secretary of the Treasury.

[F. R. Doc. 58-3613; Filed, May 13, 1958; 8:50 a. m.]

HOUSING AND HOME FINANCE AGENCY

Office of the Administrator

REGIONAL ENGINEER AND FIELD ENGINEERS, REGION I (NEW YORK)

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

The Regional Director of Urban Renewal, the Regional Engineer, and each Field Engineer, Region I (New York), is hereby authorized under Title I of the Housing Act of 1949, as amended (63 Stat. 414–421, as amended, 42 U. S. C. 1450–1460) and under section 312 of the Housing Act of 1954 (68 Stat. 629):

Approve contracts between local public agencies and third parties as follows:

1. Approve proposed contracts for professional services of engineers or architects for other than non-cash local grants-in-aid.

2. Approve the following documents relating to site demolition, clearance and site preparation work, other than non-cash local grants-in-aid:

a. Proposed contract documents, before advertising for bids or award of contracts.

b. Proposed addenda to bidding documents and proposed change orders.

c. Proposed contracts for structural surveys.

d. Proposed contracts for subdivision plats and property-line surveys.

e. Concurring in drawings, specifications, cost estimates, and proposed methods for performing force account work.

f. Concurring in bidding proceedings, bid openings, and contract awards.

g. Concurring in contractors' estimates for partial and final payment.

h. Concurring in the acceptance of work completed under contract.

(Reorg. Plan No. 3 of 1947, 61 Stat. 954 (1947); 62 Stat. 1283 (1948), as amended by 64 Stat. 80 (1950), 12 U. S. C. 1952 ed. 1701c; Delegation of Authority effective Dec. 23, 1954 (20 F. R. 428-9), January 19, 1955, as amended)

Effective as of the 15th day of April 1958.

WALTER S. FRIED,
Regional Administrator, Region I.

[F. R. Doc. 58-3603; Filed, May 13, 1958; 8:48 a. m.]

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

SALES OF CERTAIN COMMODITIES

MAY 1958 MONTHLY SALES LIST

Pursuant to the policy of Commodity Credit Corporation issued October 12, 1954 (19 F. R. 6669) and subject to the conditions stated therein, the commodities listed below are available for sale in the quantities stated and on the price basis set forth. The Commodity Credit Corporation will entertain offers from prospective buyers for the purchase of any such commodity.

Available interest rates on sales made in May under the Export Credit Sales Announcement GSM 1 are as follows:

For periods up to and including 6 months, 2¼ percent per annum.

For periods over 6 months up to and including 18 months, 2¾ percent per annum.

For periods over 18 months up to and including 36 months, 3¼ percent per annum.

The Commodity Credit Corporation reserves the right, before making any sale, to define or limit export areas. Announcements containing the contractual terms and conditions of sale for the respective commodities will be furnished upon request. For ready reference a number of these announcements are identified by code number in the following list.

Commodity Credit Corporation also reserves the right to amend, from time to time, any of its announcements, which amendments shall be applicable to and be made a part of the sales contracts thereafter and entered into.

Disposals and other handling of inventory items often result in small quantities at given locations or in qualities not up to specifications. These lots are offered promptly upon appearance by public notice issued by the appropriate CSS Commodity Office and therefore generally they do not appear in the Monthly Sales List.

MAY 1958 MONTHLY SALES LIST

NOTICE TO BUYERS

On sales for which the buyer is required to submit proof to CCC of exportation, the buyer (1) shall be regularly engaged in the business of buying or selling commodities and, for this purpose, shall maintain a bona fide business office in the United States, its territories, or possessions and therein have a person, principal or resident agent, upon whom service of judicial process may be had, and (2) shall submit a financial statement, bank advice, surety bond or other evidence of financial responsibility as may be required by CCC.

Commodity	Sales price or method of sale
Dairy products	All sales are under LD-26. All sales are in carlots only. As many as 3 buyers may participate in purchasing a single carlot. Domestic price: For unrestricted use price is "in store" [1] at storage locations of products. Prices for unrestricted use, which reflect 90 percent of the April 1958 parity prices, will continue in effect for the remainder of 1958. For restricted use price is on the basis of delivery f. o. b. cars at point of use named in offer. CCC will convert to "in store" price as provided in LD-26. Export prices are on the basis of delivery f. a. s. vessel or at buyer's option f. o. b. cars point of export. If delivery is to be "in store" CCC will convert to "in store" price as provided in LD-26. Submission of offers: For products in Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington, submit offers to the Portland CSS Commodity Office. For products in other States and the District of Columbia, submit offers to the Cincinnati CSS Commodity Office.
Butter (as available)	Domestic, unrestricted use: 68 cents per pound, New York, New Jersey, Pennsylvania, New England and other States bordering the Atlantic Ocean and Gulf of Mexico. 67¼ cents per pound, Washington, Oregon, and California. All other States 67 cents per pound. Domestic, restricted use: For use as an extender for cocoa butter in the manufacture of chocolate and in such a manner as will not displace other dairy products from use in the manufacture of chocolate or in the manufacture of other products made from chocolate, 39 cents per pound. Export, unrestricted use: 39 cents per pound.
Nonfat dry milk (spray, roller), as available.	Domestic, unrestricted use: Spray process, U. S. Extra Grade; in barrels and drums, 16.25 cents per pound; in bags, 15.40 cents per pound. Roller process, U. S. Extra Grade; in barrels and drums, 14.25 cents per pound; in bags, 13.40 cents per pound. Domestic, restricted use (animal and poultry feed): In barrels and drums, 11.1 cents per pound; in bags, 10.65 cents per pound. Export, unrestricted use: Spray or roller process, U. S. Extra Grade; in barrels and drums, 9.9 cents per pound; in bags, 9.05 cents per pound.
Cheddar cheese, Cheddar, flats, twins, and rindless blocks (standard moisture basis).	Domestic: 39.5 cents per pound, for New York, New Jersey, Pennsylvania, New England, and other States bordering the Atlantic and Pacific and Gulf of Mexico. All other States 38.5 cents per pound. Export: 22 cents per pound. Cheese prices are subject to usual adjustments for moisture content.
Cotton, upland	Domestic: Competitive bid and under the terms and conditions of Announcement NO-C-5, Revision 1, but not less than the higher of (1) 105 percent of the current support price plus reasonable carrying charges, or (2) the domestic market price as determined by CCC. Export: Competitive bid and under the terms and conditions of Announcements CN-EX-4 and NO-C-9, as amended.
Cotton, extra long staple	Domestic: Competitive bid and under the terms and conditions of Announcement NO-C-6, as amended, and NO-C-10, as amended, but not less than the higher of (1) 105 percent of the current support price plus reasonable carrying charges, or (2) the domestic market price as determined by CCC. Export: Competitive bid and under the terms and conditions of Announcement NO-C-6, as amended, and NO-C-10, as amended. Catalogs for Upland and Extra Long Staple cotton showing quantities, qualities, and locations may be obtained for a nominal fee from the New Orleans CSS Commodity Office.
Peanuts	Domestic (for crushing) or export: Competitive bid basis for limited quantities announced by Peanut Cooperative Associations under CCC Peanut Announcement 1, as amended. Domestic (unrestricted use): Milled (1956 crop in cold storage); market price but not less than the 1956 applicable loan rate for type and grade basis in store point of origin, plus 5 percent, adjusted for milling, storage, and other charges. Example of minimum price at point of storage: Virginias, U. S. Grade, Extra Large Kernels, 26.5 cents per pound; Virginias, U. S. Grade, Medium, 25.8 cents per pound; S. E. Runner, U. S. Grade, No. 1, 24.0 cents per pound. Available Dallas CSS Commodity Office.
Wheat, bulk	Domestic: Commercial wheat-producing area: Market price, basis in store,[1] but not less than the 1957 applicable loan rate, plus (1) 32 cents per bushel if received by truck, or (2) 27 cents per bushel if received by rail or barge. Examples of the foregoing minimum per bushel (ex-rail or barge): Chicago, No. 1 RW, $2.59; Minneapolis, No. 1 DNS, $2.63; Kansas City, No. 1 HW, $2.59; Portland, No. 1 SW, $2.49. Noncommercial wheat-producing area: Market price, basis in store,[1] but not less than 133 percent of applicable 1957 county loan rate plus (1) 32 cents per bushel if received by truck, or (2) 27 cents per bushel if received by rail or barge. If delivery is outside the area of production, applicable freight will be added to the above. Export (as wheat): Under Announcement GR-261 revised, as amended for application to certain barter contracts and specially approved credit sales only, at prices determined daily, and under Announcement GR-212 revised, amended, for specific offerings as announced. Disposals under payment-in-kind program under Announcement GR-345.[3] Available Dallas, Evanston, Minneapolis, Kansas City, and Portland CSS Commodity Offices for domestic or export sale, except under GR-345 at Dallas and Evanston, and Portland when announced.
Corn, bulk	Domestic: Commercial corn-producing area: Market price, basis in store,[1] but not less than the 1957 applicable loan rate for corn produced in compliance with 1957 acreage allotments plus: (1) a markup of 20 cents per bushel for corn in storage at point of production, (2) a markup of 22 cents per bushel and the rail freight (including transportation tax) from point of production to the present point of storage for corn in storage at other than point of production. Examples of the foregoing minimum price per bushel for No. 2 yellow corn, 13.3 percent moisture and 1.4 percent foreign material, including average paid-in freight from Woodford County, Ill., to Chicago and Redwood County, Minn., to Minneapolis, respectively: Chicago, $1.80¾; Minneapolis, $1.76¼. Noncommercial corn-producing area: Market price, basis in store,[2] but not less than 110 percent of the applicable 1957 loan rate plus markup as above. Available Evanston, Dallas, Kansas City, Minneapolis, and Portland CSS Commodity Offices. Effective May 12, nonstorable corn, unrestricted use (as available): At other than bin sites, through the above offices. At bin sites, through ASC county offices.

See footnotes at end of table.

MAY 1958 MONTHLY SALES LIST—Continued

Commodity	Sales price or method of sale
Corn, bulk—Continued	Export: Under Announcement GR-212 revised, amended, for application to barter contracts and approved credit sales. Prior to May 12, competitive bid basis as announced by Dallas, Evanston, Kansas City, Minneapolis, and Portland CSS Commodity Offices.[3] Effective May 12, except for barter and credit sales, disposal under Feed Grain payment-in-kind program under Announcement GR-368.
Oats, bulk	Domestic: Market price, basis in store,[1] but not less than the 1957 applicable loan rate plus (1) a markup of 21 cents per bushel for oats in storage at point of production, (2) a markup of 23 cents per bushel and the rail freight (including transportation tax) from point of production to present point of storage for oats in storage at other than the point of production. Examples of the foregoing minimum price per bushel including average paid-in freight from Woodford County, Ill., to Chicago and Redwood County, Minn., to Minneapolis, respectively: Chicago, No. 3 oats or better, $0.91¾; Minneapolis, No. 3 oats or better, $0.86. Available Minneapolis, Evanston, Kansas City, Portland, and Dallas CSS Commodity Offices. Export: Competitive bid as announced by the Minneapolis, Portland, and Dallas CSS Commodity Offices.[3]
Barley, bulk	Domestic: Market price in store,[1] but not less than the 1957 applicable loan rate plus (1) 25 cents per bushel if received by truck, or (2) 22 cents per bushel if received by rail or barge. If delivery is outside the area of production, applicable freight will be added to the above. Example of the foregoing minimum price per bushel (exrail or barge): Minneapolis, No. 2 barley, $1.40. Available Minneapolis, Evanston, Kansas City, Portland, and Dallas CSS Commodity Offices. Export: Competitive bid as announced by the Dallas, Minneapolis, and Portland CSS Commodity Offices.[3]
Rye, bulk	Domestic: Market price basis in store,[2] but not less than the 1957 applicable loan rate, plus (1) 28 cents per bushel if received by truck or (2) 23 cents per bushel if received by rail or barge. If delivery is outside the area of production, applicable freight will be added to the above. Example of the foregoing minimum price per bushel (ex-rail or barge): Minneapolis, No. 2 or better, $1.63. Available Evanston, Kansas City, Minneapolis, Portland, and Dallas CSS Commodity Offices. Export: Competitive bid as announced by the Evanston, Dallas, and Portland CSS Commodity Offices.[3]
Grain sorghums, bulk	Domestic: Market price, basis in store,[2] but not less than the 1957 applicable loan rate plus (1) 51 cents per hundredweight if received by truck or (2) 42 cents per hundredweight if received by rail or barge. If delivery is outside the area of production applicable freight will be added to the above. Example of the foregoing minimum price per hundredweight (ex-rail or barge): Kansas City, No. 2 or better, $2.73. Available Dallas, Portland, and Kansas City CSS Commodity Offices. Export: Competitive bid as announced by Dallas and Portland CSS Commodity Offices.[3]
Soybeans, bulk (as available)	Domestic (for crushing) or export: Market price basis in store but not less than the 1957 basic loan rate for No. 2 grade, basis point of production plus 5 cents per bushel. Market discounts for quality factors will be applied to the basic price to determine the actual minimum sales prices. If delivery is outside the area of production, applicable freight and out-elevation charges at country loading point and in-elevation charges at subterminal or terminal storage point will be added to the above price. Available Evanston, Kansas City, and Minneapolis CSS Commodity Offices.
Flaxseed, bulk (as available)	Domestic (for crushing) or export: Market price basis in store but not less than 1957 crop support rate for the point of production for Grade No. 1 plus 3 cents per bushel, except for odd lots or lots in danger of deterioration. Market discounts for lower grades to apply. Available Minneapolis CSS Commodity Offices.
Rice, milled 1956 crop (as available).	Domestic: unrestricted use (1956 crop); market price but not less than equivalent 1957 loan rate for rough rice by varieties and grades plus 5 percent adjusted for milling plus 76 cents per hundredweight basis in store. Prices and quantities available by varieties and grade may be obtained from Dallas CSS Commodity Office. Example of minimum prices of milled rice per hundredweight at mills:

	U. S. No. 3	U. S. No. 4	U. S. No. 5
Blue Bonnet	$11.19	$10.33	$9.41
Century Patna	10.36	9.50	8.68

Rice, rough	Export: Competitive bid under DL-MR-400/57 (Revised) for export only under Title I, Public Law 480 purchase authorizations as announced by Dallas CSS Commodity Office. Special export: Competitive bid on "as is" basis, under DL-MR/53 as announced by Dallas CSS Commodity Office. Domestic: Unrestricted; market price but not less than the 1957 applicable loan rate plus 5 percent, plus 56 cents per hundredweight basis in store. Prices and quantities available by varieties may be obtained from Dallas CSS Commodity Office or from Portland CSS Commodity Office for Pearl and Calrose. Export: For export as milled rice. Competitive bid as announced by Dallas and Portland CSS Commodity Offices.
Gum rosin	Domestic or Export: Offer and acceptance basis "as is" in galvanized metal drums (averaging 517 pounds net) in the stated quantities and on the designated storage yards, subject to the terms and conditions of Announcement TB-21 (Revised) and supplements thereto which will be issued monthly. Available through the American Turpentine Farmers' Assn. Coop., Valdosta, Ga.
Gum turpentine	Domestic or export: Offer and acceptance basis, "as is", bulk in tanks in the stated quantities and in the designated storage tanks subject to the prices, terms and conditions of Announcement TB-21 (Revised) and supplements thereto which will be issued monthly. Available through ATFA, Valdosta, Ga.

