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Title 7—AGRICULTURE

Chapter III—Agricultural Research Service, Department of Agriculture

[P.P.C. 612, 18th Rev.]

PART 301—DOMESTIC QUARANTINE NOTICES

Subpart—Khapra Beetle

REVISED ADMINISTRATIVE INSTRUCTIONS DESIGNATING PREMISES AS REGULATED AREAS

Pursuant to § 301.76–2 of the regulations supplemental to the Khapra Beetle Quarantine (7 CFR 301.76–2) under sections 8 and 9 of the Plant Quarantine Act of 1912, as amended (7 U.S.C. 161, 162), revised administrative instructions are hereby issued as follows, listing premises in which infestations of the khapra beetle have been determined to exist and designating such premises as regulated areas within the meaning of said quarantine and regulations.

§ 301.76–2a Administrative instructions designating certain premises as regulated areas under the khapra beetle quarantine and regulations.

Infestations of the khapra beetle have been determined to exist in the premises listed in paragraphs (a) and (b) of this section. Accordingly, such premises are hereby designated as regulated areas within the meaning of the provisions in this subpart:

(a)

ARIZONA

Tom Drennen Farm, c/o Colorado River Trading Co., Parker.

A. G. Franco Chicken Yard, 535 Magnolia Avenue, Yuma.

R. W. Green Ranch, Box 1307, Kingman.

O. S. Hovde Farm, 1207 South Val Vista Drive, Mesa.

CALIFORNIA

John Baysinger, C–13 Canal east of Neighbors Boulevard, Ripley.

Will Gill & Sons Feed Yard, 13402 Road 26, Madera.

Ella Sherman property, Avenue 32 northwest corner of Neighbors Boulevard, Ripley.

(b) The portion of each of the following premises in which live khapra beetles were found has received the approved fumigation treatment, but these premises must continue under frequent observation and inspection for a period of one year following fumigation before a determination can be made as to the adequacy of such treatment to eradicate the khapra beetle in and upon such premises. During this period regulated articles may be moved from the premises only in accordance with the regulations in this subpart.

CALIFORNIA

P. Callo property, located 2 miles west of the intersection of Roads 90 and West C on the south side of Road 90, P.O. Box 44, Niland.

Tom Mejia property, located at the southwest corner of the intersection of Roads 90 and West C, P.O. Box 662, Niland.

Martin Valdez property, located at the intersection of Roads 90 and West E, P.O. Box 403, Niland.

Subsequent to the seventeenth revision, effective December 12, 1958, infestation of the khapra beetle was discovered on the premises of the E. C. Fulghum Farm, 817 South Alma School Road, Mesa, Arizona. Movement of regulated articles from this property was immediately stopped. Within a few days the infested premises had been fumigated in their entirety and declared free of khapra beetle infestation. Accordingly, this property is not being included in this revision.

This revision has the effect of revoking the designation as regulated areas of certain premises in Arizona and California, it having been determined by the Director of the Plant Pest Control Division that adequate sanitation measures have been practiced for a sufficient length of time to eradicate the khapra beetle in and upon such premises. It also adds certain premises in Arizona and California to the list of premises in which khapra beetle infestations have been determined to exist, and designates such premises as regulated areas under the khapra beetle quarantine and regulations.

As an informative item, the revision segregates certain regulated premises in California where the approved fumigation treatment has been applied to the

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CODIFICATION GUIDE

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

A Cumulative Codification Guide covering the current month appears at the end of each issue beginning with the second issue of the month.

portion of the premises in which live khapra beetles were found and which are consequently in a somewhat different category than untreated premises.

These administrative instructions shall become effective February 6, 1959, when they shall supersede P.P.C. 612, Seventeenth Revision, effective December 12, 1958 (23 F.R. 9629).

These instructions, in part, impose restrictions supplementing khapra beetle quarantine regulations already effective. They also relieve restrictions insofar as they revoke the designation of certain regulated areas. They must be made effective promptly in order to carry out the purposes of the regulations and to be of maximum benefit in permitting the interstate movement, without restriction under the quarantine, of regulated products from the premises being removed from designation as regulated areas. Accordingly, under section 4 of the Administrative Procedure Act (5 U.S.C. 1003), it is found upon good cause that notice and other public procedure with respect to the foregoing administrative instructions are impracticable and contrary to the public interest, and good cause is found for making the effective date thereof less than 30 days after publication in the FEDERAL REGISTER.

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

Done at Washington, D.C., this 2d day of February 1959.

[SEAL] E. D. BURGESS,
Director,
Plant Pest Control Division.

[F.R. Doc. 59-1071; Filed, Feb. 5, 1959; 8:51 a.m.]

[P.P.C. 624, 3d Rev.]

PART 301—DOMESTIC QUARANTINE NOTICES

Subpart—Soybean Cyst Nematode

REVISION OF ADMINISTRATIVE INSTRUCTIONS DESIGNATING REGULATED AREAS

Pursuant to § 301.79–2 of the regulations supplemental to the soybean cyst nematode quarantine (7 CFR 301.79–2), under sections 8 and 9 of the Plant Quarantine Act of 1912, as amended, and section 106 of the Federal Plant Pest Act (7 U.S.C. 161, 162, 150ee), administrative instructions appearing as 7 CFR 301.79–2a (23 F.R. 2833) are hereby revised to read as follows:

§ 301.78–2a Administrative instructions designating regulated areas under the soybean cyst nematode quarantine

Infestations of the soybean cyst nematode have been determined to exist in the counties, other civil divisions, farms, and other premises, or parts thereof, listed below, or it has been determined that such infestation is likely to exist therein, or it is deemed necessary to regulate such localities because of their proximity to infestation or their inseparability for quarantine enforcement purposes from infested localities. Accordingly, such counties, other civil divisions, farms, other premises, and parts thereof, are hereby designated as soybean cyst nematode regulated areas within the meaning of the provisions in this subpart:

ARKANSAS

Crittenden County. The irregular portion on the eastern boundary of the county between the Mississippi River levee and the indeterminate Arkansas-Tennessee State line, bounded on the north by the Crittenden-Mississippi County line and on the south by an east-west line projected from the levee to the State line, lying one mile south of the intersection of a graded road and the levee at the head of Wapanocca Bayou.

The property known as the Clarence Williams Farm, located in sec. 22, T. 5 N., R. 8 E.

Mississippi County. All the irregular portion on the eastern boundary of the county lying between the Mississippi River levee and the indeterminate Arkansas-Tennessee State line.

That area bounded on the north by the Arkansas-Missouri State line; on the east by the Mississippi River levee; on the south by the south section lines of secs. 29 and 30, T. 14 N., R. 12 E., and 25, 26, 27, and 28, T. 14 N., R. 11 E., and on the west by a line extending from the southwest corner of sec. 28, T. 14 N., R. 11 E., in a northerly direction along U.S. Highway 61 to Burdette Jct., thence in a southwesterly direction along State Highway 148 to the city limits of the town of Burdette, thence northward on a county road running due north from the town of Burdette, to the city limits of the city of Blytheville, thence eastward following the line of the Blytheville city limits to U.S. Highway 61, thence northward on U.S. Highway 61 to the Arkansas-Missouri State line, excluding that area within the corporate limits of the city of Blytheville.

The property known as the Milton Bunch Farm, in E½ of sec. 21, T. 16 N., R. 11 E.

The property owned by Mrs. C. C. Lee, in W½ of sec. 22, T. 16 N., R. 11 E.

All the property owned by Mrs. Frances Gathings, in secs. 3 and 10, T. 13 N., R. 11 E.

All the property owned by B. R. Maxwell, in sec. 6, T. 13 N., R. 11 E.

All of the property in secs. 20 and 21, T. 12 N., R. 11 E., lying west of the Mississippi River levee.

All the property owned by J. K. Hampson in sec. 19, T. 11 N., R. 11 E.

KENTUCKY

Fulton County. That portion of the N½ sec. 22, T. 1 N., R. 4 W., owned by Jesse McNeill and King McNeill.

That portion of the Norman Sutton farm lying between the levee and the Mississippi River, in sec. 12, T. 1 N., R. 7 W.

The property owned and operated by George Townsend, located 5 miles east of Hickman, this tract of land being the N½ of SW¼ of sec. 23, T. 1 N., R. 4 W.

All of the area known as the detached portion of Fulton County.

All of Island No. 8 in the Mississippi River.

MISSISSIPPI

De Soto County. That portion of secs. 28, 29, 31, and 32, T. 2 S., R. 10 W., lying between the Mississippi River levee and the Mississippi-Arkansas State line.

MISSOURI

New Madrid County. That portion of the county lying east and south of a line beginning at a point where State Highway B intersects the Pemiscot-New Madrid County line, and extending north approximately two and one-half miles to the E. B. Gee Cotton Gin corner, and thence northwestward on a gravel road, continuing northwestward to No. 1 drainage ditch, thence northeast along the No. 1 drainage ditch to the point where it intersects U.S. Highway 62 and thence east to the point where U.S. Highway 62 intersects U.S. Highway 61 and thence east on the section line common to secs. 12 and 13, T. 22 N., R. 13 E., and continuing directly east to the Mississippi River.

The property owned by H. E. Hunter and operated by T. C. Wiley, Claudie Harris, M. B. Young, and Roosevelt Walker, located on the north and south sides of a dirt road, at a point approximately 0.6 mile west of the junction of this dirt road with U.S. Highway 61 at Ristine.

Pemiscot County. That portion of the county lying east and south of a line beginning at a point where State Highway B intersects the Pemiscot-New Madrid County line, and extending southward along State High-

way B to the point where it joins State Highway 84; thence west along State Highway 84 to a point where the highway joins State Highway C; thence southward along State Highway C to the point where it meets State Highway F; thence due south to the point where it intersects the Missouri-Arkansas State line.

Stoddard County. The property owned by Earnest Kellett and operated by Bern Abernathy, being the W½NE¼ sec. 16, T. 27 N., R. 12 E.

NORTH CAROLINA

Camden County. The property owned by Woodson Farrill and operated by Vernon Brown, located 1 mile east of Shiloh on the west side of a paved road connecting State Highway 343 and Riddle; the property being at a point 0.4 mile north of the junction of this paved road and State Highway 343.

The property owned and operated by Frank Sawyer, located at Tar Corner north of the Sharon-Tar Corner and the Moyock-Tar Corner road intersection.

The property owned by Dr. J. B. Sawyer and operated by J. W. Forbes, located on the east side of the Shawboro-Old Trap Road 0.1 mile south of Cow Creek, and 0.1 mile east of the Shawboro-Old Trap Road just north of a graded and drained road.

The property owned and operated by Mack L. Sawyer, located 0.3 mile west of Pearceville and 0.1 mile north of South Mills-Pearceville highway on both sides of a stone surfaced road.

Currituck County. The property owned by P. P. Gregory and operated by Charlie Anderson, located on the east side of the Shawboro-Old Trap Road 0.4 mile north of Indiantown Creek.

Gates County. The property owned and operated by Nurnery Mathias, located 0.1 mile south of the Virginia state line on an unnumbered paved highway which begins at Corapeake, extends east 0.9 mile and then 1.1 miles north to the Virginia state line.

The property owned and operated by W. E. Hobbs, located 0.4 mile south of the Virginia state line on an unnumbered paved highway which begins at Corapeake, and extends east 0.9 mile and then 1.1 miles north to Virginia state line.

New Hanover County. That area bounded by a line beginning at the North East Cape Fear River Bridge on A.C.L. Railroad and extending southward along said railroad to Prince George Creek, thence along said creek westward to Highway U.S. 117, thence southward along U.S. 117 to a drain ditch approximately one-tenth mile south of the entrance to the North Carolina Vegetable Research Station, thence in a northwesterly direction to the point where Prince George Creek empties into the North East Cape Fear River, thence upstream following said river to said A.C.L. Railroad bridge.

The area bounded by a line beginning at a point where the A.C.L. Railroad crosses Smith Creek and extending northeast along said railroad to its junction with State Highway 132, thence southeast along State Highway 132 to its junction with Smith Creek, thence west along said Creek to the A.C.L. Railroad bridge, the point of beginning, excluding all of New Hanover County Airport.

The property owned and operated by W. A. Buck, located on the west side of U.S. Highway 117, across from Wrightsboro school and approximately 1,400 feet north of the intersection of U.S. Highway 117 and Winter Park-Wrightsboro Road.

The property owned and operated by H. C. Johnson, located on the northeast side of Gordon Road 0.6 mile northwest of the intersection of Gordon Road and U.S. Highway 17.

The property owned and operated by J. D. Murray, located at the end of Murrayville Road 2.2 miles from its intersection with Winter Park-Wrightsboro Road.

The property located at the west end of Chair Road, owned and operated by the Peschau Estate.

The property owned and operated by A. G. Seitter, Sr., located on the west side of U.S. Highway 117 and approximately 50 feet north of the junction of U.S. Highway 117 and Winter Park-Wrightsboro Road.

The property, consisting of two fields, owned and operated by D. Swart and Sons, located 1.3 miles south of the intersection of Skippers Corner Road and Atlantic Coastline Railroad and approximately 1 mile east of U.S. Highway 117.

The property owned and operated by Alex Trask, located west of Blue Clay Road and beginning at a point approximately 1,000 feet north of the intersection of Blue Clay Road and Winter Park-Wrightsboro Road and extending northward along Blue Clay Road for approximately 1,400 feet to a ditch separating the Trask and Cox properties.

The property owned and operated by Alex Trask, located on the north side of Murrayville Road and east of State Highway 132 at the intersection of these two roads.

The property owned and operated by Raiford Trask, located on the west side of Blue Clay Road 0.3 mile north of Wrightsboro.

The property owned and operated by Raiford Trask as a packing and storage area, located just south of Wrightsboro Station on the west side of A.C.L. Railroad.

Pasquotank County. The property owned by Everette L. Brothers and operated by George Hewett, located on the west side of the Pasquotank River, approximately 1.7 miles west of the bridge where U.S. Highway 17 crosses the Pasquotank River.

The two properties owned by Hubert Cartwright and operated by Elbert Bray, located 0.2 mile north of Knobbs Creek and 1 mile east of the Knobbs Creek Berea Baptist Church Bridge, east of a stone surfaced road.

The property owned by Carlton Dozier and operated by Elbert Bray, located 0.4 mile north of Knobbs Creek and 0.8 mile east of the Knobbs Creek Berea Baptist Church Bridge, west of a stone surfaced road.

The property owned and operated by Moody Meads, located 4.1 miles southeast of Nixonton and 1 mile east of Eureka Pilgrim Church on the northwest side of the unnumbered paved road on which that church is located.

The property owned and operated by John Owens, located 1.3 miles south of Elizabeth City city limits, 0.8 mile east of Pear Tree Road extension and on the south side of the street on a surfaced road that begins 0.8 mile south of U.S.N. Air Facility Railroad crossing.

The property owned by Alfred Turner and operated by Ike Harris, located 0.4 mile north of Knobbs Creek and 1.7 miles east of Knobbs Creek Berea Baptist Church Bridge, north and east of the bend in an unnumbered paved road.

The property owned by Buck Turner and operated by Ike Harris, located 0.5 mile north of Knobbs Creek and 1.4 miles east of the Knobbs Creek Berea Baptist Church Bridge west of a stone surfaced road.

Pender County. That area bounded by a line beginning at a point where State Highway 210 crosses the Northeast Cape Fear River, thence in a southeasterly direction along said river to its junction with the Clayton Creek; thence in a southeasterly direction along said creek to its end; thence following a straight line in a northerly direction to State Highway 210 at a point where a graded and drained road intersects with State Highway 210, said intersection being 1.4 miles east of U.S. Highway 117; thence along State Highway 210 in an easterly direction to its point of beginning.

The property owned and operated by Mike Boryk, located on the west side of Burgaw-Long Creek Road 0.2 mile south of Burgaw city limits.

The property owned and operated by P. Brack, known as Marlboro Farm, located on the west side of U.S. Highway 117, approximately 0.7 mile north of Paul's Place. Also, that property owned and operated by P. Brack adjoining Marlboro Farm on the south.

The property owned and operated by Arnold Clark, located on the west side of Kelly Road at the junction of State Highway 210 and Kelly Road with State Highway 40.

The property owned and operated by Henry Clark, located at the intersection of Kelly Road and State Highway 210, being on the north side of State Highway 210 and the east side of Kelly Road, approximately 500 feet north of the intersection of Kelly Road and State Highway 40.

The property owned and operated by Henry Clark, located on the south side of State Highway 40 and 0.2 mile southeast of Bell's Crossroads.

The property owned and operated by Dr. J. D. Freeman, located on the south side of State Highway 210, 1.8 mile east of Northeast Cape Fear River.

The property owned and operated by P. Katalinic, located on the east and west side of U.S. Highway 117 at the junction of Stag Park Road and U.S. Highway 117.

The property owned and operated by W. B. Keith, located on the west side of Clarks Landing Loop Road and one mile southwest of Bell's Crossroads.

The property owned and operated by W. E. Motley, located on the east side of Kelly Road 1.1 miles northeast of the junction of Kelly Road and State Highway 40.

The property owned and operated by Paul Paskas, located approximately 1.9 miles west of Paul's Place and 0.8 mile north of State Highway 40.

The property owned and operated by C. Heide Trask heirs, located on the north side of State Highway 210, 1.6 miles east of U.S. Highway 117.

The two properties owned and operated by C. Heide Trask heirs, located on the south side of State Highway 210 and 1.5 miles west of the junction of U.S. Highway 117 and State Highway 210.

The property owned and operated by Boney Wilson, located on the southwest side of State Highway 210 and approximately 0.2 mile northwest of Clark's Landing Highway.

Perquimans County. The property owned and operated by L. R. Stalling located on the west side of the Nicanor-Morgans Corner road 1.1 miles southwest of the Perquimans-Pasquotank County line.

TENNESSEE

Dyer County. All of the county except Civil Districts 1, 6, 7, 8, 9, and 15.

Lake County. The entire county.

Lauderdale County. Civil Districts 4, 5, 9, and 13; and that part of Civil District 11 consisting of a 40-acre farm, owned by Mrs. Dezzie Mae Clark, known as the Old Hunt Farm on county Highway 8045, 1.2 miles southwest of the junction of county Highway 8045 with State Highway 19.

Obion County. Civil Districts 5, 9, and 12; and that part of Civil District 13 consisting of the farm of approximately 365 acres owned by R. C. Reynolds, 730 East High Street, Union City, operated by O. T. Baker and located south of Union City, approximately one mile south of the intersection of U.S. Highway 45–W and U.S. Highway 51, lying on the east side of U.S. Highway 45–W and extending southward from this point between U.S. Highway 45–W and the Gulf, Mobile & Ohio Railroad to the south boundary of the property; and that part of Civil District 4 consisting of a 70-acre farm owned by Bates Anderson, located on Polk Community Road, 1.1 miles northeast of the junction of Polk Community Road with the Troy-Mason Hall Highway.

Shelby County. That part of Shelby County known as President's Island.

Tipton County. That part of Civil District 3 consisting of a 57-acre farm owned by Herbert E. Baskin, known as the Old Jack Baskin place, located on the west side of Turkey Scratch Road, 2.2 miles southeast of R. M. Burlison's store. This store is located 2 miles west of Burlison Post Office on Highway 59.

This revision has the effect of adding to the areas now regulated in Arkansas, Kentucky, North Carolina, and Tennessee.

The foregoing administrative instructions shall become effective February 6, 1959, and shall supersede those contained in P.P.C. 624, 2d Rev., effective April 29, 1958 (7 CFR 301.79–2a; 23 F.R. 2833).

These instructions should be made effective as soon as possible with respect to the newly regulated areas in order to be of maximum benefit in preventing the interstate spread of the soybean cyst nematode. Accordingly, pursuant to section 4 of the Administrative Procedure Act (5 U.S.C. 1003), it is found upon good cause that notice and other public procedure with respect to these instructions are impracticable and contrary to the public interest, and good cause is found for making the effective date thereof less than 30 days after publication in the FEDERAL REGISTER.

(Sec. 9, 37 Stat. 318, sec. 106, Pub. Law 85–36, 71 Stat. 33; 7 U.S.C. 162, 150ee. Interprets or applies sec. 8, 37 Stat. 318, as amended; 7 U.S.C. 161)

Done at Washington, D.C., this 2d day of February 1959.

[SEAL] E. D. BURGESS,
Director,
Plant Pest Control Division.

[F.R. Doc. 59–1072; Filed, Feb. 5, 1959; 8:51 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket 7066]

PART 13—DIGEST OF CEASE AND DESIST ORDERS

Ronson Corp. et al.

Subpart—*Discriminating in price under section 2, Clayton Act, as amended*—Price discrimination under 2(a): § 13.715 *Charges and price differentials; (Discriminating in price under section 2, Clayton Act, as amended)*—Payment for services or facilities for processing or sale under 2(d); § 13.824 *Advertising expenses.* Subpart—*Maintaining resale prices:* § 13.1135 *Contracts and agreements; Miller-Tydings amendment.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 2, 38 Stat. 730, as amended; sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 13, 45) [Cease and desist order, Ronson Corporation (Newark, N.J.) et al., Docket 7066, January 8, 1959]

In the Matter of Ronson Corporation, Ronson Service of California, Ronson Service of Colorado, Inc., Ronson Service of Georgia, Inc., Ronson Service of Illinois, Inc., Ronson Service of Maryland, Inc., Ronson Service of Massachusetts, Inc., Ronson Service, Inc. (Michigan), Ronson Service, Inc. (N.Y.), Ronson Service of Ohio, Inc., Ronson Service, Inc., of Pennsylvania, and Ronson Service of Washington, Inc.

This proceeding was heard by a hearing examiner on the complaint of the Commission charging a major producer of cigar and cigarette lighters and electric shavers with entering into price-fixing agreements with its retail customers in States having Fair Trade laws, which were illegal in that it was in competition with some of such customers in its own retail operations; with discriminating in price among its customers through paying allowances for cooperative advertising to some of them but not to all, and granting such allowances on unequal terms; and with discriminating in price by selling to some customers at higher net prices than to others.

After acceptance of an agreement containing a consent order, the hearing examiner made his initial decision and order to cease and desist which became on January 8 the decision of the Commission.

The order to cease and desist is as follows:

It is ordered, That respondent Ronson Corporation, its officers, representatives, agents, and employees, directly or through any corporate or other device, in connection with the sale of electric shavers, cigar and cigarette lighters, and accessories therefor, in commerce as "commerce" is defined in the aforesaid Federal Trade Commission Act, do forthwith cease and desist from: Fixing, establishing, or maintaining by, or in accordance with the terms or conditions of, any contract, agreement, or understanding, the prices, terms or conditions of sale at which electric shavers, cigar and cigarette lighters and accessories therefor, produced, distributed, or sold, directly or indirectly, by respondent, are to be resold by any wholesaler or retailer when such products are being sold or offered for sale in competition with any branch, retail, or service store, establishment, or business owned or controlled by any means or method by respondent.

It is further ordered, That respondent Ronson Corporation and respondents "Service Subsidiaries", their officers, representatives, agents, and employees, directly or through any corporate or other device in connection with the sale of electric shavers, cigar and cigarette lighters and accessories therefor in commerce, as "commerce" is defined in the aforesaid Clayton Act, as amended, do forthwith cease and desist from: Discriminating, directly or indirectly, in the price of such products of like grade and quality, by selling to any purchaser at net prices higher than the net prices charged any other purchaser competing in fact with such unfavored purchaser in the resale and distribution of such products.

It is further ordered, That respondent Ronson Corporation, its officers, representatives, agents, and employees, directly or through any corporate or other device, in the course of its business in commerce, as "commerce" is defined in the aforesaid Clayton Act, as amended, do forthwith cease and desist from: Making or contracting to make, to or for the benefit of any customer acquiring respondent's electric shavers, cigar and cigarette lighters, and accessories therefor from respondent, from wholesalers, or from any other source, any payment of anything of value as compensation or in consideration for any advertising or other services or facilities furnished by or through such customer, in connection with the handling, resale, or offering for resale of such products manufactured, sold, or offered for sale by respondent, unless such payment or consideration is made available on proportionally equal terms to all other such customers competing in fact with such favored customers in the resale or distribution of such products.

It is further ordered, That so much of the allegations contained in Count II of the complaint, as amended, as allege that respondent Ronson Corporation has violated section 2(a) of the Clayton Act by reason of the fact that the customers of said respondent's wholesaler purchasers are purchasers of said respondent, be, and the same hereby are, dismissed, without prejudice; provided, however, that nothing contained in this paragraph shall be construed as limiting the meaning of the term "purchaser" contained in the second ordering paragraph of the order to cease and desist above provided for, nor as affecting or limiting in any manner the adoption and reallegation of Paragraphs Fourteen and Fifteen of Count II as a part of Count III of the Complaint in this proceeding.

By "Decision of the Commission", etc., report of compliance was required as follows:

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

Issued: January 8, 1959.

By the Commission.

[SEAL] ROBERT M. PARRISH,
Secretary.

[F.R. Doc. 59–1049; Filed, Feb. 5, 1959; 8:48 a.m.]

[Docket 7309]

PART 13—DIGEST OF CEASE AND DESIST ORDERS

Coral Stone Construction Co. et al.

Subpart—*Advertising falsely or misleadingly:* § 13.70 *Fictitious or misleading guarantees;* § 13.75 *Free goods or*

services; § 13.85 *Government approval, action, connection or standards:* Inspection;[1] § 13.260 *Terms and conditions.* Subpart—*Offering unfair, improper and deceptive inducements to purchase or deal:* § 13.1955 *Free goods;* § 13.1975 *Government penalty;* § 13.1980 *Guarantee, in general.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Coral Stone Construction Company et al., Chicago, Ill., Docket 7309, January 8, 1959]

In the Matter of Coral Stone Construction Company, a Corporation, and Norman Stone, Theodore T. Stone, Betty Stone, and Morton I. Kovin, Individually and as Officers of Said Corporation

This proceeding was heard by a hearing examiner on the complaint of the Commission charging a seller of building materials in Chicago with representing falsely in advertising to obtain home improvement and repairs contracts, that monthly payments on remodeling jobs were smaller than was the fact; that governmental authorities regularly inspect homes for violations of building codes and levy fines therefor; that valuable gifts would be given to prospects who allowed it to bid on a job; and that its "Coral Stone" was backed by a lifetime guarantee not to chip or crack.

After acceptance of an agreement containing a consent order, the hearing examiner made his initial decision and order to cease and desist which became on January 8 the decision of the Commission.

The order to cease and desist is as follows:

It is ordered, That respondents Coral Stone Construction Company, a corporation, and its officers, and Norman Stone, Theodore T. Stone, Betty Stone, and Morton I. Kovin, individually and as officers of said corporation, and respondents' agents, representatives, and employees directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of building materials required in the execution of contracts for repairs or other improvements on homes or other structures, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

(a) Representing, directly or by implication, that certain periodic payments may be made to liquidate the amount due on contracts with respondents unless it is expressly stated that such payments may be made only by those who can qualify.

(b) Representing, directly or by implication, that governmental authorities make inspections of homes or other structures, to find violations of building codes or other laws and levy fines for violations, unless restricted to the particular areas in which such inspections are actually made.

(c) Representing, directly or by implication, that respondents give articles of merchandise as a gift to persons who merely permit them to submit a bid for repairs or other work on homes or other buildings and improvements or for any other reason that is not in accordance with the facts.

(d) Representing, directly or by implication, that a product is guaranteed unless the terms and nature of the guarantee and the manner in which the guarantor will perform are clearly set forth.

By "Decision of the Commission", etc., report of compliance was required as follows:

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

Issued: January 8, 1959.

By the Commission.

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

[F.R. Doc. 59-1050; Filed, Feb. 5, 1959; 8:48 a.m.]

[Docket 7187]

PART 13—DIGEST OF CEASE AND DESIST ORDERS

Furs by Weiss, Inc., and Joseph Weiss

Subpart—*Advertising falsely or misleadingly:* § 13.30 *Composition of goods:* Fur Products Labeling Act. Subpart—*Invoicing products falsely:* § 13.1108 *Invoicing products falsely:* Fur Products Labeling Act. Subpart—*Misbranding or mislabeling:* § 13.1190 *Composition:* Fur Products Labeling Act; § 13.1212 *Formal regulatory and statutory requirements:* Fur Products Labeling Act. Subpart—*Neglecting, unfairly or deceptively, to make material disclosure:* § 13.1845 *Composition:* Fur Products Labeling Act; § 13.1852 *Formal regulatory and statutory requirements:* Fur Products Labeling Act; § 13.1865 *Manufacture or preparation:* Fur Products Labeling Act; § 13.1886 *Quality, grade or type of product;* § 13.1900 *Source or origin:* Fur Products Labeling Act: *Place.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 8, 65 Stat. 179; 15 U.S.C. 45, 69f) [Cease and desist order, Furs By Weiss, Inc., et al., Cleveland, Ohio, Docket 7187, January 8, 1959]

In the Matter of Furs by Weiss, Inc., a Corporation, and Joseph Weiss, Individually and as an Officer of Said Corporation

This proceeding was heard by a hearing examiner on the complaint of the Commission charging a furrier in Cleveland, Ohio, with violating the Fur Products Labeling Act by naming on labels attached to fur products and in newspaper advertising, animals other than those producing certain furs; by failing in other respects to comply with the labeling requirements and with the invoicing provisions of the Act; and by advertising in newspapers which failed to disclose the names of animals producing certain furs, the country of origin of imported furs, or the facts that certain products contained artificially colored or cheap or waste fur.