[1] At the processor's plant or warehouse but with any prepaid storage and outhandling charges for the benefit of the buyer.

[2] In those counties in which grain is stored in CCC bin sites, delivery will be made f. o. b. buyer's conveyance at bin site without additional cost; sales will also be made in store approved warehouses in such county and adjacent counties at the same price, provided the buyer makes arrangements with the warehouse for storage documents.

[3] Sales of grains other than corn (effective May 5) and wheat made under Title I, Public Law 480, may be made on terms and conditions of GR-301 revised. Other commodities under the announcement indicated.

(Sec. 4, 62 Stat. 1070, as amended; 15 U. S. C. 714b. Interpret or apply sec. 407, 63 Stat. 1055; 7 U. S. C. 1427, sec. 208, 63 Stat. 901)

Issued: May 8, 1958.

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

[F. R. Doc. 58-3625; Filed, May 13, 1958; 8:53 a. m.]

CIVIL AERONAUTICS BOARD

[Docket No. 5645 et al.]

PACIFIC SOUTHWEST LOCAL SERVICE CASE

NOTICE OF POSTPONEMENT OF PREHEARING CONFERENCE

Notice is hereby given that the prehearing conference in the above-entitled proceeding now assigned for June 2, 1958 is postponed to June 5, 1958, 10:00 a. m., e. d. s. t., Room 5855, Commerce Building, 14th Street and Constitution Avenue NW., Washington, D. C., before Examiner James S. Keith.

Dated at Washington, D. C., May 9, 1958.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F. R. Doc. 58-3620; Filed, May 13, 1958; 8:51 a. m.]

[Docket No. 7596 et al.]

DALLAS TO THE WEST SERVICE CASE

NOTICE OF POSTPONEMENT OF ORAL ARGUMENT

Notice is hereby given that the oral argument in the above-entitled proceeding, now assigned to be held on May 27, 1958, is postponed to June 5, 1958, at 10:00 a. m., e. d. s. t., in Room 5042, Commerce Building, 14th Street and Constitution Avenue NW., Washington, D. C., before the Board.

Dated at Washington, D. C., May 9, 1958.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F. R. Doc. 58-3621; Filed, May 13, 1958; 8:51 a. m.]

FEDERAL POWER COMMISSION

[Docket No. G-14312]

ILLINOIS POWER CO.

NOTICE OF APPLICATION AND DATE OF HEARING

MAY 8, 1958.

Take notice that Illinois Power Company (Applicant), an Illinois corporation having its principal office at 500 South 27th Street, Decatur, Illinois, filed on January 23, 1958, an application, and on February 24, 1958, a supplement thereto, pursuant to section 7 (a) of the Natural Gas Act, for an order directing Texas Illinois Natural Gas Pipeline Company (Texas Illinois) to establish physical connection of its transportation facil-

ities with the facilities proposed to be constructed by Applicant and to sell and deliver natural gas to Applicant at said connection, all as more fully represented in the application, which is on file with the Commission and open for public inspection.

Applicant alleges that the natural gas proposed to be purchased at the proposed new delivery point is gas available under Applicant's present service agreement with Texas Illinois which provides for a contract demand of 4,489 Mcf per day. Texas Illinois sells and delivers gas to Applicant for part of its territory in the southern portion of the State of Illinois, Supply Area D, and for the city of Monticello in the central part of Illinois. Applicant alleges that it purchased 817,485 Mcf of natural gas from Texas Illinois in 1957. Applicant estimates its average day's requirements in the territory served by Texas Illinois will be about 1,500 Mcf during the period from April through October 1959.

Applicant alleges that it has need for additional quantities of gas during the off-peak months of April through October to supply the needs of its customers in its Supply Area B, which is presently being supplied with gas purchased from Panhandle Eastern Pipe Line Company, and it proposes to fulfill such requirements by the construction of the line hereinafter described and transporting natural gas from the new delivery point to Area B. Applicant alleges that in the area (Supply Area B) for which this line would provide a source of gas, its requirements for additional gas during the months of April through October, for a three year period are estimated to be as follows:

FIRM AND INTERRUPTIBLE PEAK DAY REQUIREMENTS NOT SATISFIED BY PRESENT PIPELINE SUPPLY

	Mcf. per day		
	1st year	2d year	3d year
April	34,700	35,800	36,700
May	34,400	35,200	35,900
June	17,800	18,200	18,500
July	12,200	12,400	12,500
August	12,500	12,600	12,800
September	28,200	28,800	29,300
October	29,700	30,800	31,700

The annual estimated requirements of such off-peak gas is 1,366,000 Mcf. for the 1st Year, 1,403,000 Mcf. for the 2d Year and 1,434,000 Mcf. for the 3d Year.

Applicant proposes to construct approximately 13 miles of 10-inch line from a delivery point on Texas Illinois main transmission line near the Village of Hammond, Illinois, in a westerly direction to Applicant's feeder line near the City of Decatur, Illinois. Applicant estimates the cost of the proposed line would be $718,000 which Applicant proposes to finance out of funds on hand. Gas would be transported through said line at an average pressure of 300 lbs. psig.

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

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on May 29, 1958, at 9:30 a. m., e. d. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before May 23, 1958. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 58-3596; Filed, May, 13, 1958; 8:46 a. m.]

[Docket Nos. G-9277, G-9280]

CHAMPLIN OIL & REFINING CO.

ORDER RECONVENING HEARING

MAY 8, 1958.

Following presentation by Commission staff witnesses of their testimony and evidence with respect to cost of service and form and level of rates, and completion of cross-examination thereon, the presiding examiner, on December 9, 1957, in open hearing, recessed the proceedings in these dockets subject to our further order, pursuant to the order herein issued February 28, 1957 (17 FPC 329). We stated in that order that:

Further hearings to afford the staff an opportunity to present field-price evidence and to afford respondents and other parties hereto an opportunity to present evidence shall be deferred pending further order of the Commission.

By order issued December 6, 1957 (18 FPC 782), we consolidated these proceedings with others of a similar nature for the limited purposes set forth therein, including presentation by the staff of basic evidence as to rates, charges, terms and conditions under which sales of natural gas are made in the several producing areas of the United States. Pursuant to the order in the consolidated proceedings, hearings therein were held commencing January 7, 1958, during which the staff presented, in co-sponsorship with the respondents in those proceedings (including Champlin), the aforementioned basic evidence relating to field prices. We further provided in that order that such field price evidence, i. e., "basic rate schedule data as to rates, charges, terms, and conditions of sales by independent producers," is to be made a part of the record in each of the dockets in the consolidated proceedings.

It appears from the foregoing that the posture of these proceedings is such that opportunity should now be afforded to respondents and other parties to present their evidence in these matters. The order of procedure for such presentation shall be as set forth in our order issued January 27, 1958, subject to the modification hereinafter provided.

The Commission orders:

(A) The public hearing on these dockets hereby is reconvened commencing June 23, 1958, at 10 a. m., e. d. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., for presentation of further evidence concerning the matters involved and the issues presented in these proceedings, in accordance with the procedure set forth in paragraph (A) of the order issued January 27, 1958.

(B) Complainants and interveners herein (other than interveners on behalf of Champlin) shall serve such testimony and exhibits as they propose to present in these proceedings (other than testimony and exhibits they may seek to incorporate from the aforementioned consolidated proceedings) on all parties of record, and five (5) copies thereof on Commission staff counsel, on or before June 5, 1958.

(C) If such complainants and interveners determine not to present any testimony (other than testimony and exhibits they may seek to incorporate from the aforementioned consolidated proceedings) they shall individually or severally give notice of that determination to the presiding examiner, respondent, and Commission staff counsel on or before May 23, 1958.

(D) In the event notice is given as referred to in (C) above, then on the date of reconvening hereinbefore provided the order of procedure shall be as set forth in paragraph (A) of the order issued January 27, 1958, beginning with presentation by respondent of its evidence, including direct testimony and exhibits.

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 58-3595; Filed, May 13, 1958; 8:46 a. m.]

[Docket No. G-14766]

OHIO FUEL GAS CO.

NOTICE OF APPLICATION AND DATE OF HEARING

MAY 8, 1958.

Take notice that on March 27, 1958, The Ohio Fuel Gas Company (Applicant) filed in Docket No. G-14766 an application pursuant to section 7 (c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain minor loops and replacements on its existing facilities in the State of Ohio to enable Applicant to improve and maintain adequate service to its existing

markets in the future, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant also seeks authorization pursuant to section 7 (b) of the Natural Gas Act to abandon approximately 39.4 miles of 4 to 10-inch pipeline which will be replaced by the proposed new facilities.

The facilities for which authorization is sought herein are, briefly, as follows:

Project No. 1: Approximately 3.8 miles of 8⅝" O. D. natural gas transmission pipe line in Logan County, Ohio, extending Line Z-207, looping part of Line Z-165 northward from the West Liberty tap.

Project No. 2: Approximately 2.7 miles of 20" O. D. natural gas transmission pipe line in Marion County, Ohio, extending Line D-357, looping part of Line D-322 to the Marion feeder Line D-325.

Project No. 3: Approximately 3.5 miles of 20" O. D. natural gas transmission pipe line in Lorain County, Ohio, extending Line L-2542, looping part of Line L-2042 to the Oberlin tap.

Project No. 4: Approximately 1.9 miles of 16" O. D. natural gas transmission pipe line in Lorain and Cuyahoga Counties, Ohio, extending Line L-2525 from Berea to Parma, completing the looping of Line L-2305.

Project No. 5: Approximately 15.0 miles of 12¾" O. D. natural gas transmission pipe line in Wayne, Stark, and Carroll Counties, Ohio, replacing parts of Lines L-400, 6004, and 6015 supplying markets in eastern Ohio.

Project No. 6: Approximately 9.7 miles of 8⅝" O. D. natural gas transmission pipe line in Belmont County, Ohio, extending Line O-1463, replacing Line O-145 between Bethesda and St. Clairsville.

Project No. 7: Approximately 14.7 miles of 12¾" O. D. natural gas transmission pipe line in Fairfield and Muskingum Counties, Ohio, replacing part of Line "H" between Crawford Compressor Station and Zanesville.

The estimated total capital cost of construction of the proposed facilities is $2,163,000 which will be financed as part of Applicant's overall 1958 construction program through the issuance and sale of notes and common stock to Applicant's parent, The Columbia Gas System, Inc.

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

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on June 10, 1958, at 9:30 a. m., e. d. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before May 29, 1958. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F. R. Doc. 58-3597; Filed, May 13, 1958; 8:47 a. m.]

[Project No. 1927]

CALIFORNIA OREGON POWER CO.

NOTICE OF MODIFICATION OF LAND WITHDRAWAL; OREGON; LEMOLO NO. 1 DEVELOPMENT

MAY 8, 1958.

Conformable to the provision of section 24 of the act of June 10, 1920, as amended, this Commission gave notice on January 26, 1955, of the reservation of approximately 4,160 acres of land of the United States pursuant to the filing on September 15, 1952, of an application for amendment of license by The California Oregon Power Company for project No. 1927 to include the Lemolo No. 1 development.

The licensee on May 21, 1956, filed an application for further amendment of license, supported by revised map exhibits, filed the same date, superseding the exhibits which were the basis of the aforesaid withdrawal notice. These define the project boundaries of the various structures as finally located, including a transmission line right-of-way location, thereby requiring a modification of the previous withdrawal notice.

Therefore, in accordance with section 24 of the act of June 10, 1920, notice is hereby given that the lands hereinafter described, insofar as title thereto remains in the United States, are included in project No. 1927 and are, from the date of filing of application for amendment (May 21, 1956) reserved from all forms of disposal under the laws of the United States until otherwise directed by the Commission or by Congress.

WILLAMETTE MERIDIAN

All portions of the following described subdivisions lying within the project boundaries as delimited upon maps designated "Exhibit K-25 (sheets 4 to 8 inclusive) (F. P. C. Nos. 1927-186 to 191 inclusive), entitled, Project No. 1927, Lemolo No. 1 Development, Conduit Location, Reservoir Area, Camp Area, and Access Roads, and filed in the office of the Commission on May 21, 1956, which in all probability will be, when surveyed, portions of the following subdivisions.

T. 25 S., R. 5 E. (unsurveyed),
Sec. 27: SW¼SW¼;
Sec. 28: S½;
Sec. 29: S½SE¼, SE¼ SW¼;
Sec. 32: N½NE¼, NE¼NW¼;
Sec. 33: N½N½;
Sec. 34: W½W½, SE¼ SW¼.
T. 26 S., R. 5 E. (unsurveyed),
Sec. 3: N½NW¼, SE¼NW¼, NE¼SW¼, SE¼;
Sec. 10: E½NE¼, SE¼SE¼;
Sec. 11: SW¼NE¼, NW¼NW¼, S½NW¼, S½;
Sec. 13: N½, W½SW¼;
Sec. 14: N½, N½SE¼, SE¼SE¼;
Sec. 15: NE¼NE¼;
Sec. 23: NE¼NE¼.
T. 26 S., R. 6 E. (unsurveyed),
Sec. 18: S½NW¼, NW¼SW¼;
=approximately 756.79 acres.

All portions of the following described subdivisions lying within 100 feet of the center line survey of the transmission line right-of-way as delimited upon maps, designated "Exhibit K-25 Sheets 1, 2 and 3 (F. P. C. Nos. 1927-183, 184 and 185) entitled Project No. 1927, Lemolo No. 1 Development, Transmission Line, From Lemolo No. 1 Powerhouse to Clearwater Switch Station," and filed in the office of the Commission on May 21, 1956.

T. 26 S., R. 3 E.,
Sec. 25: SW¼NE¼, E½NE¼, N½SE¼, SW¼SE¼, SE¼SW¼;
Sec. 36: E½NW¼.
T. 26 S., R. 4 E. (unsurveyed),
Sec. 10: S½S½;
Sec. 11: SW¼, N½SE¼;
Sec. 12: SE¼NE¼, N½S½;
Sec. 15: N½NW¼;
Sec. 16: N½NE¼, NE¼NW¼, S½NW¼, NW¼SW¼;
Sec. 17: SE¼, SE¼SW¼;
Sec. 19: NE¼NE¼, S½NE¼, SE¼NW¼, NE¼SW¼, S½SW¼, NW¼SE¼;
Sec. 20: NW¼NW¼, NE¼NW¼;
Sec. 30: NW¼NW¼.
T. 25 S., R. 5 E. (unsurveyed),
Sec. 32: W½NE¼, E½NW¼, NW¼SE¼, S½SE¼.
T. 26 S., R. 5 E. (unsurveyed),
Sec. 5: N½NE¼, SW¼NE¼, SE¼NW¼, N½SW¼, SW¼SW¼;
Sec. 6: SE¼, SE¼SW¼;
Sec. 7: N½NW¼, SW¼NW¼;
=approximately 268.68 acres.

The general determination made by the Commission at its meeting of April 17, 1922 (2d Ann. Rept. 128) with respect to lands reserved for transmission line purposes only, is applicable to that of the above-described lands reserved for that purpose.

This notice modifies and supersedes, in its entirety, the notice of January 26, 1955, for this development. The area now reserved for project purposes is reduced to approximately 1,025.47 acres, all of which are within the Umpqua National Forest and all except approximately 1.28 acres in the Reservoir Camp area and approximately 250.89 acres within the transmission line right-of-way have been reserved in earlier power withdrawals made in connection with this project or Power Site Classification No. 162.

Copies of the project maps F. P. C. Nos. 1927 sheets 183 to 191 inclusive, superseding maps F. P. C. Nos. 1927 sheets 113, 114, 115 and 177 to 181 inclusive, have been transmitted to the Bureau of Land Management, Forest Service and Geological Survey.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F. R. Doc. 58-3598; Filed, May 13, 1958; 8:47 a. m.]

FEDERAL RESERVE SYSTEM

NORTHWEST BANCORPORATION

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 Northwest Bancorporation, 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. Northwestern Mortgage Company, Minneapolis, Minnesota
2. South Side Insurance Agency, Inc., Minneapolis, Minnesota
3. Union Investment Company, Minneapolis, Minnesota.

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 July 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 June 5, 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: May 8, 1958.

By order of the Board of Governors.

[SEAL] S. R. CARPENTER, *Secretary.*

[F. R. Doc. 58-3599; Filed, May 13, 1958; 8:47 a. m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

MAY 9, 1958.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 34669: *Petroleum and products between San Francisco, Calif., group.* Filed by The Pacific Southcoast Freight Bureau, Agent (No. 238), for interested rail carriers. Rates on petroleum and petroleum products, carloads between San Francisco, Calif., and other points in the San Francisco Bay area, on the one hand, and Central Point, Gold Hill, Grants Pass, and Medford, Oreg., and other points described in the application, on the other.

Grounds for relief: Barge-truck competition.

Tariff: Thirtieth revised page 392 and twenty-first revised page 292A of Pacific Southcoast Freight Bureau, Agent, tariff I. C. C. 1352.

FSA No. 34670: *Fertilizers from southwestern to western trunk line and Illinois territories.* Filed by Southwestern Freight Bureau, Agent (No. B-7281), for interested rail carriers. Rates on ammonium sulphate fertilizer and ammonium nitrate fertilizer, carloads from points in southwestern territory to points in western trunk line and Illinois Freight Association territories.

Grounds for relief: Market competition.

Tariff: Supplement 265 to Southwestern Freight Bureau, Agent, tariff I. C. C. 4112.

FSA No. 34671: *Wheat from Texas points to Port Arthur, Texas.* Filed by Texas-Louisiana Freight Bureau, Agent (No. 320), for interested rail carriers. Rates on wheat, carloads, for export from stations in Texas on the Missouri-Kansas-Texas Railroad Company of Texas to Port Arthur, Texas.

Grounds for relief: Motor truck competition.

Tariff: Supplement 32 to Texas-Louisiana Freight Bureau, Agent, tariff I. C. C. 878.

By the Commission.

[SEAL] HAROLD D. MCCOY, *Secretary.*

[F. R. Doc. 58-3606; Filed, May 13, 1958; 8:48 a. m.]

[Notice 35]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

MAY 9, 1958.

The following letter-notices of proposals to operate over deviation routes for operating convenience only with no service at intermediate points have been filed with the Interstate Commerce Commission, under the Commission's Deviation Rules Revised, 1957 (49 CFR 211.1 (c) (8)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 211.1 (d) (4)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 211.1 (e)) at any time but will not operate to stay commencement of the proposed operation unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Deviation Rules Revised, 1957, will be numbered consecutively for convenience in identification and protests if any should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC-2002 (Deviation No. 1), PHILIPP TRANSIT LINES, INC., 100 East Street, P. O. Box 441, Washington, Mo., filed February 10, 1958. Attorney for said carrier, J. R. Rose, Jefferson Building, Jefferson City, Mo. Carrier proposes to operate as a *common carrier* by motor vehicle of *general commodities*, with certain exceptions, over a deviation route, between Kansas City, Mo., and Union, Mo., as follows: from Kansas City over U. S. Highway 50 to Union and return over the same route, for operating convenience only, serving no intermediate points. The carrier is presently authorized to transport the same commodities between Kansas City, Mo., and Union, Mo., over the following pertinent route: from Kansas City over U. S. Highway 40 to junction Missouri Highway 47 at Warrenton, Mo., thence over Missouri Highway 47 to Union.

No. MC-32562 (Deviation No. 1), POINT EXPRESS, INC., Box 10007, Station C, Charleston, W. Va., filed January 30, 1958. Carrier proposes to operate as a *common carrier* by motor vehicle of *general commodities*, with certain exceptions, over a deviation route, between Charleston, W. Va., and Princeton, W. Va., via Beckley, W. Va., as follows: from Charleston over the West Virginia Turnpike and access routes to Princeton and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities between Charleston, W. Va., and Bluefield, W. Va., over U. S. Highway 21.

No. MC-107558 (Deviation No. 2), ARROW TRANSPORTATION CO., INC., 288 Kinsley Avenue, Providence 3, R. I., filed May 2, 1958. Attorneys for said

carrier, Hugh M. Joseloff, and Thomas W. Murrett, 410 Asylum Street, Hartford 3, Conn. Carrier proposes to operate as a *common carrier* by motor vehicle of *general commodities*, with certain exceptions, over a deviation route, between the Eastern Terminus of the Massachusetts Turnpike at or near Weston, Mass. (Interchange No. 14) and Interchange No. 4 of the said Turnpike in the Town of Chicopee, Mass., as follows: from the Eastern Terminus of the Massachusetts Turnpike over the Massachusetts Turnpike and access routes to Interchange No. 4 of the said Turnpike and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities between New York, N. Y., and Boston, Mass., over the following pertinent route: from New York over U. S. Highway 1 via New Haven, Conn., to Boston (also from New Haven over U. S. Highway 5 to junction Alternate U. S. Highway 5, thence over Alternate U. S. Highway 5 to junction U. S. Highway 5, thence over U. S. Highway 5 to junction Alternate U. S. Highway 5, thence over Alternate U. S. Highway 5 to junction U. S. Highway 5, thence over U. S. Highway 5 to Springfield, Mass., and thence over U. S. Highway 20 to Boston).

MOTOR CARRIERS OF PASSENGERS

No. MC-1501 (Deviation No. 9), THE GREYHOUND CORPORATION, 5600 Jarvis Avenue, Chicago 31, Ill., filed May 7, 1958. Attorney for said carrier, Raymond H. Warns, 5600 Jarvis Avenue, Chicago 31, Ill. Carrier proposes to operate as a *common carrier* by motor vehicle of *passengers*, over a deviation route, between junction U. S. Highway 30 and Illinois Highway 2 and Chicago, Ill., as follows: from junction U. S. Highway 30 and Illinois Highway 2 over U. S. Highway 30 to junction Illinois Highway 65, thence over Illinois Highway 65 to junction U. S. Highway 34, thence over U. S. Highway 34 to Chicago and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport passengers over the following pertinent routes: (a) between Chicago, Ill., and Davenport, Iowa, as follows: from Chicago over Alternate U. S. Highway 30 to junction Illinois Highway 2, thence over Illinois Highway 2 to Davenport; and (b) between Chicago, Ill., and Clinton, Iowa, as follows: from Chicago over Alternate U. S. Highway 30 to junction U. S. Highway 30, thence over U. S. Highway 30 to Clinton.

No. MC-1501 (Deviation No. 10), THE GREYHOUND CORPORATION, 5600 Jarvis Avenue, Chicago 31, Ill., filed May 7, 1958. Attorney for said carrier, Raymond H. Warns, 5600 Jarvis Avenue, Chicago 31, Ill. Carrier proposes to operate as a *common carrier* by motor vehicle of *passengers*, over a deviation route, between junction U. S. Highway 40 and unnumbered access highway approximately two miles east of Topeka and the junction of the Kansas Turnpike and U. S. Highways 24 and 40 within the city limits of Kansas City, Kans., as follows: from junction U. S. Highway 40 and unnumbered access highway over the Kansas Turnpike to junction U. S. Highways 24 and 40 and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport passengers between Topeka, Kans., and Kansas City, Kans., over U. S. Highways 24 and 40.

No. MC-1504 (Deviation No. 2), ATLANTIC GREYHOUND CORPORATION, P. O. Box 2553, Charleston 29, W. Va., filed May 2, 1958. Carrier proposes to operate as a *common carrier* by motor vehicle of *passengers*, over a deviation route, between Richmond, Va., and Petersburg, Va., as follows: from Richmond over the Richmond-Petersburg Turnpike to Petersburg and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport passengers between Richmond, Va., and Petersburg, Va., over U. S. Highway 1.

No. MC-1504 (Deviation No. 3), ATLANTIC GREYHOUND CORPORATION, P. O. Box 2553, Charleston 29, W. Va., filed May 6, 1958. Carrier proposes to operate as a *common carrier* by motor vehicle of *passengers*, over a deviation route, between the junction U. S. Highway 421 and unnumbered highway approximately one mile east of Kernersville, N. C., and the junction of U. S. Highway 421 and unnumbered highway approximately one mile west of Greensboro, N. C., as follows: from junction U. S. Highway 421 and unnumbered highway over unnumbered highway to junction U. S. Highway 421 approximately one mile west of Greensboro and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport passengers between junction U. S. Highway 421 and unnumbered highway approximately one mile east of Kernersville, N. C., and the junction of U. S. Highway 421 and unnumbered highway approximately one mile west of Greensboro, N. C., over U. S. Highway 421.

By the Commission.

[SEAL] HAROLD D. McCOY, *Secretary.*

[F. R. Doc. 58-3607; Filed, May 13, 1958; 8:48 a. m.]

[Notice 216]

MOTOR CARRIER APPLICATIONS

MAY 9, 1958.

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers and by brokers under sections 206, 209, and 211 of the Interstate Commerce Act and certain other procedural matters with respect thereto (49 CFR 1.241).

All hearings will be called at 9:30 o'clock a. m., United States standard time (or 9:30 o'clock a. m., local daylight saving time), unless otherwise specified.

APPLICATIONS ASSIGNED FOR ORAL HEARING OR PRE-HEARING CONFERENCE

MOTOR CARRIERS OF PROPERTY

No. MC 426 (Sub No. 7), filed April 30, 1958. Applicant G. M. BRADSHER, doing business as BRADSHER TRUCK SERVICE, Rector, Ark. Applicant's representative: A. A. Marshall, 305 Buder Building, St. Louis 1, Mo. Authority sought to operate as a *common carrier*, by motor vehicle, transporting: *General commodities*, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, serving the site of the Chrysler Corporation Plant near Valley Park, Mo., as on off-route point in connection with applicant's authorized regular route operations. Applicant is authorized to conduct operations in Arkansas, Illinois, and Missouri.

HEARING: May 22, 1958, at the Missouri Public Service Commission, Jefferson City, Mo., before Joint Board No. 179.

No. MC 2401 (Sub No. 18), filed April 28, 1958. Applicant: MOTOR FREIGHT CORPORATION, 2345 South 13th Street, Terre Haute, Ind. Applicant's attorney: B. W. La Tourette, Jr., 1230 Boatmen's Bank Building, St. Louis 2, Mo. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment, serving the site of the Chrysler Corporation, Plymouth Division plant, located on U. S. Highway 66 at or near Valley Park, Mo., as an off-route point in connection with applicant's authorized operations. Applicant is authorized to conduct operations in Indiana, Illinois, and Missouri.

HEARING: May 22, 1958, at the Missouri Public Service Commission, Jefferson City, Mo., before Joint Board No. 179.

No. MC 11220 (Sub No. 64), filed April 30, 1958. Applicant: GORDONS TRANSPORTS, INC., 185 West McLemore Avenue, Memphis, Tenn. Applicant's attorney: James W. Wrape, 2111 Sterick Building, Memphis, Tenn. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment, serving the site of the Amoco Chemical Corporation plant (Olin-Mathieson Chemical Company) located approximately 10 miles southwest of Joliet, Ill. on U. S. Highway 6, as an off-route point in connection with applicant's authorized regular route operations. Applicant is authorized to conduct operations in Illinois, Indiana, Tennessee, Missouri, Mississippi, Louisiana, Alabama, Kentucky, and Arkansas.

HEARING: June 16, 1958, in Room 852, U. S. Custom House, 610 South Canal Street, Chicago, Ill., before Joint Board No. 149, or, if the Joint Board waives its right to participate, before Examiner Alton R. Smith.

No. MC 29654 (Sub No. 32), filed March 27, 1958. Applicant: FURNITURE EXPRESS, INC., Fluvanna Road, R. D. No. 1, Jamestown, N. Y. Applicant's attorney: Kenneth T. Johnson, Bank of Jamestown Building, Jamestown, N. Y. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Veneer and pine blocks* (rough), from points in Michigan, Ohio, Indiana, Kentucky, Illinois, West Virginia, Virginia, Maryland, New Jersey, and Massachusetts, to points in Chautauqua County, N. Y. Applicant is authorized to conduct operations in Connecticut, Delaware, Illinois, Indiana, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia.

HEARING: July 1, 1958, at the Hotel Buffalo, Washington and Swan Streets, Buffalo, N. Y., before Examiner John P. McCarthy.

No. MC 29654 (Sub No. 33), filed March 28, 1958. Applicant: FURNITURE EXPRESS, INC., Fluvanna Road, R. D. No. 1, Jamestown, N. Y., MAILING ADDRESS: P. O. Box 585, Jamestown, N. Y. Applicant's attorney: Kenneth T. Johnson, Bank of Jamestown Building, Jamestown, N. Y. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from Hagerstown, Md., and Martinsburg, W. Va., to points in Pennsylvania, New York, and New Jersey.

HEARING: July 1, 1958, at the Hotel Buffalo, Washington and Swan Streets, Buffalo, N. Y., before Examiner John P. McCarthy.

No. MC 30962 (Sub No. 5), filed March 31, 1958. Applicant: HUYCK TRUCKING COMPANY, INC., 123 East Clark Street, Ilion, N. Y. Applicant's attorney: John J. Brady, Jr., 75 State Street, Albany 7, N. Y. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wood shelving*, uncrated, and *parts thereof* crated and uncrated when moving in mixed shipments with wood shelving, between Utica, N. Y., on the one hand, and, on the other, Erie Pa., Baltimore, Md., Cleveland, Ohio, Washington, D. C., New York, N. Y., points in Connecticut, Massachusetts, and New Hampshire, points in that part of Vermont on and south of U. S. Highway 4, those in that part of New Jersey on and north of a line beginning at Camden and extending along New Jersey Highway 70 to junction New Jersey Highway 547 at or near Lakehurst, N. J., thence along New Jersey Highway 547 via Whitesville, to junction New Jersey Highway 88 near Lakewood, N. J., and thence along New Jersey Highway 88 to the Atlantic Ocean, and those in that part of Pennsylvania on and east of a line extending from the Maryland-Pennsylvania State line along U. S. Highway 11 to Harrisburg, thence along U. S. Highway 322 to junction Pennsylvania Highway 14, thence along Pennsylvania Highway 14 to junction U. S. Highway 220, thence along U. S. Highway 220 to Williamsport and thence along U. S. Highway 15 to the New York-Pennsylvania State line. Applicant is authorized to conduct operations in New York, New Jersey, Massachusetts, Pennsylvania, Maryland, Ohio, the District of Columbia, New Hampshire, Connecticut, and Vermont.

NOTE: Applicant is authorized to transport office furniture and equipment between Ilion, N. Y. (which included Herkimer, N. Y.), and points in the above-described destination territory; applicant's shipper is eliminating the manufacture of wood shelving at Ilion and will manufacture it at a new plant in Utica.

HEARING: June 27, 1958, at the Federal Building, Albany, N. Y., before Examiner John P. McCarthy.