After acceptance of an agreement for a consent order, the hearing examiner made his initial decision and order to cease and desist which became on January 8 the decision of the Commission.

The order to cease and desist is as follows:

It is ordered, That the respondents, Furs By Weiss, Inc., a corporation, and its officers, and Joseph Weiss, individually and as an officer of said corporation, and respondents' representatives, agents or employees, directly or through any corporate or other device, in connection with the introduction into commerce, or the sale, advertising or offering for sale in commerce, or the transportation or distribution in commerce, of fur products, or in connection with the sale, advertising, offering for sale, transportation or distribution of fur products which are made in whole or in part of fur which has been shipped and received in commerce, as "commerce", "fur" and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

1. Misbranding fur products by:

(a) Failing to affix labels to fur products showing:

(1) The name or names of the animal or animals producing the fur or furs contained in the fur product as set forth in the Fur Products Name Guide and as prescribed under the Rules and Regulations;

(2) That the fur product contains or is composed of used fur, when such is the fact;

(3) That the fur product contains or is composed of bleached, dyed, or artificially colored fur, when such is the fact;

(4) That the fur product is composed in whole or in substantial part of paws, tails, bellies, or waste fur, when such is the fact;

(5) The name, or other identification issued and registered by the Commission, of one or more persons who manufactured such fur product for introduction into commerce, introduced it into commerce, sold it in commerce, advertised or offered it for sale in commerce, or transported or distributed it in commerce;

(6) The name of the country of origin of any imported furs used in the fur product.

(b) Setting forth on labels the name of an animal in addition to the name of the animal that produced the fur.

(c) Setting forth on labels attached to fur products:

(1) Information required under section 4(2) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder in abbreviated form;

(2) Information required under section 4(2) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder which is mingled with non-required information;

(3) Information required under section 4(2) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder in handwriting.

[1] New.

(d) Failing to set forth on labels all the information required under section 4(2) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder on one side of the labels.

(e) Failing to set forth separately on labels attached to fur products composed of two or more sections containing different animal furs the information required under section 4(2) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder with respect to the fur comprising each section.

2. Falsely or deceptively invoicing fur products by:

(a) Failing to furnish invoices to purchasers of fur products showing:

(1) The name or names of the animal or animals producing the fur or furs contained in the fur product as set forth in the Fur Products Name Guide and as prescribed under the rules and regulations;

(2) That the fur product contains or is composed of used fur, when such is the fact;

(3) That the fur product contains or is composed of bleached, dyed, or otherwise artificially colored fur, when such is the fact;

(4) That the fur product is composed in whole or in substantial part of paws, tails, bellies, or waste fur, when such is the fact;

(5) The name and address of the person issuing such invoices;

(6) The name of the country of origin of any imported furs contained in the fur product.

(7) The item number or mark assigned to the fur product.

3. Falsely or deceptively advertising fur products through the use of any advertisement, representation, public announcement, or notice which is intended to aid, promote, or assist, directly or indirectly, in the sale or offering for sale of fur products, and which:

(a) Fails to disclose the name or names of the animal or animals producing the fur or furs contained in the fur product as set forth in the Fur Products Name Guide and as prescribed under the said rules and regulations.

(b) Fails to disclose that the fur products contain or are composed of bleached, dyed, or otherwise artificially colored fur, when such is the fact.

(c) Fails to disclose that the fur products are composed in whole or in substantial part of paws, tails, bellies, or waste fur, when such is the fact.

(d) Contains the name of an animal other than the name of the animal that produced the fur.

(e) Fails to disclose the name of the country of origin of the imported furs contained in fur products.

By "Decision of the Commission", etc., report of compliance was required as follows:

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

Issued: January 8, 1959.

By the Commission.

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

[F.R. Doc. 59-1051; Filed, Feb. 5, 1959; 8:49 a.m.]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER A—GENERAL

PART 9—COLOR CERTIFICATION

FD&C Yellow Nos. 1, 2, 3, and 4

In the matter of amending the color-certification regulations with respect to FD&C Yellow No. 1, FD&C Yellow No. 2, FD&C Yellow No. 3, and FD&C Yellow No. 4:

An order was published in the FEDERAL REGISTER on May 4, 1957 (22 F.R. 3173), deleting the above-identified colors from § 9.3 *List of straight colors and specifications for their certification for use in food, drugs, and cosmetics* and amending § 9.5 *List of straight colors and specifications for their certification for use in externally applied drugs and cosmetics* by adding thereto the four colors External D&C Yellow No. 7, External D&C Yellow No. 8, External D&C Yellow No. 9, and External D&C Yellow No. 10.

The only objection to this order was filed by the Certified Color Industry Committee. The grounds for the objection were that these four colors would produce no adverse effect on man at the levels of actual use in the human diet. The objection recognized that the pharmacological tests known to the Industry Committee have established that FD&C Yellow Nos. 1, 3, and 4 produce adverse physiological effects as a concentration of 1,000 parts per million (0.1 percent) of the diet of test animals. The objection suggested that the Department of Health, Education, and Welfare establish tolerances to prohibit the use of excessive concentrations of these four colors in foods. A public hearing was requested.

The decision of the Court of Appeals for the Fifth Circuit in Florida Citrus Exchange v. Folsom drew the Department's construction of the coal-tar color provisions of the Federal Food, Drug, and Cosmetic Act into question, and for that reason the Deputy Commissioner of Food and Drugs on August 15, 1957 (22 F.R. 6613), stayed the delisting provisions in their entirety and stated that an announcement with respect to the requested hearing would be made at a later date.

On December 15, 1958, in Flemming v. Florida Citrus Exchange, the Supreme Court of the United States reversed the Fifth Circuit decision and held that a coal-tar color that is not itself a harmless substance is not to be certified and, if it is not certified, it is not to be used at all. The Court agreed with the Department's construction that there is no authority in existing law to establish a tolerance for a toxic coal-tar color.

The Supreme Court's decision having established the proper construction of the law, the objection of the Certified Color Industry Committee to the delisting of FD&C Yellow Nos. 1, 2, 3, and 4 is without substance, and no purpose could be served by holding a public hearing. The Department has no authority to certify colors that are themselves toxic, as is the case with FD&C Yellow Nos. 1, 2, 3, and 4, and the Department has no authority to establish a tolerance for such a color, as requested by the Industry Committee.

Accordingly, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 701(e), 52 Stat. 1055, as amended 70 Stat. 919, 72 Stat. 948; 21 U.S.C. 371(e)), and the authority delegated to the Commissioner of Food and Drugs by the Secretary of Health, Education, and Welfare (22 F.R. 1045; 23 F.R. 9500): *It is ordered*, That the regulations for the certification of coal-tar colors (21 CFR 9.3, 9.5) be amended as indicated below:

1. Section 9.3 *List of straight colors and specifications for their certification for use in food, drugs, and cosmetics* is amended by deleting from paragraph (a) the names of the following straight colors and the respective specifications therefor:

FD&C Yellow No. 1.
FD&C Yellow No. 2.
FD&C Yellow No. 3.
FD&C Yellow No. 4.

2. Paragraph (a) of § 9.5 *List of straight colors and specifications for their certification for use in externally applied drugs and cosmetics* is amended by adding thereto, immediately following the specifications for Ext D&C Yellow No. 6, the following:

EXT D&C YELLOW No. 7

SPECIFICATIONS

Disodium salt of 2,4-dinitro-1-napthol-7-sulfonic acid.

Volatile matter (at 135° C.), not more than 10.0 percent.

Water-insoluble matter, not more than 0.2 percent.

Ether extracts, not more than 0.1 percent.

Chlorides and sulfates of sodium, not more than 5.0 percent.

Mixed oxides, not more than 1.0 percent.

Martius yellow, not more than 0.03 percent.

Pure dye (as determined by titration with titanium trichloride), not less than 85.0 percent.

EXT D&C YELLOW No. 8

SPECIFICATIONS

Dipotassium salt of 2,4-dinitro-1-naphthof-7-sulfonic acid.

Volatile matter (at 135° C.), not more than 10.0 percent.

Ether extracts, not more than 0.1 percent.

Chlorides and sulfates of potassium, not more than 5.0 percent.

Mixed oxides, not more than 1.0 percent.

Martius yellow, not more than 0.03 percent.

Pure dye (as determined by titration with titanium trichloride), not less than 85.0 percent.

EXT D&C YELLOW No. 9

SPECIFICATIONS

1-Phenylazo-2-naphthylamine.
Volatile matter (at 80° C.), not more than 0.2 percent.
Sulfated ash, not more than 0.3 percent.
Water-soluble matter, not more than 0.3 percent.
Matter, insoluble in carbon tetrachloride, not more than 0.5 percent.
Intermediates, not more than 0.05 percent.
Pure dye (as determined by titration with titanium trichloride), not less than 99.0 percent.
Melting point, not less than 99° C.

EXT D&C YELLOW No. 10

SPECIFICATIONS

1-o-Tolylazo-2-naphthylamine.
Volatile matter (at 80° C.), not more than 0.2 percent.
Sulfated ash, not more than 0.3 percent.
Water-soluble matter, not more than 0.3 percent.
Matter, insoluble in carbon tetrachloride, not more than 0.5 percent.
Intermediates, not more than 0.05 percent.
Pure dye (as determined by titration with titanium trichloride), not less than 99.0 percent.
Melting point, not less than 120° C.

Effective date. The amendment of the color-certification regulations (§§ 9.3 and 9.5) promulgated by this order shall become effective 90 days after publication of this order in the FEDERAL REGISTER.

(Sec. 701, 52 Stat. 1055, as amended 70 Stat. 919, 72 Stat. 948; 21 U.S.C. 371. Interprets or applies secs. 406(b), 504, 604, 52 Stat. 1046, 1049, 1052; 21 U.S.C. 346(b), 354, 364)

Dated: January 27, 1959.

[SEAL] JOHN L. HARVEY,
Deputy Commissioner of Food and Drugs.

[F.R. Doc. 59-1054; Filed, Feb. 5, 1959; 8:49 a.m.]

SUBCHAPTER C—DRUGS

PART 141a—PENICILLIN AND PENICILLIN-CONTAINING DRUGS; TESTS AND METHODS OF ASSAY

PART 146a—CERTIFICATION OF PENICILLIN AND PENICILLIN-CONTAINING DRUGS

Penicillin-Streptomycin- (or Dihydrostreptomycin-) Bacitracin Methylene Disalicylate-Neomycin Ointment

Under the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; sec. 701, 52 Stat. 1055, as amended; 21 U.S.C. 357, 371) and delegated to the Commissioner of Food and Drugs by the Secretary (23 F.R. 9500), the regulations for tests and methods of assay and certification of penicillin and penicillin-containing drugs (21 CFR Parts 141a, 146a) are amended as follows:

1. Part 141a is amended by adding thereto the following new section:

§ 141a.98 Penicillin-streptomycin-bacitracin methylene disalicylate-neomycin ointment; penicillin-dihydrostreptomycin-bacitracin methylene disalicylate-neomycin ointment.

(a) *Potency*—(1) *Penicillin content.* Proceed as directed in § 141a.8(a). Its penicillin content is satisfactory if it contains not less than 85 percent of the number of units that it is represented to contain.

(2) *Streptomycin content.* Proceed as directed in § 141a.65(a)(2). Its content of streptomycin is satisfactory if it contains not less than 85 percent of the number of milligrams that it is represented to contain.

(3) *Dihydrostreptomycin content.* Proceed as directed in § 141a.65(a)(3). Its content of dihydrostreptomycin is satisfactory if it contains not less than 85 percent of the number of milligrams that it is represented to contain.

(4) *Bacitracin methylene disalicylate content.* Proceed as directed in § 141a.49(a)(3). Its potency is satisfactory if it contains not less than 85 percent of the equivalent number of units of bacitracin that it is represented to contain.

(5) *Neomycin content.* Proceed as directed in § 141a.65(a)(4)(iii). Its content of neomycin is satisfactory if it contains not less than 85 percent of the number of milligrams that it is represented to contain.

(b) *Moisture.* Proceed as directed in § 141a.8(b).

2. Part 146a is amended by adding thereto the following new section:

§ 146a.20 Penicillin-streptomycin-bacitracin methylene disalicylate-neomycin ointment; penicillin-dihydrostreptomycin-bacitracin methylene disalicylate-neomycin ointment.

Penicillin-streptomycin-bacitracin methylene disalicylate-neomycin ointment and penicillin-dihydrostreptomycin-bacitracin methylene disalicylate-neomycin ointment conform to all requirements prescribed by § 146a.70 for penicillin-streptomycin-bacitracin methylene disalicylate ointment and penicillin-dihydrostreptomycin-bacitracin methylene disalicylate ointment, except that:

(a) Each dose, as recommended in its labeling, shall contain the equivalent of not less than 2,000 units of bacitracin and not less than 100 milligrams of neomycin. The neomycin used conforms to the standards prescribed by § 146e.410(a) of this chapter, except the standard for toxicity.

(b) In addition to the labeling prescribed by § 146a.70(a)(2), each package shall bear on the outside wrapper or container and the immediate container the number of milligrams of neomycin in each prescribed dose.

(c) In addition to complying with the requirements of § 146a.70(a)(3), a person who requests certification of a batch shall submit with his request a statement showing the batch marks and (unless it was previously submitted) the results and date of the latest tests and assays of the neomycin used in making the batch for potency, moisture, and pH. He shall also submit in connection with his request (unless it was previously submitted) a sample consisting of 5 packages of the neomycin used in making the ointment, containing approximately equal portions of 0.5 gram each.

(d) The fees for the services rendered with respect to the sample submitted in accordance with paragraph (c) of this section shall be $4.00 for each immediate container of the neomycin used in making the ointment.

Notice and public procedure are not necessary prerequisites to the promulgation of this order, and I so find, since it was drawn in collaboration with interested members of the affected industry and since it would be against public interest to delay providing for tests and methods of assay and certification of the new antibiotic-containing drugs covered by this order.

Effective date. This order shall become effective upon publication in the FEDERAL REGISTER, since both the public and the affected industry will benefit by the earliest effective date, and I so find.

(Sec. 701, 52 Stat. 1055, as amended; 21 U.S.C. 371. Interprets or applies sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357)

Dated: January 30, 1959.

[SEAL] JOHN L. HARVEY,
Deputy Commisioner of Food and Drugs.

[F.R. Doc. 59-1052; Filed, Feb. 5, 1959; 8:49 a.m.]

PART 141d — CHLORAMPHENICOL AND CHLORAMPHENICOL-CONTAINING DRUGS; TESTS AND METHODS OF ASSAY

PART 146d — CERTIFICATION OF CHLORAMPHENICOL AND CHLORAMPHENICOL-CONTAINING DRUGS

Chloramphenicol Sodium Succinate; Chloramphenicol Sodium Succinate for Aqueous Injection

Under the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; sec. 701, 52 Stat. 1055, as amended; 21 U.S.C. 357, 371) and delegated to the Commissioner of Food and Drugs by the Secretary (22 F.R. 1045; 23 F.R. 9500), the regulations for tests and methods of assay and certification of chloramphenicol and chloramphenicol-containing drugs are amended by adding to 21 CFR, Parts 141d and 146d the following new sections:

§ 141d.314 Chloramphenicol sodium succinate.

(a) *Potency (by spectrophotometric assay)*—(1) *Working standard.* Prepare the standard stock solution by dissolving an appropriate amount (accurately weighed) of the chloramphenicol working standard in sterile distilled water to give a solution containing 20

μg. per milliliter. Using a suitable spectrophotometer, determine the absorbance of the solution in a 1-centimeter cell at 278 mμ compared with distilled water as a blank. Calculate the absorptivity as follows:

$$E^{1\%}_{1\text{ cm.}} = \frac{\text{absorbance at 278 m}\mu}{\text{grams of standard per 100 milliliters}}$$

(2) *Procedure.* Dissolve the sample to be tested in sufficient sterile distilled water to give a solution containing 30 μg. per milliliter. Using a suitable spectrophotometer, determine the absorbance of the solution in a 1-centimeter cell at 276 mμ compared with distilled water as a blank. Calculate the absorptivity as follows:

$$E^{1\%}_{1\text{ cm.}} = \frac{\text{absorbance at 276 m}\mu}{\text{grams of sample per 100 milliliters}}$$

Calculate the potency of the sample as follows:

$$\frac{E^{1\%}_{1\text{ cm.}} \text{ of sample}}{E^{1\%}_{1\text{ cm.}} \text{ of standard}} \times 1{,}000$$

=micrograms of chloramphenicol per milligram of chloramphenicol sodium succinate.

(b) *Sterility.* Using 40 milligrams from each container tested, proceed as directed in § 141a.2 of this chapter, except that neither penicillinase nor the control tube is used in the test for bacteria.

(c) *Toxicity.* Use sterile physiological salt solution as the diluent, and proceed as directed in § 141a.4 of this chapter, using as a test dose 0.5 milliliter of a solution containing 2 milligrams of chloramphenicol activity per milliliter.

(d) *Pyrogens.* Use sterile physiological salt solution as the diluent and proceed as directed in § 141a.3 of this chapter, using as a test dose 1.0 milliliter per kilogram, of a solution containing 5 milligrams of chloramphenicol activity per milliliter.

(e) *Histamine.* Proceed as directed in § 141b.105 of this chapter, using as a test dose 0.6 milliliter of a solution containing 5 milligrams of chloramphenicol activity per milliliter.

(f) *Moisture.* Proceed as directed in § 141a.26(e) of this chapter.

(g) *pH.* Proceed as directed in § 141a.5(b) of this chapter, using an aqueous solution containing 200 milligrams per milliliter.

(h) *Specific rotation.* Accurately weigh the sample to be tested in a volumetric flask and dilute with sufficient distilled water to give a solution containing approximately 50 milligrams per milliliter. Transfer the solution to a tube of 1-decimeter length and determine the angular rotation in a suitable polarimeter, using sodium light or a 589.3-mμ filter, and calculate the specific rotation.

§ 141d.315 Chloramphenicol sodium succinate for aqueous injection.

(a) *Potency.* Dissolve the entire contents of each vial to be tested in the minimum volume of distilled water recommended in the labeling, withdraw the entire removable contents and further dilute with sufficient distilled water to give a concentration of 20 μg. per milliliter of chloramphenicol (estimated). With a suitable spectrophotometer, determine the absorbance of this solution in a 1-cm. cell at 276 mμ compared with distilled water as a blank. Also determine the absorbance of an aqueous solution of the chloramphenicol standard containing exactly 20 μg. per milliliter.

$$\text{Potency per vial} = \frac{\text{absorbancy of sample}}{\text{absorbancy of standard}} \times \text{labeled potency of vial (immediate container.)}$$

Its potency is satisfactory if it contains not less than 90 percent of the chloramphenicol activity that it is represented to contain.

(b) *Sterility.* Proceed as directed in § 141d.314(b).

(c) *Toxicity.* Proceed as directed in § 141d.314(c).

(d) *Pyrogens.* Proceed as directed in § 141d.314(d).

(e) *Histamine.* Proceed as directed in § 141d.314(e).

(f) *Moisture.* Proceed as directed in § 141d.314(f).

(g) *pH.* Proceed as directed in § 141d.314(g).

§ 146d.314 Chloramphenicol sodium succinate.

(a) *Standards of identity, strength, quality, and purity.* Chloramphenicol sodium succinate is the light-yellow, water-soluble, ethanol-insoluble crystalline sodium salt of the 3-monosuccinate ester of chloramphenicol. It is so purified and dried that:

(1) Its potency is not less than 650 μg. per milligram.

(2) It is sterile.

(3) It is nontoxic.

(4) It is nonpyrogenic.

(5) It contains no histamine nor histamine-like substances.

(6) Its moisture content is not more than 5.0 percent.

(7) The pH of an aqueous solution containing 200 milligrams per milliliter is not less than 6.4 and not more than 7.0.

(8) Its specific rotation in an aqueous solution containing 50 milligrams per milliliter at 25° C. is +6.5° ±1.5°.

(b) *Packaging; labeling; request for certification, samples; fees.* Chloramphenicol sodium succinate conforms to all requirements and procedures prescribed for chloramphenicol by § 146d.301 (b), (c), (d), and (e), except that:

(1) The expiration date shall be the date that is 36 months after the month during which the batch was certified.

(2) The request for certification shall be accompanied or followed by the results of tests and assays of the batch for potency, sterility, toxicity, pyrogens, histamine, moisture, pH, and specific rotation.

(3) When a batch is packaged for repacking or for use as an ingredient in the manufacture of another drug, each package submitted for sterility testing shall contain approximately 500 milligrams of the drug in lieu of 40 milligrams.

§ 146d.315 Chloramphenicol sodium succinate for aqueous injection.

(a) *Standards of identity, strength, quality, and purity.* Chloramphenicol sodium succinate for aqueous injection is a dry mixture of chloramphenicol sodium succinate and one or more suitable and harmless buffer substances and preservatives. It is so purified that:

(1) It is sterile.

(2) It is nontoxic.

(3) It is nonpyrogenic.

(4) It contains no histamine nor histamine-like substances.

(5) Its moisture content is not more than 5 percent.

(6) The pH of a solution prepared as directed in its labeling is not less than 6.4 and not more than 7.0.

The chloramphenicol sodium succinate used conforms to the requirements prescribed by § 146d.314(a), except that it is exempt from the requirements of § 146d.314(a) (2) and (4) when the chloramphenicol sodium succinate for aqueous injection, in which it is used, has been rendered sterile and pyrogen-free. Each other ingredient used, if its name is recognized in the U.S.P. or N.F., conforms to the standards prescribed therefor by such official compendium.

(b) *Packaging; labeling; request for certification, samples; fees.* Chloramphenicol sodium succinate for aqueous injection conforms to the requirements and procedures prescribed by § 146d.307 (b), (c), (d), and (e) for chloramphenicol for aqueous injection, except that:

(1) The expiration date of the drug shall be 36 months.

(2) In lieu of the requirements specified by § 146d.307(d)(2), a person who requests certification of a batch shall submit in connection with his request results of tests and assays listed after each of the following, made by him on an accurately representative sample of:

(i) The batch: Potency, sterility, toxicity, pyrogens, histamine content, moisture, and pH.

(ii) The chloramphenicol sodium succinate used in making the batch: Potency and specific rotation.

Notice and public procedure are not necessary prerequisites to the promulgation of this order, and I so find, since it was drawn in collaboration with interested members of the affected industry and since it would be against public interest to delay providing for tests and methods of assay and certification of these new antibiotic drugs.

Effective date. This order shall become effective upon publication in the FEDERAL REGISTER, since both the public and the affected industry will benefit by the earliest effective date, and I so find.

(Sec. 701, 52 Stat. 1055, as amended; 21 U.S.C. 371. Interprets or applies sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357)

Dated: January 30, 1959.

[SEAL] JOHN L. HARVEY,
Deputy Commissioner of Food and Drugs.

[F.R. Doc. 59-1053; Filed, Feb. 5, 1959; 8:49 a.m.]

Title 32—NATIONAL DEFENSE

Chapter I—Office of the Secretary of Defense

SUBCHAPTER A—ARMED SERVICES PROCUREMENT REGULATIONS

[Amdt. 39]

MISCELLANEOUS AMENDMENTS

The following miscellaneous amendments have been made to this subchapter:

PART 1—GENERAL PROVISIONS

Subpart C—Basic Policies

Sections 1.307 (c) and (e) have been revised as follows:

§ 1.307 Responsible prospective contractor. * * *

(c) Has the necessary experience, organization, technical qualifications and skills, and has or can acquire the necessary facilities (including probable subcontractor arrangements) to perform the proposed contract (where a bidder is proposing to use the facilities of an affiliate or of a concern other than the bidder, all existing business arrangements, whether firm or contingent, for the use of such facilities shall be considered in determining the ability of such bidder to comply with the required delivery or performance schedule);

* * * * *

(e) Has a satisfactory record of integrity, judgement, and performance (contractors who are seriously delinquent in current contract performance, when the number of contracts and the extent of delinquencies of each are considered, shall, in the absence of evidence to the contrary or compelling circumstances, be presumed to be unable to fulfill this requirement (e));

* * * * *

Subpart E—Contingent or Other Fees

The statement set forth in § 1.506 which bidders are required to furnish, relative to contingent fees, has been revised to conform to the representation and agreement set forth in Standard Forms 30 and 33 (October 1957 Editions). The revised portion of § 1.506 reads as follows:

§ 1.506 Representation and agreement required from prospective contractors. * * *

Bidder represents: (a) That he ☐ has, ☐ has not, employed or retained any company or person (other than a full-time bona fide employee working solely for the bidder) to solicit or secure this contract, and (b) that he ☐ has, ☐ has not, paid or agreed to pay to any company or person (other than a full-time bona fide employee working solely for the bidder) any fee, commission, percentage or brokerage fee, contingent upon or resulting from the award of this contract, and agrees to furnish information relating to (a) and (b) above as requested by the Contracting Officer. (For interpretation of the representation, including the term "bona fide employee," see Code of Federal Regulations, Title 44, Part 150.)

Sections 1.705–6, 3.000, 3.201–2, 3.202–3, 3.203, 3.205–3, 3.207–3, 3.208–3, 3.209, 3.211–3, 5.104, 5.106, 7.104–15, 7.203–7, 11.401, and 16.303–2 (b) and (c) have been revised to incorporate statutory amendments to the Armed Services Procurement Act by reason of passage of P. L. 85–800, approved August 28, 1958. The more significant changes reflect an increase in the dollar limitation of the negotiation authority contained in 10 U. S. C. 2304 (a) (3) from $1,000 to $2,500, and the broadening of the negotiation authority in 10 U. S. C. 2304 (a) (9) to include nonperishable subsistence supplies. These sections, as revised, appear in their proper sequence below:

Subpart G—Small Business Concerns

§ 1.705–6 Certificates of competency. * * *

(b) If a small business concern has submitted an otherwise acceptable bid or proposal but has been found by the contracting officer to be nonresponsible as to capacity or credit, and if the bid or proposal is to be rejected for this reason alone, (1) SBA shall be notified of the circumstances so as to permit it to issue a certificate of competency, and (2) award shall be withheld pending either SBA issuance of a certificate of competency or the expiration of ten working days after SBA is so notified, whichever is earlier; subject to the following:

(i) This procedure is mandatory except where the contracting officer certifies in writing that award must be made without delay and inserts in the contract file a statement signed by the contracting officer justifying the certificate;

(ii) This procedure does not apply to proposed awards of not more than $2,500; and

(iii) This procedure is optional, within the discretion of the contracting officer, as to proposed awards of more than $2,500, but less than $10,000.

(R. S. 161, sec. 2202, 70A Stat. 120; 5 U. S. C. 22, 10 U. S. C. 2202)

PART 2—PROCUREMENT BY FORMAL ADVERTISING

Subpart D—Opening of Bids and Award of Contract

1. A new § 2.410 has been added (cross-referenced in §§ 2.401, 2.403, and 3.109 (b) of this chapter) to provide that descriptive literature or material submitted with a bid will not be disclosed outside the Government if the bidder so requests. This actions stems from Decision B–135326 of the Comptroller General, dated March 25, 1958. These sections, as revised, appear in their proper sequence below:

§ 2.401 Opening of bids.

All bids received prior to the time of opening will be kept secure and unopened until the time of opening (except that an unidentified bid may be opened solely for purposes of identification: *Provided*, That such bid shall be resealed immediately and that no information obtained therefrom shall be disclosed), whereupon they shall be publicly opened and, when practicable, read aloud by the Government official whose duty it is to open the bids. Whereas it is the primary responsibility of bidders to prepare their bids correctly and completely, nevertheless it is the duty of the contracting officer, after the opening of bids and prior to award, to examine all bids for minor informalities or irregularities and for obvious or apparent mistakes (as referred to in §§ 2.404 and 2.405 respectively). The original bids shall not be allowed to pass out of the hands of an official of the Government, except when a duplicate bid cannot be made available for public inspection, and then only under the immediate supervision of an official of the Government and under conditions which preclude the possibility of a substitution, addition, deletion, or alteration in the bid. However, see § 2.410 with respect to public disclosure of descriptive literature or material submitted by a bidder on a restrictive basis.

§ 2.403 Rejection of bids.

Where it is determined after opening but prior to award that the requirements of § 2.201 (d) have not been met, the invitation for bids shall be cancelled. Any bid which does not, when considered with the Invitation for Bids, sufficiently describe the item being offered, or which does not otherwise conform to the essential requirements of the Invitation for Bids, shall be rejected (but see § 2.404). Where a bidder conditions or qualifies its bid by stipulations which modify the requirements of the invitation, such bid shall be rejected as being nonresponsive. However, see § 2.410 with respect to public disclosure of descriptive literature or material submitted by a bidder on a restrictive basis. An example of such a nonresponsive bid is one in which the bidder stipulates that its bid is to be considered only if prior to the date of award the bidder receives (or does not receive) award under a separate procurement being conducted. All bids may be rejected by the contracting officer (a) when rejection is in the interest of the Government, or (b) when he finds in writing that the bids are not reasonable or were not independently arrived at in open competition, or are collusive, or were submitted in bad faith: *Provided*, That, if negotiation is to be used after any such rejection of all bids, the requirements of § 3.215 of this chapter must be satisfied. The originals of all rejected bids, and any written findings with respect to rejection, shall be preserved with the papers relating to the proposed purchase. Reports of possible violations of the antitrust laws or of any other Federal criminal statutes relating to procurement shall be made by each respective Department in accordance with procedures prescribed by that Department: *Provided*, That any evidence of bids not independently arrived at shall be forwarded to the Department of Justice.

2. In § 2.406–4 (a) (1), the cross-reference to the definition "small business concern" has been changed from § 1.302–3 to § 1.701–1.

§ 2.410 Restrictions on disclosure of data in bids.

When a bid is accompanied by descriptive literature or material which is sub-

mitted with a restriction that the literature or material is to be used only for evaluating the bid and is not to be disclosed publicly, such restriction shall not render the bid nonresponsive if the restriction does not prevent public disclosure of those elements of the bid which relate to quantity, price, discount, and delivery and if the literature or material does not vary the terms of the invitation for bids. Descriptive literature and material so restricted shall be used only to evaluate bids and shall not be disclosed outside the Government, in a manner which would contravene the restriction, without the written permission of the bidder.

(R. S. 161, sec. 2202, 70A Stat. 120; 5 U. S. C. 22, 10 U. S. C. 2202)

PART 3—PROCUREMENT BY NEGOTIATION

1. § 3.000 has been revised to read as follows:

§ 3.000 Scope of part.

This part sets forth, on the basis of the provisions of and authority contained in the Armed Services Procurement Act, (a) the basic requirements for the procurement of supplies and services by means of negotiation, (b) the different circumstances under which negotiation is permitted, (c) determinations and findings that may be required before a contract is entered into by negotiation, (d) approved types of negotiated contracts and their use, (e) the authority for making advance payments under negotiated contracts, (f) procedures for effecting purchases of not more than $2,500, (g) procedures for negotiating overhead rates, and (h) price negotiation policies and techniques.

2. A new paragraph (t) has been added in § 3.101 as follows:

§ 3.101 Negotiation as distinguished from formal advertising. * * *

(t) Advantages or disadvantages to the Government that might result from making multiple awards.

3. Section 3.109 (b) has been revised to read as follows:

§ 3.109 Restrictions on disclosure of data in proposals. * * *

(b) The provisions of paragraph (a) of this section do not apply to procurements by formal advertising. However, see § 2.410 of this chapter with respect to public disclosure of descriptive literature or material submitted by a bidder on a restrictive basis.

Subpart B—Circumstances Determining Negotiation

1. Section 3.201–2 (b) has been revised to read as follows:

§ 3.201 National emergency.

* * * * *

§ 3.201–2 Application. * * *

(b) For the duration of the national emergency declared pursuant to Presidential Proclamation 2914, dated December 16, 1950, the Assistant Secretary of Defense (Supply and Logistics) has determined that only the following procurements may be made pursuant to the authority of 10 U. S. C. 2304 (a) (1):

(1) Procurements made pursuant to labor surplus and disaster area programs (set-asides shall be negotiated in accordance with procedures set forth in § 3.219);

(2) Procurements made in keeping with the small business programs (A) after unilateral determinations for set-asides, or (B) to place any part of the total requirements set-aside which are not filled by awards to small business concerns, where no other negotiating authority is appropriate (see § 1.706–6 (e)) of this chapter; and

(3) Procurements of property or services for experimental, developmental, or research work, or for making or furnishing property for experiment, test, development, or research involving more than $2,500 but not more than $100,000 from contractors other than educational institutions.

2. Section 3.202–3 has been revised to read as follows:

§ 3.202 Public exigency.

* * * * *

§ 3.202–3 Limitation.

Every contract negotiated under the authority of § 3.202 shall be accompanied by a signed statement of the contracting officer justifying its use, and a copy of such statement shall be sent to the General Accounting Office with a copy of the contract negotiated and executed hereunder. The authority of § 3.202 shall not be used when negotiation is authorized by the provisions of § 3.203 or § 3.206.

3. Section 3.203 has been revised to read as follows:

§ 3.203 Purchases not more than $2,500.

§ 3.203–1 Authority.

Pursuant to 10 U. S. C. 2304 (a) (3), purchases and contracts may be negotiated if—

the aggregate amount involved is not more than $2,500.

§ 3.203–2 Application.

Purchases or contracts aggregating not more than $2,500 shall be made in accordance with subpart F of this part.

§ 3.203–3 Limitation.

The authority of § 3.203 shall not be used when negotiation is authorized by the provisions of § 3.206.

4. Section 3.205–3 has been revised to read as follows:

§ 3.205 Services of educational institutions.

* * * * *

§ 3.205–3 Limitation.

The authority of § 3.205 shall not be used when negotiation is authorized by the provisions of § 3.203 or § 3.206.

5. Section 3.207–3 has been revised to read as follows:

§ 3.207 Medicines or medical supplies.

§ 3.207–3 Limitation.

The authority of § 3.207 shall not be used when negotiation is authorized by the provisions of § 3.203 or § 3.206.

6. Section 3.208–3 has been revised to read as follows:

§ 3.208 Supplies purchased for authorized resale.

* * * * *

§ 3.208–3 Limitation.

The authority of § 3.208 shall not be used when negotiation is authorized by the provisions of § 3.203 or § 3.206.

7. Section 3.209 has been revised to read as follows:

§ 3.209 Perishable or nonperishable subsistence supplies.

§ 3.209–1 Authority.

Pursuant to 10 U. S. C. 2304 (a) (9), purchases and contracts may be negotiated if—

for perishable or nonperishable subsistence supplies.

§ 3.209–2 Application.

The authority of this § 3.209 may be used for the purchase of any and all kinds of perishable or nonperishable subsistence supplies.

§ 3.209–3 Limitation.

The authority of this § 3.209 shall not be used when negotiation is authorized by the provisions of § 3.203 or § 3.206.

8. Section 3.211–3 has been revised to read as follows:

§ 3.211 Experimental, developmental, or research work.

* * * * *

§ 3.211–3 Limitation.

The authority of § 3.211 shall not be used for negotiated contracts with educational institutions or for quantity production, except that such quantities may be purchased hereunder as are necessary to permit complete and adequate experiment, development, research or test; accordingly, research or development contracts which call for the production of a reasonable number of experimental or test models, or prototypes, shall not be regarded as contracts for quantity production. Negotiated contracts with educational institutions shall be negotiated in accordance with § 3.205. During the current national emergeny, negotiation of contracts involving more than $2,500 but not more than $100,000 with other than educational institutions for experimental, developmental, or research work shall be conducted under the authority of § 3.201–2 (b) (3). The authority of § 3.211 shall not be used when negotiation is authorized by the provisions of § 3.203 or § 3.206. In order for this authority to be used, the required determination must be made in accordance with the requirements of Subpart C of this part.

(R. S. 161, sec. 2202, 70A Stat. 120; 5 U. S. C. 22, 10 U. S. C. 2202)

PART 5—INTERDEPARTMENTAL PROCUREMENT

Subpart A—Procurement Under Federal Supply Schedule Contracts

1. Section 5.104 has been revised to read as follows:

§ 5.104 Federal supply schedules the mandatory use provisions of which do not apply to the Department of Defense.

In addition to the Federal Supply Schedule contracts listed in § 5.103, there are other Schedules containing mandatory use provisions which do not apply to the Department of Defense and under which the Federal Supply Schedule contractors are not required to accept orders from the Military Departments. However, such Federal Supply Schedule contracts may be considered as available sources of supply against which military purchasing activities may place orders on an optional basis. Such schedules shall not be used for the procurement of nonmandatory items when (a) changes in specifications are anticipated, (b) technical inspection is required, or (c) special packaging, packing, preservation, or marking is necesary. When an order of $2,500 or more is contemplated from such schedules the purchasing activity shall assure itself prior to ordering that the order is reasonably justifiable, based on considerations such as time of delivery, service, and administrative expense, as being more advantageous to the Government than a purchase from other sources.

2. Section 5.106 has been revised to read as follows:

§ 5.106 Federal supply schedules with multiple award provisions.

There are also multiple award Federal Supply Schedules which list several contractors as possible sources for certain requirements. When orders in excess of $2,500 are placed at other than the lowest price available for the type of services or supplies required, the purchasing activity shall include in the contract file a memorandum for record setting forth the facts and conclusions justifying the order. The justification may be based on considerations such as time of delivery, service, and administrative expense. Where the Federal Supply Schedule indicates that the multiple awards were made in order to make available a selection of services or supplies to meet a specific requirement, the justfication may, in addition to the considerations stated above, be based on differences in performance characteristics, and compatibility with existing equipment or systems.

Subpart G—Procurement Under the Economy Act From or Through Another Federal Agency

Section 5.701, relating to purchases from other Government agencies under the Economy Act of June 30, 1932, has been revised to prevent the solicitation of bids or proposals from Government agencies when it would result in direct competition with commercial sources.

§ 5.701 Authorization and policy relating to placing and filling orders.

(a) It is the policy of the Department of Defense not to place Government agencies in direct competition with commercial sources. Accordingly, prior to soliciting bids or proposals from commercial sources, it shall be decided whether to obtain supplies or services from Government agencies. Invitations for bids and requests for proposals shall not be sent to Government agencies. Current market prices, recent procurement prices, or prices obtained by informational bids as provided in § 1.312 of this chapter may be used to ascertain whether procurement can be effected more cheaply from commercial sources.

(b) Each procuring activity, when it is in the interest of the Government to do so, may place delivery orders, on DD Form 1155 (see § 16.303 of this chapter), with any other Government department or agency for supplies or services that any such requisitioned department or agency may be in a position to furnish or perform or to obtain by contract. Generally, an order for supplies or services will not be placed with a department or agency which is not in a position to furnish the supplies or is not equipped to perform the services, except that an order may be filled by means of an outside contract with a commercial source of supply if the order is placed by any one of the following: Department of the Army, Department of the Navy, Department of the Air Force, Department of the Treasury, Civil Aeronautics Administration, or Maritime Commission. An order for services shall not be placed with a department or agency when such services can be performed as conveniently or more cheaply by private contractors.

(R. S. 161, Sec. 2202; 70A Stat. 120; 5 U. S. C. 22, 10 U. S. C. 2202)

PART 6—FOREIGN PURCHASES

Subpart B—Buy American Act—Construction Contracts

The revised Subpart B of Part 6 (in addition to the revisions that have been made therein to incorporate the revision required by P. L. 85–800) replaces the temporary coverage set forth in Amendment No. 30 to this subchapter (23 F.R. 4727), and implements the Buy American Act (41 U.S. Code 10a–4) and the policies set forth in E.O. 10582, dated December 17, 1954, with respect to construction contracts. Subpart B, as revised, reads as follows:

Sec.
6.200 Scope of subpart.
6.201 Definitions.
6.201–1 Construction.
6.201–2 Construction materials.
6.201–3 Components.
6.201–4 United States.
6.201–5 Domestic construction material.
6.201–6 Nondomestic construction material.
6.202 Statutory requirements.
6.203 Exceptions.
6.203–1 Nonavailability in the United States.
6.203–2 Unreasonable costs or impracticability.
6.204 Procedures.
6.204–1 Applicability.
6.204–2 Solicitation of bids and proposals.
6.204–3 Evaluation of bids and proposals.
6.204–4 Contract listing of excepted nondomestic construction materials.
6.204–5 Contract clause.
6.205 Penalty for violation.
6.206 List of excepted articles, materials, and supplies.

AUTHORITY: §§ 6.200 to 6.206 issued under R. S. 161, sec. 2202, 70A Stat. 120; 5 U. S. C. 22, 10 U. S. C. 2202.

§ 6.200 Scope of subpart.

This subpart implements the Buy American Act (41 U. S. Code 10 a–d) and the policies set forth in Executive Order 10582, dated 17 December 1954, with respect to construction contracts.

§ 6.201 Definitions.

As used in this subpart, the following terms have the meanings set forth below.

§ 6.201–1 Construction.

"Construction" means construction, alteration, or repair of any public building or public work in the United States.

§ 6.201–2 Construction materials.

"Construction materials" means articles, materials, and supplies, which are brought to the construction site for incorporation in the building or work.

§ 6.201–3 Components.

"Components" means those articles, materials, and supplies, which are directly incorporated in construction materials.

§ 6.201–4 United States.

"United States" means the States, the District of Columbia, Hawaii, Alaska, Puerto Rico, American Samoa, the Canal Zone, the Virgin Islands, Guam, and any other areas subject to the complete sovereignty of the United States.

§ 6.201–5 Domestic construction material.

"Domestic construction material" means an unmanufactured construction material which has been mined or produced in the United States, or a manufactured construction material which has been manufactured in the United States if the cost of its components which are mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. A component shall be considered to have been mined, produced, or manufactured in the United States (regardless of its source in fact) if the construction material in which it is incorporated is manufactured in the United States and the component is of a class or kind determined by the Department concerned to be not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality.

§ 6.201–6 Nondomestic construction material.

"Nondomestic construction material" means a construction material other than a domestic construction material.

§ 6.202 Statutory requirements.

Except as provided in § 6.203, the Buy American Act requires that in the performance of contracts for construction,

only domestic construction materials shall be used. In determining whether a construction material is a domestic construction material, only the construction material and its components shall be considered.

§ 6.203 Exceptions.

§ 6.203–1 Nonavailability in the United States.

The Buy American Act does not apply to articles, materials, or supplies of a class or kind which the Department concerned has determined are not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality. See § 6.206.

§ 6.203–2 Unreasonable costs or impracticability.

The restrictions of the Buy American Act do not apply when it is determined by the Secretary concerned that the use of a particular domestic construction material would (a) unreasonably increase the cost, or (b) be impracticable. Such determinations shall be made in accordance with § 6.204–3.

§ 6.204 Procedures.

§ 6.204–1 Applicability.

The following procedures apply to all contracts for construction in the United States only.

§ 6.204–2 Solicitation of bids and proposals.

Invitations for Bids and Requests for Proposals for construction shall include the following provision:

INFORMATION REGARDING BUY AMERICAN ACT

(a) Pursuant to the Buy American Act (41 U. S. Code 10 a–d), it is generally required that only domestic construction materials will be used in the performance of the contract. See clause ____ of the General Provisions, entitled Buy American Act. This requirement does not apply to construction materials, or their components, included either in the list set forth in 6.206 of this Regulation or set forth below:

(Insert list here.)

(b) Additional exceptions are permitted if the Government determines as to particular construction materials that the requirement would be impracticable or would unreasonably increase the cost. Therefore, bids or proposals proposing the use of nondomestic construction materials (other than those referred to in paragraph (a) above) may be eligible for award if such nondomestic construction materials are specifically designated in the bid or proposal and if accompanied by data demonstrating that, as to each such designated nondomestic construction material, use of any corresponding domestic construction material would be impracticable or would unreasonably increase the cost. If the Government determines that an exception from the Buy American Act should be made, an exception for the particular construction materials designated will be noted in the contract and the findings which justified the exception may be inspected upon request.

(c) To show that the use of a particular domestic construction material would unreasonably increase the cost, accompanying data must show that the cost of any available acceptable domestic construction material, delivered at the construction site, would exceed by more than six percent (6 percent) the cost of the designated nondomestic construction material delivered at the construction site (including any applicable duty). The accompanying data shall reflect a thorough canvass of dealers and suppliers handling the construction materials involved.

§ 6.204–3 Evaluation of bids and proposals.

(a) *Determinations.* In accordance with the Buy American Act, the Secretaries have determined that where the procedures set forth in paragraph (b) of this section result in the use of nondomestic construction materials, the use of domestic construction materials would unreasonably increase the cost. (See § 6.203–2.)

(b) *Unreasonable cost.* If a bid or proposal is submitted in accordance with paragraph (b) of the provision set forth in § 6.204–2 and if such bid or proposal would be the low acceptable bid or proposal but for the Buy American Act, award will be made on such bid or proposal if all the following conditions are satisfied:

(1) The bid or proposal specifically designates the nondomestic construction materials (not listed as exceptions in the Invitation for Bids or Request for Proposals) proposed for use;

(2) As to each such nondomestic construction material, accompanying data show that the cost of any available acceptable domestic construction material, delivered at the construction site, would exceed by more than 6 percent the cost of the designated nondomestic construction material delivered at the construction site (including any applicable duty);

(3) As to each such nondomestic construction material, the contracting officer is satisfied that the showing required by subparagraph (2) of this paragraph is correct as of the date of the opening of bids or proposals; and

(4) The lowest acceptable bid or proposal using only domestic construction materials and construction materials excepted in § 6.206 or in the Invitation for Bids or Request for Proposals exceeds the bid or proposal designating nondomestic construction materials by more than 6 percent of the aggregate cost of the designated nondomestic construction materials delivered at the construction site (including any applicable duty).

(c) *Impracticability.* If a bid or proposal is submitted in accordance with paragraph (b) of the provisions set forth in § 6.204–2 and if such bid or proposal would be the low acceptable bid or proposal but for the Buy American Act, the proposed award shall be submitted, in accordance with Departmental procedures, to the Secretary concerned for decision, if the following conditions obtain:

(1) The bid or proposal specifically designates the nondomestic construction materials (not listed as exceptions in the Invitation for Bids or Request for Proposals) proposed for use; and

(2) As to each such nondomestic construction material, accompanying data show that it would be impracticable to use domestic construction materials.

§ 6.204–4 Contract listing of excepted nondomestic construction materials.

(a) The clause set forth below shall be included in all contracts for construction, and any articles, materials, and supplies which have been the subject of additional determinations pursuant to § 6.206 shall be listed thereunder.

NONDOMESTIC CONSTRUCTION MATERIALS

The requirements of the clause of this contract entitled Buy American Act do not apply to construction materials or their components either included in the list set forth in § 6.206 of 32 CFR or as set forth below:

(Insert list here.)

* * * * *

(b) If a contract is for award under § 6.204–3 and the use of designated nondomestic construction materials is to be permitted, the designated nondomestic construction materials shall be listed under the clause required by paragraph (a) of this section. As to each such nondomestic construction material, the contracting officer shall place in the contract file (1) a copy of the data and justification in the case of an exception under § 6.204–3 (b), or (2) a copy of the Secretarial finding of impracticability in the case of an exception under § 6.204–3 (c), and copies thereof will be available for public inspection.

§ 6.204–5 Contract clause.

The clause set forth below shall be inserted in all contracts for construction.

BUY AMERICAN ACT

(a) The Buy American Act (41 U. S. Code 10 a–d) provides that the Government give preference to construction materials which have been mined, produced, or manufactured in the United States. For the purpose of this clause:

(i) the term "construction materials" means articles, materials, and supplies, which are brought to the construction site for incorporation in the building or work;

(ii) the term "components" means those articles, materials, and supplies, which are directly incorporated in construction materials; and

(iii) the term "domestic construction material" means an unmanufactured construction material which has been mined or produced in the United States, or a manufactured construction material which has been manufactured in the United States if the cost of its components which are mined, produced, or manufactured in the United States exceeds fifty percent (50%) of the cost of all its components. A component shall be considered to have been mined, produced, or manufactured in the United States (regardless of its source in fact) if the construction material in which it is incorporated is manufactured in the United States and the component is of a class or kind determined by the Government to be not mined, produced or manufactured in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality.

(b) The Contractor agrees that there will be used in the performance of this contract only domestic construction materials, except as to particular construction materials which the Government has determined are not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality, or which are noted in

the clause of this contract entitled Nondomestic Construction Materials as being excepted from the Buy American Act.

§ 6.205 Penalty for violation.

If the Secretary concerned finds that in the performance of a construction contract there has been a failure to comply with the clause required by § 6.204–5, he shall make public his findings, including therein the name of the contractor obligated under the contract, and no other contract for construction in the United States or elsewhere shall be awarded to such contractor, or to subcontractors, materialmen, or suppliers with which such contractor is associated or affiliated, within a period of three years after such finding is made public. (See Part 1, subpart F of this chapter.)

§ 6.206 List of excepted articles, materials, and supplies.

Pursuant to the Buy American Act and § 6.203–1, the Secretaries have determined that the articles, materials, and supplies listed below may be used in construction without regard to country of origin, except as provided in subpart D of this part. Additional determinations pursuant to § 6.203 covering individual contracts for construction may be made in accordance with Departmental procedures.

Antimony, as metal or oxide.
Asbestos, amosite.
Bismuth.
Cadmium, ores and flue dust.
Chalk, English.
Chrome ore or chromite.
Cobalt, in cathodes, rondelles, or other primary forms.
Cork, wood or bark and waste.
Damar gum.
Graphite, natural, crystalline, crucible grade.
Jute and jute burlaps.
Kaurigum.
Lac.
Logs, veneer, and lumber from Alaskan yellow cedar, angelique, balsa, ekki, greenheart, lignum vitae, mahogany, and teak.
Mercury.
Mica.
Nickel, primary, in ingots, pigs, shot, cathodes, or similar forms; nickel oxide and nickel salts.
Rubber, crude and latex.
Shellac.
Tin, in bars, blocks, and pigs.

Subpart C—Appropriation Act Restrictions on Procurement of Foreign Supplies

Section 6.303 (e) and (f) have been revised to read as follows:

§ 6.303 Exceptions. * * *

(e) Small purchases of items containing wool or cotton in amounts not exceeding $5,000. For the purposes of this exception, a small purchase in an amount not exceeding $5,000 shall mean a procurement action involving a total dollar amount not in excess of $5,000, as distinguished from a single line item.

(f) Procurements of end items incidentally incorporating cotton, or wool, of which the estimated value is not more than 10 percent of the total price of the end item, provided that the estimated value does not exceed $10,000 or 3 percent of the total price of the end item, whichever is greater.

* * * * *

Subpart D—Purchases From Soviet-Controlled Areas

The lists of supplies in §§ 6.401–3 and 6.401–4 have been revised to conform to the Fourth Cumulative Supplement, December 17, 1957, of the Treasury Department Foreign Assets Control Regulations. Section 6.403 relating to the mandatory use of the Soviet-controlled Areas Clause has been revised to authorize omission of the clause from purchase orders under the small purchase procedures. Sections 6.401–3, 6.401–4, and 6.403, as revised, read as follows:

§ 6.401 Restrictions.

* * * * *

§ 6.401–3 Certain supplies of foreign origin.

The following supplies, if of foreign origin and however processed, shall be presumed to have originated from Soviet-controlled (Chinese) sources and shall not be acquired for public use unless (a) such supplies have been lawfully imported into the United States, its Territories, its possessions, or Puerto Rico, (b) the acquisition is approved by an authorized Treasury Department representative, or (c) the supplies are acquired directly from the countries indicated:

Bamboo, split	None.
Braids, straw	Italy, Japan.
Bristles, hog	None.
Brushes, paint, containing hog bristles, if any such bristle is more than 1½ inches in total length or more than 1¼ inches in length out of the ferrule.	None.
Eggs, other than chicken	None.
Floor coverings, grass and straw	Japan.
Goat and kid skins	Argentina, Ethiopia (including Eritrea), Iran, Iraq.
Jade, stones, cut	None.
Menthol, natural and synthetic	Brazil.
Silk, Tussah and Muga	None.
Silk piece goods, Tussah and Muga	None.
Tung oil	Argentina, Brazil, Paraguay.
Walnuts	France, Iran, Italy, Turkey.

§ 6.401–4 Certain supplies from Hong Kong, Macao, and Soviet-controlled areas.

The following supplies, however processed, which are or were located in or transported from or through Hong Kong, Macao, or any Soviet-controlled area (see § 6.401–2) shall be presumed to have originated from Soviet-controlled (Chinese) sources, and shall not be acquired for public use unless (a) such supplies have been lawfully imported into the United States, its Territories, its possessions, or Puerto Rico, or (b) the acquisition is approved by an authorized Treasury Department representative:

Agar-agar.
Antimony.
Bamboo and bamboo manufactures excluding furniture.
Bismuth.
Camphor and camphor oil.
Carpets and carpet wool.
Castor beans and castor oil.
Chinaware.
Citronella oil.
Cotton manufactures, other than western style shirts.
Cotton waste.
Earthenware.
Glass, window.
Hardware manufactures including furniture other than bentwood furniture.
Linen manufactures excluding wearing apparel.
Mercury.
Molybdenum.
Peanuts and peanut products.
Ramie.
Sesame oil and seed.
Shoes, leather-soled with nonleather uppers.
Silk manufactures (other than western style suits and Indian saris), raw silk, and silk waste.
Straw manufactures excluding floor coverings.
Stones, semiprecious, including jewelry.
Tin, ores, bars, blocks, pigs, and alloys.
Tungsten, ores, and concentrates.

§ 6.403 Contract clause.

(a) Except as provided in paragraph (b) of this section, in contracts for supplies, services, or construction, where acceptance is to take place outside the United States, its Territories, its possessions, or Puerto Rico, the Soviet-controlled areas listed in § 6.401–2 shall be set forth in the contract schedule, and the following clause shall be included in the contract:

SOVIET-CONTROLLED AREAS

(a) The Contractor shall not acquire for use in the performance of this contract any supplies or services originating from sources within Soviet-controlled areas, as listed in the Schedule of this contract, or from Hong Kong or Macao, without the written approval of the Contracting Officer.

(b) The Contractor agrees to insert the provisions of this clause, including the Soviet-controlled areas listed in the Schedule and this subparagraph (b), in all subcontracts hereunder.

(b) The requirements of paragraph (a) of this section do not apply to purchase orders for small purchases (see Part 3, Subpart F of this chapter) where there is other reasonable assurance of compliance with the policy set forth in this subpart.

(R. S. 161, sec. 2202, 70A Stat. 120; 5 U. S. C. 22, 10 U. S. C. 2202)

PART 7—CONTRACT CLAUSES

Subpart A—Clauses for Fixed-Price Supply Contracts

Section 7.104–15 has been revised to read as follows:

§ 7.104–15 Examination of records.

Pursuant to 10 U. S. C. 2313 (b) the following clause will be inserted in all negotiated fixed-price supply contracts and purchase orders in excess of $2,500.

Subpart B—Clauses for Cost-Reimbursement Type Supply Contracts

Section 7.203–7 (b) has been revised to read as follows:

§ 7.203–7 Records. * * *

(b) The Contractor further agrees to include in each of his subcontracts hereunder, other than those set forth in subparagraph (a) (6) above, a provision to the effect that the subcontractor agrees that the Comptroller General or the Department, or any of their duly authorized representatives, shall, until the expiration of three years after final payment under the subcontract, have access to and the right to examine any directly pertinent books, documents, papers, and records of such subcontractor involving transactions related to the subcontract. The term "subcontract," as used in this paragraph (b) only, excludes (i) purchase orders not exceeding $2,500 and (ii) subcontracts or purchase orders for public utility services at rates established for uniform applicability to the general public.

In the foregoing clause, insert, in contracts of the Department of the Army and the Department of the Air Force, the words "the Contracting Officer," and insert, in contracts of the Department of the Navy, the words "the Comptroller of the Navy (Contract Audit Division)," in the space designated by an asterisk (———*).

(R. S. 161, sec. 2202, 70A Stat. 120; 5 U. S. C. 22, 10 U. S. C. 2202)

PART 8—TERMINATION OF CONTRACTS

Definitions of such terms as Government property, plant equipment, material, property administrator, property account, stock records, salvage, scrap, and identification have been reviewed and revisions have been made to the appropriate sections in Parts 8 and 13, and in Parts 30.2 and 30.3, to clarify and consolidate existing provisions, reconcile differences, and eliminate inconsistencies. Such amendments to §§ 8.101–13, 8.101–22, 13.101, 13.302, and §§ 30.2 and 30.3 appear in their proper sequence.

§ 8.101–13 Plant equipment.