No. MC 36739 (Sub No. 2), filed April 1, 1958. Applicant: A. O. FEIDELSON, INC., 239 11th Avenue, New York, N. Y. Applicant's attorney: Michael F. Teitler, 29 Broadway, New York 6, N. Y. Authority sought to operate as a *contract carrier* by motor vehicle, over irregular routes, transporting: *Refrigerators, freezers, electric ranges, air conditioners, radios, television sets, laundry equipment*, and *household appliances*, from the site of the warehouse of Philco Corporation at Elizabeth, N. J., to the site of the warehouse of A. O. Feidelson at New York, N. Y. Applicant is authorized to conduct operations in Connecticut, New Jersey, and New York.

HEARING: June 18, 1958, at 346 Broadway, New York, N. Y., before Examiner John P. McCarthy.

No. MC 37716 (Sub No. 18), filed May 5, 1958. Applicant: THE C & D MOTOR DELIVERY COMPANY, 1214 Central Parkway, Cincinnati 10, Ohio. Applicant's attorney: B. W. La Tourette, Jr., Suite 1230 Boatmen's Bank Building, St. Louis 2, Mo. Authority sought to operate as a *common carrier*, by motor vehicle, transporting: *General commodities*, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, serving the site of the Chrysler Corporation, Plymouth Division Plant, located on U. S. Highway 66 at or near Valley Park, Mo., as an off-route point in connection with applicant's authorized regular route operations. Applicant is authorized to conduct operations in Ohio, Indiana, Kentucky, West Virginia, Tennessee, Missouri, and Illinois.

HEARING: May 22, 1958, at the Missouri Public Service Commission, Jefferson City, Mo., before Joint Board No. 179.

No. MC 40007 (Sub No. 57), filed April 25, 1958. Applicant: RELIABLE TRANSPORTATION COMPANY, a Corporation, 4817 Sheila Street, Los Angeles 22, Calif. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Tallow* and *tallow greases*, in bulk, in tank vehicles, from Sacramento, Calif., and points within 15 miles thereof, to Alameda, Oakland, Redwood City, Richmond, San Francisco, and Stockton, Calif., for export in foreign commerce; and *empty containers or other such incidental facilities* used in transporting tallow and tallow greases, on return. Applicant is authorized to conduct operations in California, Arizona, New Mexico, Texas, and Nevada.

HEARING: June 18, 1958, in Room 226, Old Mint Building, Fifth and Mission Streets, San Francisco, Calif., before Joint Board No. 75, or, if the Joint Board waives its right to participate, before Examiner F. Roy Linn.

No. MC 48213 (Sub No. 13), filed April 3, 1958. Applicant: C. E. LIZZA, INC., Ligonier and Depot Streets, P. O. Box 447, Latrobe, Pa. Applicant's attorney: Henry M. Wick, Jr., 1211 Berger Building, Pittsburgh 19, Pa. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Safety fuses* and *cordeau detonant*, from Simsbury, Conn., to sites of the plants and magazines of American Cyanamid Company near Latrobe, Pottsville, and New Castle, Pa. Applicant is authorized to conduct operations in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and Wisconsin.

HEARING: June 20, 1958, at 346 Broadway, New York, N. Y., before Examiner John P. McCarthy.

No. MC 49304 (Sub No. 4), filed April 30, 1958. Applicant: JAMES LEONARD BOWMAN, doing business as JAMES L. BOWMAN, P. O. Box 6, Stephens City, Va. Applicant's attorney: Paul A. Sherier, 613 Warner Building, 13th and E Streets NW., Washington 4, D. C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lime* and *limestone*, ground or crushed, in bags or in bulk, from Middletown, Va., and points within six miles thereof, to points in Allegheny, Washington, Greene, Fayette, Somerset, Bedford, Fulton, Franklin, Adams, York, Lancaster, Chester, Delaware, Philadelphia, and Dauphin Counties, Pa., Jefferson, Berkeley, Morgan, Hampshire, Hardy, Grant, Mineral, Pendleton, Randolph, Tucker, Upshur, Barbour, Preston, Monongalia, Marion, Taylor, Harrison, and Lewis Counties, W. Va., and all points in Maryland and the District of Columbia. Applicant is authorized to conduct operations in Maryland, Virginia, West Virginia, and the District of Columbia.

HEARING: June 19, 1958, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner James I. Carr.

No. MC 50069 (Sub No. 196), filed April 21, 1958. Applicant: REFINERS TRANSPORT & TERMINAL CORPORATION, 2111 Woodward Avenue, Detroit, Mich. Authority sought to operate as a *common carrier*, by motor

vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, in tank vehicles, from East Liverpool, Ohio, to points in the lower peninsula of Michigan, Maryland, Pennsylvania, Virginia, West Virginia, and to points in New York on and west of a line beginning at Oswego, N. Y., and extending in a southerly direction along New York Highway 57 to Syracuse, N. Y., thence in a southerly direction along U. S. Highway 11 to the New York-Pennsylvania State line, and points in the District of Columbia. Applicant is authorized to conduct operations in Connecticut, Delaware, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New York, Ohio, Oklahoma, Pennsylvania, Rhode Island, Tennessee, Vermont, West Virginia, and Wisconsin.

HEARING: June 17, 1958, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner Donald R. Sutherland.

No. MC 50307 (Sub No. 23), filed March 31, 1958. Applicant: INTERSTATE DRESS CARRIERS, INC., 247 West 35th Street, New York, N. Y. Applicant's attorney: Herman B. J. Weckstein, 1060 Broad Street, Newark 2, N. J. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel* and *materials and supplies* used in the manufacture thereof, between New York, N. Y., and points in New York and New Jersey within 20 miles of New York, N. Y., on the one hand, and, on the other, Martinsburg, W. Va., and points in Virginia on and west of U. S. Highway 15 at the Virginia-North Carolina State line thence northerly along U. S. Highway 15 to junction with Virginia Highway 17 at Warrenton, Va., thence northerly along Virginia Highway 17 to junction with U. S. Highway 50 at Paris, Va., and thence northwesterly along U. S. Highway 50 to the Virginia-West Virginia State line, including all points on the above-designated highways. Applicant is authorized to conduct similar operations from and to specified points in New York, Pennsylvania, New Jersey, Maryland, and Tennessee.

HEARING: June 17, 1958, at the Hotel Patrick Henry, Roanoke, Va., before Examiner Mack Myers.

No. MC 52709 (Sub No. 83), filed April 16, 1958. Applicant: RINGSBY TRUCK LINES, INC., 3201 Ringsby Court, Denver 5, Colo. Applicant's representative: Eugene St. M. Hamilton (same address as applicant). Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Alcoholic liquors, wine*, and *ingredients* used in making alcoholic liquors and wine, in bulk, in special containers, between points in California, on the one hand, and, on the other, Denver, Colo., Kansas City and St. Louis, Mo., and Chicago, Ill. Applicant is authorized to conduct operations in California, Colorado, Illinois, Iowa, Missouri, Nebraska, Nevada, Utah, and Wyoming.

HEARING: June 17 1958, in Room 226, Old Mint Building, Fifth and Mission Streets, San Francisco, Calif., before Examiner F. Roy Linn.

No. MC 56082 (Sub No. 24), filed April 3, 1958. Applicant: DAVIS & RANDALL, INC., Chautauqua Road, P. O. Box 390, Fredonia, N. Y. Applicant's attorney: Kenneth T. Johnscn, Bank of Jamestown Building, Jamestown, N. Y. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, (1) from New York, N. Y., and Newark, N. J., to points in Pennsylvania and Delaware; (2) from New York, N. Y., to points in New Jersey, and *empty containers or other such incidental facilities* (not specified) used in transporting malt beverages on return. Applicant is authorized to conduct operations in New York, New Jersey, Pennsylvania, Ohio, and Kentucky.

HEARING: June 17, 1958, at 346 Broadway, New York, N. Y., before Examiner John P. McCarthy.

No. MC 59292 (Sub No. 12), filed May 1, 1958. Applicant: THE MARYLAND TRANSPORTATION COMPANY, a Corporation, 1111 Frankfurst Avenue, Baltimore 25, Md. Applicant's attorney: Spencer T. Money, Mills Building, Washington, D. C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles, firebrick, high temperature bonding mortar, refractory products, petroleum oil, zinc oxide, pigs, slabs*, and *pneumatic tires and tubes*, between Baltimore, Md., and Allentown, Bethlehem, Birdsboro, Boyerstown, Coatesville, Conshocken, Harrisburg, Ivy Rock, Lebanon, Lemoyne, Marietta, Morgantown, Phoenixville, Palmerton, Pottstown, Pottsville, Quakertown, Reading, Sinking Springs, Slatington, Steelton, and Womelsdorf, Pa. Applicant is authorized to conduct operations in Maryland, the District of Columbia, Virginia, West Virginia, Pennsylvania, New Jersey, Connecticut, Delaware, Massachusetts, New Hampshire, New York, Rhode Island, North Carolina, and Ohio.

NOTE: Applicant states it presently holds authority to serve the above points and no new authority is sought. This application is filed for the purpose of moving the present gateway of Frederick, Md., to Baltimore, Md., for service to the named points on the above-named specified commodities.

HEARING: June 18, 1958, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner Harold P. Boss.

No. MC 59728 (Sub No. 5), filed April 28, 1958. Applicant: MORRISON MOTOR FREIGHT, INC., 1100 E. Jenkins, Akron, Ohio. Applicant's attorney: B. W. La Tourette, Jr., 1230 Boatmen's Bank Building, St. Louis 2, Mo. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, Class A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk and those requiring special equipment, serving the site of the Chrysler Corporation, Plymouth Division plant located on U. S. Highway 66 at or near Valley Park, Mo., as an off-route point in connection with applicant's authorized operations. Applicant is authorized to conduct regular and irregular route operations in Kansas, Missouri, Ohio, Pennsylvania, and Illinois.

HEARING: May 22, 1958, at the Missouri Public Service Commission, Jefferson City, Mo., before Joint Board No. 179.

No. MC 64932 (Sub No. 240), filed April 18, 1958. Applicant: ROGERS CARTAGE CO., 1934 South Wentworth Avenue, Chicago, Ill. Applicant's attorney: David Axelrod, 39 South La Salle Street, Chicago 3, Ill. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum* and *petroleum products*, in bulk, in tank vehicles, from Schneider, Ind., and points within 5 miles thereof to points in Illinois, Michigan, and Wisconsin. Applicant is authorized to conduct operations in Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, West Virginia, and Wisconsin.

HEARING: June 20, 1958, in Room 852, U. S. Custom House, 610 South Canal Street, Chicago, Ill., before Examiner Alton R. Smith.

No. MC 64932 (Sub No. 241), filed April 18, 1958. Applicant: ROGERS CARTAGE CO., 1934 South Wentworth Avenue, Chicago, Ill. Applicant's attorney: David Axelrod, 39 South La Salle Street, Chicago 3, Ill. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vegetable oils*, in bulk, in tank vehicles, from Decatur, Ill., to points in Illinois. Applicant is authorized to conduct operations in Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, West Virginia, and Wisconsin.

HEARING: June 17, 1958, in Room U. S. Custom House, 610 South Canal Street., Chicago, Ill., before Joint Board No. 149, or, if the Joint Board waives its right to participate, before Examiner Alton R. Smith.

No. MC 77424 (Sub No. 10), filed April 2, 1958. Applicant: WENHAM TRANSPORTATION, INC., 2723 Orange Avenue, Cleveland 15, Ohio. Applicant's representative: J. J. Kuhner, 736 Society for Savings Building Cleveland 14, Ohio. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment, between Valley Park, Mo., and St. Louis, Mo. Applicant is authorized to conduct operations in Ohio, Missouri, Indiana, Michigan, Pennsylvania, Illinois, West Virginia, and New York.

HEARING: May 22, 1958, at the Missouri Public Service Commission, Jefferson City, Mo., before Joint Board No. 135.

No. MC 78712 (Sub No: 6), filed March 27, 1958 (CORRECTION), published issue April 23, 1958. Applicant: MILLER

TRANSPORTATION, INC., 1200 South Home Avenue, Kokomo, Ind. Applicant's Attorney: Howell Ellis, 520 Illinois Building, Indianapolis, Ind. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, with the usual exceptions, between the site of the Chrysler Corporation plant at or near Valley Park, Mo., and St. Louis, Mo., *damaged or rejected shipments* on return.

NOTE: Applicant's attorney advises by letter dated May 6, 1958, that the plant site of the Chrysler Corporation may not be located at Valley Park, Mo. The purpose of this republication is to designate the point proposed to be served as the Chrysler plant *at or near* Valley Park, Mo.

HEARING: Remains as assigned May 22, 1958, at the Missouri Public Service Commission, Jefferson City, Mo., before Joint Board No. 135.

No. MC 99577 (Sub No. 1), (Amendment) filed October 30, 1957, published in the FEDERAL REGISTER April 2, 1958, at page 2159. Applicant: HENRY G. FREAR, doing business as SUPERIOR TRANSFER, Superior, Nebr. Applicant's attorney: J. Max Harding, IBM Bldg., 605 12th Street, Lincoln 8, Nebr. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment, between points in Nebraska as follows: (1) Between Superior and Hastings, Nebr., from Superior over Nebraska Highway 14 to intersection U. S. Highway 6, thence over U. S. Highway 6 to Hastings and return over the same route, serving the intermediate points of Nelson and Clay Center, and the junction of Nebraska Highway 14 and U. S. Highway 6 for purposes of joinder only, and the off-route point of Deweese; (2) between Superior and Franklin, from Superior over Nebraska Highway 14 to southern junction Nebraska Highway 3, and thence over Nebraska Highway 3 to Franklin, and return over the same route, serving all intermediate points and the off-route point of Guide Rock; (3) between Fairbury and northern junction of Nebraska Highway 14 with Nebraska Highway 3, over Nebraska Highway 3, serving the intermediate points of Nora, Ruskin, Deshler, Hebron, and Gilead; (4) between junction of Nebraska Highway 14 and U. S. Highway 6 and Omaha, from said junction via U. S. Highway 6 to Omaha, serving the intermediate point of Lincoln.

NOTE: This application is filed to obtain a certificate of public convenience and necessity in lieu of filing of intrastate certificate with this Commission under section 206 (a) (1) Interstate Commerce Act.

HEARING: Remains as assigned, May 29, 1958, at the Nebraska State Railway Commission, Capitol Building, Lincoln, Nebr., before Joint Board No. 93.

No. MC 101458 (Sub No. 22), filed April 22, 1958. Applicant: NATIONAL CARTAGE CO., a Corporation 1017 West 48th Street Chicago 9, Ill. Applicant's attorneys: Harold E. Marks, 208 South La Salle Street, Chicago, Ill., and Louis E. Smith, 1800 North Meridian Street, Indianapolis, Ind. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Muriatic acid*, in bulk, in tank vehicles, from Chicago and Stickney, Ill., to Niles, Mich., and Indianapolis, Ind.; and *empty containers or other such incidental facilities* used in transporting muriatic acid, on return, and *spent muriatic acid*, from Indianapolis, Ind., to Chicago and Stickney, Ill. Applicant is authorized to conduct operations in Illinois, Indiana, Michigan, and Wisconsin.

HEARING: June 18, 1958, in Room 852, U. S. Custom House, 610 South Canal Street, Chicago, Ill., before Joint Board No. 73, or if the Joint Board waives its right to participate, before Examiner Alton R. Smith.

No. MC 104654 (Sub No. 112), filed April 16, 1958. Applicant: COMMERCIAL TRANSPORT, INC., P. O. Box 297, Belleville, Ill. Applicant's representative: A. A. Marshall, 305 Buder Building, St. Louis 1, Mo. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquefied petroleum gas*, in bulk, in tank vehicles, from Ficklin and Kankakee, Ill., and points within five (5) miles of each, to points in Indiana, Kentucky, Ohio, and Missouri. Applicant is authorized to transport similar commodities in Arkansas, Illinois, Indiana, Iowa, Missouri, and Tennessee.

HEARING: June 19, 1958, in Room 852, U. S. Custom House, 610 South Canal Street, Chicago, Ill., before Examiner Alton R. Smith.

No. MC 105902 (Sub No. 9), (CORRECTION), filed March 20, 1958, published page 2311, issue of April 9, 1958. Applicant: PENN YAN EXPRESS, INC., 100 West Lake Road, Penn Yan, New York. Applicant's representative: Bert Collins, 140 Cedar Street, New York 6, N. Y. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, in less-than-truckload lots, maximum weight 9,999 lbs., between Penn Yan, N. Y., on the one hand, and, on the other, points in Orleans, Wyoming, Genesee, Erie, Monroe, and Niagara Counties, N. Y. Applicant is authorized to conduct operations over regular routes in New Jersey and New York, and over irregular routes in Delaware, Maryland, New Jersey, New York, Pennsylvania, and the District of Columbia.

NOTE: Applicant states it presently holds authority within the same area for shipments in truckload lots, minimum weight 10,000 pounds, and also holds unrestricted authority for various specific commodities within the area applied for. Previous publication inadvertently omitted Monroe County, N. Y., one of the points proposed to be served, and which was contained in the application as originally filed. The purpose of this republication is to include Monroe County, N. Y., as a service point.

HEARING: Originally scheduled May 15, 1958, has been reassigned at 346 Broadway, New York, N. Y., before Examiner Charles H. Riegner, on May 21, 1958.

No. MC 106647 (Sub No. 33), filed May 5, 1958. Applicant: CLARK TRANSPORT COMPANY, P. O. Box 295, Chicago Heights, Ill. Applicant's attorney: Jack R. Turney, Jr., 2001 Massachusetts Avenue NW., Washington 6, D. C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motor vehicles*, except trailers, in initial movements, in truckaway and driveaway service, from the site of the Chrysler Corporation Assembly Plant located in St. Louis County, Mo., to points in Maryland, Pennsylvania, Ohio, Indiana, Illinois, Iowa, Minnesota, North Dakota, District of Columbia, Omaha, Nebr.; Billings, Lewistown, and Anaconda, Mont., and points in Warren, Clarke, Frederick, Rappahannock, Orange, Madison, Culpeper, Fauquier, Loudoun, Spotsylvania, Caroline, Essex, Stafford, King George, Fairfax, Prince William, Arlington, Richmond, and Westmoreland Counties, Va., and *damaged* and *rejected shipments* of the above commodities on return. Applicant is authorized to conduct operations throughout the United States.

HEARING: May 14, 1958, at the Mark Twain Hotel, St. Louis, Mo., before Examiner Leo A. Riegel.

No. MC 106943 (Sub No. 64), filed May 1, 1958. Applicant: EASTERN EXPRESS, INC., 128 Cherry Street, Terre Haute, Ind. Applicant's attorney: John E. Lesow, 3737 North Meridian Street, Indianapolis 8, Ind. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except Class A and B explosives, livestock, grain, petroleum products in bulk, household goods as defined by the Commission, and commodities requiring special equipment, serving the site of the Amoco Chemicals Corporation plant located 4 miles southeast of the junction of U. S. Highways 6 and 66, west of Joliet, Ill., as an off-route point in connection with applicant's authorized regular route operations from and to Joliet, Ill. Applicant is authorized to conduct operations in Illinois, Ohio, Pennsylvania, New York, Missouri, New Jersey, Indiana, Maryland, West Virginia, Kentucky, Michigan, and Iowa.

HEARING: June 16, 1958, in Room 852, U. S. Custom House, 610 South Canal Street, Chicago, Ill., before Joint Board No. 149, or, if the Joint Board waives its right to participate, before Examiner Alton R. Smith.

No. MC 107336 (Sub No. 10), filed May 5, 1958. Applicant: CAR CARRIER COMPANY, 200 Joyce Building, Clinton, Iowa. Applicant's attorney: Jack R. Turney, Jr., 2001 Massachusetts Avenue NW., Washington 6, D. C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motor vehicles*, from points in St. Louis County, Mo., to points in Iowa, South Dakota, Montana, Idaho, Washington, and Oregon, and *damaged* and *rejected shipments* of automobiles

on return. Applicant is authorized to conduct operations in Michigan, Iowa, South Dakota, Minnesota, Idaho, Oregon, and Washington.

HEARING: May 14, 1958, at the Mark Twain Hotel, St. Louis, Mo., before Examiner Leo A. Riegel.

No. MC 107460 (Sub No. 13), filed April 28, 1958. Applicant: WILLIAM Z. GETZ, R. D. No. 3, Lancaster, Pa. Applicant's attorney: Christian V. Graf, 11 North Front Street, Harrisburg, Pa. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Metal roofing and siding*, and *fabricated metal products*, from the site of the Quaker State Metals Company plant in Manheim Township, Lancaster County, Pa., to points in Illinois (except Chicago), Wisconsin, Missouri, Iowa, South Carolina, Georgia (except Atlanta), Florida, Alabama, Minnesota, Tennessee, (except Memphis), Mississippi, Arkansas, and Louisiana; *Skids*, used in transporting the commodities described above, from the above-specified destination points to the point of origin described above; and *Aluminum*, in coils and sheets, plain or painted, from Camden, N. J., McCook, Ill., Listerwood, Ala., Davenport, Iowa, Baltimore, Md., Ravenswood, W. Va., and Jackson, Tenn., to the site of the Quaker State Metals Company plant in Manheim Township, Lancaster, Pa. Applicant is authorized to conduct operations in Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia.

HEARING: June 17, 1958, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner Thomas F. Kilroy.

No. MC 107496 (Sub No. 106), filed April 14, 1958. Applicant: RUAN TRANSPORT CORPORATION, 408 Southeast 30th Street, Des Moines, Iowa. Applicant's attorney: H. L. Fabritz, 408 Southeast 30th Street, Des Moines, Iowa. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquefied petroleum gas, propane* and *butane*, in bulk, in tank vehicles, from points in the Chicago, Ill., Commercial Zone, as defined by the Commission, and from Lemont and Lockport, Ill., to points in Wisconsin. Applicant is authorized to conduct operations in Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, Oklahoma, South Dakota, Texas, and Wisconsin.

NOTE: Applicant requests that all duplicating authority be eliminated.

HEARING: June 19, 1958, in Room 852, U. S. Custom House, 610 South Canal Street, Chicago, Ill., before Joint Board No. 17, or, if the Joint Board waives its right to participate, before Examiner Alton R. Smith.

No. 95——9

No. MC 109060 (Sub No. 57), filed April 25, 1958. Applicant: JULIA L. HAGAN, doing business as HAGAN TRUCK LINE, 3405 Bainbridge Boulevard, South Norfolk, Va. Applicant's attorney: Chester E. King, 1507 M Street NW., Washington 5, D. C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Creosoted or otherwise chemically preserved poles, piling, lumber*, and *cross and switch ties*, from Norfolk, Va., and points within 25 miles thereof, to points in Connecticut, New York, and West Virginia, and *empty containers or other such incidental facilities* (not specified) used in transporting the above-specified commodities on return; (2) *Dredging pipe, shore pipe, pontoons*, and *other related dredging equipment and supplies*, between points in Delaware, Florida, Georgia, Maryland, New Jersey, North Carolina, Pennsylvania, South Carolina, and Virginia. Applicant is authorized to conduct operations in Alabama, Connecticut, Delaware, Florida, Georgia, Kentucky, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, and West Virginia.

HEARING: June 16, 1958, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner Walter R. Lee.

No. MC 109266 (Sub No. 10), filed April 24, 1958. Applicant: CONTRACT SERVICE, INC., County Line and Cherry Lane, Souderton, Pa. Applicant's attorney: Warren W. Holmes, 1500 Commercial Trust Building, South Penn Square, Philadelphia 2, Pa. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum products* and *accessories*, such as *plaster retarder, plaster accelerator, plasterboard joint system, tape, wallboard, joining or reinforcing*, from Caledonia, N. Y., to points in New Jersey and those in Pennsylvania on and east of U. S. Highway 15, and *empty containers or other such incidental facilities* (not specified) used in transporting the above commodities on return. Applicant is authorized to conduct operations in Pennsylvania, Virginia, District of Columbia, Delaware, Maryland, New Jersey, New York, Massachusetts, Rhode Island, Connecticut, Kentucky, Tennessee, New Hampshire, Maine, West Virginia, and North Carolina.

NOTE: A proceeding has been instituted under section 212 (c) to determine whether applicant's status is that of a contract or common carrier in No. MC 109266 (Sub No. 9).

HEARING: June 19, 1958, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner Leo W. Cunningham.

No. MC 109677 (Sub No. 16), filed April 4, 1958. Applicant: FORT EDWARD EXPRESS CO., INC., Route 9, Saratoga Road, Fort Edward, N. Y. Applicant's attorney: Harold G. Hernly, 1624 Eye Street NW., Washington 6, D. C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lignin liquor*, in bulk, in tank vehicles, (1) from Corinth, N. Y., to points in New Jersey, Maryland, and Pennsylvania; (2) from Corinth, N. Y., to points in New York located on the Hudson River, Mohawk River, Erie Canal, Champlain Canal, and the St. Lawrence Seaway, for subsequent movement by water (in interstate or foreign commerce). Applicant is authorized to transport similar commodities in New York, Massachusetts, Pennsylvania, and Ohio.

NOTE: Applicant states that it is presently authorized in Certificate No. MC 109677 Sub 13 to transport lignin liquor from Corinth, N. Y., to certain specified points among others in New Jersey, Pennsylvania, and Maryland. It would be willing to cancel all duplicating authority should this application be granted.

HEARING: June 20, 1958, at 346 Broadway, New York, N. Y., before Examiner John P. McCarthy.

No. MC 110083 (Sub No. 2), filed April 30, 1958. Applicant: BUSH TRUCKING CO., a Corporation, 3534 Gratiot Street, St. Louis, Mo. Applicant's representative: A. A. Marshall, 305 Buder Building, St. Louis 1, Mo. Authority sought to operate as a *common carrier*, by motor vehicle, transporting: *General commodities*, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, serving the site of the Chrysler Corporation Plant near Valley Park, Mo., as an off-route point in connection with applicant's authorized regular route operations. Applicant is authorized to conduct operations in Illinois and Missouri.

HEARING: May 22, 1958, at the Missouri Public Service Commission, Jefferson City, Mo., before Joint Board No. 179.

No. MC 110686 (Sub No. 8), filed April 29, 1958. Applicant: McCORMICK DRAYLINE, INC., Avis, Pa. Applicant's attorney: Robert H. Shertz, 225 South 15th Street, Philadelphia 2, Pa. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fire brick, fire clay, fire brick tile, clay* and *clay products*, from Orviston, Pa., to New York, N. Y., and points in New Jersey and New York within 15 miles thereof, and *empty containers or other such incidental facilities* used in transporting the above-described commodities, on return. Applicant is authorized to conduct operations in Pennsylvania, Connecticut, Delaware, Maryland, New Jersey, New York, the District of Columbia, Virginia, West Virginia, Ohio, Massachusetts, and Rhode Island.

HEARING: June 18, 1958, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner Isadore Freidson.

No. MC 110686 (Sub No. 9), filed April 29, 1958. Applicant: McCORMICK DRAYLINE, INC., Avis, Pa. Applicant's attorney: Robert H. Shertz, 225 South 15th Street, Philadelphia 2, Pa. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular

routes, transporting: *Trucks* and *trailers*, equipped with mechanical loading or unloading devices for handling bulk materials, in towaway and driveaway service, and *truck and trailer bodies* similarly equipped, from Muncy, Pa., to points in the United States, and *empty containers or other such incidental facilities* used in transporting the above-described commodities, on return. Applicant is authorized to conduct operations in Pennsylvania, Connecticut, Delaware, Maryland, New Jersey, New York, the District of Columbia, Virginia, West Virginia, Ohio, Massachusetts, and Rhode Island.

HEARING: June 19, 1958, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner Isadore Freidson.

No. MC 110686 (Sub No. 10), filed April 30, 1958. Applicant: McCORMICK DRAYLINE, INC., Avis, Pa. Applicant's attorney: Robert H. Shertz, 225 South 15th Street, Philadelphia 2, Pa. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery*, and *machinery parts*, from Muncy, Pa., to points in Kentucky, Virginia and West Virginia, and *empty containers or other such incidental facilities* used in transporting the above-described commodities, on return. Applicant is authorized to conduct operations in Pennsylvania, Connecticut, Delaware, Maryland, New Jersey, New York, the District of Columbia, Virginia, West Virginia, Ohio, Massachusetts, and Rhode Island.

HEARING: June 18, 1958, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner Isadore Freidson.

No. MC 112541 (Sub No. 4), filed April 2, 1958. Applicant: LEROY B. KRAUSE Box 45–A, R. D. No. 2, New Tripoli, Pa. Applicant's attorney: William J. Wilcox, Commonwealth Building, 512 Hamilton Street, Allentown, Pa. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, from points in Schuylkill County, Pa., and points in Carbon and Luzerne Counties, Pa., within ten (10) miles of the boundary of Schuylkill county, to points in Warren, Hunterdon, Middlesex, Morris, Somerset, Mercer, Monmouth, and Bergen Counties, N. J. Applicant is authorized to transport coal in New Jersey and Pennsylvania.

NOTE: Applicant requests that duplication with present authority be eliminated.

HEARING: June 23, 1958, at 346 Broadway, New York, N. Y., before Examiner John P. McCarthy.

No. MC 112713 (Sub No. 75), filed April 9, 1958. Applicant: YELLOW TRANSIT FREIGHT LINES, INC., 1626 Walnut Street, Kansas City 8, Mo. Applicant's attorney: John M. Records, same address as applicant. Authority sought to operate as a *common carrier*, by motor vehicle, transporting: *General commodities*, except those of unusual value, livestock, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, serving the site of the Amoco Chemical Co. plant, located approximately four (4) miles southeast of junction U. S. Highways 6 and 66, Will County, Ill., as an off-route point in connection with applicant's authorized regular route operations to and from Joliet, Ill. Applicant is authorized to conduct operations in Illinois, Indiana, Kansas, Kentucky, Michigan, Missouri, Ohio, Oklahoma, and Texas.

HEARING: June 16, 1958, in Room 852, U. S. Custom House, 610 South Canal Street, Chicago, Ill., before Joint Board No. 149, or, if the Joint Board waives its right to participate, before Examiner Alton R. Smith.

No. MC 112729 (Sub No. 4), filed March 20, 1958. Applicant: WALTER MALCZYNSKI AND JAMES MALCZYNSKI, doing business as ANKER TRANSPORTATION CO., 200 Third Street, Brooklyn, N. Y. Applicant's representative: Bert Collins, 140 Cedar Street, New York 6, N. Y. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Granite* and *limestone*, loose, from points in the New York, N. Y., Commercial Zone, as defined by the Commission, to points in Delaware, Maryland, New York, Connecticut, Pennsylvania, New Jersey, and the District of Columbia, and *dunnage* and *returned, refused, and rejected shipments* of the above-specified commodities on return. Applicant is authorized to conduct operations in Connecticut, Delaware, Maryland, New Jersey, New York, Pennsylvania, and the District of Columbia.