"Plant equipment" means personal property of a capital nature (consisting of machinery, equipment, furniture, vehicles, machine tools, and accessory and auxiliary items, but excluding special tooling) used or capable of use in the manufacture of supplies or in the performance of services or for any administrative or general plant purpose.

§ 8.101–22 Special tooling.

"Special Tooling" means all jigs, dies, fixtures, molds, patterns, special taps, special gauges, special test equipment, other special equipment and manufacturing aids, and replacements thereof, acquired or manufactured by the contractor for use in the performance of the contract, which are of such a specialized nature that, without substantial modification or alteration, their use is limited to the production of such supplies or parts thereof, or the performance of such services, as are peculiar to the needs of the Government. The term does not include: (a) Items of tooling or equipment heretofore acquired by the contractor, or replacements thereof, whether or not altered or adapted for use in the performance of the contract, (b) consumable small tools, or (c) general or special machine tools, or similar capital items.

(R. S. 161, Sec. 2202, 70A Stat. 120; 5 U. S. C. 22, 10 U. S. C. 2202)

PART 10—BONDS AND INSURANCE

Sections 10.103–2 and 10.104–2 have been revised to provide criteria for requiring increased bond protection when the scope of the work under a construction contract is increased.

§ 10.103–2 Performance bonds in connection with construction contracts.

(a) Pursuant to the Miller Act, as amended (40 U. S. C. 270a.–270e.), in connection with any construction contract exceeding $2,000 in amount, except as provided in paragraph (c) of this section, a performance bond shall be required in a penal amount deemed adequate by the contracting officer for the protection of the Government. Generally, the penal amount of each performance bond shall be 100 percent of the contract price at the time of award. But where the contracting officer finds that to require a 100 percent performance bond would be disadvantageous to the Government, he may prescribe a lesser penal amount.

(b) Additional performance bond protection shall be required in connection with any modification effecting an increase in price under any contract for which a bond is required pursuant to paragraph (a) of this section if—

(1) The modification is for new or additional work which is beyond the scope of the existing contract; or

(2) The modification is pursuant to an existing provision of the contract and is expected to increase the contract price by $50,000 or 25 percent of the basic contract price, whichever is less.

The penal amount of the bond protection should generally be increased so that the total performance bond protection is 100 percent of the contract price as revised by (i) the modification requiring such additional protection, and (ii) the aggregate of any previous modifications: *Provided*, That lesser penal amounts may be authorized by the contracting officer as indicated in paragraph (a) of this section. The increased penal amount may be secured either by increasing the bond protection provided by the existing surety or sureties or by obtaining an additional performance bond from a new surety; but see § 10.203 with respect to requiring consent of surety.

(c) The Secretaries may waive for their respective Departments the requirement of a performance bond with respect to any or all cost-reimbursement type construction contracts. In addition, the contracting officer may waive the requirement for a performance bond for so much of the work under the contract as is to be performed in a foreign country: *Provided*, He finds that it is impracticable for the contractor to furnish such bond.

§ 10.104–2 Payment bonds in connection with construction contracts.

(a) Pursuant to the Miller Act, as amended (40 U. S. C. 270a–270e), in connection with any construction contract exceeding $2,000 in amount, except as provided in paragraph (c) of this section, a payment bond shall be required in a penal amount as follows:

(1) When the contract price is not more than $1,000,000, the penal sum shall be 50 percent of the contract price;

(2) When the contract price is more than $1,000,000 but not more than $5,000,000, the penal sum shall be 40 percent of the contract price; and

(3) When the contract price is more than $5,000,000, the penal sum shall be $2,500,000.

(b) Additional payment bond protection shall be required in connection with any modification effecting an increase in price under any contract for which a bond is required pursuant to paragraph (a) of this section if—

(1) The modification is for new or additional work which is beyond the scope of the existing contract; or

(2) The modification is pursuant to an existing provision of the contract and is expected to increase the contract price by $50,000 or 25 percent of the basic contract price, whichever is less.

The penal amount of the additional bond protection should generally be such that the total payment bond protection is 50 percent of the contract price as revised by (i) the modification requiring such additional protection, and (ii) the aggregate of any previous modifications: *Provided*, That when the contract price as so revised is more than $1,000,000 but not more than $5,000,000, the total payment bond protection shall be in a penal amount of 40 percent of the revised contract price: *Provided further*, That when the contract price as so revised is more than $5,000,000, the total payment bond protection shall be in the penal amount of $2,500,000. The additional protection may be secured either by increasing the bond protection provided by the existing surety or sureties or by obtaining an additional payment bond from a new surety; but see § 10.203 with respect to requiring consent of surety.

(c) The Secretaries may waive for their respective Departments the requirement of a payment bond with respect to any or all cost-reimbursement type construction contracts. In addition, the contracting officer may waive the requirement for a payment bond for so much of the work under the contract as is to be performed in a foreign country: *Provided*, He finds that it is impracticable for the contractor to furnish such bonds.

(R. S. 161, sec. 2202, 70A Stat. 120; 5 U. S. C. 22, 10 U. S. C. 2202)

PART 11—FEDERAL, STATE, AND LOCAL TAXES

Subpart D—Contract Clauses

Section 11.401 has been revised to read as follows:

§ 11.401 Fixed-price type contracts.

§ 11.401–1 Clause for advertised and certain negotiated contracts.

The following clause shall be inserted in (a) all formally advertised contracts and (b) negotiated fixed-price type contracts in excess of $2,500 where the contracting officer is satisfied that the contract price, by virtue of competition or otherwise, excludes contingencies for State and local taxes.

§ 11.401–2 Alternate clause for certain negotiated contracts.

The following clause shall be inserted in all negotiated fixed-price contracts in excess of $2,500 where the clause set forth in § 11.401–1 is not used.

(R. S. 161, sec. 2202, 70A Stat. 120; 5 U. S. C. 22, 10 U. S. C. 2202)

PART 13—GOVERNMENT PROPERTY

§ 13.101 Definitions. * * *

§ 13.101–2 Government property.

"Government property" means all property owned by or leased to the Government, or acquired by the Government under the terms of a contract; except that property to which the Government has acquired a lien or title solely as a result of partial, advance or progress payments shall not for the purpose of this Section be classified as Government property. With this exception, Government property includes both Government-furnished property and contractor-acquired property as defined below:

(a) *Government-furnished property.* "Government-furnished property" is property in the possession of or acquired directly by the Government and subsequently delivered or otherwise made available to the contractor; and

(b) *Contractor-acquired property* "Contractor-acquired property" is property procured or otherwise provided by the contractor for the performance of a contract, pursuant to the terms of which title is vested in the Government.

The term "provide," as used in the context of such phrases as "Government property provided to the contractor" and "Government-provided property," is intended to include both Government-furnished property and contractor-acquired property.

§ 13.101–4 Material.

"Material" means property which may be incorporated into or attached to an end item to be delivered under a contract or which may be consumed or expended in the performance of a contract. It includes, but is not limited to, raw and processed material, parts, components, assemblies, and small tools and supplies which may be consumed in normal use in the performance of the contract.

§ 13.101–5 Special tooling.

"Special tooling" means all jigs, dies, fixtures, molds, patterns, special taps, special gauges, special test equipment, other special equipment and manufacturing aids, and replacements thereof, acquired or manufactured by the contractor for use in the performance of the contract, which are of such a specialized nature that, without substantial modification or alteration, their use is limited to the production of such supplies or parts thereof, or the performance of such services, as are peculiar to the needs of the Government. The term does not include: (a) Items of tooling or equipment theretofore acquired by the contractor, or replacements thereof whether or not altered or adapted for use in the performance of the contract, (b) consumable small tools, or (c) general or special machine tools, or similar capital items.

* * * * *

§ 13.101–9 Plant equipment.

"Plant equipment" means personal property of a capital nature (consisting of machinery, equipment, furniture, vehicles, machine tools, and accessory and auxiliary items, but excluding special tooling) used or capable of use in the manufacture of supplies or in the performance of services or for any administrative or general plant purpose.

* * * * *

§ 13.101–15 Scrap.

"Scrap" means property that has no reasonable prospect of being sold except for the recovery value of its basic material content.

* * * * *

Subpart C—Special Tooling

Paragraph (b) of § 13.302 has been revised as follows:

§ 13.302 Fixed-price procurement — contractor-furnished or acquired special tooling.

Where special tooling required for the performance of a fixed-price contract for supplies or services is not furnished by the Government, newly made or acquired special tooling may be furnished or acquired by the contractor under one of the following arrangements:

(a) The contract may provide for the acquisition of such special tooling by the contractor and the delivery thereof to the Government as an end item under the contract. In any such case, the rights of the parties in special tooling shall be governed by the provisions of the contract and the Schedule; or

(b) Where the contract does not provide for delivery of such special tooling as an end item under the contract, the clause set forth in § 13.504 shall be used.

(R. S. 161, sec. 2202, 70A Stat. 120; 5 U. S. C. 22, 10 U. S. C. 2202)

PART 16—PROCUREMENT FORMS

Subpart C—Purchase and Delivery Order Forms

Section 16.303–2 has been revised to read as follows:

§ 16.303–2 Conditions for use. * * *

(b) *Use as a purchase order of not more than $2,500:* DD Form 1155 is authorized for negotiated purchases of not more than $2,500: *Provided:*

(1) The procurement is unclassified;

(2) No clauses covering the subject matter of any clause set forth in this Regulation, other than clauses set forth on the back of DD Form 1155, and clauses referred to in subparagraphs (3), (4), (5) of this paragraph, and in paragraph (c) of this section, are to be used;

(3) Where the contract is solely for the procurement of data, one of the clauses set forth in §§ 9.203 through 9.206 of this chapter shall be added as appropriate in accordance with the instructions contained in Subpart B, Part 9 of this chapter;

(4) Where DD Form 1155s is not used and the procurement is for more than $1,000, the following clause shall be added:

RENEGOTIATION

This contract, and any subcontract hereunder, is subject to the Renegotiation Act of 1951, as amended (50 U. S. C. App. 1211 et seq.), and shall be deemed to contain all the provisions required by Section 104 thereof, and is subject to any subsequent act of Congress providing for the renegotiation of contracts.

(5) When required by Part 6, subpart D, the contract clause set forth in § 6.403 of this chapter shall be added; and

(6) The DD Form 1155 shall not be used as a public voucher in a procurement of more than $1,000.

(c) *Use of DD Form 1155s.* DD Form 1155s is authorized for use in conjunction with DD Form 1155 if it is deemed to be in the best interest of the Government to consummate a binding contract between the parties before the contractor undertakes performance. No additional clauses are authorized except as provided in paragraph (b) (2) of this section.

(R. S. 161, sec. 2202, 70A Stat. 120; 5 U. S. C. 22, 10 U. S. C. 2202)

PART 30—APPENDIXES TO ARMED SERVICES PROCUREMENT REGULATION

§ 30.2 Appendix B—Manual for control of Government property in possession of contractors.

PART 1—INTRODUCTION

103 *Definitions.* * * *

(2) "Property administrator" means the Government representative responsible to the contract administrator for:

(i) Reviewing the contractor's property control procedures;

(ii) Examining the records maintained by the contractor of Government property;

(iii) Making usage analyses of Government property; and

(iv) The maintenance of such Government property records as are required by this Manual.

(3) "Government property" means all property owned by or leased to the Government, or acquired by the Government under the terms of a contract; except that property to which the Government has acquired a lien or title solely as a result of partial, advance or progress payments shall not for the purpose of this Manual be classified as Government property. With this exception, Government property includes both Government-furnished property and contract-acquired property, as defined below:

(i) Government-furnished "property" is property in the possession of or acquired directly by the Government and subsequently delivered or otherwise made available to the contractor; and

(ii) "Contractor-acquired property" is property procured or otherwise provided by the contractor for the performance of a contract, pursuant to the terms of which title is vested in the Government.

The term "provide," as used in the context of such phrases as "Government property provided to the contractor" and "Government-provided property," is intended to include both Government-furnished property and contractor-acquired property.

* * * * *

(8) "Plant equipment" means personal property of a capital nature (consisting of machinery, equipment, furniture, vehicles, machine tools, and accessory and auxiliary items, but excluding special tooling used or capable of use in the manufacture of supplies or in the performance of services or for any administrative or general plant purpose.

* * * * *

(15) "Material" means property which may be incorporated into or attached to, an end item to be delivered under a contract or which may be consumed or expended in the performance of a contract. It includes, but is not limited to, raw and processed material, parts, components, assemblies, and small tools and supplies which may be consumed in normal use in the performance of the contract.

(16) "Salvage" means property recoverable for further use or which, because of its worn, damaged, deteriorated, or incomplete condition, or specialized nature, has no reasonable prospect of sale or use as serviceable property without major repairs or alterations but which has some value in excess of its scrap value.

(17) "Scrap" means property that has no reasonable prospect of being sold except for the recovery value of its basic material content.

(18) "Property account" means the official records of the Government property provided to a contractor by a Department, which are established and maintained under the provisions of this Manual. Separate property accounts will be maintained either on an individual contract basis or contractor basis.

(19) "Stock record" means a perpetual inventory form of record which shows, by nomenclature, the quantities received and issued, and the balances on hand.

* * * * *

Paragraph 401.1 (a) iii and iv, as amended, read as follows:

PART IV—MISCELLANEOUS PROVISIONS

401.1 *Identification.* * * *

(a) *Extent of identification.* * * *

(iii) Unless already marked in accordance with these instructions, all Government-owned plant equipment, including industrial reserve plant equipment, shall be marked by the contractor with an identification number, except when the size of the equipment or nature of the material from which it is made makes it impracticable, and in which case such item will be assigned an identification number for record purposes, which number shall be shown in the plant equipment property record; or the equipment is accessory or auxiliary and attached to or otherwise a part of an item of plant equipment and is required for its normal operation (see paragraph 30-.3 (a) of this section), in which case such item shall be entered and described on the record of the equipment to which it is attached or of which it is otherwise a part. Once an identification number has been affixed to an item of plant equipment, the identification will be permanent and will not be changed so long as the equipment remains under the control of the same Military Department (but see (iv) below). Identification shall be effected by affixing a metal, fibre, plastic or other plate directly to the equipment; by using indelible ink, acid or electric etch, steel dies, or any other legible, permanent, conspicuous, and tamperproof method. Identification shall consist of the following markings:

(A) An indication of Government-ownership and of the Military Department responsible for funding and control of the plant equipment, as follows: Army—"USA", Navy—"USN", and Air Force—"USAF"; however, the identification "U. S." property shall not be changed solely to conform to the provisions of this paragraph;

(B) A two-part identification number, furnished by the Government, consisting solely of numerals except as provided in (C) below. The first part shall be the property account number, and the second part shall be a serial number. In case plant equipment furnished by the Government is already identified as property of a Military Department, no change shall be made in the markings, except as provided in (iv) below; and

(C) In the case of items included within a standard Departmental registration system, for example, automotive, construction, or weight-handling equipment, application for a proper registration number will be made to the cognizant Department, which number shall be used in lieu of any other identification number.

(iv) Government identification markings shall be removed prior to sale or scrapping. The markings so removed shall be shown on the appropriate documents involved. In the case of a transfer of funding and control responsibilities to other Military Departments, new identification markings, in accordance with the requirements of (ii) or (iii) above, may be affixed upon receipt of the equipment by the receiving Military Department.

§ 30.3 Appendix C—Manual for control of Government property in possession of nonprofit research and development contractors.

PART I—INTRODUCTION

103 *Definitions.* * * *

103.3 *Government property.* The term "Government property" means all property owned by or leased to the Government, or acquired by the Government under the terms of a contract, except that property to which the Government has acquired a lien or title solely as a result of partial advance or progress payments shall not for the purpose of this Manual be classified as Government property. With this exception, Government property includes both Government-furnished property and contractor-acquired property, as defined below:

(a) *Government-furnished property.* "Government-furnished property" is property in the possession of or acquired directly by the Government and subsequently delivered or otherwise made available to the contractor; and

(b) *Contractor-acquired property.* "Contractor-acquired property" is property procurred or otherwise provided by the contractor for the performance of a contract, pursuant to the terms of which title is vested in the Government.

The term "provide" as used in the context of such phrases as "Government property provided to the contractor" and "Government-provided property is intended to include both Government-furnished property and contractor-acquired property.

103.4 *Classification of Government property.* * * *

(b) *Plant equipment.* The term "plant equipment" means personal property of a capital nature (consisting of machinery, equipment, furniture, vehicles, machine tools, and accessory and auxiliary items, but excluding special tooling) used or capable of use in the manufacture of supplies or in the performance of services or for any administrative or general plant purpose.

(c) *Minor plant equipment.* The term "minor plant equipment" means an item of plant equipment having a unit value of less than $100.00 and other plant equipment, regardless of cost, when so designated by the Government.

(d) *Material.* The term "material" means property which may be incorporated into or attached to, an end item to be delivered under a contract or which may be consumed or expended in the performance of a contract. It includes, but is not limited to, raw and processed material, parts, components, assemblies, and small tools and supplies which may be consumed in normal use in the performance of the contract.

(e) *Special tooling.* The term "special tooling" means all jigs, dies, fixtures, molds, patterns, special taps, special gauges, special test equipment, other special equipment and manufacturing aids, and replacements thereof, acquired or manufactured by the contractor for use in the performance of the contract, which are of such a specialized nature that, without substantial modification or alteration, their use is limited to the production of such supplies or parts thereof, or the performance of such services, as are peculiar to the needs of the Government. The term does not include: (1) Items of tooling or equipment heretofore acquired by the contractor, or replacements thereof, whether or not altered or adapted for use in the performance of the contract, (2) consumable small tools, or (3) general or special machine tools, or similar capital items.

103.5 *Property administrator.* The term "property administrator" means the Government representative responsible to the contract administrator for reviewing the contractor's property control procedures, for examining the records maintained by the contractor of Government property, for making usage analyses of Government.

103.7 *Stock record.* The term "stock record" means a perpetual inventory form of record which shows by nomenclature the quantities received and issued, and the balances on hand.

103.8 *Salvage.* The term "salvage" means property which is recovered for further use or which, because of its worn, damaged, deteriorated, or incomplete condition, or specialized nature, has no reasonable prospect of sale or use as serviceable property without major repairs or alterations, but which has some value in excess of its scrap value.

103.9 *Scrap.* The term "scrap" means property that has no reasonable prospect of being sold except for the recovery value of its basic material content.

PART II—GOVERNMENT ADMINISTRATIVE PROVISIONS

202 *Designation of property administrator.*

(a) A property administrator shall be designated for each Government contract involving Government property. In appropriate cases, the contract administrator may be assigned the additional duty of property administrator.

(b) It is Department of Defense Policy to encourage single property administration at each industrial facility. Consequently, when a contractor is engaged in the performance of contracts for more than one procuring activity, a single property administrator shall be designated for all contracts if mutually agreeable to the procuring activities concerned.

(c) Assistant property administrators for specific contracts may be appointed in accordance with the procedures of each Department.

(d) Property administrators may be civilian or military personnel.

(e) The property administrator will not be required by virtue of his duty as property administrator to post a bond.

207 *Contractor's record.*

* * * * *

207.4 *Records for material issued directly upon receipt, for minor plant equipment, and for special tooling.* For material, whether Government-furnished or contractor-acquired, issued by the contractor directly so as to be considered expended under the contract, for minor plant equipment, and for special tooling, the Government invoices, contractor's purchase documents, or other documentary evidence of acquisition and issue, will be accepted as adequate property control records.

207.7 *Separated components.* Property records shall be required for any usable components which are permanently removed from items of Government property, as a result of modification, or otherwise, to the same extent as would be the case if such components had been provided separately by the Government; provided that the contractor shall not be required to augment his property control system for the purpose of recording minor plant equipment, special tooling or materials, except upon return to stocks or stores.

* * * * *

209 *Identification.* Government property shall be recorded and identified by the contractor as provided in paragraph 307.

210 *Segregation or commingling of Government property and contractor's property.* Ordinarily Government property, particularly material, should be segregated and kept physically separate from contractor-owned property at all times. There will be occasions, however, where commingling of property would be advantageous to the Government. The contract administrator should consider and arrange with the contractor plans for segregation and commingling of property. This agreement reached with respect to commingling shall be reduced to writing by the contract administrator. Commingling may be allowed in the following types of cases:

(a) Where such commingling is approved by the contract administrator; and

(b) Where the Government property involved is plant equipment, special tooling or minor plant equipment which is clearly identified or marked as Government property and is supported by appropriate control records.

PART III—CONTRACTOR'S OBLIGATIONS

306 *Property control records.* The Contractor shall maintain proper control over all Government property in accordance with methods which have been established by the contractor and approved by the contracting officer consistent with the following:

(a) *Material issued directly upon receipt, minor plant equipment and special tooling—*

(i) *Fixed price contracts.* In the case of Government-furnished material which is issued directly by the contractor upon receipt so as to be considered expended under the contract, and in the case of minor plant equipment, and special tooling, the documents evidencing receipt and issue maintained by the contractor will be accepted as property control records; and

(ii) *Cost type contracts.* For material, whether Government-furnished or contractor-acquired, issued by the contractor directly so as to be considered expended under the contract, for minor plant equipment, and for special tooling, the Government invoices, contractor's purchase documents or other documentary evidence of acquisition and issue, will be accepted as adequate property control records.

* * * * *

307 *Identification and commodity classification; marking.*

307.1 *Identification.* All Government property shall be recorded and identified as such by the contractor promptly upon receipt, and it shall remain so identified so long as it remains in the custody, control or possession of the contractor.

(a) *Extent of identification:*

(i) As a general rule, all Government material shall be identified as Government property except in those cases where—

(A) no materials of the same type at the same location are owned by the contractor, his employees, or other contracting agencies;

(B) adequate physical control is maintained over tool-crib items, guard force items, protective clothing and other items issued for use by individuals in the performance of their work under the contract;

(C) property is of bulk type or by its general nature of packing or handling precludes adequate marking, as may be determined by the property administrator; or

(D) property is commingled, as authorized by paragraph 210 hereof;

(ii) Government-owned special tooling shall be marked with the designation of the Military Department responsible for funding and control of such tooling, as follows: Army—"USA", Navy—"USN", and Air Force—"USAF", unless it is determined that such marking will damage the special tooling or is otherwise impracticable. Marking and identification procedures may be expanded by the Department having cognizance over the tooling to include end item reference, drawing number, and such other information as may be desired in a given case. The identification "U. S." property shall not be changed solely to conform to the provisions of this paragraph;

(iii) Unless already marked in accordance with these instructions, all Government-owned plant equipment, including industrial reserve plant equipment, shall be marked by the contractor with an identification number, except: when the size of the equipment or the nature of the material from which it is made makes it impracticable, in which case such item will be assigned an identification number for record purposes, which number shall be shown in the plant equipment property record; or the equipment is accessory or auxiliary and attached to or otherwise a part of an item of plant equipment and is required for its normal operation, in which case such item shall be entered and described on the record of the equipment to which it is attached or of which it is otherwise a part. Once an identification number has been affixed to an item of plant equipment, the identification will be permanent and will not be changed so long as the equipment remains under the control of the same Military Department (but see (iv) below). Identification shall be effected by affixing a metal, fibre, plastic or other plate directly to the equipment; by using indelible ink, acid or electric etch, steel dies, or any other legible, permanent, conspicuous, and tamper-proof method. Identification shall consist of the following markings:

(A) An indication of Government ownership of the Military Department responsible for funding and control of the plant equipment, as follows: Army—"USA", Navy—"USN", and Air Force—"USAF"; however, the identification "U. S." property shall not be changed solely to conform to the provisions of this paragraph;

(B) A two-part identification number, furnished by the Government, consisting solely of numerals except as provided in (C) below. The first part shall be the property account number and the second part shall be a serial number. In case plant equipment furnished by the Government is already identified as property of a Military Department, no change shall be made in the markings, except as provided in (iv) below; and

(C) In the case of items included within a standard Departmental registration system, for example, automotive, construction, or weight-handling equipment, application for a proper registration number will be made to the cognizant Department, which number shall be used in lieu of any other identification number.

(iv) Government identification markings shall be removed prior to sale or scrapping. The markings so removed shall be shown on the appropriate documents involved. In the case of a transfer of funding and control responsibilities to other Military Departments new identification markings, in accordance with the requirements of (ii) or (iii) above, may be affixed upon receipt of the equipment by the receiving Military Department.

(b) *Recording identification numbers.* Assigned property identification numbers will be recorded on all applicable receiving documents, shipping documents, and other documents pertaining to the property accounts.

308 *Segregation and commingling.* The contractor shall keep Government property segregated, except where commingling is approved by the contract administrator as being to the mutual benefit of the Government and the contractor, or where the Government property involved is plant equipment, special tooling or minor plant equipment which is clearly identified or marked as Government property and is supported by appropriate control records.

G. C. BANNERMAN,
Director for Procurement Policy, Office of Assistant Secretary of Defense (Supply and Logistics).

[F.R. Doc. 59–1021; Filed, Feb. 5, 1959; 8:45 a.m.]

[Amdt. 40]

PART 15—CONTRACT COST PRINCIPLES

Miscellaneous Amendments

This revision of Subpart C and other related sections of Part 15 provides the basis for a uniform approach to the problem of costing research and development performed by educational institutions under grants from and contracts with the Department of Defense. Nothing in this new Subpart C shall be construed as authorizing DoD activities to make grants, pending the issuance of appropriate DoD instructions governing the making of grants pursuant to Public Law 85–934. The principles and standards provided in Part 15, Subpart C, and related policy guides set forth below were designed by the Bureau of the Budget for government-wide use and promulgated in Bureau of the Budget Circular No. A–21, dated September 10, 1958.

In the use and application of Part 15, Subpart C, the following general policy guides are provided:

(1) Each college and university has its own unique combination of staff, facilities, and experience, and should be encouraged to conduct research in a manner consonant with its academic programs and institutional objectives while fulfilling its contractual responsibilities.

(2) The successful application of Part 15, Subpart C requires development of mutual understanding between representatives of universities and of the De-

partment of Defense as to their scope, applicability, and interpretation.

(3) The extent of Department of Defense and institution participation in the financing of a particular research or development project is properly the subject of negotiation between the particular agency of the Department of Defense and the educational institution concerned.

(4) It is not intended that the application of these principles should require any significant changes in the generally accepted and established accounting practices of colleges and universities.

The objective of Part 15, Subpart C is to provide to educational institutions recognition of their full allocated costs of research under generally accepted cost accounting principles. Alternate methods are specified as permissible in unusual circumstances or to prevent inequities. No provision for profit or other increment above cost is intended.

1. Subpart A has been revised to read as follows:

Subpart A—Applicability

Sec.
15.101 Types of contracts.
15.102 Contract provisions.

AUTHORITY: §§ 15.101 and 15.102 issued under R.S. 161, sec. 2202, 70A Stat. 120; 5 U.S.C. 22, 10 U.S.C. 2202.

Subpart A—Applicability

§ 15.101 Types of contracts.

Subject to the requirements of § 15.102, the provisions of Subparts B, C or D of this part (whichever part is applicable) shall be followed in connection with all cost-reimbursement type contracts (including cost-reimbursement subcontracts thereunder), except that in the case of such contracts having negotiated overhead rates the applicable provisions of this part shall be used only as a basis for negotiating such rates but shall be followed for all other items of cost. The provisions of Subpart B of this part shall be followed for all cost-reimbursement type contracts other than those covered in Subparts C and D of this part, and the provisions of Subpart D of this part shall normally be followed for all construction contracts (as defined in said Subpart D of this part) and for all contracts for architect-engineer services related to construction; however, when deemed by the head of the procuring activity concerned to be more suitable for a particular contract, Subpart B of this part may be followed in place of Subpart D of this part. The term "cost-reimbursement type contract," as used throughout this part, includes cost or cost-sharing contracts, cost-plus-a-fixed-fee contracts, and the cost-reimbursement portion of time-and-materials contracts.

§ 15.102 Contract provisions.

In order for the principles for determination of costs outlined in Subparts B, C or D of this part to be binding upon the Government and upon a contractor, the applicable principles must be (a) set forth in the contract or appended thereto, or (b) specifically incorporated by reference in the contract. The cost principles outlined in Subparts B, C or D of this part (whichever is applicable) shall be made a part of every contract of the type referred to in § 15.101 except that any such contract (1), may, to the extent necessary in a particular case, expressly provide for the allowability of any of the kinds of costs referred to in Subpart E of this part unless any such kind of costs is expressly excluded under Subparts B, C or D of this part (whichever is applicable), and (2) may exclude any item of allowable cost set forth in Subparts B, C or D of this part.

Subpart B—Supply and Research Contracts With Organizations Other Than Educational Institutions

2. Section 15.200 has been revised to read as follows:

§ 15.200 Scope of subpart.