NOTE: Duplication with present authority to be eliminated.

HEARING: June 17, 1958, at 346 Broadway, New York, N. Y., before Examiner John P. McCarthy.

No. MC 113979 (Sub No. 3), filed March 12, 1958. Applicant: MINER TRUCKING, INC., North Creek, N. Y. Applicant's attorney: Martin Werner, 295 Madison Avenue, New York 17, N. Y. Authority sought to operate as a *common or contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, and *empty containers or other such incidental facilities* (not specified) used in transporting the above-specified commodity, between points in Clinton, Essex, Franklin, Fulton, Hamilton, Herkimer, Warren, and Washington Counties, N. Y., on the one hand and on the other, points in Connecticut, Delaware, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Vermont, and Washington, D. C. Applicant is authorized to conduct operations in Connecticut, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, and Vermont. Applicant is authorized to conduct contract carrier operations in Permit No. MC 113979. It has filed an appropriate application with this Commission for a determination of its status as a common or contract carrier.

NOTE: Applicant states no duplicating authority is sought.

HEARING: June 26, 1958, at the Federal Building, Albany, N. Y., before Examiner John McCarthy.

No. MC 114822 (Sub No. 3), filed March 28, 1958. Applicant: RUDOLPH PAFFRATH, WILLIAM PAFFRATH AND THOMAS PAFFRATH, doing business as PAFFRATH BROS., 1415 Clinton Street, Linden, N. J. Applicant's attorney: Herman B. J. Weckstein, 1060 Broad Street, Newark 2, N. J. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Scrap metal*, from New York, N. Y., to Phillipsburg, N. J. Applicant is authorized to conduct operations in New York and New Jersey.

HEARING: June 20, 1958, at 346 Broadway, New York, N. Y., before Examiner John P. McCarthy.

No. MC 115268 (Sub No. 2), filed May 1, 1958. Applicant: DAYTON TRANSPORT CORPORATION, Dayton, Va. Applicant's attorney: R. Roy Rush, Roanoke, Va. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: The following iron and steel articles: *angles, bars, bases, beams, bridge steel, channels, forms (structural), joists, piling, pipe (cast iron, plate or sheet), pipe fittings, plates (structural), rivets, rods, sheets, slabs, wire rope, textile spindles, mine bolts*, and *accessories for beams and joists*, from Roanoke, Va., to points in North Carolina South Carolina, West Virginia, Maryland, Tennessee, and points in Kentucky on and east of a line beginning at the Ohio-Kentucky State line and extending along U. S. Highway 25 through Corbin, Ky., and thence along U. S. Highway 25–W to the Tennessee-Kentucky State line. Applicant is authorized to transport similar commodities in Virginia, North Carolina, Tennessee, and West Virginia.

NOTE: Duplicating authority should be eliminated.

HEARING: June 20, 1958, at the offices of the Interstate Commerce Commission, Washington, D. C., before Examiner C. Evans Brooks.

No. MC 115651 (Sub No. 3), filed April 18, 1958. Applicant: KANEY TRANSPORTATION, INC., 1023 East Album Street, Freeport, Ill. Applicant's representative: George S. Mullins, 4704 West Irving Park Road, Chicago 41, Ill. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Core compound*, in bulk, in tank vehicles, from Rockford, Ill., to points in Indiana south of U. S. Highway 40, points in Michigan north of Michigan Highway 21, points in Ohio, and St. Louis, Mo., and Louisville, Ky., and *returned or rejected shipments* of the above-specified commodity on return. Applicant is authorized to transport core compound in Illinois, Indiana, Iowa, Michigan, and Wisconsin.

HEARING: June 20, 1958, in Room 852, U. S. Custom House, 610 South Canal Street, Chicago, Ill., before Examiner Alton R. Smith.

No. MC 116038 (Sub No. 2), filed April 4, 1958. Applicant: NORTHERN MOTOR CARRIERS, INC., Route 9, Saratoga Road, Fort Edward, N. Y. Applicant's attorney: Harold G. Hernly, 1624 Eye Street NW., Washington 6, D. C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Silos*, and *materials* and *supplies* used in the erec-

tion thereof when moving in connection with the shipments of silos, and *prefabricated barns*, knocked down, in sections, from South Glens Falls, N. Y. to points in Connecticut, Massachusetts, New Hampshire, New Jersey, Rhode Island, Vermont, Maine, and Pennsylvania. Applicant is authorized to transport prefabricated houses knocked down in sections from Hudson Falls, N. Y. to points in Connecticut, Maine, Massachusetts, New Jersey, New Hampshire, Rhode Island, Vermont, and Pennsylvania. Applicant is authorized to transport prefabricated houses knocked down in sections from Hudson Falls, N. Y. to points in Connecticut, Maine, Massachusetts, New Jersey, New Hampshire, Rhode Island, Vermont, and Pennsylvania.

HEARING: June 27, 1958, at the Federal Building, Albany, N. Y., before Examiner John P. McCarthy.

No. MC 117315, filed March 31, 1958. Applicant: LOUIS FARGELLI, doing business as NORTH SHORE DELIVERY SERVICE, 15-67 150th Street, Flushing, N. Y. Applicant's attorney: Herbert Burstein, 160 Broadway, New York 38, N. Y. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wallpaper, wall coverings, coated papers*, and *materials* for coating of wallpaper and wall coverings, between New York, N. Y., on the one hand, and, on the other, points in Westchester, Rockland, Putnam, Orange, and Dutchess Counties, N. Y., Fairfield, New Haven and Litchfield Counties, Conn., and Hudson, Bergen, Essex, Passaic, Somerset, Morris, Warren, Middlesex, Mercer, Sussex, and Monmouth Counties, N. J., and between New York, N. Y., and points in Westchester, Rockland, Putnam, Orange, and Dutchess Counties, N. Y., Fairfield, New Haven, and Litchfield Counties, Conn., and Hudson, Bergen, Essex, Passaic, Somerset, Morris, Warren, Middlesex, Mercer, Sussex, and Monmouth Counties, N. J., on the one hand, and, on the other, points in New York and New Jersey.

HEARING: June 18, 1958, at 346 Broadway, New York, N. Y., before Examiner John P. McCarthy.

No. MC 117321, filed April 4, 1958. Applicant: MALCOLM W. BALDWIN, Racebrook Road, Woodbridge, Conn. Applicant's attorney: William J. Cousins, 152 Temple Street, New Haven 10, Conn. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Raw chocolate, coconut and other materials used in the manufacture of candy*, and the *finished candy products*, (1) from Mt. Joy, Hershey, Lititz, and Elizabethtown, Pa., to Philadelphia, Pa.; and (2) between Naugatuck, Conn., on the one hand, and, on the other, Philadelphia, Hershey, Mt. Joy, Lititz, and Elizabethtown, Pa., and Mansfield, Mass.

HEARING: June 16, 1958, at 346 Broadway, New York, N. Y., before Examiner John P. McCarthy.

No. MC 117334, filed April 25, 1958. Applicant: FRANK MORGAN, Ronceverte, Greenbrier County, W. Va. Applicant's attorney: Joseph M. Holt, Lewisburg, W. Va. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural fertilizer*, from Baltimore, Md., and Alexandria, Va., to points in Greenbrier, Monroe, Nicholas Fayette, and Summers Counties, W. Va., and *livestock* on return.

HEARING: June 13, 1958, at the Offices of the Interstate Commerce Commission, Washington, D. C., before Examiner Lawrence A. Van Dyke.

No. MC 117344 (Sub No. 1), filed April 16, 1958. Applicant: THE MAXWELL CO., a Corporation, 2200 Glendale-Milford Road, Cincinnati 15, Ohio. Applicant's attorney: Herbert Baker, 50 West Broad Street, Columbus 15, Ohio. Authority sought to operate as a *common or contract carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum* and *petroleum products*, in bulk, in tank vehicles, from Redlion (Warren County), Ohio and points within three (3) miles of Redlion, to points in Indiana and Kentucky, and *empty containers or other such incidental facilities* (not specified) used in transporting the above-specified commodities on return.

NOTE: A proceeding has been instituted under section 212 (c) in No. MC 50404 (Sub No. 55) to determine whether applicant's status is that of a common or contract carrier.

HEARING: June 13, 1958, at the New Post Office Building, Columbus, Ohio, before Joint Board No. 208, or, if the Joint Board waives its right to participate, before Examiner Lacy W. Hinely.

No. MC 117352, filed April 11, 1958. Applicant: HOWARD SCHAFER, doing business as HOLMES TRANSPORTATION, 432 Greene Street, Buffalo 12, N. Y. Applicant's attorney: C. E. Rhoney, 631 Niagara Street, Buffalo 1, N. Y. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, dairy products, packing-house products*, and *canned goods*, as provided in 61 M. C. C. 602, from Buffalo, N. Y., to points in Pennsylvania, Maryland, and West Virginia, and *undelivered, refused or returned shipments* of the above-specified commodities on return. Applicant states he proposes serving the points of destination now authorized in contract carrier Permit No. MC 61602. In letter transmitting the application it is stated this is a request to change from a contract carrier permit to a certificate.

NOTE: Applicant holds Permit No. MC 61602. Section 210, dual operations, may be involved.

HEARING: July 2, 1958, at the Hotel Buffalo, Washington and Swan Streets, Buffalo, N. Y., before Examiner John P. McCarthy.

No. MC 117364, filed April 25, 1958. Applicant: ARTHUR W. SCHROEDER, doing business as SCHROEDER CARTAGE COMPANY, 112 North Fifth Street, Dundee, Ill. Applicant's attorney: John L. McNerney, 808 Professional Building, Elgin, Ill. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Bulk cement*, from Buffington, Ind., to points in St. Charles Township, Ill., and *empty containers or other such incidental facilities* used in transporting bulk cement, on return.

NOTE: Applicant states the proposed routes would lie in Lake County, Ind., and Cook and Kane Counties, Ill.

HEARING: June 18, 1958, in Room 852, U. S. Custom House, 610 South Canal Street, Chicago, Ill., before Joint Board No. 21, or, if the Joint Board waives its right to participate, before Examiner Alton R. Smith.

MOTOR CARRIERS OF PASSENGERS

No. MC 3647 (Sub No. 236), filed April 23, 1958. Applicant: PUBLIC SERVICE COORDINATED TRANSPORT, a Corporation, 180 Boyden Avenue, Maplewood, N. J. Applicant's attorney: Richard Fryling (Law Dept.), 180 Boyden Avenue, Maplewood, N. J. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage* in the same vehicle with passengers, in round-trip special operations during the racing seasons, beginning and ending at Philadelphia, Pa., and Camden, N. J., and extending to Delaware Park Race Track, Stanton, Del., Pimlico Race Track, Baltimore, Md., Brandywine Race Track, Brandywine, Del., Laurel Race Track, Laurel, Md., and Bowie Race Track, Bowie, Md. Applicant is authorized to conduct operations in Delaware, Connecticut, Maryland, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont, New Jersey, New York, Pennsylvania, Virginia, and the District of Columbia.

NOTE: Applicant is authorized in Certificates MC 3647 Sub Nos. 202 and 223 to conduct the above-described operations between Camden, N. J., and the specified race tracks; applicant proposes by this application to extend this special race track service so as to start in Philadelphia and thence proceed to Camden and operate to the race tracks and return to Camden and Philadelphia.

HEARING: June 10, 1958, at the Penn Sherwood Hotel, 3900 Chestnut Street, Philadelphia, Pa., before Examiner John McCarthy.

No. MC 3647 (Sub No. 237), filed April 22, 1958 (CORRECTION), published issue May 7, 1958. Applicant: PUBLIC SERVICE COORDINATED TRANSPORT, a corporation, 180 Boyden Avenue, Maplewood, N. J. Applicant's attorney: Richard Fryling, Law Department, Public Service Coordinated Transport, 180 Boyden Avenue, Maplewood, N. J. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage*, and *express* and *newspapers* in the same vehicle with passengers, between New Brunswick, N. J., and Manville, N. J., from New Brunswick over Somerset County Road No. 527 in Franklin Township to South Bound Brook, thence over city streets to unnumbered highways in Franklin Township, and thence over unnumbered highways and city streets to Manville, and return over the same route, serving all intermediate points. Applicant is authorized to conduct operations in New Jersey, New York, Pennsylvania, the District of Columbia, and Virginia.

NOTE: The notice published May 7, 1958, contained the wrong hearing information. Correctly stated the hearing information should have read as stated below.

HEARING: June 16, 1958, at the New Jersey Board of Public Utility Commissioners, State Office Building, Raymond Boulevard, Newark, N. J., before Joint Board No. 119.

No. MC 112108 (Sub No. 2), filed April 2, 1958. Applicant: ROY V. KNAPP, INC., 359 Mill Street, Poughkeepsie, N. Y. Applicant's attorney: Samuel R. Rosen, Poughkeepsie, N. Y. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, restricted to traffic originating in the territory indicated, in charter operations, beginning and ending at points in Dutchess County, N. Y., and extending to points in Massachusetts, Connecticut, New Jersey, Pennsylvania, and the District of Columbia. Applicant is authorized to conduct operations in Connecticut, Massachusetts, New York, and the District of Columbia.

NOTE: Duplication with present authority to be eliminated.

HEARING: June 19, 1958, at 346 Broadway, New York, N. Y., before Examiner John P. McCarthy.

No. MC 117276, filed March 20, 1958. Applicant: STANLEY A. LYSZEWSKI AND ANNE V. LYSZEWSKI, doing business as Long's Taxi Service, 15 East Talcott Street, Dunkirk, N. Y. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage* in the same vehicle with passengers, in round-trip charter operations beginning and ending at Dunkirk, N. Y., and extending to points in New York, Pennsylvania, and Ohio.

HEARING: July 2, 1958, at the Hotel Buffalo, Washington and Swan Streets, Buffalo, N. Y., before Joint Board No. 330, or, if the Joint Board waives its right to participate, before Examiner John P. McCarthy.

APPLICATIONS IN WHICH HANDLING WITHOUT ORAL HEARING IS REQUESTED

MOTOR CARRIERS OF PROPERTY

No. MC 2998 (Sub No. 20), filed May 5, 1958. Applicant: WOLVERINE EXPRESS, INCORPORATED, 701 Erie Avenue, Muskegon, Mich. Applicant's representative: James F. Nolan, 1901 Train Avenue, Cleveland, Ohio. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, livestock and commodities requiring special equipment, serving the site of the Ford Motor Company plant located at the intersection of Baumhardt Road and U. S. Highway 6 and Ohio Highway 2, Brownhelm, Lorain County, Ohio, as an off-route point in connection with applicant's regular route authority to serve the Cleveland, Ohio, Commercial Zone. Applicant is authorized to transport similar commodities in Michigan, Illinois, Ohio, and Indiana.

No. MC 66562 (Sub No. 1417), filed May 2, 1958. Applicant: RAILWAY EXPRESS AGENCY, INCORPORATED, 219 East 42d Street, New York 17, N. Y. Applicant's attorney: James E. Thomas 1220 The Citizens and Southern, National Bank Building, Atlanta 3, Ga. Authority sought to operate as a *common carrier*, by motor vehicle, over a regular route, transporting: *General commodities, including Class A and B explosives*, moving in express service between Johnson City, Tenn., and Erwin, Tenn., from Johnson City, over U. S. Highway 19–W–23 to Erwin, and return over the same route, serving no intermediate points. RESTRICTION: The service proposed to be performed by applicant will be limited to service which is auxiliary to or supplemental of express service. Shipments proposed to be transported by applicant will be limited to those moving on a through bill of lading or express receipt covering in addition to the motor carrier movement by applicant, an immediately prior or immediately subsequent movement by rail or air. Applicant is authorized to conduct operations throughout the United States.