This subpart sets forth principles for the determination of costs in connection with cost-reimbursement type contracts (which term, as used in this subpart, includes cost-reimbursement subcontracts thereunder) other than (a) research and development cost or cost-sharing contracts with educational institutions, and (b) construction contracts and contracts for architect-engineer services related to construction.

3. Subpart C has been revised to read as follows:

Subpart C—Research Contracts With Educational Institutions

Sec.
15.300 Scope of subpart.
15.301 General.
15.302 Definitions.
15.302–1 Research agreements.
15.302–2 Apportionment.
15.302–3 Allocation.
15.302–4 Sponsoring agency.
15.302–5 Original complement.
15.302–6 Other institutional activities.
15.303 Direct costs.
15.304 Indirect costs.
15.305 Applicable costs.
15.306 Determination of indirect costs.
15.306–1 General.
15.306–2 Apportionment.
15.306–3 Allocation.
15.306–4 Overhead determinations acceptable under special circumstances.
15.307 General standards for selected items of costs.
15.307–1 Purpose and applicability.
15.307–2 Costs applicable to instructions.
15.307–3 Allowable and unallowable costs.

AUTHORITY: §§ 15.300 to 15.307–3 issued under R.S. 161, sec. 2202, 70A Stat. 120; 5 U.S.C. 22, 10 U.S.C. 2202.

Subpart C—Research Contracts With Educational Institutions

§ 15.300 Scope of subpart.

This subpart sets forth principles and standards for use in determining the allowable costs of research and development performed by educational institutions under grants, cost-reimbursement type contracts, and cost-reimbursement type subcontracts. To the extent costs are applicable, these principles may also be used as a guide for the pricing of fixed price contracts and subcontracts.

§ 15.301 General.

(a) It is the intent of these principles to provide Department of Defense agencies and educational institutions with a common basis for determining the allowable costs of research sponsored by the Federal Government. Application of these principles should enable such agencies and institutions to identify the allowable direct costs of such research, plus the allocable portion of the allowable indirect costs, less applicable credits. The tests of allowability of costs applied in these principles are reasonableness and allocability under consistently applied generally accepted cost accounting principles and practices; however, these provisions are subject to any limitations as to types or amounts of costs set forth in the research agreement.

(b) These principles do not attempt to identify the circumstances or dictate the extent of agency and institution participation in the financing of a particular research and development project, but rather are confined to the subject of cost determination. Arrangements concerning financial participation are properly the subject of negotiations between the contracting officer and the educational institution concerned.

(c) These principles should be applied to all Department of Defense sponsored research at an educational institution, including research conducted at locations other than the main campus of the institution.

(d) A negotiated fixed amount in lieu of indirect costs may be appropriate in certain instances for off-campus or segregated research projects where (1) research agreements are charged directly for the cost of many of their administrative or housekeeping services, or (2) the cost of benefits derived from an institution's indirect services cannot be readily determined by use of apportionment or allocation bases normally employed, or (3) the costs of apportioning and allocating expenses to research agreements are excessive. The negotiated amount should not exceed a conservative estimate of anticipated indirect costs.

§ 15.302 Definitions.

As used in this subpart, the following terms have the meanings stated below:

§ 15.302–1 Research agreements.

"Research agreements" are agreements to perform Federally sponsored research through grants, cost-reimbursement type contracts, cost-reimbursement type subcontracts, and fixed price contracts and subcontracts for research.

§ 15.302–2 Apportionment.

"Apportionment" is the process by which the indirect costs of the institution are assigned to (a) instruction and research, and (b) other institutional activities.

§ 15.302–3 Allocation.

"Allocation" is the process by which the indirect costs apportioned to instruction and research are distributed to research agreements.

§ 15.302–4 Sponsoring agency.

"Sponsoring agency" means the Federal agency for which the institution is performing research. Its use in this document does not imply a change in concept or intent for those agencies that

have traditionally used a grant rather than a contractual instrument.

§ 15.302–5 Original complement.

"Original complement" means the complement of equipment initially placed in buildings to perform the functions currently being performed in such buildings. If a permanent change in the function of a building takes place, a redetermination of the original complement of equipment may be made at that time to establish a new original complement.

§ 15.302–6 Other institutional activities.

"Other institutional activities" means all organized activities of an institution not directly related to the institution and research functions, such as residence halls, dining halls, student hospitals, student unions, intercollegiate athletics, book stores, faculty housing, student apartments, guest houses, chapels, theaters, public museums, financial campaigns, and other similar activities or auxiliary enterprises. Also included under this definition is any category of cost treated as "unallowable," provided such category of cost identifies a function or activity to which a portion of the institution's general overhead expenses are properly allocable.

§ 15.303 Direct costs.

Direct costs are those identified as having been specifically incurred to perform a particular research agreement. The general types of direct costs are:

(a) Direct salaries and wages, including employee benefit expenses and pension plan costs (see § 15.307) to the extent that they are consistently treated by the educational institution as a direct rather than an indirect cost, are those applicable directly to the performance of a research agreement. Such salaries and wages should be charged at the actual rates paid by the institution. Where professional staff paid on a salary basis work directly part time on a research agreement, current and reasonable estimates of time spent may be used in the absence of actual time records;

(b) Direct material costs include raw materials, purchased or supplied from stock, which are directly consumed or expended in the performance of a research agreement, or are otherwise applicable directly to a research agreement; and

(c) Other direct costs include other expenses related directly to a particular research agreement or project, including abnormal utility consumption. This may include services purchased from institution service operations: *Provided*, Such are consistently treated as direct rather than indirect costs and are priced under a recognized method of costing or pricing designed to recover only actual costs and conforming to generally accepted cost accounting practices consistently followed by the institution. Purchases of equipment will be included under this heading only to the extent expressly provided for in the research agreement or approved pursuant to such agreement.

§ 15.304 Indirect costs.

Indirect costs are those which, because of their incurrence for common or joint objectives, are not readily subject to treatment as direct costs of research agreements or other activities. The general types of indirect costs are:

(a) General administration and general expenses are those incurred for the general executive and administrative offices of educational institutions and other expenses of a general character which do not relate solely to any specific division of the institution. Employee benefit expenses and pension plan costs may be included in this category to the extent that they are consistently treated by the educational institution as an indirect rather than a direct cost;

(b) Research administration expenses are those which apply to research administered in whole or in part by a separate organization or an identifiable administrative unit. Examples of work relating to research which is sometimes performed under such organizational arrangement are: contract administration, security, purchasing, personnel administration, and editing and publishing of research data;

(c) Operation and maintenance expenses are those incurred for operating and maintaining the institution's physical plant. They include expenses normally incurred by the institution for administration or supervision of the physical plant; janitorial service; repairs and ordinary or normal alterations of buildings, furniture and equipment; care and maintenance of grounds; utilities; and other expenses customarily associated with the operation, maintenance, preservation and protection of the physical plant;

(d) Library expenses are those incurred for direct operation of the library plus a use allowance for library books. The use allowance shall not exceed eight cents per volume per year;

(e) Use allowance is a means of compensation for the use of buildings, capital improvements, and equipment over and above the expenses for operation and maintenance when depreciation or other equivalent costs are not considered. The use allowance for buildings and improvements shall be computed at an annual rate not to exceed two percent (2 percent) of acquisition cost. The use allowance for equipment shall be computed at an annual rate not exceeding six and two-thirds percent (6⅔ percent) of acquisition cost of usable equipment in those cases where the institution maintains current records with respect to such equipment on hand. Where the institution's records reflect only the cost (actual or estimated) of the original complement of equipment, the use allowance shall be computed at an annual rate not exceeding ten percent (10 percent) of such cost. In those cases where no equipment records are maintained, the institution will justify a reasonable estimate of the acquisition cost of useable equipment which may be used to compute the use allowance at an annual rate not exceeding six and two-thirds percent (6⅔ percent) of such estimate. Computation of the use allowance shall exclude the portion of the cost of buildings and equipment paid for out of Federal funds and the cost of grounds; and

(f) Indirect departmental expenses are those incurred for departmental administration, such as salaries of deans or heads of colleges, schools, departments or divisions, and related secretarial and other administrative expenses.

§ 15.305 Applicable costs.

(a) The cost of a research agreement is comprised of the allowable direct costs incident to its performance, plus the allocable portion of the allowable indirect costs of the institution, less applicable credits.

(b) When any types of expense ordinarily treated as indirect costs are charged to a research agreement as direct costs, the costs of similar items applicable to other activities of the institution must be eliminated from indirect costs allocable to the research agreement.

(c) Where a particular understanding has been reached regarding specific items of cost to be reimbursed, the research agreement should clearly state such understanding.

(d) Section 15.307 provides standards to be applied in determining the allowability of certain items of cost and also identifies certain types of expenditures which relate solely to instruction and therefore do not enter into the costs of research agreements, either as direct costs or indirect costs; such costs of instruction shall be excluded from the computations provided herein.

§ 15.306 Determination of indirect costs.

§ 15.306–1 General.

(a) In determining the indirect costs applicable to Federally sponsored research agreements, the allowable indirect costs should first be apportioned equitably between (1) instruction and research activity and (2) other institutional activities, as provided in § 15.306–2.

(b) The amounts of indirect costs apportioned to instruction and research should then be allocated in an equitable manner to research agreements, as provided in § 15.306–3.

(c) Actual conditions must be taken into account in determining the most suitable method or methods to be used in the apportionment and allocation of indirect costs. The objective should be the selection of a method or methods which will distribute the indirect costs in a fair and equitable manner to the Government research and development work and other work of the institution, giving due consideration to the nature and extent of the use of the institution's facilities by research personnel, academic staff, students and other personnel or activities, and to the materiality of the amounts involved. The methods used should conform with generally accepted cost accounting practices, provide uniformity of treatment for like cost elements, be applied consistently, and produce equitable results. Any significant change, such as in the nature or

extent of Government work or other activities sponsored or conducted by the institution, may require reconsideration of the methods previously in use to determine whether they continue to be equitable.

§ 15.306–2 Apportionment.

Where indirect costs relate to research, instruction, and other activities, such indirect costs shall be apportioned as between instruction and research activities, and other institutional activities as defined in § 15.302–6. The apportionment shall be made as follows:

(a) General administration and general expenses, on the basis of total expenditures; if more appropriate in the circumstances, however, other bases may be used;

(b) Operation and maintenance of the physical plant, if not separately costed, on the basis of total square or cubic footage of the buildings; and

(c) Other types of indirect costs normally do not require apportionment, where they do, an equitable basis for making the apportionment should be selected.

§ 15.306–3 Allocation.

(a) After determination of the total amount of indirect costs applicable to instruction and research activities, such indirect costs shall in turn be allocated between instruction activities and research agreements as described in paragraphs (b), (c), (d), and (e) of this section.

(b) The following criteria should be used with such appropriate modifications as will under the circumstances produce reasonably equitable allocation of the indirect costs associated with research agreements:

(1) General administration and general expenses should normally be allocated on the basis of total expenditures (exclusive of capital expenditures and use allowances) if equitable, direct salaries and wages, or other bases appropriate in the circumstances;

(2) Research administration expenses should be allocated to (i) applicable research agreements and (ii) other research benefitting therefrom on the basis of records reflecting the proportion fairly applicable to each or, in the absence of such records, on the basis of a reasonable estimate:

(3) Operation and maintenance expenses should be allocated on a basis that gives primary emphasis to space utilization. The amount allocated may be developed as follows:

(i) Where actual space and related cost records are or can readily be maintained without significant change in the accounting practices, the amount allocated to research agreements should be based on such data;

(ii) Where the space and related cost records maintained are not sufficient for purposes of subdivision (i) of this subparagraph, a reasonable estimate of the proportion of total space assigned to research agreements normally will suffice, and this proportion of operation and maintenance expense should be allocated to research agreements. Where it can be established that the cost of maintaining space assigned to research varies significantly from the cost of maintaining other space, appropriate weighting factors may be used to give effect to such variations;

(iii) Where more definitive information is not available, either of the following simplified techniques for determining space may be used, as most appropriate—

(*A*) Reduce the total space identified with instruction and research by the amount of space occupied by undergraduate students, including appropriate portions of classrooms and access and related space. Reduce by the same proportion the amount of maintenance and operation expense that has been apportioned to instruction and research, and then allocate to research agreements on the basis of the relationship that direct salaries and wages of research agreements bears to direct salaries and wages of instruction and research; or

(*B*) Prepare a reasonable estimate of the average gross space assigned per research worker, and extend to the equivalent annual number of research workers under research agreements. The resulting product should then be related to total space assigned to instruction and research in order to obtain the proportion of space utilized for research agreements. The resulting proportions should then be applied to operation and maintenance expense to obtain the amount allocable to research agreements; or

(*C*) Where it can be demonstrated that an area or volume of space basis of allocation is impractical or inequitable, other bases may be used: *Provided*, Consideration is given to the use of facilities by research personnel and others, including students;

(4) Library expenses should normally be allocated to research agreements on the basis of population including students and other users. Where appropriate, consideration may be given to weighting segments of the population figures as necessary to produce equitable results;

(5) Use allowance for buildings and equipment should, if depreciation or other equivalent costs are not considered, be computed in accordance with § 15.304 (e). The cost of buildings and equipment used by "other institutional activities" (as defined in § 15.302–6) should be excluded from any computation of use allowances. If available records permit, use allowances may be specifically allocated in whole or in part to research agreements. In the absence of such usable records, use allowance may be allocated to research agreements on the same basis as that used for allocating operation and maintenance expenses; and

(6) Indirect departmental expenses; the salaries and wages of departmental heads and their offices, including the allocated portion of deans of schools and their offices, which jointly benefit both research agreements and other activities should be allocated between research agreements administered or supervised by the department and other work of the department on any equitable basis, possibly direct salaries and wages, total direct expenditures, or approximate time so devoted. Where equitable results would be obtained, the distribution may be made on a composite base which would include all schools and departments.

(c) Indirect costs allocated to research agreements normally should be treated as a common pool. The costs in such common pool should then be distributed to individual research agreements benefiting therefrom on a single rate basis. This rate will be the percentage which the indirect cost pool is of direct salaries and wages of the applicable research agreements. If appropriate, total direct expenditures may be used rather than salaries and wages.

(d) It is recognized that in certain cases, due to the nature of the work, the facilities or personnel involved, or other considerations, the application of a single indirect expense rate on research agreements may produce inequitable results to the institution or to the Government. In such cases, it may be necessary to develop two or more indirect expense rates by means of: (i) Appropriate adjustment to the basic indirect expense rate developed through use of the common pool, or (ii) segregation of the indirect expenses allocated to research agreements into two or more indirect expense pools. In the latter case, the costs in each such pool will be distributed to the specific research agreements benefiting therefrom on the basis of direct wages and salaries or total direct expenditures, as appropriate. Examples of conditions which may justify the development of two or more pools of indirect expense are:

(1) Where the nature of a particular type of overhead cost requires a different basis of allocation to produce equitable results;

(2) Where a research agreement or group of agreements or the facility in which such agreement(s) is performed provides its own services to a significant degree, as may be in the case of a hospital or a segregated or off-campus facility;

(3) Where a research agreement requires significantly different degrees of indirect services from the institution. For example, such conditions may exist where: (i) significant amounts of Government-owned facilities or equipment are provided in lieu of that normally furnished by the institution, (ii) a research agreement requires an unusual amount of power or other utilities, (iii) the cost of a special library provided in lieu of regular library services is reimbursed by the Government, or (iv) construction constitutes a significant portion of the work; and

(4) Where it is appropriate to associate certain costs more directly with the activities benefited, such as where the research work is performed on one campus of a multicampus university.

(e) Where research is separately administered, in whole or in part, or separate services are provided in lieu of those services normally provided by the institution, the cost of the normal institutional administration or other services replaced thereby shall be excluded from allocation to such research.

§ 15.306–4 Overhead determinations acceptable under special circumstances.

(a) Indirect costs may be claimed at a rate which is anticipated to be less than that which would otherwise be allowable with provision made in the research agreement for adjustment if actual costs subsequently proved to be less than the claimed rate.

(b) The degree of preciseness required in the computation of indirect costs will be influenced by considerations such as the materiality of the amounts involved, the size of the educational institution, and the aggregate dollar volume of Government-sponsored research at the institution. Generally, where the total direct cost of Government-sponsored research and development work at an institution does not exceed $250,000 in a year, the use of abbreviated procedures in the determination of allowable indirect costs may be acceptable when the results obtained are equitable. For example, educational institutions which have a relatively small dollar volume of Government-sponsored research may compute allowable indirect expenses on the basis of data available in the institution's financial reports. One permissible method in such cases would contemplate the use of a single indirect expense pool composed of:

(1) General and administrative expenses, exclusive of unallowable costs (§ 15–307), but inclusive of allocable salaries and expenses of deans of schools and department heads;

(2) Operation and maintenance expenses; and

(3) Library expenses.

The indirect expense pool should then be allocated to research agreements and other activities of the institution on any equitable basis, possibly total expenditures (exclusive of capital expenditures).

§ 15.307 General standards for selected items of cost.

§ 15.307–1 Purpose and applicability.

(a) Section 15.307 provides standards to be applied to the extent deemed practicable in determining the allowability of certain items of cost. These standards should apply irrespective of whether a particular item of cost is properly treated as direct cost or indirect cost. Failure to mention a particular item of cost in the standards should not imply that it is either allowable or unallowable; rather determination as to allowability in such case should be based on the treatment or standards provided for similar or related items of cost.

(b) In case of discrepancy between the provisions of a specific research agreement and the applicable standards the provisions of the research agreement should govern.

§ 15.307–2 Costs applicable to instruction.

Except as specifically noted, the following types of costs apply only to instruction and therefore do not enter into the costs of research agreements, either as direct costs or indirect costs, unless specific provision is made therefor in the research agreement:

(a) Commencement and convocation costs;

(b) Sabbatical leave costs, including leave of absence to employees for performance of graduate work or sabbatical study, travel, or research;

(c) Scholarships, fellowships, tuition and other forms of student aid costs. However, in certain cases such costs may be allocable in part to research agreements under the conditions set forth in § 15.307–3 (ii) (staff benefits); and

(d) Student services costs, including such activities as deans of students, administration of student affairs, registrar, placement offices, student advisers, student health and infirmary services, and such other activities as are identifiable with student services. However, in the case of students actually engaged in work under research agreements, a proportion of student service costs measured by the relationship between hours of work by students on such research work and total student hours including all research time may be allowed as a part of research administration expenses.

§ 15.307–3 Allowable and unallowable costs.

(a) Advertising costs include the cost of advertising media and related technical and administrative costs. Only the following advertising costs are allowable: (1) Help wanted advertising, (2) other advertising necessary for the performance of the research agreement to the extent authorized.

(b) Bad debts, including losses (whether actual or estimated) arising from uncollectible accounts and other claims, related collection costs, and related legal costs are unallowable.

(c) Capital expenditures are unallowable except as provided for in the research agreement. This includes costs of books, equipment and buildings, as well as repairs which materially increase the value or useful life of such equipment or buildings.

(d) Civil defense costs are those incurred in planning for, and the protection of life and property against, the possible effects of enemy attack. Reasonable costs of civil defense measures (including costs in excess of normal plant protection costs, first aid training and supplies, fire-fighting training, posting of additional exit notices and directions, and other approved civil defense measures) undertaken on the institution's premises pursuant to suggestions or requirements of civil defense authorities are allowable when apportioned to all activities of the institution. Capital expenditures for civil defense purposes shall not be allowed, but a use allowance may be permitted in accordance with provisions set forth elsewhere. Costs of local civil defense projects not on the institution's premises are unallowable.

(e) Communication costs including telephone services, local and long distance telephone calls, telegrams, radiograms, postage and the like are allowable.

(f) Compensation for personal services: Each institution shall maintain control over its salary and wage rates according to its established policy consistently applied: *Provided, however,* That the excess of salary and wage rates paid to personnel working on Government research agreements over salary and wage rates paid to personnel working on the institution's departmental research or other research will not be allowed unless specifically provided in the agreement or approved by the contracting officer. This principle does not prohibit the charging of the full salary of any temporary employee in whose favor a salary differential exists solely by virtue of the nature of his employment in accordance with the regular practice of the institution concerned. Faculty members shall be considered as employed for the period represented by the sum of all semesters and other periods during which they are required to work under the practice of the institution concerned. (Example: Professor of X institution is required to work two semesters of 4½ months each, or a total of nine months out of the academic year. His compensation is $5,400.00. During the summer months, July, August, and September, he works full time on Government research projects in the institution laboratory. Unless the established practice of the institution relating to summer compensation, not based on Government contract experience, would result in a different computation, his compensation for that period, chargeable by the institution to the Government research agreement, will be $1,800.00, computed as follows: ($5,400.00÷9=$600.00; $600.00 multiplied by 3=$1,800.00).)

(g) Contingency provisions to provide for events the occurrence of which cannot be foretold with certainty as to time, intensity, or with an assurance of their happening, are unallowable.

(h) Deans of faculty and graduate schools, or their equivalents, including their staffs and related expenses are allowable.

(i) Employee morale, health, and welfare costs and credits, such as house publications, health or first aid clinics and/or infirmaries, recreational activities, and employees' counseling services, incurred in accordance with the institution's established practice or custom for the improvement of working conditions, employer-employee relations, employee morale, and employee performance, are allowable. Such costs shall be equitably apportioned to all activities of the institution. Income generated from any of these activities shall be credited to the cost thereof unless such income has been irrevocably set over to employee welfare organization.

(j) Entertainment costs including costs of amusement, social activities, entertainment, and incidental costs relating thereto, such as meals, lodging, rentals, transportation, and gratuities, are unallowable.

(k) Equipment and other facilities: The cost of equipment or other facilities, including books purchased specifically for use on the project, are allowable where such purchases are approved by the sponsoring agency concerned or provided for by the terms of the research agreement.

(l) Fines and penalties: Costs resulting from violations of, or failure of the institution to comply with, Federal, State, and local laws and regulations are unallowable except when incurred as a result of compliance with specific provisions of the research agreement, or instructions in writing from the contracting officer.

(m) Insurance and indemnification. (1) Insurance includes those types of insurance which the institution is required to carry, or which is approved, under the terms of the research agreement, and any other insurance which the institution maintains in the general conduct of its activities. Indemnification includes securing the institution against liabilities to third persons and other losses not compensated by insurance or otherwise.

(2) Costs of insurance required or approved, and maintained, pursuant to the research agreement, are allowable.

(3) Costs of other insurance maintained by the institution in connection with the general conduct of its activities, are allowable subject to the following limitations:

(i) Types and extent and cost of coverage shall be in accordance with sound institutional practice;

(ii) Costs of insurance or of any contributions to any reserve covering the risk of loss of or damage to Government-owned property are unallowable except to the extent that the Government shall have required or approved such costs;

(iii) Contributions to a reserve for an approved self-insurance program are allowable to the extent that the types of coverage, extent of coverage, and the rates and premiums would have been allowed had insurance been purchased to cover the risks;

(iv) Costs of insurance on the lives of officers or trustees are unallowable except where such insurance is part of an employee plan which is not unduly restricted; and

(v) Actual losses which could have been covered by permissible insurance (through an approved self-insurance program or otherwise) are unallowable unless expressly provided for in the research agreement, except: (*a*) costs incurred because of losses not covered under nominal deductible insurance coverage provided in keeping with sound business practice are allowable; and (*b*) minor losses not covered by insurance, such as spoilage, breakage and disappearance of small hand tools, which occur in the ordinary course of doing business, are allowable.

(n) Interest costs for interest on borrowed capital or temporary use of endowment funds, however represented, are unallowable.

(o) Investment counsel and staff costs are unallowable.

(p) Labor relations costs incurred in maintaining satisfactory relations between the institution and its employees, including costs of labor management committees, employees' publications, and other related activities are allowable.

(q) Losses on other research agreements or contracts: Any excess of costs over income under any other research agreement or contract of any nature is unallowable. This includes, but is not limited to, the institution's contributed portion by reason of cost-sharing agreements or any under-recoveries through negotiation of flat amounts for overhead.

(r) Maintenance and repair costs necessary for the upkeep of property (including Government property unless otherwise provided for) which neither add to the permanent value of the property nor appreciably prolong its intended life but keep it in an efficient operating condition, are allowable.

(s) Material costs of purchased materials, supplies, and fabricated parts directly or indirectly related to the research agreement are allowable. Purchases made specifically for the research agreement should be charged thereto at their actual prices after deducting all cash discounts, trade discounts, rebates, and allowances received by the institution. Withdrawals from general stores or stockrooms should be charged at their cost under any recognized method of pricing stores withdrawals conforming to sound accounting practices consistently followed by the institution. Incoming transportation charges are a proper part of material cost. Direct material cost should include only the materials and supplies actually used for the performance of the research agreement, and due credit should be given for any excess materials retained, or returned to vendors. Due credit should be given for all proceeds or value received for any scrap resulting from work under the research agreement. Where Government-donated or furnished material is used in performing the research agreement, such material will be used without charge.

(t) Memberships, subscriptions, and professional activity costs: (1) Membership costs of the institution's membership in civic, business, technical, and professional organizations are allowable.

(2) Subscription costs of the institution's subscriptions to civic, business, professional, and technical periodicals are allowable, excepting those obtained for the library for which a use allowance is made.

(3) Meetings and conferences. This item includes cost of meals, transportation, rental of facilities for meetings, and costs incidental thereto, when the primary purpose of the incurrence of such costs is the dissemination of technical information. Such costs are allowable.

(u) Patent costs: Costs of preparing disclosures, reports, and other documents required by the research agreement and of searching the art to the extent necessary to make such invention disclosures, are allowable. In accordance with the clauses of the research agreement relating to patents, costs of preparing documents and any other patent costs, in connection with the filing of a patent application where title is conveyed to the Government, are allowable. (See also paragraph (ff) of this section.)

(v) Pension plan costs are allowable if in accordance with the established policies of the institution: *Provided*, Such policies meet the test of reasonableness and the methods of cost allocation are not discriminatory: *And provided*, Appropriate adjustments are made for credits or gains arising out of normal and abnormal employee turnover or any other contingencies that can result in forfeitures by employees which inure to the benefit of the institution.

(w) Plant security costs including wages, uniforms and equipment of personnel engaged in plant protection, and necessary expenses to comply with Government security requirements, are allowable.

(x) Preresearch agreement costs are those which are incurred prior to the effective date of the research agreement whether or not they would have been allowable thereunder if incurred after such date. Such costs are unallowable unless specifically set forth and identified in the research agreement.

(y) Professional service costs—legal, accounting, engineering and other:

(1) Costs of professional services rendered by the members of a particular profession who are not employees of the institution are allowable, subject to subparagraphs (2) and (3) of this paragraph, when reasonable in relation to the services rendered and when not contingent upon recovery of the costs from the Government. Retainer fees to be allowable must be reasonably supported by evidence of services rendered.

(2) Factors to be considered in determining the allowability of costs in a particular case include:

(i) The past pattern of such costs, particularly in the years prior to the award of Government research agreements;

(ii) The impact of Government research agreements on the institution's total activity;

(iii) The nature and scope of managerial services expected of the institution's own organization; and

(iv) Whether the proportion of Government work to the institution's total activity is such as to influence the institution in favor of incurring the cost, particularly where the services rendered are not of a continuing nature and have little relationship to work under Government research agreements.

(3) Costs of legal, accounting, and consulting services, and related costs, incurred in connection with organization and reorganization, and the prosecution of claims against the Government, are unallowable. Costs of legal, accounting and consulting services, and related costs, incurred in connection with patent infringement litigation, are unallowable unless otherwise provided for in the research agreement.

(z) Profits and losses on disposition of plant, equipment, or capital assets: Profits or losses of any nature arising from the sale or exchange of plant, equipment, or other capital assets, including sale or exchange of either short or long-term investments, shall be excluded in computing research agreement costs.

(aa) Proposal costs are the costs of preparing bids or proposals on potential Government and non-Government research agreements or projects, including the development of engineering data and cost data necessary to support the institution's bids or proposals. Proposal costs of the current accounting period of both

successful and unsuccessful bids and proposals normally should be treated as indirect costs and allocated currently to all activities of the institution, and no proposal costs of past accounting periods shall be allocable in the current period to the Government research agreement. However, the institution's established practices may be to treat proposal costs by some other recognized method. Regardless of the method used, the results obtained may be accepted only if found to be reasonable and equitable.

(bb) Public information services costs such as news releases pertaining to specific research or scientific accomplishment are unallowable unless specifically authorized by the sponsoring agency.

(cc) Rearrangement and alteration costs: Ordinary or normal rearrangement and alteration costs are allowable. Special arrangement and alteration costs incurred specifically for the project are allowable when such work has been approved in advance by the sponsoring agency concerned.

(dd) Reconversion costs are those incurred in the restoration or rehabilitation of the institution's facilities to approximately the same condition existing immediately prior to commencement of Government research agreement work, fair wear and tear excepted. Reconversion costs are allowable, only to the extent of the cost of removing Government property and the restoration or rehabilitation costs caused by such removal.

(ee) Recruiting costs such as "help wanted" advertising, operating costs of an employment office necessary to secure and maintain an adequate staff, travel costs of employees while engaged in recruiting personnel, and travel costs of applicants for interviews for prospective employment, are allowable. Where the institution uses employment agencies, costs not in excess of standard commercial rates for such services are also allowable. Costs of special benefits or emoluments offered to prospective employees beyond recognized practices for recruiting such personnel are unallowable.

(ff) Royalties and other costs for use of patents: Royalties on a patent or amortization of the cost of acquiring a patent or invention or rights thereto, necessary for the proper performance of the research agreement and applicable to tasks or processes thereunder, are allowable unless:

(1) the Government has a license or the right to free use of the patent;

(2) the patent has been adjudicated to be invalid or has been adminstratively determined to be invalid;

(3) the patent is considered to be unenforceable; or

(4) the patent has expired.

(gg) Severance pay is a payment, in addition to regular salaries and wages, by institutions to employees whose services has been terminated. Severance pay is allowable as a cost only to the extent that it is required by law, employer-employee agreement, established policy that constitutes in effect an implied agreement on the institution's part, or circumstances of the particular employment. Severance payments are divided into two categories as follows:

(1) Those due to normal, recurring turnover. The actual costs of such severance payments shall be regarded as expense applicable to the current fiscal year and equitably apportioned to the institution's activities during that period; and

(2) Those due to abnormal or mass terminations. Abnormal or mass severance pay is of such a conjectural nature that measurement of cost by means of an accrual will not achieve equity to both parties. Thus accruals for this purpose are not allowable. However, the Government recognizes its obligation to participate, to the extent of its fair share, in any specific payment. Thus, allowability will be considered on a case-by-case basis.

(hh) Special services costs: such as general public relations activities, catalogs, and alumni activities, are unallowable.

(ii) Staff benefits are allowances and services provided by the institution to its employees as compensation in addition to regular wages and salaries. Costs of such staff benefits are allowable and include vacations, holidays, sick leave, military leave, employee insurance, social security taxes and workmen's compensation insurance. The payment of tuition or remission of tuition for employees and their families are allowable to the extent that such payments or remissions are made under established policies consistently applied.

(jj) Taxes: In general, taxes which the institution is required to pay and which are paid or accrued in accordance with generally accepted accounting principles, and payments made to local governments in lieu of taxes which are commensurate with the local government services received are allowable, except for:

(1) Taxes from which exemptions are available to the institution directly or which are available to the institution based on an exemption afforded the Government and in the latter case when the sponsoring agency makes available the necessary exemption certificates; and

(2) Special assessments on land which represent capital improvements.

Any refund of taxes, interest, or penalties, and any payment to the institution of interest thereon, attributable to taxes, interest, or penalties which were allowed as research agreement costs, shall be credited or paid to the Government in the manner directed by the Government: *Provided*, Any interest actually paid or credited to an institution incident to a refund of tax, interest, and penalty shall be paid or credited to the Government only to the extent that such interest accrued over the period during which the institution had been reimbursed by the Government for the taxes, interest, and penalties.

(kk) Transportation costs: Transportation costs include freight, express, cartage, and postage charges relating either to goods purchased, in process, or delivered. These costs are allowable. When such costs can readily be identified with the items involved, they may be direct costed as transportation costs or added to the cost of such items. Where identification with the materials received cannot readily be made, inbound transportation costs may be charged to the appropriate indirect cost accounts if the institution follows a consistent, equitable procedure in this respect. Outbound freight, if reimbursable under the terms of the research agreement, should be treated as a direct cost.

(ll) Travel costs: (1) Travel costs consist of transportation, lodging, subsistence, and incidental expenses.

(2) Travel costs incurred by institution personnel in a travel status while on specific research business are allowable.

(3) Travel costs incurred in the normal course of overall administration of the institution and applicable to the entire institution are allowable. Such costs shall be equitably apportioned to all work of the institution.

(4) Subsistence and lodging, including tips or similar incidental costs, are allowable either on an actual or per diem basis. The basis selected shall apply to an entire trip and not selected days of the trip.

(5) Costs of personnel movement of a special or mass nature are allowable only when authorized or approved in writing by the sponsoring agency or its authorized representative.

4. In § 15.601, the cross-reference to § 15.304 (g), has been deleted.

G. C. BANNERMAN,
Director for Procurement Policy, Office of Assistant Secretary of Defense (Supply and Logistics).

[F.R. Doc. 59-1022; Filed, Feb. 5, 1959; 8:45 a.m.]

Title 15—COMMERCE AND FOREIGN TRADE

Chapter III—Bureau of Foreign Commerce, Department of Commerce

SUBCHAPTER B—EXPORT REGULATIONS

[9th Gen. Rev. of Export Regs., Amdt. 9]

PART 370—SCOPE OF EXPORT CONTROL BY DEPARTMENT OF COMMERCE

Unauthorized Disposition of Foreign Excess Personal Property Purchased From the United States Armed Forces in Foreign Countries

Section 370.3a is amended to read as follows:

§ 370.3a Unauthorized disposition of foreign excess personal property purchased from the United States Armed Forces in foreign countries.

(a) In the event the United States Armed Forces shall sell in any foreign country any commodity, in used or new condition, which was exported from the United States pursuant to § 370.2(a)(2), the prohibitions and sanctions provided in Parts 381 and 382 of the export regu-

lations set forth in this chapter shall apply whenever such commodity is, or is attempted to be, transshipped, diverted, or reexported to any destination contrary to the provisions of the contract of sale executed by the United States Armed Forces or to the export regulations referred to therein.

(b) The provisions of this section shall apply to any person who directly or indirectly participates or has an interest in any transaction involving commodities sold by the United States Armed Forces in any foreign country. Sanctions may include denial of participation in Armed Forces foreign excess personal property disposals, as well as United States export privileges.

NOTE: By arrangement with the Department of Defense, in enforcing the provisions of this section the Bureau of Foreign Commerce will apply the prohibitions and sanctions of Parts 381 and 382 of this chapter to (a) cases involving any commodity of United States origin which is or is attempted to be transshipped, diverted or reexported to Communist China, North Korea, the Communist-controlled area of Viet-Nam, or the maritime province of the Union of Soviet Socialist Republics; and (b) cases involving, generally but not exclusively, any Positive List commodity which is or is attempted to be transshipped, diverted or reexported to any other Subgroup A destination.

This amendment shall become effective as of February 15, 1959.

(Sec. 3, 63 Stat. 7; 50 U.S.C. App. 2023. E.O. 9630, 10 FR 12245, 3 CFR, 1945 Supp., E.O. 9919, 13 F.R. 59, 3 CFR, 1948 Supp.)

LORING K. MACY,
Director,
Bureau of Foreign Commerce.

[F.R. Doc. 59-1073, Filed, Feb. 5, 1959; 8:51 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

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

[Circular 2012]

PART 244—RIGHTS-OF-WAY OTHER THAN FOR RAILROAD PURPOSES AND FOR LOGGING ROADS ON OREGON AND CALIFORNIA AND COOS BAY REVESTED LANDS

Nature of Interest Granted; Settlement on Right-of-Way; Rights of Ingress and Egress

On page 8751 of the FEDERAL REGISTER of November 11, 1958, there was published a notice of proposed rule making to issue regulations governing the granting of rights of ingress and egress over public lands to holders of rights-of-way under 43 CFR, Part 244. Interested persons were given 30 days in which to submit written comments, suggestions, or objections with respect to the proposed regulations.

No objections have been received, but comments submitted indicate that, for the purposes of clarification, the second sentence of the proposed regulations should be revised to read as follows: "The holder or applicant may obtain such additional right-of-way only over lands for which the authorized officer has authority to grant a right-of-way of the type represented by the primary right-of-way held or requested by the applicant."

The proposed regulations are hereby adopted with the revision mentioned above and are set forth below.

ELMER F. BENNETT,
Acting Secretary of the Interior.

FEBRUARY 2, 1959.

1. The title to § 244.7 is revised to read as shown below.

2. Paragraph (c) is added to § 244.7 to read as follows:

§ 244.7 Nature of interest granted; settlement on right-of-way; rights of ingress and egress.

* * * * *

(c) In order to facilitate the use of a right-of-way granted or applied for under the regulations of this part, the authorized officer may grant to the holder of or applicant for such right-of-way an additional right-of-way for ingress and egress to the primary right-of-way, including the right to construct, operate, and maintain such facilities as may be necessary for ingress and egress. The holder or applicant may obtain such additional right-of-way only over lands for which the authorized officer has authority to grant a right-of-way of the type represented by the primary right-of-way held or requested by the applicant. He must comply with the same provisions of the regulations applicable to his primary right-of-way with respect to the form of and place of filing his application for an additional right-of-way, the filing of maps and other information, and the payment of rental charges for the use of the additional right-of-way. He must also present satisfactory evidence that the additional right-of-way is reasonably necessary for the use, operation, or maintenance of the primary right-of-way.

(R.S. 161, 453, 2478; 5 U.S.C. 22, 43 U.S.C. 2, 1201)

[F.R. Doc. 59-1055; Filed, Feb. 5, 1959; 8:50 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Rules Amdt. 10-10]

PART 10—PUBLIC SAFETY RADIO SERVICES

Miscellaneous Amendments

The Commission having under consideration the desirability of making certain editorial changes in §§ 10.462(f) and 10.555(g)(1) of its rules and regulations; and

It appearing, that the amendments adopted herein are editorial in nature, and, therefore, prior publication of Notice of Proposed Rule Making under the provisions of section 4 of the Administrative Procedure Act is unnecessary, and the amendments may become effective immediately; and

It further appearing, that the amendments adopted herein are issued pursuant to authority contained in sections 4(i), 5(d)(1) and 303(r) of the Communications Act of 1934, as amended, and section 0.341(a) of the Commission's Statement of Organization, Delegations of Authority and Other Information;

It is ordered, This 30th day of January 1959, that effective January 30, 1959, §§ 10.462(f) and 10.555(g)(1) are amended as set forth below.

(Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interpret or apply sec. 303, 48 Stat. 1082, as amended; sec. 5, 66 Stat. 713; 47 U.S.C. 303, 155)

Released: February 3, 1959.

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

1. Section 10.462(f) is amended by deleting the text of subparagraphs (11) and (12) thereof, and inserting the word "[Reserved]".

2. Section 10.555(g)(1) is amended to read as follows:

(1) Limited to developmental operation only with the assigned frequency and particulars of operation specified in each authorization.

[F.R. Doc. 59-1095; Filed, Feb. 5, 1959; 8:54 a.m.]

[Rules Amdt. 16-40]

PART 16—LAND TRANSPORTATION RADIO SERVICES

Miscellaneous Amendments

The Commission having under consideration the desirability of making certain editorial changes in Part 16 of its rules made necessary by the assumption by the Federal Aviation Agency (FAA) of certain administrative functions formerly under the cognizance of the Civil Aeronautics Administration (CAA); and

It appearing, that certain other editorial changes in Part 16 are desirable for the purpose of correcting typographical errors in the text thereof; and

It further appearing, that the amendments adopted herein are editorial in nature, and, therefore, that prior publication of Notice of Proposed Rule Making under the provisions of section 4 of the Administrative Procedure Act is unnecessary, and the amendments may be made effective immediately; and

It further appearing, that the amendments ordered hereby are issued pursuant to authority contained in sections 4(i), 5(d) and 303 of the Communications Act of 1934, as amended, and section 0.341 of the Commission's Statement of Delegation of Authority;

It is ordered, This 30th day of January 1959, that effective February 1, 1959, Part 16 of the Commission's rules, Land Transportation Radio Services, is amended as set forth below.

(Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interpret or apply sec. 303, 48 Stat. 1066,

1082, as amended; sec. 5, 66 Stat. 713; 47 U.S.C. 303, 155)

Released: February 3, 1959.

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

1. Amend paragraph (a) of § 16.152 to read as follows:

§ 16.152 Station identification.

(a) A base station or mobile station in the Land Transportation Radio Services must be identified at the end of each transmission, except that, in the event of a continued exchange of communications, identification shall be made at the end of a series of such transmissions or at the end of each 15-minute period if the exchange continues without substantial interruption.

§ 16.158 [Amendment]

2. Amend paragraph (b) of § 16.158 to read as follows:

(b) Any observed or otherwise known failure of a code or rotating beacon light or top light not corrected within thirty minutes, regardless of the cause of failure, shall be reported immediately by telephone or telegraph to the nearest Airways Communication Station or office of the Federal Aviation Agency. Further notification by telephone or telegraph shall be given immediately upon resumption of the required illumination.

§ 16.160 [Amendment]

3. Amend §§ 16.160(d)(3) (iv) and (v) to read as follows:

(iv) Identification of the Airways Communication Station (or office of the Federal Aviation Agency) notified of the failure of any code or rotating beacon light not corrected within thirty minutes, and the date and time such notice was given.

(v) Date and time notice was given to the Airways Communication Station (or office of the Federal Aviation Agency) that the required illumination was resumed.

§ 16.405 [Amendment]

4. Amend paragraph (b)(2) of § 16.405 to read as follows:

(2) In the event such use is to be a series of preplanned tests or drills of the same or similar nature which are scheduled in advance for specific times or at certain intervals of time, the licensee may send a single notice to the Commission in Washington, D.C., and to the Engineer in Charge of the Radio District in which the station is located, stating the nature of the communications to be transmitted, the duration of each such test, and the time scheduled for such use. Notice shall likewise be given in the event of any change in the nature or termination of any such series of tests.

§ 16.602 [Amendment]

5. Amend paragraph (d) of § 16.602 to read as follows:

(d) The provision of an adequate receiver to monitor a standard, FM or TV broadcast station, either by aural or automatic means, during the hours of service of the radio station in the Land Transportation Radio Services, will be considered compliance with the requirements of paragraph (a) of this section. Other means of receiving the CONELRAD Radio Alert may be authorized by the Federal Communications Commission in special cases.

[F.R. Doc. 59-1096; Filed, Feb. 5, 1959; 8:54 a.m.]

Title 49—TRANSPORTATION

Chapter I—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

PARTS 71–78—EXPLOSIVES AND OTHER DANGEROUS ARTICLES

[Docket No. 3666; Order 37]

Miscellaneous Amendments

At a session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D.C., on the 22nd day of January 1959.

The matter of revision of certain regulations governing the transportation of explosives and other dangerous articles, formulated and published by the Commission, being under consideration, and

It appearing, that Notice No. 37, dated December 1, 1958, setting forth certain proposed amendments to the said regulations, and the reasons therefor, and stating that consideration was to be given thereto, was published in the FEDERAL REGISTER on December 16, 1958 (23 F.R. 9696), pursuant to the provisions of section 4 of the Administrative Procedure Act; that pursuant to said notice interested parties were given an opportunity to be heard with respect to said proposed amendments; that written views or arguments were submitted to the Commission with respect to the proposed amendments;

And it further appearing, that said views and arguments with respect to the proposed amendments are such as to warrant revision at this time of certain of the proposed amendments, and that in all other respects the proposed amendments set forth in the above referred-to Notice No. 37 are deemed justified and necessary:

It is ordered, That the aforesaid regulations governing the transportation of explosives and other dangerous articles be, and they are hereby, amended in the manner and to the extent set forth in Notice No. 37, dated December 1, 1958, as revised by the specific deletions and modifications set forth as follows:

1. In § 72.5 *Commodity list*, change the first section number in the third column, adjacent to "Aldrin mixtures, dry, with more than 65 percent aldrin", from "73.345" to "73.364".

2. In § 73.31(g)(9) table 1, amend also the column heading "Tank retests" to read "Tank retests [b] [1]".

3. Delete the entire proposed amendment to § 73.33 which is paragraph (k)(1).

4. In § 73.313(a), insert a comma after § 77.817 so that the last sentence reads "Shipments for transportation by highway carriers are exempt also from Part 77 of this chapter, except § 77.817, and Part 197 of this chapter."

5. Revise the amendatory text to § 73.345; also, amend paragraph (b)(14).

6. In § 73.364(a), insert a comma after § 77.817 so that the last sentence reads "Shipments for transportation by highway carriers are exempt also from Part 77 of this chapter, except § 77.817, and Part 197 of this chapter."

7. Delete the entire proposed amendment to § 78.321–9 which is paragraph (b).

8. Delete the entire proposed amendment to § 78.322–9 which is paragraph (b).

9. Delete the entire proposed amendment to § 78.323–9 which is paragraph (b).

10. Delete the entire proposed amendment to § 78.324–9 which is paragraph (b).

11. Delete the entire proposed amendment to § 78.325–5 which is paragraph (b)(8).

12. Delete the entire proposed amendment to § 78.326–8 which is paragraph (b).

13. Delete the entire proposed amendment to § 78.330–7 which is paragraph (b).

14. Delete the entire proposed amendment to § 78.331–7 which is paragraph (b).

It is further ordered, That this order shall become effective April 21, 1959 and shall remain in effect until further order of the Commission;

It is further ordered, That compliance with the herein prescribed and amended regulations is hereby authorized on and after the date of service of this order;

And it is further ordered, That copies of this order be served upon all parties of record herein, and that notice shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D.C., and by filing a copy thereof with the Director, Federal Register Division.

(62 Stat. 738, 18 U.S.C. 831–835; 49 Stat. 546, 52 Stat. 1237, 54 Stat. 921, 49 U.S.C. 304)

By the Commission, Division 3.

[SEAL] HAROLD D. MCCOY, *Secretary.*

PART 72—COMMODITY LIST OF EXPLOSIVES AND OTHER DANGEROUS ARTICLES CONTAINING THE SHIPPING NAME OR DESCRIPTION OF ALL ARTICLES SUBJECT TO PARTS 71–78 OF THIS CHAPTER

Amend § 72.5 *Commodity list* (19 F.R. 8524, Dec. 14, 1954) (16 F.R. 5322, June 6, 1951) (19 F.R. 1276, Mar. 6, 1954) (21 F.R. 7596, 7597, Oct. 4, 1956) (18 F.R. 5270, Sept. 1, 1953) (15 F.R. 8270, 8271, 8273, Dec. 2, 1950) as follows:

§ 72.5 List of explosives and other dangerous articles.

(a) * * *

Article	Classed as	Exemptions and packing (see sec.)	Label required if not exempt	Maximum quantity in 1 outside container by rail express
(Change)				
Aldrin mixtures, liquid, with more than 60 percent aldrin.	Pois. B	73.345, 73.361	Poison	55 gallons.
Aldrin mixtures, dry, with more than 65 percent aldrin.	Pois. B	73.364, 73.376	Poison	200 pounds.
Antimony pentachloride solution	Cor. L	73.244, 73.245	White	5 pints.
4-Chloro-o-toluidine hydrochloride	Pois. B	No exemption, 73.362.	Poison	1 quart.
Hand signal devices	Expl. C	No exemption, 73.108.		200 pounds.
Highway fusees	Expl. C	No exemption, 73.108.		200 pounds.
Railway fusees	Expl. C	No exemption, 73.108.		200 pounds.
Signal flares	Expl. C	No exemption, 73.108.		200 pounds.
Smoke candles	Expl. C	No exemption, 73.108.		200 pounds.
Smoke pots	Expl. C	No exemption, 73.108.		200 pounds.
Smoke signals	Expl. C	No exemption, 73.108.		200 pounds.
Tank car, containing residual phosphorus and filled with water or inert gas.	See § 73.232			
Very signal cartridges	Expl. C	No exemption, 73.108.		200 pounds.
(Add)				
Paramenthane hydroperoxide	▽ M	73.153(b), 73.224	Yellow	1 quart.
Silicon tetrafluoride	Nonf. G	73.302, 73.307	Green	300 pounds.
Vinyl fluoride, inhibited	F. G	73.302, 73.308	Red Gas	300 pounds.

PART 73—SHIPPERS

Subpart A—Preparation of Articles for Transportation by Carriers by Rail Freight, Rail Express, Highway, or Water

1. In § 73.31 amend spec. 107A**** in paragraph (a) table; add footnote 13 to paragraph (a) table; amend paragraph (g) (9) table 1; add footnotes (h) and (i) to paragraph (g) (9) table 1 (22 F. R. 11030, Dec. 31, 1957) (21 F. R. 4562, June 26, 1956) (22 F. R. 4789, July 9, 1957) to read as follows:

§ 73.31 Qualification, maintenance, and use of tank cars.

(a) * * *

Where these regulations call for specification numbers—	These specification containers may also be used subject to the provisions of the following notes—
(Change)	
107A **** [13]	None.

[13] The test pressures of tanks built in the United States prior to January 1, 1956 may be increased to comply with current Specification ICC-107A. Original and revised test pressures must be indicated and may be shown on a plate attached to the bulkhead of the car.

(g) * * *
(9) * * *

TABLE 1—RETEST PERIODS AND PRESSURES

Classification	See footnote	Tank retests [h] [i]				Safety valve retest years	Interior heater systems retest				Tank test psi.	Safety valve psi. [e]	Safety valve vapor tight psi. minimum	Retest holding time—minutes	Test time when lagging is not removed—minutes
		Up to 10 years	10-22 years	Over 10 years	Over 22 years		Up to 10 years	10-22 years	Over 10 years	Over 22 years					
(Change)															
ICC-103C-AL	----	4	2	----	1	(*)	----	----	----	----	60	*60	-------	10	20

[h] Tanks lead lined or nickel clad and used in bromine service need not be retested as prescribed in the table. Safety valves are to be retested every two years.
[i] Tanks which have had glass or rubber lining applied are not subject to periodic retests.

2. In § 73.32 amend paragraph (e) (2) (15 F. R. 8279, Dec. 2, 1950) to read as follows:

§ 73.32 Qualification, maintenance, and use of portable tanks.

* * * * * *

(e) * * *

(2) Every portable tank container which is constructed in accordance with ICC Specification 51 (§ 78.245 of this chapter), or qualified for transporting compressed gases as prescribed in these regulations shall be tested at least once in every five years in accordance with subparagraphs (3), (4), and (5) of this paragraph. A written record of all required pressure tests shall be retained.

3. In § 73.34 amend only the table in paragraph (k) Exception 12 (23 F. R. 7646, Oct. 3, 1958) to read as follows:

§ 73.34 Qualification, maintenance, and use of cylinders.

* * * * * *

(k) * * *
(12) * * *

Cylinders made in compliance with—	Used exclusively for—
ICC-3A480, ICC-3AA480, ICC-3A480X, ICC-4B, ICC-4BA, ICC-26-240 [1] or ICC-26-300.[1]	Liquefied petroleum gas which is commercially free from corroding components.
ICC-4, ICC-3A480, ICC-3AA480, ICC-3A480X, ICC-4A480, or ICC-4AA480.	Anhydrous ammonia of at least 99.95% purity.
ICC-4B300 or ICC-4BA300.	Fluorinated hydrocarbons and mixtures thereof which are commercially free from corroding components.

Subpart B—Explosives; Definitions and Preparation

1. In § 73.63 amend paragraph (c) (1) (23 F. R. 2324, Apr. 10, 1958) to read as follows:

§ 73.63 High explosive with liquid explosive ingredient.

* * * * * *

(c) * * *

(1) Spec. 14, 15A, or 16A (§§ 78.165, 78.168, or 78.185 of this chapter) wooden boxes or spec. 12H, 23F, or 23H (§§ 78.209, 78.214, or 78.219 of this chapter) fiberboard boxes. Inside containers must consist of:

(i) Cartridges not exceeding 4 inches in diameter and not exceeding 8 inches in length.

(ii) Cartridges exceeding 4 inches in diameter and not exceeding 5 inches in diameter and between 8 inches and not exceeding 10 inches in length must be redipped in melted paraffin or equivalent material.

(iii) Two or more cartridges that must be redipped because of their size must be enclosed in another strong paper shell to form a completed cartridge not exceeding 30 inches in length. The resulting cartridge must be dipped in melted paraffin or equivalent material.

(iv) Gross weight of wooden boxes not to exceed 75 pounds and gross weight of fiberboard boxes not to exceed 65 pounds.

2. In § 73.100 amend paragraph (b) (3) (22 F. R. 3925, June 5, 1957) to read as follows:

§ 73.100 Definitions of class C explosives.

* * * * * *

(b) * * *

(3) Blank cartridges including canopy remover cartridges, starter cartridges, and seat ejector cartridges, containing not more than 500 grains of propellant powder, provided that such cartridges shall be incapable of functioning en masse as a result of the functioning of any single cartridge in the container or as a result of exposure to external flame.

Subpart C—Flammable Liquids; Definition and Preparation

Amend entire § 73.134 (23 F. R. 2324, Apr. 10, 1958) to read as follows:

§ 73.134 Aluminum triethyl, aluminum trimethyl, pyroforic fuel, pyroforic solutions, or zinc ethyl.

(a) Aluminum triethyl, aluminum trimethyl, pyroforic fuel, pyroforic solutions, or zinc ethyl must be shipped in devices or apparatus of a type approved by the Bureau of Explosives or in specification containers as follows:

(1) Cylinders as prescribed for any compressed gas except acetylene.

(2) Spec. 105A300W, 105A400W, 105A-500W, 105A600W, 106A500, or 106A500X (§§ 78.286, 78.287, 78.288, 78.289, or 78.275 of this chapter) tank cars. Authorized for aluminum triethyl, aluminum trimethyl, and mixtures or solutions thereof only.

(3) Spec. 51 (§ 78.245 of this chapter) portable tanks having a minimum design pressure of 100 pounds per square inch.

(b) Aluminum triethyl, aluminum trimethyl, pyroforic fuel, pyroforic solutions, or zinc ethyl must not be offered for transportation by rail express.

Subpart D—Flammable Solids and Oxidizing Materials; Definition and Preparation

1. In § 73.153 amend paragraph (c) (65) and (66) (22 F.R. 11031, Dec. 31, 1957) to read as follows:

§ 73.153 Exemptions for flammable solids and oxidizing materials.

* * * * *

(c) * * *

(65) Hafnium powder or sponge, dry.

(66) Hafnium powder, wet or sludge.

2. In § 73.214 add paragraph (a) (3) (15 F.R. 8311, Dec. 2, 1950) to read as follows:

§ 73.214 Zirconium powder or hafnium powder, wet or sludge.

(a) * * *

(3) Zirconium powder in maximum quantities of 10 pounds each in polyethylene bottles filled with water may be shipped in metal containers overpacked in spec. 6A, 6B, 6C, 17C, or 17H (§§ 78.97, 78.98, 78.99, 78.115, or 78.118 of this chapter) metal drums. Bottle closure must be of the screw type, sealed with tape. A noncombustible type cushioning capable of absorbing the entire liquid contents of the package must be placed between the polyethylene bottle and the inner metal container and also between the inner metal container and the outside specification drum.

3. In § 73.217 amend paragraph (b) (21 F.R. 365, Jan. 19, 1956) to read as follows:

§ 73.217 Calcium hypochlorite compounds, dry, and lithium hypochlorite compounds, dry.

* * * * *

(b) Strong outside wooden or fiberboard packages containing inside containers of glass or metal not over five pounds capacity each, except that metal inside containers not over seven and one-half pounds capacity each are authorized for material in tablet form only, are exempt from specification packaging, marking, and labeling when offered for transportation by rail freight, rail express, or highway. When for transportation by water, strong wooden or fiberboard containers with inside metal containers not over five pounds capacity each, or not over seven and one-half pounds capacity each of material in tablet form, are exempt from specification packaging only. Shipments for transportation by highway carriers are exempt also from Part 77 of this chapter, except § 77.817, and Part 197 of this chapter.

4. In § 73.224 amend the heading and introductory text of paragraph (a); amend paragraph (a) (3); add paragraph (a) (4) (22 F.R. 3925, June 5, 1957) (22 F.R. 4790, July 9, 1957) (15 F.R. 8312, Dec. 2, 1950) to read as follows:

§ 73.224 Cumene hydroperoxide, dicumyl peroxide, paramenthane hydroperoxide, and tertiary butylisopropyl benzene hydroperoxide.

(a) Cumene hydroperoxide of strength not exceeding 90 percent in a non-volatile solvent, dicumyl peroxide of strength not exceeding 50 percent in a non-volatile solvent, paramenthane hydroperoxide of strength not exceeding 60 percent in a non-volatile solvent, and tertiary butylisopropyl benzene hydroperoxide of strength not exceeding 60 percent must be packed in specification containers as follows:

* * * * *

(3) Spec. 103A, 103A-W, or 111A100-W-2 (§§ 78.266, 78.281, or 78.304 of this chapter). Tank cars. Authorized for 90 percent or less cumene hydroperoxide in a non-volatile solvent and paramenthane hydroperoxide of strength not exceeding 60 percent in a non-volatile solvent only.