No. MC 66562 (Sub No. 1418), filed May 2, 1958. Applicant: RAILWAY EXPRESS AGENCY, INCORPORATED, 219 East 42d Street, New York 17, N. Y. Applicant's attorney: James E. Thomas, Suite 1220, The Citizens & Southern National Bank Building, Atlanta 3, Ga. Authority sought to operate as a *common carrier*, by motor vehicle, over a regular route, transporting: *General commodities, including Class A and B explosives*, moving in express service, between Asheville, N. C., and Spruce Pine, N. C., from Asheville over combined U. S. Highways 19–23 to junction U. S. Highways 19–23, thence over U. S. Highway 19 and 19E to Spruce Pine, N. C., and return over the same route, serving the intermediate point of Burnsville, N. C. RESTRICTION: The service proposed to be performed by applicant will be limited to service which is auxiliary to or supplemental of express service. Shipments will be limited to those moving on a through bill of lading or express receipts covering, in addition to the motor carrier movement by applicant, an immediately prior to immediately subsequent movement by rail or air. Applicant is authorized to conduct operations throughout the United States.

No. MC 107403 (Sub No. 259), filed April 25, 1958. Applicant: E. BROOKE MATLACK, INC., 33d and Arch Streets, Wilford Building, Philadelphia 4, Pa. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cutting liquid*, in bulk, in tank vehicle, from Cincinnati, Ohio, to Flint, Mich. Applicant is authorized to conduct operations in Connecticut, Delaware, Illinois, Indiana, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Missouri, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Tennessee, Vermont, Virginia, West Virginia, and the District of Columbia.

No. MC 107576 (Sub No. 15), filed April 28, 1958. Applicant: SITES SILVER WHEEL FREIGHTLINES, INC., 1321 Southeast Water Avenue, Portland, Oreg. Applicant's attorney: William B. Adams, Pacific Building, Portland 4, Oreg. Authority sought to operate as a *common carrier*, by motor vehicle, transporting: *General commodities*, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, serving points within 15 miles of Toledo, Oreg., as intermediate or off-route points in connection with applicant's authorized regular route operations to and from Toledo, Oreg. Applicant is authorized to conduct operations in Oregon and Washington.

No. MC 109637 (Sub No. 79), filed April 28, 1958. Applicant: GASOLINE TRANSPORT CO., 4107 Bells Lane, Louisville 11, Ky. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, in tank vehicles, from Indianapolis, Ind., and points within 5 miles thereof to points in Boyd and Jefferson Counties, Ky. Applicant is authorized to conduct operations in Illinois, Tennessee, Kentucky, Indiana, Ohio, Georgia, Missouri, Minnesota, Florida, Louisiana, Michigan, Mississippi, North Carolina, Texas, West Virginia, and Wisconsin.

No. MC 114194 (Sub No. 9), filed May 1, 1958. Applicant: KREIDER TRUCK SERVICE, INC., 8003 Collinsville Road, East St. Louis, Ill. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid additive used in bottle washing compounds* (Aquaid), in bulk, in tank vehicles, from Granite City, Ill., to points in Missouri, Illinois, Indiana, Ohio, Pennsylvania, Michigan, Wisconsin, Minnesota, Kentucky, Tennessee, Arkansas, Louisiana, Oklahoma, Texas, Colorado, Kansas, Nebraska, and Iowa, and *refused or rejected shipments* of aquaid, on return.

No. MC 115179 (Sub No. 4), filed May 1, 1958. Applicant: GLACKEN TRANSPORTATION, INC., 625 East Pershing Road, Decatur, Ill. Applicant's representative: W. L. Jordan, 201–2 Merchants Savings Building, 7 South Sixth Street, Terre Haute, Ind. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Resin plasticizer*, in bulk, in tank vehicles, from Decatur, Ill., to points in Indiana, Kentucky, Michigan, Missouri, Ohio, Wisconsin, and Pennsylvania. Applicant is authorized to conduct operations in Iowa, Indiana, Illinois, Ohio, Missouri, Kentucky, Pennsylvania, Wisconsin, and Michigan.

NOTE: Joseph E. Glacken and Charles E. Glacken who own controlling interest in applicant above are authorized to conduct operations as a partnership, doing business as Glacken Bros. as a contract carrier in Permit No. MC 114803 Sub 1 to transport non-poisonous compressed gases from National Petro Chemical Company plant at or near Ficklin, Ill., to points in Indiana, and empty shipper-owned tube trailers on return. Dual operations or common control under section 210 may be involved.

No. MC 115380 (Sub No. 1) (CORRECTION), filed April 11, 1958, published page 2888, issue of April 30, 1958, under

applications requested to be handled without oral hearing. Applicant: JOHN W. BOLTON, 35 Arnold Street, Westfield, Mass. Applicant's attorney: Arthur M. Marshall, 145 State Street, Springfield 3, Mass. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Liquefied petroleum gases*, in containers, and *equipment* and *supplies* required for the installation of appliances using liquefied petroleum gases, from Westfield, Mass., to Bristol, Thomaston, and Wallingford, Conn., Bellows Falls and Norwich, Vt., and *empty steel containers* used in transporting liquefied petroleum gases on return. Applicant is authorized to conduct operations in Massachusetts and New York.

NOTE: Previous publication failed to note that carrier is also authorized to conduct operations in Rhode Island and Vermont in addition to Massachusetts and New York.

No. MC 115570 (Sub No. 1), filed April 21, 1958. Applicant: WALTER A. JUNGE, INC., P. O. Box H, Antioch, Calif. Applicant's attorney: William B. Adams, Pacific Building, Portland 4, Oreg. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Materials, supplies* and *equipment* used in the manufacturing processes of the plants of the Fibreboard Paper Products Corporation located in Oregon and Washington and the *products* of such plants, (1) between the plants of the Fibreboard Paper Products Corporation located in Oregon, on the one hand, and, on the other, points in Washington; (2) between the plants of the Fibreboard Paper Products Corporation located in Washington, on the one hand, and, on the other, points in Oregon. Applicant is authorized to conduct operations in California, Oregon, and Washington.

NOTE: Applicant states that it does not seek duplicating authority and will transport for the account of Fibreboard Paper Products Corporation. Applicant's attorney states that the material, supplies and equipment proposed to be transported will be those utilized in the manufacture of all products, and the products proposed to be transported are products, including, but not restricted to those used by food processors, manufacturers, brokers, contractors, maintenance and repairmen.

MOTOR CARRIERS OF PASSENGERS

No. MC 84690 (Sub No. 20), filed April 24, 1958. Applicant: NORTHERN PACIFIC TRANSPORT COMPANY, a Corporation, 176 East Fifth Street, St. Paul, Minn. Applicant's representative: Leland M. Cowan, 425 Burlington Avenue, Billings, Mont. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in the same vehicle with passengers, in charter service, beginning and ending at West Glacier and East Glacier, Mont., entrances of Glacier National Park, Mont., and extending to West Yellowstone, Gardiner, and Silver Gate, Mont., entrances of Yellowstone National Park, Wyo. Applicant indicates the proposed service will be seasonal between April 1st and September 30th of each year, inclusive, and restricted to tour parties of passengers entering Glacier National Park, Mont., via the Great Northern Railway.

CONVERSION PROCEEDINGS UNDER SECTION 212 (c)

MOTOR CARRIERS OF PROPERTY

No. MC 31953 (Sub No. 2) (correction), filed November 6, 1957, published in the FEDERAL REGISTER of December 27, 1957. Applicant: VINCENT S. LOWMAN, 438 Belmont Street, Johnstown, Pa. Applicant's attorney: S. Harrison Kahn, 726-34 Investment Building, Washington, D. C. By application (BOR 96) filed November 6, 1957, applicant sought authority to operate as a *common carrier* of the same commodities between the same points or within the same territory as authorized in permit, No. MC 31953, dated November 27, 1950, authorizing the transportation of *Food products*, over irregular routes, from Baltimore, Md., to Johnstown, Altoona, Bedford, and Phillipsburg, Pa. The publication of December 27, 1957, incorrectly designated the destination point of Phillipsburg, Pa., as Philadelphia, Pa. At a hearing held May 5, 1958, at Pittsburgh, Pa., before Examiner David Waters, applicant was allowed to submit evidence in respect of this operation to PHILLIPSBURG, Pa. The examiner's report and recommended order will not be served until a lapse of 30 days after this republication within which time any person who may have been prejudiced by the error in the initial publication and the action of the examiner in receiving evidence as to applicant's proposed service to Phillipsburg may file an appropriate petition for further hearing.

No. MC 111008 (Sub No. 9). Applicant: JESSE KIRK, JR., doing business as JESSE KIRK, JR., TRUCK LINE, 1399 North Travis Street, Cameron, Texas. Applicant's attorney: Emory B. Camp, Cameron, Texas. Carrier filed an application, under section 212 (c) of the Interstate Commerce Act, for a determination of its status pertaining to contract carrier authority issued on or before August 22, 1957. On April 14, 1958, the carrier requested dismissal of the application, and an order was entered on April 29, 1958, effective June 16, 1958, dismissing the application and discontinuing the proceeding.

No. MC 115782 (Sub No. 2). Applicant: CLYDE H. VAN METER AND NAOMI VAN METER, doing business as VAN METER TRUCKING CO., 927 East Minnesota Street, Indianapolis, Ind. Carrier filed an application, under section 212 (c) of the Interstate Commerce Act, for a determination of its status pertaining to contract carrier authority issued on or before August 22, 1957. On April 15, 1958, the carrier requested dismissal of the application, and an order was entered on April 29, 1958, effective June 16, 1958, dismissing the application and discontinuing the proceeding.

APPLICATION FOR CERTIFICATES OR PERMITS WHICH IS TO BE PROCESSED CONCURRENTLY WITH APPLICATION UNDER SECTION 5, GOVERNED BY SPECIAL RULE 1.240 TO THE EXTENT APPLICABLE

MOTOR CARRIERS OF PROPERTY

No. MC 28961 (Sub No. 16), filed May 2, 1958. Applicant: McDUFFEE MOTOR FREIGHT, INC., High School Avenue, Lebanon, Ky. Applicant's attorney: Robert M. Pearce, Seventh Floor, McClure Building, Frankfurt, Ky. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, between Springfield, Ky., and Louisville, Ky.: from Springfield over U. S. Highway 150 to Bardstown, and thence over U. S. Highway 31E to Louisville and return over the same route, serving intermediate points and points within five (5) miles of that segment of the route between Springfield and Bardstown. Applicant is authorized to conduct operations and Kentucky.

NOTE: A section 5 proceeding in No. MC-F 6894, in which applicant seeks to acquire rights of C & C Transfer Co., is directly related to this application which seeks a certificate to replace an operation previously conducted under the second Proviso of section 206 (a) (1) in No. MC-99171. Applicant seeks general commodities with no exceptions to conform to Kentucky Department of Motor Transportation Certificate 21 issued to vendor in the section 5 proceeding. Handling of the application without oral hearing is requested, and affidavits in support thereof have been submitted.

APPLICATIONS UNDER SECTIONS 5 AND 210a (b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under sections 5 (a) and 210a (b) of the Interstate Commerce Act and certain other procedural matters with respect thereto (49 CFR 1.240).

MOTOR CARRIERS OF PROPERTY

No. MC-F 6713, (GORDONS TRANSPORTS, INC.—CONTROL AND MERGER—DECATUR TRANSIT TRUCK LINE, INC.), published in the October 16, 1957, issue of the FEDERAL REGISTER on page 8208. Application filed April 30, 1958, for temporary authority under section 210a (b).

No. MC-F 6893. Authority sought for purchase by DAKOTA EXPRESS, INC., P. O. Box 533, Wilson Terminal Building, Sioux Falls, S. Dak., of the operating rights and property of DAKOTA FILM SERVICE, INC., P. O. Box 747, Wilson Terminal Building, Sioux Falls, S. Dak., and for acquisition by HENRY J. SCHUETTE, Lake Benton, Minn., of control of such rights and property through the purchase. Applicants' representative: H. Lauren Lewis, President, Dakota Film Service, Inc., P. O. Box 747, Sioux Falls, S. Dak. Operating rights sought to be transferred: *Films*, and *articles associated with the exhibition of motion pictures*, as defined by the Com-

mission, as a *common carrier* over regular routes, between specified points in South Dakota, between Sioux Falls, S. Dak., and Odessa, Minn., between Milbank, S. Dak., and Minneapolis, Minn., between Lone Tree, S. Dak., and Slayton, Minn., between specified points in Minnesota, between Elkton, S. Dak., and St. Peter, Minn., between Tunerville, S. Dak., and Montevideo, Minn., and between Windom, Minn., and Sioux Falls, S. Dak., serving all intermediate and certain off-route points; *films and articles associated with the exhibition of motion pictures* as classified in *Descriptions in Motor Carrier Certificates*, 61 M. C. C. 209 (251), as modified by the report on reconsideration therein, 61 M. C. C. 766 (769), over regular routes including routes between Ortonville, Minn., and Minneapolis, Minn., between Benson, Minn., and Morris, Minn., between Ortonville, Minn., and Wahpeton, N. Dak., between Summit, S. Dak., and Fargo, N. Dak., between Fargo, N. Dak., and Aberdeen, S. Dak., and between Roscoe, S. Dak., and Dawson, N. Dak., serving all intermediate and certain off-route points; *baker's yeast, malt syrup*, and *yeast food*, over irregular routes, from Sioux Falls, S. Dak., to Tyler, Lake Benton, Hendricks, Slayton, Fulda, Tracy, and Marshall, Minn. Vendee is authorized to operate as a *common carrier* in South Dakota, Minnesota, North Dakota, Nebraska, and Iowa. Application has been filed for temporary authority under section 210a (b).

No. MC–F 6894. Authority sought for purchase by McDUFFEE MOTOR FREIGHT, INC., High School Avenue, Lebanon, Ky., of the operating rights and certain property of CLEO COYLE, ELMER COYLE, GARNET COYLE, AND L. F. DRURY, doing business as C. & C. TRANSFER COMPANY, Springfield, Ky., and for acquisition by W. C. McDUFFEE, also of Lebanon, of control of such rights and property through the purchase. Applicants' attorney: Robert M. Pearce, Box 127, Frankfort, Ky. Operating rights sought to be transferred: Operations under the Second Proviso of section 206 (a) (1) of the Interstate Commerce Act covering the transportion of *property*, as a *common carrier* over a regular route, from Springfield, Ky., to Louisville, Ky., with the privilege of handling freight at Springfield and all points between Springfield and Bardstown into Louisville and to service all of these points out of Louisville, Ky. Vendee is authorized to operate as a *common carrier* in Kentucky and Ohio. Application has been filed for temporary authority under section 210a (b).

NOTE: MC 28961 Sub 16 is a matter directly related.

MOTOR CARRIERS OF PASSENGERS

No. MC–F 6892. Authority sought for control by AMERICAN TRANSPORTATION ENTERPRISES, INC., 14 East 75th Street, New York 21, N. Y., of DELAWARE BUS COMPANY, 948 Delaware Trust Building, Wilmington, Del., and for acquisition by MARC HAAS, C. ROBERT ALLEN, TERRY ALLEN PHILIPS, BRUCE J. ALLEN (CHARLES ALLEN, GUARDIAN), HERBERT ANTHONY ALLEN, JR. (HERBERT ALLEN, GUARDIAN) and SUSAN ALLEN (HERBERT ALLEN, GUARDIAN), all of New York, of control of DELAWARE BUS COMPANY through the acquisition by AMERICAN TRANSPORTATION ENTERPRISES, INC. Applicant's representative: James W. Deer, Secretary, American Transportation Enterprises, Inc., 30 Broad Street, New York, N. Y. Operating rights sought to be controlled: *Passengers and their baggage*, in the same vehicle with passengers, as a *common carrier* over regular routes, between Wilmington, Del., and the Delaware-Pennsylvania State line, serving all intermediate points; *passengers*, between Darby, Pa., and the Pennsylvania-Delaware State line, and between Chester, Pa., and Aniline Village, Del., serving all intermediate points; *passengers and their baggage*, in special operations during the season extending from August 1 to October 31, inclusive of each year, between Chester, Pa., and the Brandywine Raceway, New Castle County, Del., near Brandywine, Del., serving certain intermediate points; *passengers and their baggage*, restricted to traffic originating in the territory indicated, in charter operations, over irregular routes, from points in Delaware within 15 miles of Wilmington, Del., to Baltimore, Md., Washington, D. C., Fort Humphreys, Va., points in the New York, N. Y., Commercial Zone, as defined by the Commission, and those in Pennsylvania within 65 miles of Wilmington, Del., and return, and from points in Delaware County, Pa., to points in New York, New Jersey, Delaware, Maryland and the District of Columbia and return; *passengers and their baggage*, in special operations, during the authorized racing season of each year, beginning and ending at Chester, Pa., and extending to Atlantic City Race Track, at or near McKee City, N. J., Garden State Park Race Track, in Delaware Township, Camden County, N. J., and Monmouth Park Race Track, at or near Oceanport, N. J. AMERICAN TRANSPORTATION ENTERPRISES, INC., holds no authority from this Commission, but is affiliated with THE CINCINNATI, NEWPORT AND COVINGTON TRANSPORTATION COMPANY, which is authorized to operate as a *common carrier* in Kentucky and Ohio. Application has not been filed for temporary authority under section 210a (b).

No. MC–F 6895. Authority sought for purchase by QUEEN CITY COACH COMPANY, 417 West Fifth Street, Charlotte, N. C., of a portion of the operating rights of CAROLINA SCENIC STAGES, 217 North Converse Street, Spartanburg, S. C., and for acquisition by JOEL W. WRIGHT and GUY D. CARPENTER, both of Asheville, N. C., ELSIE E. LOVE, JAMES F. MARTIN and BETTY BROWN MARTIN, all of Charlotte, N. C., E. E. Bost, Newton, N. C., W. E. SMITH, Albemarle, N. C., JAMES A. HARDISON, MATTIE D. MARTIN and LILLIAN H. HARDISON, all of Wadesboro, N. C., of control of such rights through the purchase. Applicants' attorney: Samuel Behrends, Jr., 417 West Fifth Street, Charlotte, N. C. Operating rights sought to be transferred: *Passengers and their baggage*, and *express* and *newspapers*, in the same vehicle with passengers, as a *common carrier* over regular routes from Kings Mountain, N. C., to Blacksburg, S. C., serving all intermediate points; *passengers and their baggage*, and *express, mail*, and *newspapers* in the same vehicle with passengers, between Orangeburg, S. C., and Springfield, S. C., serving all intermediate points. Vendee is authorized to operate as a *common carrier* in North Carolina, Tennessee, Georgia, South Carolina and Virginia. Application has not been filed for temporary authority under section 210a (b).

By the Commission.

[SEAL] HAROLD D. McCOY,
Secretary.

[F. R. Doc. 58–3608; Filed, May 13, 1958; 8:49 a. m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

HEINRICH WERNER BOSSHARD

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Dr. Heinrich Werner Bosshard, 11 Muehlestiegrain, Riehen, Canton of Basle-City, Switzerland; Claim No. 61600; Vesting Order No. 9904; $215.29 in the Treasury of the United States.

Executed at Washington, D. C., on May 7, 1958.

For the Attorney General.

[SEAL] DALLAS S. TOWNSEND,
Assistant Attorney General, Director, Office of Alien Property.

[F. R. Doc. 58–3609; Filed, May 13, 1958; 8:49 a. m.]

COMPAGNIE FRANÇAISE

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property located in Washington, D. C., including all royalties accrued thereunder and all damages and profits recoverable for past infringement thereof, after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., and Property

Compagnie Française, Thomson-Houston, Paris, France; Claim No. 11583; all interests and rights (including all royalties and other monies payable or held with respect to such interests and rights and all damages for breach of the agreement hereinafter described, together with the right to sue therefor) created in Compagnie Française Pour L'Exploitation des Procedes Thomson-Houston (also known as Compagnie Française Thomson-Houston) by virtue of an agreement executed on October 1, 1919 by Compagnie Française Pour L'Exploitation des Procedes Thomson-Houston and on December 26, 1919 by International General Electric Company, Incorporated (including all modifications of and supplements to said agreement, including, but without limitation, four letter-agreements dated October 1, 1929 from International General Electric Company, Incorporated, to Compagnie Française Pour L'Exploitation des Procedes Thomson-Houston, and accepted by Compagnie Française Pour L'Exploitation des Procedes Thomson-Houston, and a letter-agreement dated June 7, 1939, from International General Electric Company, Incorporated to Compagnie Française Pour L'Exploitation des Procedes Thomson-Houston, and accepted by Compagnie Française Pour L'Exploitation des Procedes Thomson-Houston) by and between Compagnie Française Pour L'Exploitation des Procedes Thomson-Houston and International General Electric Company, Incorporated, relating, among other things, to certain United States Letters Patent, including Patent No. 2,281,385, to the extent owned by Compagnie Française Pour L'Exploitation des Procedes Thomson-Houston immediately prior to the vesting thereof by Vesting Order No. 3212 (9 F. R. 3102, March 22, 1944).

Executed at Washington, D. C., on May 7, 1958.

For the Attorney General.

[SEAL] DALLAS S. TOWNSEND,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 58-3610; Filed, May 13, 1958; 8:49 a. m.]

SERGE SANDBERG

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property located in Washington, D. C., including all royalties accrued thereunder and all damages and profits recoverable for past infringement thereof, after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., and Property

Serge Sandberg, 122, Avenue des Champs Elysees, Paris, France; Claim No. 57748; $906.03 in the Treasury of the United States.

All right, title, interest and claim of whatsoever kind or nature in and to every copyright, claim of copyright, license, agreement, privilege and power, and every right of whatsoever nature, including but not limited to all monies and amounts by way of royalties, share of profits or other emolument, and all causes of action accrued or to accrue relating to the film entitled Pearls of the Crown (Les Perles de la Couronne), by Sacha Guitry, as listed in Exhibit A of Vesting Order No. 3552 (9 F. R. 13772, November 17, 1944), to the extent owned by the claimant, Serge Sandberg, immediately prior to the vesting thereof by Vesting Order No. 3552.

Executed at Washington, D. C., on May 7, 1958.

For the Attorney General.

[SEAL] DALLAS S. TOWNSEND,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 58-3611; Filed, May 13, 1958; 8:49 a. m.]

DEPARTMENT OF LABOR

Wage and Hour Division

LEARNER EMPLOYMENT CERTIFICATES

ISSUANCE TO VARIOUS INDUSTRIES

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended; 29 U. S. C. 201 et seq.), the regulations on employment of learners (29 CFR Part 522), and Administrative Order No. 485 (23 F. R. 200), the firms listed in this notice have been issued special certificates authorizing the employment of learners at hourly wage rates lower than the minimum wage rates otherwise applicable under section 6 of the Act. The effective and expiration dates, occupations, wage rates, number or proportion of learners, learning periods, and the principal products manufactured by the employer for certificates issued under general learner regulations (§§ 522.1 to 522.11) are as indicated below. Conditions provided in certificates issued under special industry regulations are as established in these regulations.

Apparel Industry Learner Regulations (29 CFR 522.1 to 522.11, as amended, and 29 CFR 522.20 to 522.24, as amended).

The following learner certificates were issued authorizing the employment of 10 percent of the total number of factory production workers for normal labor turnover purposes. The effective and expiration dates are indicated.

Cowden Manufacturing Co., 109 Mackville Hill, Springfield, Ky.; effective 5-1-58 to 4-30-59 (men's and boys' denim dungarees, work pants).

La Follette Shirt Co., Inc., 125 First Street, La Follette, Tenn.; effective 5-7-58 to 5-6-59 (dress and sport shirts).

Lawrenceville Shirt Corp., Lawrenceville, Va.; effective 5-5-58 to 1-31-59 (replacement certificate) (men's and boys' sport shirts).

Metter Manufacturing Co., Metter, Ga.; effective 5-1-58 to 4-30-59 (ladies' blouses).

Tower City Dress Co., Inc., 800 State Street, Utica, N. Y.; effective 5-5-58 to 5-4-59 (women's and misses' cotton dresses).

Wildman Manufacturing Co., 920 Washington Avenue, St. Louis, Mo.; effective 5-2-58 to 5-1-59 (cotton dresses).

The following learner certificates were issued for normal labor turnover purposes. The effective and expiration dates and the number of learners authorized are indicated.

Barad Lingerie Co. of Salem, Salem, Mo.; effective 4-29-58 to 4-28-59; 10 learners (ladies' sleepwear).

Colonial Manufacturing Co., 2496 University Avenue, St. Paul, Minn.; effective 5-1-58 to 4-30-59; 10 learners (aprons).

Glen Lyon Brassiere & Corset Co., 44 Carey Street, Wilkes-Barre, Pa.; effective 5-1-58 to 4-30-59; 5 learners (corsets and allied garments).

Grandeur Fashions, Inc., 204 Oliver Street, Swoyerville, Pa.; effective 5-2-58 to 5-1-59; five learners (women's dresses).

Irene Garment Co., Inc., Nicholson, Pa. (Wyoming County); effective 5-18-58 to 5-17-59; 10 learners (ladies' blouses).

Mode O'Day Corp., Plant No. 9, 419 East South Street, Hastings, Nebr.; effective 5-6-58 to 5-5-59; 10 learners; learners may not be employed at special minimum wage rates in the production of separate skirts (ladies' blouses).

Sampson Sewing Co., Inc., Clinton, N. C.; effective 4-30-58 to 4-29-59; 10 learners (women's and children's sportswear).

Hosiery Industry Learner Regulations (29 CFR 522.1 to 522.11, as amended, and 29 CFR 522.40 to 522.43).

Peerless Hosiery Co., West Jefferson, N. C.; effective 4-30-58 to 10-29-58; 15 learners for plant expansion purposes (ladies' and misses' anklets—hand transfer).

Prim Hosiery Mills, Chester, Ill.; effective 5-2-58 to 11-1-58; 15 learners for plant expansion purposes (full-fashioned—seamless).

Knitted Wear Industry Learner Regulations (29 CFR 522.1 to 522.11, as amended, and 29 CFR 522.30 to 522.35, as amended).

Adelphi Undergarment Co., Blain, Pa.; effective 5-1-58 to 4-30-59; five learners for normal labor turnover purposes (ladies' and children's woven and knitted pajamas).

Bashore Knitting Mills Co., Schuylkill Haven, Pa.; effective 4-29-58 to 4-28-59; 5 percent of the total number of factory production workers for normal labor turnover purposes (men's and boys' cotton-knit underwear).

Each learner certificate has been issued upon the representations of the employer which, among other things, were that employment of learners at subminimum rates is necessary in order to prevent curtailment of opportunities for employment, and that experienced workers for the learner occupations are not available. The certificates may be annulled or withdrawn, as indicated therein, in the manner provided in Part 528 of Title 29 of the Code of Federal Regulations. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within fifteen days after publication of this notice in the FEDERAL REGISTER pursuant to the provisions of 29 CFR 522.9.

Signed at Washington, D. C., this 7th day of May 1958.

MILTON BROOKE,
Authorized Representative of the Administrator.

[F. R. Doc. 58-3502; Filed, May 13, 1958; 8:46 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 70-3674]

UTAH POWER & LIGHT CO.

ORDER AUTHORIZING ACQUISITION OF VOTING STOCKS OF NON-AFFILIATED PUBLIC UTILITY COMPANY BY PURCHASE AND EXCHANGE

MAY 6, 1958.

Utah Power & Light Company ("Utah Power"), a registered holding company, having filed an application-declaration

and amendments thereto pursuant to sections 7, 10, and 12 (c) of the Public Utility Holding Company Act of 1935 ("act") and Rule 62 thereunder seeking approval of its acquisition of the voting stocks (second preferred and common) of Telluride Power Company ("Telluride"), a non-affiliated public utility company, pursuant to contracts heretofore made with the holders of over 80 percent of said voting stocks, and pursuant to an offer to be made to the other holders of such stocks, all such acquisitions to be made upon identical terms as follows:

(a) Utah Power will pay the redemption price ($1 per share plus accrued dividends) for Telluride's second preferred stock, of which 750,525 shares are now outstanding;

(b) Utah Power will issue its own common stock in exchange for the common stock of Telluride, of which 582,337 shares are now outstanding, on the basis of one share of Utah Power common stock for eleven shares of Telluride common stock; and

A public hearing having been duly held on said application-declaration as amended, and the Commission having considered the record and having this day issued its findings and opinion herein; on the basis of such findings and opinion:

It is ordered, That said application-declaration, as amended, be, and the same hereby is, granted and permitted to become effective forthwith, subject to the terms and conditions contained in Rule 24 promulgated under the act.

By the Commission.

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

[F. R. Doc. 58-3600; Filed, May 13, 1958; 8:47 a. m.]

[File No. 1-1097]

OKLAHOMA GAS AND ELECTRIC CO.

NOTICE OF APPLICATION TO WITHDRAW FROM LISTING AND REGISTRATION, AND OF OPPORTUNITY FOR HEARING

MAY 8, 1958.

In the matter of Oklahoma Gas and Electric Company, Common Stock; File No. 1-1097.

The above named issuer, pursuant to section 12 (d) of the Securities Exchange Act of 1934 and Rule X-12D2-1 (b) promulgated thereunder, has made application to withdraw the specified security from listing and registration on the Midwest Stock Exchange.

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

The stock is listed and actively traded on the New York Stock Exchange. It is inactive on the Midwest Stock Exchange and the Company desires to save the expense of this duplicate listing. The Midwest Stock Exchange has waived the provisions of its rule requiring stockholder approval of withdrawal from listing.

Upon receipt of a request, on or before May 23, 1958, from any interested person for a hearing in regard to terms to be imposed upon the delisting of this security, the Commission will determine whether to set the matter down for hearing. Such request should state briefly the nature of the interest of the person requesting the hearing and the position he proposes to take at the hearing with respect to imposition of terms. In addition, any interested person may submit his views or any additional facts bearing on this application by means of a letter addressed to the Secretary of the Securities and Exchange Commission, Washington 25, D. C. If no one requests a hearing on this matter, this application will be determined by order of the Commission on the basis of the facts stated in the application and other information contained in the official file of the Commission pertaining to the matter.

By the Commission.

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

[F. R. Doc. 58-3601; Filed, May 13, 1958; 8:47 a. m.]