(4) Spec. MC310 and MC311 (§§ 78.330 and 78.331 of this chapter). Tank motor vehicles. Authorized for paramenthane hydroperoxide of strength not exceeding 60 percent in a non-volatile solvent only.

5. In § 73.234 add paragraph (a) (5) (19 F.R. 1278, Mar. 6, 1954) to read as follows:

§ 73.234 Sodium nitrite.

(a) * * *

(5) Sodium nitrite is authorized for shipment in tight sift-proof covered hopper cars. Cars must be thoroughly cleaned before loading.

Subpart E—Acids and Other Corrosive Liquids; Definition and Preparation

1. In § 73.245 amend paragraph (a) (2) (15 F.R. 8313, Dec. 2, 1950) to read as follows:

§ 73.245 Acids or other corrosive liquids not specifically provided for.

(a) * * *

(2) Spec. 1X (§ 78.5 of this chapter). Boxed carboys; single-trip for export only. For shipment by common carriers by water to noncontiguous territories or possessions of the United States and foreign countries; shipments from inland points in the United States which are consigned to such destinations are authorized to be transported to ship side by rail freight in carload lots only and by motor vehicle in truckload lots only.

* * * * *

2. In § 73.247 amend paragraph (a) (4) (23 F.R. 2325, Apr. 10, 1958) to read as follows:

§ 73.247 Acetyl chloride, antimony pentachloride, benzoyl chloride, chromyl chloride, pyro sulfuryl chloride, silicon chloride, sulfur chloride (mono and di), sulfuryl chloride, thionyl chloride, tin tetrachloride (anhydrous), and titanium tetrachloride.

(a) * * *

(4) Spec. 1X (§ 78.5 of this chapter). Boxed carboys; single-trip for export only. For shipment by common carriers by water to noncontiguous territories or possessions of the United States and foreign countries; shipments from inland points in the United States which are consigned to such destinations are authorized to be transported to ship side by rail freight in carload lots only and by motor vehicle in truckload lots only (not permitted for antimony pentachloride or tin tetrachloride anhydrous).

3. In § 73.248 amend paragraph (a) (2) (15 F.R. 8314, Dec. 2, 1950) to read as follows:

§ 73.248 Acid sludge, sludge acid, spent sulfuric acid, or spent mixed acid.

(a) * * *

(2) Spec. 1X (§ 78.5 of this chapter). Boxed carboys; single-trip for export only. For shipment by common carriers by water to noncontiguous territories or possessions of the United States and foreign countries; shipments from inland points in the United States which are consigned to such destinations are authorized to be transported to ship side by rail freight in carload lots only and by motor vehicle in truckload lots only.

4. In § 73.250 amend paragraph (a) (2) (15 F.R. 8314, Dec. 2, 1950) to read as follows:

§ 73.250 Automobiles or other self-propelled vehicles, engines or other mechanical apparatus.

(a) * * *

(2) When wet batteries or batteries shipped dry in the same container with electrolyte (acid) are shipped with automobile parts or assembly material, the batteries must be boxed or crated and so loaded, blocked, and braced in the car or motor vehicle as to prevent movement therein during transit, and the load must be so arranged that loose articles cannot come in contact with the batteries.

5. In § 73.262 amend paragraph (a) (2) (15 F.R. 8316, Dec. 2, 1950) to read as follows:

§ 73.262 Hydrobromic acid.

(a) * * *

(2) Spec. 1X (§ 78.5 of this chapter). Boxed carboys; single-trip for export only. For shipment by common carriers by water to noncontiguous territories or possessions of the United States and foreign countries; shipments from inland points in the United States which are consigned to such destinations are au-

thorized to be transported to ship side by rail freight in carload lots only and by motor vehicle in truckload lots only.

6. In § 73.263 amend paragraph (a) (6) (15 F.R. 8316, 8317, Dec. 2, 1950) to read as follows:

§ 73.263 Hydrochloric (muriatic) acid, hydrochloric (muriatic) acid mixtures, hydrochloric (muriatic) acid solution, inhibited, sodium chlorite solution, and cleaning compounds, liquid, containing hydrochloric (muriatic) acid.

(a) * * *

(6) Spec. 1X (§ 78.5 of this chapter). Boxed carboys; single-trip for export only. For shipment by common carriers by water to noncontiguous territories or possessions of the United States and foreign countries; shipments from inland points in the United States which are consigned to such destinations are authorized to be transported to ship side by rail freight in carload lots only and by motor vehicle in truckload lots only.

7. In § 73.264 redesignate paragraph (b) (4) as paragraph (b) (5) and add paragraph (b) (4) (15 F. R. 8318, Dec. 2, 1950) to read as follows:

§ 73.264 Hydrofluoric acid.

* * * * *

(b) * * *

(4) Spec. 51 (§ 78.245 of this chapter). Portable tanks.

(5) Because of the present emergency and until further order of the Commission, samples of anhydrous hydrofluoric acid for laboratory examination are authorized for transportation by rail freight, rail express, or highway, when packed in aluminum cylinders, net capacity not exceeding 100 c. c., tested hydrostatically to 500 pounds per square inch and retested quinquennially, and shipped in strong wooden boxes. The cylinders must be cushioned so as to give proper protection to their valves. Filling density must not exceed 80 percent of the water-weight capacity of the cylinder.

8. In § 73.265 amend paragraph (c) (2) (15 F. R. 8318, Dec. 2, 1950) to read as follows:

§ 73.265 Hydrofluosilicic acid.

* * * * *

(c) * * *

(2) Spec. 1X (§ 78.5 of this chapter). Boxed carboys; single-trip for export only. For shipment by common carriers by water to noncontiguous territories or possessions of the United States and foreign countries; shipments from inland points in the United States which are consigned to such destinations are authorized to be transported to ship side by rail freight in carload lots only and by motor vehicle in truckload lots only.

* * * * *

9. In § 73.266 amend paragraph (c) (2); add paragraph (c) (8) (15 F. R. 8318, Dec. 2, 1950) to read as follows:

§ 73.266 Hydrogen peroxide solution in water.

* * * * *

(c) * * *

(2) Spec. 1X (§ 78.5 of this chapter). Boxed carboys; single-trip for export only. For shipment by common carriers by water to noncontiguous territories or possessions of the United States and foreign countries; shipments from inland points in the United States which are consigned to such destinations are authorized to be transported to ship side by rail freight in carload lots only and by motor vehicle in truckload lots only.

* * * * *

(8) Spec. 12B (§ 78.205 of this chapter). Fiberboard boxes with inside polyethylene bottles not over 32 ounces capacity each. When shipped as a wood bleach preparation, alkaline solutions containing sodium hydroxide, packed in glass or polyethylene bottles not over 32 ounces capacity each, may be packed in inside chipboard boxes with hydrogen peroxide. Not more than six such inside boxes may be packed in one outside box. Completed package must be capable of withstanding a drop from a height of four feet onto solid concrete without failure of any inside container.

* * * * *

10. In § 73.267 amend paragraph (a) (5) (15 F. R. 8319, Dec. 2, 1950) to read as follows:

§ 73.267 Mixed acid (nitric and sulfuric acid) (nitrating acid).

(a) * * *

(5) Spec. 1X (§ 78.5 of this chapter). Boxed carboys; single-trip for export only. For shipment by common carriers by water to noncontiguous territories or possessions of the United States and foreign countries; shipments from inland points in the United States which are consigned to such destinations are authorized to be transported to ship side by rail freight in carload lots only and by motor vehicle in truckload lots only.

11. In § 73.268 amend paragraph (f) (2); amend paragraph (h) (15 F. R. 8320, Dec. 2, 1950) to read as follows:

§ 73.268 Nitric acid.

* * * * *

(f) * * *

(2) Spec. 1X (§ 78.5 of this chapter). Boxed carboys; single-trip for export only. For shipment by common carriers by water to noncontiguous territories or possessions of the United States and foreign countries; shipments from inland points in the United States which are consigned to such destinations are authorized to be transported to ship side by rail freight in carload lots only and by motor vehicle in truckload lots only.

* * * * *

(h) Cushioning inside containers. Inside containers must be well cushioned. Except as provided in subparagraph (1) of this paragraph, all material for cushioning must be incombustible mineral material such as whiting, mineral wool, infusorial earth, asbestos, sifted ashes, etc. The use of hay, excelsior, ground cork, or similar material, whether treated or untreated, is prohibited. Where the cushioning material is very fine or powdery, separate partitions for the individual inside containers shall be provided to prevent the bottles from shifting and coming in contact with each other, and the box must be tight to prevent sifting of cushioning material.

(1) Cushioning of inside containers in outside specification wooden boxes by means of elastic packings, such as wooden strips, large corks, or pads formed of an expanded polystyrene resin that is resistant to the action of nitric acid, fastened securely in position, is authorized if the completed package will pass the swing test prescribed for boxed carboys.

12. In § 73.269 amend paragraph (a) (3); amend paragraph (e) (1) (15 F. R. 8320, Dec. 2, 1950) to read as follows:

§ 73.269 Perchloric acid.

(a) * * *

(3) Spec. 1X (§ 78.5 of this chapter). Boxed carboys; single-trip for export only. For shipment by common carriers by water to noncontiguous territories or possessions of the United States and foreign countries; shipments from inland points in the United States which are consigned to such destinations are authorized to be transported to ship side by rail freight in carload lots only and by motor vehicle in truckload lots only.

* * * * *

(e) * * *

(1) Cushioning of inside containers in outside wooden boxes by means of elastic packings, such as wooden strips, large corks, or pads formed of an expanded polystyrene resin that is resistant to the action of perchloric acid, fastened securely in position, is authorized if the completed package will pass the swing test prescribed for boxed carboys.

13. In § 73.272 amend paragraph (c) (4) (15 F. R. 8321, Dec. 2, 1950) to read as follows:

§ 73.272 Sulfuric acid.

* * * * *

(c) * * *

(4) Spec. 1X (§ 78.5 of this chapter). Boxed carboys; single-trip for export only. For shipment by common carriers by water to noncontiguous territories or possessions of the United States and foreign countries; shipments from inland points in the United States which are consigned to such destinations are authorized to be transported to ship side by rail freight in carload lots only and by motor vehicle in truckload lots only.

14. In § 73.290 amend paragraph (a) (1) and Note 1 thereto (15 F. R. 8323, Dec. 2, 1950) to read as follows:

§ 73.290 Mixtures of hydrofluoric and sulfuric acid.

(a) * * *

(1) Spec. 5A (§ 78.81 of this chapter). Unlined metal barrels or drums which have been subjected to an adequate passivation or neutralization process (see Note 1). Containers must be filled to not over 80 percent of capacity at 68° F. If containers are washed out with water, they must be repassivated before shipment.

NOTE 1: Each metal container, before being put into this service, must be passivated by the following or an equally efficient method: By filling drum to 90 percent of capacity with hydrofluoric acid of 58 percent strength and allowing drum to stand 48 hours at a tem-

perature of 80° F., and then 7 hours at 140° F., the internal pressure maintained at atmospheric pressure by means of a ventilated bung.

15. In § 73.291 amend paragraph (a) (3) (15 F. R. 8323, Dec. 2, 1950) to read as follows:

§ 73.291 Flame retardant compound liquid.

(a) * * *

(3) Spec. 1X (§ 78.5 of this chapter). Boxed carboys; single-trip for export only. For shipment by common carriers by water to noncontiguous territories or possessions of the United States and foreign countries; shipments from inland points in the United States which are consigned to such destinations are authorized to be transported to ship side by rail freight in carload lots only and by motor vehicle in truckload lots only.

16. In § 73.295 amend paragraph (a) (4) (23 F. R. 2326, Apr. 10, 1958) to read as follows:

§ 73.295 Benzyl chloride.

(a) * * *

(4) Spec. 1X (§ 78.5 of this chapter). Boxed carboys; single-trip for export only. For shipment by common carriers by water to noncontiguous territories or possessions of the United States and foreign countries; shipments from inland points in the United States which are consigned to such destinations are authorized to be transported to ship side by rail freight in carload lots only and by motor vehicle in truckload lots only.

Subpart F—Compressed Gases; Definition and Preparation

1. In § 73.304 add Note 2 to paragraph (a) (15 F. R. 8325, Dec. 2, 1950) to read as follows:

§ 73.304 Filling limits.

(a) * * *

NOTE 2: Cylinders containing vinyl fluoride, inhibited, may be liquid full at 130° F. provided the pressure at the critical temperature does not exceed one and one-fourth times the service pressure.

2. In § 73.308 amend paragraph (a) table (19 F. R. 8527, Dec. 14, 1954) as follows:

§ 73.308 Compressed gases in cylinders.

(a) * * *

Kind of gas	Maximum permitted filling density (see Note 12) (percent)	Cylinders (see Note 11) marked as shown in this column must be used except as provided in Note 1 and § 73.34 (a) to (e).
(Change)		
Sulfur hexafluoride	110	ICC-3A1000; ICC-3AA1000; ICC-3.
(Add)		
Vinyl fluoride, inhibited	62	ICC-3A1800; ICC-3AA1800.

3. In § 73.313 amend the introductory text of paragraph (a) (21 F. R. 367, Jan. 19, 1956) to read as follows:

§ 73.313 Refrigerating machines and hydraulic accumulators.

(a) Refrigerating machines of the self-contained type containing not over 50 pounds of gas in each pressure vessel and containing not more than two charged pressure vessels, refrigerating machines of the remote-control type consisting of separate units and each containing not over 25 pounds weight of gas, or other similar apparatus assembled for shipment containing not over 15 pounds weight of gas or liquid for their operation, when shipped under the following conditions are exempt from specification packaging, marking, and labeling requirements, except that marking name of contents on outside container is required for shipments via carrier by water. Shipments for transportation by highway carriers are exempt also from Part 77 of this chapter, except § 77.817, and Part 197 of this chapter.

4. In § 73.315 amend paragraph (a) (1) table; amend paragraph (i) (2) table (23 F. R. 2327, 2328, Apr. 10, 1958) as follows:

§ 73.315 Compressed gases in cargo tanks and portable tank containers.

(a) * * *

(1) * * *

Kind of gas	Maximum permitted filling density		Specification container required	
	Percent by weight (see Note 1)	Percent by volume (see par. (f) of this section)	Type (see Note 2)	Minimum design pressure (psig)
(Change)				
Vinyl chloride, inhibited	84	See Note 7	MC-330	150

* * * * * * *

(i) * * *

(2) * * *

Kind of gas	Minimum start-to-discharge pressure (psig)
(Change)	
Vinyl chloride, inhibited	150

Subpart G—Poisonous Articles; Definition and Preparation

1. In § 73.345 amend paragraphs (a) (2) and (b) (14) (15 F.R. 8334, Dec. 2, 1950) (19 F.R. 1280, Mar. 6, 1954) to read as follows:

§ 73.345 Exemptions for poisonous liquids, class B.

(a) * * *

(2) In glass or earthenware containers not over 1 pint capacity each, or in metal or polyethylene containers not over 1 quart capacity each, packed in strong outside fiberboard boxes.

(b) * * *

(14) 4-Chloro-o-toluidine hydrochloride.

2. In § 73.346 add paragraph (a) (20) (15 F.R. 8335, Dec. 2, 1950) to read as follows:

§ 73.346 Poisonous liquids not specifically provided for.

(a) * * *

(20) Spec. 6J (§ 78.100 of this chapter). Steel barrels or drums having inside spec. 2S (§ 78.35 of this chapter) polyethylene drum. Gross weight restriction indicated by the gross weight embossment on steel barrels or drums shall be waived. Authorized only for materials that will not react with polyethylene and result in container failure.

3. In § 73.354 add paragraph (a) (6) (15 F.R. 8336, Dec. 2, 1950) to read as follows:

§ 73.354 Motor fuel antiknock compound or tetraethyl lead.

(a) * * *

(6) Spec. 51 (§ 78.245 of this chapter). Portable tanks having a minimum design pressure of 100 pounds per square inch. Authorized for motor fuel antiknock compound only.

4. In § 73.362 amend the heading and introductory text of paragraph (a) (19 F.R. 1280, Mar. 6, 1954) to read as follows:

§ 73.362 4-Chloro-o-toluidine hydrochloride.

(a) 4-Chloro-o-toluidine hydrochloride must be shipped in specification containers as follows:

5. In § 73.364 amend the introductory text of paragraph (a) (21 F. R. 367, Jan. 19, 1956) to read as follows:

§ 73.361 Exemptions for poisonous solids, class B.

(a) Poisonous solids, class B, except beryllium metal powder; cyanides, other than as specified in § 73.370 (b) and (d); hexaethyl tetraphosphate mixtures, methyl parathion mixtures, parathion mixtures, tetraethyl dithio pyrophosphate mixtures, and tetraethyl pyrophosphate mixtures, other than as specified in § 73.377(f); in tightly closed inside containers, securely cushioned when necessary to prevent breakage and packed as follows, are exempt from specification packaging, marking, and labeling requirements, except that marking name of contents on outside container is required for shipments via carrier by water. Shipments for transportation by highway carriers are exempt also from Part 77 of this chapter, except § 77.817, and Part 197 of this chapter.

6. In § 73.378 add paragraph (a)(6) (16 F.R. 11780, Nov. 21, 1951) to read as follows:

§ 73.378 Beryllium metal powder.

(a) * * *

(6) Spec. 37P (§ 78.133 of this chapter). Steel drums, not over 5-gallons capacity, with polyethylene liner (nonreusable container). Drums exceeding 1-gallon capacity must be constructed of at least 24-gauge metal.

PART 74—CARRIERS BY RAIL FREIGHT

Subpart B—Loading and Storage Chart of Explosives and Other Dangerous Articles

In § 74.538 amend footnote c to paragraph (a) chart (21 F.R. 9360, Nov. 30, 1956) to read as follows:

§ 74.538 Loading and storage chart of explosives and other dangerous articles.

(a) * * *

[c] Explosives, class A, and explosives, class B, other than ammunition, must not be loaded or stored with chemical ammunition containing incendiary charges or white phosphorus either with or without bursting charges. Chemical ammunition containing incendiary charges or white phosphorus may be loaded and stored with other ammunition of the same classification.

Subpart C—Placards on Cars

In § 74.541 amend paragraph (c) (16 F.R. 11780, Nov. 21, 1951) to read as follows:

§ 74.541 "Dangerous" placards; "Dangerous—Radioactive material" placards; or "Caution—Residual phosphorus" placards.

* * * * *

(c) "Caution—Residual phosphorus" placard, as prescribed in § 74.555, must be applied to tank cars which last contained shipments of white or yellow phosphorus and which are required to be filled with water or inert gas before tank car is offered for return movement as provided in § 73.190(b)(2) of this chapter.

Subpart D—Unloading From Cars

In § 74.562 amend paragraph (c) (17 F.R. 4296, May 10, 1952) to read as follows:

§ 74.562 Removal of placards and car certificate after unloading.

* * * * *

(c) Tank cars filled with water or an inert gas after unloading phosphorus must have the "Dangerous" placards replaced by the caution placard for residual phosphorus as prescribed in § 74.555.

Subpart E—Handling by Carriers by Rail Freight

In § 74.584 paragraph (a) table, amend the entry "For tank cars, filled with water and last containing phosphorus"; amend paragraph (g) (17 F.R. 4296, May 10, 1952) (16 F.R. 11781, Nov. 21, 1951) to read as follows:

§ 74.584 Waybills, switching orders, or other billing.

(a) * * *

	Label notation to follow entry of the article on the billing	Placard notation to follow entry of the article on the billing	Placard endorsement must be 3/8" high and appear on the billing near the space provided for the car number
(*Change*)			
For tank cars, filled with water or inert gas and last containing phosphorus.	None	"Caution—this car contains residual phosphorus and must be kept filled with (water) or (inert gas)."	"Caution—Residual Phosphorus".

* * * * *

(g) For tank cars not loaded, the billing must show the word "Empty", except that for tank cars previously loaded with white or yellow phosphorus the billing must show the words "Caution—This car contains residual phosphorus and must be kept filled with (water) or (inert gas)".

PART 77—SHIPMENTS MADE BY WAY OF COMMON, CONTRACT, OR PRIVATE CARRIERS BY PUBLIC HIGHWAY

Subpart C—Loading and Storage Chart of Explosives and Other Dangerous Articles

In § 77.848 amend footnote c to paragraph (a) chart (21 F.R. 9360, Nov. 30, 1956) to read as follows:

§ 77.848 Loading and storage chart of explosives and other dangerous articles.

(a) * * *

[c] Explosives, class A, and explosives, class B, other than ammunition, must not be loaded or stored with chemical ammunition containing incendiary charges or white phosphorus either with or without bursting charges. Chemical ammunition containing incendiary charges or white phosphorus may be loaded and stored with other ammunition of the same classification.

PART 78—SHIPPING CONTAINER SPECIFICATIONS

Subpart A—Specifications for Carboys, Jugs in Tubs, and Rubber Drums

Amend § 78.5; in § 78.5–3 amend paragraph (a) (15 F. R. 8377, Dec. 2, 1950) (20 F. R. 954, Feb. 15, 1955) to read as follows:

§ 78.5 Specification 1X; boxed carboys, 5 to 6½ gallons, for export only.

Glass, earthenware, clay, or stoneware. Single-trip container.

§ 78.5–3 Capacity and marking of carboy.

(a) Containers must be 5 to 6½ gallon size and embossed to indicate maker and year of manufacture.

Subpart B—Specifications for Inside Containers, and Linings

In § 78.34–2 amend paragraph (a) (20 F. R. 954, Feb. 15, 1955) to read as follows:

§ 78.34 Specification 2R; inside containers, metal tubes.

§ 78.34–2 Manufacture.

(a) Stainless steel, malleable iron, or brass having a wall thickness of not less than 3/32 inch for diameter up to 2 inches and not less than ⅛ inch for diameter up to 6 inches. The ends of the tube must be fitted with screw type closures or flanges (see § 78.34–4), except that one end or both ends of the tube may be permanently closed by a welded or brazed plate. Welded or brazed side seams are authorized.

Subpart D—Specifications for Metal Barrels, Drums, Kegs, Cases, Trunks, and Boxes

In § 78.100–5 amend footnote 3 to paragraph (a) table (21 F. R. 7610, Oct. 4, 1956) to read as follows:

§ 78.100 Specification 6J; steel barrels and drums.

§ 78.100–5 Parts and dimensions.

(a) * * *

[3] When drum is used in conjunction with an inside Spec. 2S (§ 78.35 of this chapter) polyethylene drum as a composite package, two ⅛" holes are permitted diametrically opposite each other in the drum body near the bottom chime and three holes not exceeding ¼" in diameter in the bottom head.

Subpart F—Specifications for Fiberboard Boxes, Drums, and Mailing Tubes

In § 78.219–5 amend paragraph (a) (2) (22 F. R. 7843, Oct. 3, 1957) to read as follows:

§ 78.219 Specification 23H; fiberboard boxes.

§ 78.219–5 Tape.

(a) * * *

(2) When pressure sensitive filament reinforced tape is used for vertical application as provided by § 78.219–12, tape backing shall have a minimum longitudinal tensile strength of not less than 160 pounds per inch of width and a minimum elongation of 12 percent at break or not less than 240 pounds per inch of width and a minimum elongation of 3 percent at break. The tape shall have sufficient transverse strength to prevent raveling or separation of the filaments. Tape shall have an adhesion of 18 ounces per inch of width minimum when tested according to acceptable methods. Tape shall adhere immediately and firmly to fiberboard surface when applied with hand pressure in the temperature range of 0° to 120° F. No solvent or heat shall be necessary to activate the adhesive.

Subpart H—Specifications for Portable Tanks

In § 78.245–4 amend paragraphs (b) and (c); in § 78.245–5 amend paragraph (b) (15 F. R. 8483, 8484, Dec. 2, 1950) to read as follows:

§ 78.245 Specification 51; steel portable tanks.

§ 78.245–4 Tank mountings.

* * * * *

(b) All tank mountings such as skids, fastenings, brackets, cradles, lifting lugs, etc., intended to carry loadings shall be permanently secured to tanks in accordance with the requirements under which the tanks are fabricated, and shall be designed to withstand static loadings in any direction equal to twice the weight of the tank and attachments when filled with the lading using a safety factor of not less than four, based on the ultimate strength of the material to be used.

(c) Lifting lugs or hold-down lugs may be attached to either the tank or tank mountings. If lifting lugs and hold-down lugs are attached directly to the tank, they shall be attached to doubling plates welded to the tank and located at points of support, except that lifting lugs or hold-down lugs with integral bases serving as doubling plates may be welded directly to the tank. Each lifting lug and hold-down lug shall be designed to withstand static loadings in any direction equal to twice the weight of the tank and attachments when filled with the lading using a safety factor of not less than four, based on the ultimate strength of the material to be used.

§ 78.245–5 Protection of valves and accessories.

* * * * *

(b) Protective housing shall comply with the requirements under which the tanks are fabricated with respect to design and construction, and shall be designed to withstand static loadings in any direction equal to twice the weight of the tank and attachments when filled with the lading using a safety factor of not less than four, based on the ultimate strength of the material to be used.

Subpart J—Specifications for Containers for Motor Vehicle Transportation

Amend entire § 78.336–4; in § 78.336–5 amend paragraph (b) (15 F.R. 8556, Dec. 2, 1950) to read as follows:

§ 78.336 Specification MC 330; steel cargo tanks.

§ 78.336–4 Provisions for anchoring tanks to motor vehicles.

(a) Whenever any tank motor vehicle is so designed and constructed that cargo tank constitutes in whole or in part the stress member used in lieu of a frame, such cargo tanks shall be designed to withstand the stresses thereby imposed in addition to those covered by "the Code".

(b) "Hold-down" devices, when used, shall anchor the tank to the cradle, frame or chassis in a suitable and safe manner that will not introduce undue concentration of stresses. These devices shall incorporate positive means for drawing the tank down tight and suitable stops or anchors shall be provided to prevent relative movement between tank and framing due to stopping, starting or changes in direction.

(c) The means of attachment of any tank to the cradle, frame, or chassis of a motor vehicle shall be designed to withstand static loadings in any direction equal to twice the weight of the tank and attachments when filled with the lading using a safety factor of not less than four, based on the ultimate strength of the material to be used.

(d) Stops and anchors shall be installed so as to be readily accessible for inspection and maintenance, except that for lagged tanks lagging is permitted to cover such areas.

§ 78.336–5 Protection of valves and accessories.

* * * * *

(b) Protective housing shall comply with the requirements under which the tanks are fabricated with respect to design and construction, and shall be designed to withstand static loadings in any direction equal to twice the weight of the tank and attachments when filled with the lading using a safety factor of not less than four, based on the ultimate strength of the material to be used.

[F.R. Doc. 59–927; Filed, Feb. 5, 1959; 8:45 a.m.]

SUBCHAPTER B—CARRIERS BY MOTOR VEHICLE

[Ex Parte MC–5]

PART 174—SURETY BONDS AND POLICIES OF INSURANCE

Operations in Foreign Commerce

In the matter of security for the protection of the public as provided in Part II of the Interstate Commerce Act, and of rules and regulations governing filing and approval of bonds, policies of insurance, qualifications as a self-insurer, or other securities and agreements by motor carriers and brokers subject to Part II of the Act.

At a session of the Interstate Commerce Commission, Division 1, held at its office in Washington, D.C., on the 27th day of January A.D. 1959.

The matter of revision of § 174.11 contained in our rules and regulations governing the filing and approval of surety bonds, policies of insurance, qualifications as a self-insurer, or other securities and agreements prescribed pursuant to section 215 of the Interstate Commerce Act (49 CFR 174.11), being under consideration; and

It appearing, that the revision of the rule in question is by nature interpretative and therefore the procedure set out in section 4(a) of the Administrative Procedure Act (5 U.S.C., sec. 1003(a)) is not applicable; and good reason appearing therefor,

It is ordered, That § 174.11 be revised to read as follows:

§ 174.11 Operations in foreign commerce.

No motor carrier may operate in the United States in the course of transportation between places in a foreign country or between a place in one foreign country and a place in another foreign country unless and until there shall have been filed with and accepted by the Commission a certificate of insurance, surety bond, proof of qualifications as a self-insurer, or other securities or agreements in the amount prescribed in § 174.2(a), conditioned to pay any final judgment recovered against such motor carrier for bodily injuries to or the death of any person resulting from the negligent operation, maintenance, or use of motor vehicles in transportation between places in a foreign country or between a place in one foreign country and a place in another foreign country, insofar as such transportation takes place in the United States, or for loss of or damage to property of others. The security for the protection of the public required by this section shall be maintained in effect at all times and shall be subject to the provisions of §§ 174.5, 174.6, 174.7, 174.8, 174.9 and 174.10; *Provided*, That the requirements of § 174.8(a) shall be satisfied if the insurance or surety company, in addition to having been approved by this Commission, is legally authorized to issue policies or surety bonds in at least one of the States in the United States, or one of the Provinces in Canada, and has filed with this Commission the name and address of a person upon whom legal process may be served in each State in or through which the motor carrier operates. Such designation may from time to time be changed by like designation similarly filed, but shall be maintained during the effectiveness of any certificate of insurance or surety bond issued by the company, and thereafter with respect to any claims arising during the effectiveness of such certificate or bond; and *Provided further*, That the term "motor carrier" as used in this section shall not include private carriers or carriers operating under the partial exemptions from regulation in sections

202(c) or 203(b) or the Interstate Commerce Act (49 U.S.C. 302(c) and 303(b)).

It is further ordered, That this order shall cancel and supersede the order entered December 15, 1958, in this proceeding.

It is further ordered, That this order shall become effective January 27, 1959 and shall remain in effect until it is otherwise ordered by this Commission.

And it is further ordered, That notice of this order shall be given to the public by depositing a copy thereof in the office of the Secretary of the Commission at Washington, D.C., and by filing with the Director, Federal Register Division.

(49 Stat. 546, as amended; 49 U. S. C. 304. Interprets or applies sec. 215, 49 Stat. 557; 49 U.S.C. 315)

By the Commission, Division 1.

[SEAL] HAROLD D. McCOY, *Secretary.*

[F.R. Doc. 59-1059; Filed, Feb. 5, 1959; 8:50 a.m.]

PROPOSED RULE MAKING

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[8 CFR Part 212]

DOCUMENTARY REQUIREMENTS: NONIMMIGRANTS; WAIVERS; ADMISSION OF CERTAIN INADMISSIBLE ALIENS; PAROLE

Permission to Reapply

Correction

In F.R. Doc. 59-914, appearing at page 714 of the issue for Saturday, January 31, 1959, the word "is" at the beginning of the 6th line, 3rd column, should read "if".

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 9]

COLOR CERTIFICATION

Notice of Proposal to Amend Color-Certification Regulations with Respect to Lakes

Notice is hereby given that H. Kohnstamm and Company, Inc., 161 Avenue of the Americas, New York 13, New York, has proposed that provisions in the color-certification regulations applying to lakes of FD&C colors (now certified only for external application to shell eggs) be amended to permit certification for use in other foods. Notice is also given that Ansbacher-Siegle Corporation, Rosebank, Staten Island, New York, has proposed that provisions in the color-certification regulations applying to lakes of D&C colors and Ext D&C colors be amended by adding "calcium carbonate" to the lists of permitted substrata.

Pursuant to the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (secs. 406, 504, 604, 701; 52 Stat. 1049, 1052, 1055, as amended 70 Stat. 919; 21 U.S.C. 346, 354, 364, 371), and delegated to the Commissioner of Food and Drugs (23 F.R. 9500), all interested persons are invited to present their views in writing regarding the proposals published herein. Views and comments should be submitted in quintuplicate addressed to the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, Health, Education, and Welfare Building, 330 Independence Avenue SW., Washington 25, D.C., prior to the thirtieth day following the date of publication of this notice in the FEDERAL REGISTER.

I. The amendments to Part 9 of Title 21 of the Code of Federal Regulations (21 CFR Part 9) proposed by H. Kohnstamm and Company, Inc., are as follows:

1. It is proposed to delete from § 9.3(a) the parenthetical phrase "(subject to the restrictions prescribed by paragraph (c) of this section)".

2. It is proposed to amend § 9.3(a) by inserting in the paragraph under the item "Lakes" the word "certified". As amended, this paragraph will read:

Any lake made by extending on a substratum of alumina a salt prepared from one of the certified water-soluble straight colors listed in this paragraph by combining such color with the basic radical aluminum or calcium.

3. It is proposed to amend § 9.3(a) by inserting as the first specification under the heading "Specifications", following the item captioned "Lakes", the following:

Prepared from previously certified colors listed in this paragraph.

and by deleting the specifications:

Ether extracts, not more than 0.3 percent.

and

Intermediates, not more than 0.1 percent.

4. It is proposed to delete § 9.3(c).

5. It is proposed to delete from the introduction to § 9.6(a) the parenthetical phrase "(subject to the restrictions prescribed in paragraph (d) of this section)".

6. It is proposed to delete § 9.6(d).

7. It is proposed to delete § 9.10(i).

8. It is proposed to delete from § 9.11 (a)(4) the phrase "any lake listed in § 9.3 or".

II. The amendments proposed by the Ansbacher-Siegle Corporation are as follows:

1. It is proposed to amend § 9.4(a) by inserting the words "calcium carbonate," in the paragraph under the item captioned "Lakes". As amended, this paragraph will read:

Any lake, other than those listed in § 9.3, made by extending on a substratum of alumina, blanc fixe, gloss white, clay, titanium dioxide, zinc oxide, talc, rosin, aluminum benzoate, calcium carbonate, or any combination of two or more of these, * * *.

2. It is proposed to amend § 9.5(a) by adding the words "calcium carbonate" to the list of substrata under the item captioned "Lakes", so that the list will read:

Any lake made by extending on a substratum of alumina, blanc fixe, gloss white, clay, titanium dioxide, zinc oxide, talc, rosin, aluminum benzoate, calcium carbonate, or any combination of two or more of these, * * *.

Dated: January 27, 1959.

[SEAL] GEO. P. LARRICK, *Commissioner of Food and Drugs.*

[F.R. Doc. 59-856, Filed, Feb. 5, 1959; 8:45 a.m.]

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 193]

[Ex Parte No. MC-40]

PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION

Glazing and Window Construction; Extension of Time for Filing Statements

In the matter of extending time for filing statements in response to the proposal to amend § 193.60 relating to glazing and window construction.

Upon consideration of the record in the above-entitled proceeding, and request of American Trucking Associations, Inc., for an extension of time within which to file statements in response to the Notice of Proposed Rule Making dated December 1, 1958; and good cause appearing therefor:

It is ordered, That the time within which such statements may be filed, be, and it is hereby, extended to March 15, 1959.

Notice of this order should be given to the general public by depositing a copy thereof in the office of the Secretary of the Interstate Commerce Commission, Washington, D.C., and by filing a copy thereof with the Director, Federal Register Division.

Dated at Washington, D.C., this 30th day of January A.D. 1959.

By the Commission.

[SEAL] HAROLD D. McCOY, *Secretary.*

[F.R. Doc. 59-1058; Filed, Feb. 5, 1959; 8:50 a.m.]

NOTICES

DEPARTMENT OF THE TREASURY

Foreign Assets Control

HORSE MANE HAIR: IMPORTATION FROM COUNTRIES NOT IN AUTHORIZED TRADE TERRITORY

Applications for Licenses

Under the program announced on November 27, 1957, licenses were issued early in 1958 under the Foreign Assets Control Regulations (31 CFR 500.101 to 500.808) authorizing the importation of approximately 620,000 pounds of horse mane hair from the U.S.S.R. Only part of the total amount licensed has been imported or purchased for importation and the Treasury Department has decided it will consider applications for licenses to import the balance of the 620,000 pounds. To receive consideration, applications must be filed prior to February 18, 1959, by or on behalf of persons who have previously (1958 or earlier) received licenses to import horse mane hair or who are engaged in the business of processing horse mane hair. Each application should state the quantity of horse mane hair for which a license is being requested and the names and addresses of all persons who it is contemplated will be involved as suppliers, agents or shippers. Each application should also set forth the quantity of horse mane hair purchased by the applicant in each of the years 1953 through 1958 and the portion thereof resold without processing. Licenses issued on the basis of these applications will require that the horse mane hair be imported within the first five months of 1959 but they will not affect the licensing of horse mane hair for importation from the U.S.S.R. during 1959 under the program announced in the FEDERAL REGISTER on December 23, 1958.

Additional information and license application forms may be obtained from the Foreign Assets Control, Treasury Department, Washington 25, D.C., or the Federal Reserve Bank of New York, 33 Liberty Street, New York 45, New York.

[SEAL] ELTING ARNOLD,
Acting Director,
Foreign Assets Control.

[F.R. Doc. 59-1093; Filed, Feb. 5, 1959; 8:54 a.m.]

DEPARTMENT OF COMMERCE

Bureau of Foreign Commerce

[Case No. 253]

PAN MARITIME CARGO SERVICE, INC., ET AL.

Order Revoking Export Licenses and Denying Export Privileges

In the matter of Pan Maritime Cargo Service, Inc., 232 Water Street, New York, New York; Kurt O. W. Wahle, Europaische Verkaufs GmbH (European Sales Company of American Market Stores), Frankfurt/Main-Westhafen, Germany; respondents.

The respondents, Pan Maritime Cargo Service, Inc., Kurt O. W. Wahle, and Europaische Verkaufs GmbH (European Sales Company of American Market Stores), having been charged by the Investigation Staff, Bureau of Foreign Commerce, United States Department of Commerce, with violations of the Export Control Act of 1949, as amended, and regulations promulgated thereunder; and

The said respondents having been duly served with the charging letters and having submitted their answers thereto;

This case was referred to the Compliance Commissioner, who held a hearing at which all the respondents were present and represented by counsel.

The Compliance Commissioner, having heard and considered all the evidence submitted in support of the charges and all the evidence and arguments submitted by the respondents in opposition thereto, has transmitted to the undersigned Director, Office of Export Supply, Bureau of Foreign Commerce, United States Department of Commerce, his written report, including findings of fact and findings that violations have occurred, and his recommendation that the respondents be denied export privileges in the manner and in accordance with the qualifications hereinafter set forth, together with which report he has transmitted the record.

After reviewing and considering the entire record of this case and the Compliance Commissioner's Report and Recommendation, I hereby make the following findings of fact:

1. At all times hereinafter mentioned, the respondent Kurt O. W. Wahle was and now is engaged in the import and export business in Frankfurt, Germany, and he conducts this business through the medium of Europaische Verkaufs GmbH (European Sales Company of American Market Stores), which appears to be completely controlled by him. (These respondents are hereafter referred to as Wahle.)

2. At all times hereinafter mentioned, Pan Maritime Cargo Service, Inc., was and now is an air and sea freight forwarder in the city of New York.

3. Heretofore, by application dated December 21, 1954, Wahle applied to the Department of Commerce for a validated export license of the "Periodic Requirements" type, authorizing the exportation to him of a large quantity of automotive replacement parts to be shipped over a period of time therein to be designated. In the application respondent made it appear that the applicant was a New York based corporation, American Market Stores, Inc., which, in turn, intended to export the goods to its branch, distributor, or established purchaser, American Market Stores, in Frankfurt, West Germany.

4. "American Market Stores" (without the "Inc.") is and was a trade name or diminutive used by respondent for "Europaische Verkaufs GmbH (European Sales Company of American Market Stores)."

5. American Market Stores, Inc., the New York corporation, did not submit said application, and it had no interest in any of the transactions contemplated thereby or consummated under the license issued thereon.

6. The license was issued in March 1955 and had endorsed thereon a limitation or restriction, "Distribution or resale of the commodities listed above is permitted in WEST GERMANY only."

7. After its issuance, Wahle made various purchases of automotive parts in the United States and caused said parts to be exported from the United States as hereinafter set forth.

8. Prior to the time that he caused each of the exportations involved herein to be exported from the United States, he had contracted to sell the goods involved therein to consignees in countries or destinations other than West Germany, and he, at all times, knew that the export license which had been issued authorized exportations thereunder only for West Germany.

9. In October 1955, he caused said license to be used to support two exportations of automotive replacement parts valued at $999.89 and $912.00 respectively. To accomplish this, his forwarder in the United States was required to and did, pursuant to his authorization, cause to be authenticated shipper's export declarations in which it was stated and represented that the place and country of ultimate destination were Frankfurt, West Germany, and that the ultimate consignee was "American Market Stores" there.

10. The bills of lading issued in connection with these exportations named "American Market Stores" of Frankfurt, West Germany, as the party to be notified of arrival, and each of them carried destination control notices limiting the country of ultimate destination to West Germany, although the intermediate port of unloading was Rotterdam.

11. In October 1955, Wahle directed that the forwarder at Rotterdam cause the goods shipped under the first of said two bills of lading and 13 of 16 packages shipped under the second to be delivered to a forwarder at Vienna, Austria, there to be made available to a Zurich, Switzerland, firm. There is no evidence of what happened to the goods after their arrival in Vienna, but transshipment to Vienna is conceded by Wahle.

12. In January 1956, he again caused said license to be used to support an exportation of automotive replacement parts valued at $1,006.00. To accomplish this, his forwarder in the United States was required to and did, pursuant to his authorization, cause to be authenticated a shipper's export declaration, in which it was stated and represented that the place and country of ultimate destination were Frankfurt, West Germany, and that

the ultimate consignee was "American Market Stores" there.

13. The bill of lading issued in connection with this exportation similarly named "American Market Stores" of Frankfurt, West Germany, as the firm to receive notice of arrival and had endorsed thereon a destination control notice limiting the country of ultimate destination to West Germany, although the intermediate port of unloading was Rotterdam.

14. In February 1956, Wahle gave instructions directing that parts so exported from the United States be delivered to Austria and, in due course, they were so delivered and there used in a state-financed highway construction project.

15. In December 1955, for the purpose of filling an order then held by him which required shipment to Basel, Switzerland, Wahle purchased from a supplier in the United States 20 engine assemblies and 80 camshafts, valued at $5,871.15.

16. He authorized the supplier and also Pan Maritime Cargo Service, Inc., which was acting as his forwarder in the United States, to export the same under the said export license which had been issued in March 1955 upon his December 1954 application.

17. The supplier tendered delivery to Pan Maritime in February 1956 and, for the purpose of having the goods delivered to a pier for exportation from the United States, Pan Maritime prepared for use of the supplier's packer customary dock receipt forms and endorsed thereon a number described or designated as an export declaration number which in fact was fictitious.

18. Pan Maritime's purpose in so preparing the dock receipt forms and inserting therein the fictitious number as an export declaration number was to assure early delivery to and acceptance at the pier by causing the exporting carrier's agent to believe that an export declaration for the contemplated exportation had been authenticated.

19. The supplier's packer thereafter delivered the said camshafts and engine assemblies to the pier and, in reliance on the number so inserted in the dock receipt forms as an export declaration number, the exporting carrier's agent took delivery of the goods, which were thereafter loaded aboard its vessel and exported from the United States.

20. At the time of delivery to the pier, although it was responsible for and was required as Wahle's forwarder to have authenticated a shipper's export declaration covering the proposed exportation, Pan Maritime had not obtained and did not have such an authenticated export declaration.

21. Thereafter, with knowledge that the camshafts and engine assemblies contained in the said purchase by Wahle from his supplier in the United States were the subject of a contract requiring their shipment to Basel, Switzerland, and were destined, at least in the first instance, for that country and not at all for West Germany, Pan Maritime caused to be authenticated a shipper's export declaration setting forth that they were to be exported from the United States to West Germany as the country of ultimate destination under and pursuant to the export license involved herein. (This export declaration specified that the exportation was to be made on a vessel scheduled to sail after the date when the vessel upon which the goods actually were shipped sailed, but no finding is made herein that Pan Maritime knew that the goods had been exported on the earlier vessel or that it intended any deception by naming the later vessel as the exporting carrier.)

22. After an exchange of correspondence between Wahle and Pan Maritime, Wahle expressly authorized and directed Pan Maritime to effectuate the exportation under authority of said license as an exportation destined for West Germany, and Pan Maritime, in following his instructions, disregarded the information contained in its file to the effect that the actual destination of the goods was Switzerland and not West Germany.

23. The bill of lading ultimately issued for the exportation, in order to permit delivery of the goods, was issued showing exportation on the actual exporting vessel and had endorsed thereon a destination control clause limiting the place of ultimate destination to West Germany.

24. In disregard of the limitations of the license and the destination control clause set forth in the bill of lading, as well as of urgent previous warnings to him by Pan Maritime, Wahle caused the said camshafts and engine assemblies to be delivered to a forwarder in Basel, Switzerland, for delivery or onforwarding from there to a place or destination unknown.

25. The Department of Commerce at no time authorized any change in the restriction contained on the said export license, and the same was valid only for exportations of goods for ultimate consumption in West Germany.

And from the foregoing, the following are my conclusions:

A. The respondents Kurt O. W. Wahle and Europaische Verkaufs GmbH (European Sales Company of American Market Stores) bought, sold, and caused to be transported exportations from the United States, knowing that with respect to such exportations a violation of the Export Control Act of 1949, as amended, had occurred or was about to occur; knowingly caused to be used export documents for the purpose of and in connection with facilitating and effecting exportations contrary to the terms and provisions thereof; knowingly transshipped goods exported from the United States contrary to the terms of the documents under which they had been exported; and caused false representations to be made and material facts to be concealed from the Bureau of Foreign Commerce, all in contravention of §§ 381.4, 381.5, 381.6, and 381.8 of the Export Regulations; and

B. The respondent Pan Maritime Cargo Service, Inc. forwarded an exportation from the United States, knowing that with respect thereto a violation of the Export Control Act of 1949, as amended, was about to or was intended to occur; knowingly made false representations and concealed material facts in connection with the preparation and use of export control documents; knowingly misused export control documents; and knowingly caused commodities to be placed on a pier or dock for the purpose of exporting the same without first having presented a duly executed shipper's export declaration to and obtained authentication from a United States Collector of Customs, all in contravention of §§ 381.2, 381.5, 381.8, and 379.1 of the Export Regulations.

The Compliance Commissioner, in his report, said (in part):

Pan Maritime offers various defenses or arguments based upon either the law or mixed questions of law and fact.

It contends first that, because the word, "knowingly," is used in the regulations, to support a finding of violation, it must be found beyond a reasonable doubt that the respondent had actual knowledge of Wahle's intention to divert the goods and that, with such knowledge, it performed the acts charged. I have recently discussed at some length the meaning of the word, "knowingly," as used in the regulations. (Stauffer Chemical Co. et al., 23 F.R. 9639, Dec. 12, 1958.) Nevertheless, I believe the evidence clearly shows that Pan Maritime did have actual knowledge that the ultimate destination of the 23 cases involved in the fourth shipment was Switzerland and that it was Wahle's intention to divert the goods there when, in fact, the license restricted the shipment to West Germany. The construction, most favorable to Pan Maritime, which could be put upon the facts in this case is that Pan Maritime had sufficient information at its disposal to be put on notice that a transshipment might occur. This caused [Pan Maritime] to write two letters and a telegram to Wahle concerned with the ultimate destination and the law prohibiting transshipment. Then, after consideration of all factors * * * [Pan Maritime] made the decision to ship under the license. When [it] did this [it] took the risk that [its] decision might be wrong. (Sinclair v. United States, 279 U.S. 263.)

Pan Maritime stresses that it was [the supplier] which had made the sale, that it was an FAS sale, that it was [the supplier's] packer who delivered the goods to the pier, that it was to [the supplier's] interest to get the goods on the pier for loading aboard the vessel, that this was [the supplier's] responsibility, that this responsibility, in turn, made [the supplier] responsible for the preparation of all export documents, that [the supplier] was aware of the fact that the declaration number was fictitious, that the number was inserted at [the supplier's] request, and that the status of the goods at the time of the performance of the acts was such that it was obvious an export declaration could not have been prepared for authentication. The mere fact that this was an FAS sale does not mean that [the supplier] was responsible for the delivery to the pier of the goods by the use of a dock receipt having indorsed thereon a fictitious export declaration number. There is no magic about the term FAS. More often than not, the term is used only as a basis for fixing the price of the goods. Regardless what [the supplier's] interest to get the goods to the pier might have been, the fact in this case is that [the supplier], under the terms of this transaction, had nothing to do with getting them shipped. Wahle, the buyer, had taken this entire responsibility away from it and had conferred it upon Pan Maritime. In turn, Pan Maritime had accepted this entire responsibility. * * *

Even if * * * Pan Maritime inserted the fictitious declaration number at [the supplier's] request, that would not absolve Pan

Maritime from responsibility for so doing. An agent performing an act on behalf of another is not relieved from its consequences merely because it was done at the request of or on behalf of another. Similarly, the mere fact that the supplier * * * placed the goods on the pier does not absolve Pan Maritime, because the goods would not have been and could not have been placed on the pier (without being marked, "Hold For Declaration") if Pan Maritime had not inserted the fictitious declaration number on the dock receipt form. Consequently, this condition or event was caused by Pan Maritime, which provided the means whereby it was accomplished. * * *

* * * Wahle contends that, if a re-exportation or transshipment is made by a nonresident alien under the authority of or in accordance with permits or regulations of his own government, he is thereby relieved from any restrictions which American controls may place upon goods received by him from the United States. This is a contention which has been made frequently in the past but which has been consistently overruled. Our controls are attached to the goods and follow them wherever they go. * * *

I have considered carefully all the facts and arguments cited by respondents either by way of mitigation or as justification for leniency. I have considered also that the ratio of Pan Maritime's air shipments to its ocean shipments is more than ten to one and that the ratio of its air to ocean shippers is about five to one. In every enforcement case the pressure and immediate impact of such arguments seem to be closer and more poignant to the hearing officer than the over-all objective that effective enforcement of the Act be obtained, but the proximity of the former as opposed to the general and merely overhanging presence of the latter should not and does not minimize or subordinate the latter, which is all-important. I have been particularly sensitive to the nature of Pan Maritime's forwarding activities and the bearing it and any remedial action to be taken herein may have on the impending merger into or absorption by [another air freight forwarder]. This unique set of circumstances suggests a departure from the existing patterns of denial orders and, in my opinion, justifies or requires that the remedy be tailored directly to the area of business in which the violations occurred without thereby setting a precedent for other cases in which such a distinction may not be practical or administratively sound.

Now, after careful consideration of the entire record and being of the opinion that the recommendations of the Compliance Commissioner are fair and just and that this order is necessary to achieve effective enforcement of the law:

It is hereby ordered:

I. All outstanding validated export licenses in which Kurt O. W. Wahle and Europaische Verkaufs GmbH (European Sales Company of American Market Stores) appear or participate as purchaser, intermediate or ultimate consignee, or otherwise, are hereby revoked and shall be returned forthwith to the Bureau of Foreign Commerce for cancellation.

II. (a) The respondent Pan Maritime Cargo Service, Inc., for two months commencing February 23, 1959, is hereby denied all privileges of participating, directly or indirectly, in any manner or capacity in any exportation by a means or manner other than air shipment of any commodity or technical data from the United States to any foreign destination, including Canada.

(b) The respondents Kurt O. W. Wahle and Europaische Verkaufs GmbH (European Sales Company of American Market Stores) are hereby denied, so long as export controls shall remain in effect, all privileges of participating, directly or indirectly, in any manner or capacity, in any exportation of any commodity or technical data from the United States to any foreign destination, including Canada.

(c) Without limitation of the generality of the foregoing denials of export privileges, participation in an exportation is deemed to include and prohibit participation, to the extent specified, by any such respondent, directly or indirectly, in any manner or capacity, (1) as a party or as a representative of a party to any validated export license application, (2) in the preparation or filing of any export license application or document to be submitted therewith, (3) in the obtaining or using of any validated or general export license or other export control document, (4) in the receiving, ordering, buying, selling, delivering, using, or disposing in any foreign country of any commodities in whole or in part exported or to be exported from the United States, and (5) in financing, forwarding, transporting, or other servicing of such exports from the United States.

III. Such denials of export privileges, to the extent that any respondent may be affected thereby, shall extend not only to each of them, but also to any person, firm, corporation, or business organization with which any of them may be now or hereafter related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of trade in which may be involved exports from the United States or services connected therewith.

IV. Nine months after the date hereof, without further order of the Bureau of Foreign Commerce, Kurt, O. W. Wahle and Europaische Verkaufs GmbH (European Sales Company of American Market Stores) shall have their export privileges restored to them conditionally, the condition for such restoration being that during the said nine months following the date hereof, the said respondents shall comply in all respects with this order, and thereafter they shall comply with all requirements of the Export Control Act of 1949, as amended, and all regulations, licenses, and orders issued thereunder.

V. The privileges so conditionally permitted to the respondents Kurt O. W. Wahle and Europaische Verkaufs GmbH (European Sales Company of American Market Stores) under Part IV hereof may be revoked summarily and without notice upon a finding by the Director of the Office of Export Supply, or such other official as may at that time be exercising the duties now exercised by him, that any such respondent has knowingly failed to comply with the conditions applicable to him or it as set forth in Part IV hereof, in which event Part II hereof, insofar as it shall apply to such respondents, shall then be and become effective as to them, without thereby precluding the Bureau of Foreign Commerce from taking such other and further action based on such violation or violations as it shall deem warranted. In the event that such supplemental order is issued, such respondents and related parties as are involved therein shall have a right to review thereof, as provided in the Export Regulations.

VI. During any time when a respondent or any related party is prohibited from engaging in any activity within the scope of Part II hereof, no person, firm, corporation, or other business organization, whether in the United States or elsewhere, on behalf of or in any association with any such respondent or related party, without prior disclosure to, and specific authorization from the Bureau of Foreign Commerce, shall directly or indirectly, in any manner or capacity, (a) apply for, obtain, or use any export license, shipper's export declaration, bill of lading, or other export control document relating to any such prohibited activity, or (b) order, receive, buy, sell, deliver, use, dispose of, finance, transport, forward, or otherwise service or participate in such exportation from the United States. Nor shall any person, firm, corporation, or other business organization do any of the foregoing acts with respect to such exportation in which such respondent or related party may have any interest or obtain any benefit of any kind or nature, direct or indirect.

Dated: February 3, 1959.

JOHN C. BORTON,
Director,
Office of Export Supply.

[F.R. Doc. 59-1074; Filed, Feb. 5, 1959; 8:52 a.m.]

Federal Maritime Board

MEMBER LINES OF JAPAN-ATLANTIC & GULF FREIGHT CONFERENCE

Notice of Agreements Filed for Approval

Notice is hereby given that the following described agreements have been filed with the Board for approval pursuant to section 15 of the Shipping Act, 1916 (39 Stat. 733, 46 U.S.C. 814):

Agreements Nos. 3103-10, 3103-11 and 3103-12, between the member lines of the Japan-Atlantic & Gulf Freight Conference, (No. 8103, as amended), which covers the trade from Japan, Korea and Okinawa to United States Gulf ports and Atlantic Coast ports of North America, to provide (1) for the establishment of a Neutral Body which shall receive and investigate complaints of violations of the conference agreement, make decisions thereon, and assess fines in accordance with the agreement; (2) that members may act as chartering brokers; and (3) for changes in certain provisions of the agreement, and to add other provisions, dealing with voting procedure, designation of new conference officials and description of their duties, and functions of committees.

Interested parties may inspect these agreements and obtain copies thereof at the Regulation Office, Federal Maritime

Board, Washington, D.C., and may submit, within 20 days after publication of this notice in the FEDERAL REGISTER, written statements with reference to any of these agreements and their position as to approval, disapproval, or modification, together with request for hearing should such hearing be desired.

Dated: February 3, 1959.

By order of the Federal Maritime Board.

[SEAL] GEO. A. VIEHMANN,
Assistant Secretary.

[F.R. Doc. 59-1094; Filed, Feb. 5, 1959; 8:54 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 12714, 12715; FCC 59M-147]

JOHN H. PHIPPS AND GEORGIA STATE BOARD OF EDUCATION

Order Advancing Date of Hearing

In re applications of John H. Phipps, Waycross, Georgia, Docket No. 12714, File No. BPCT-2423; Georgia State Board of Education, Waycross, Georgia, Docket No. 12715, File No. BPCT-2501; for construction permits for new television broadcast stations.

The Hearing Examiner having under consideration the matters of record of the prehearing conference held in the above-entitled proceeding on February 2, 1959;

It appearing, that John H. Phipps is in the course of preparation of a request for dismissal of his application and accordingly an earlier hearing date than that presently scheduled would tend toward orderly disposition of the proceeding;

It is ordered, This 2d day of February 1959 that the hearing presently scheduled to commence on March 10, 1959 is advanced to February 12, 1959, to commence at 10:00 a.m., in the offices of the Commission at Washington, D.C.

Released: February 2, 1959.

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

[F.R. Doc. 59-1097; Filed, Feb. 5, 1959; 8:55 a.m.]

[Docket No. 12740; FCC 59M-143]

MANSFIELD BROADCASTING CO. AND MANSFIELD JOURNAL CO.

Order Scheduling Hearing

In the matter of Frederick Eckardt, tr/as Mansfield Broadcasting Company (assignor) and Mansfield Journal Company (assignee), Docket No. 12740, File No. BAL-3126; for consent to the assignment of license of Station WCLW Mansfield, Ohio.

It is ordered, This 30th day of January 1959, that H. Gifford Irion will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on March 30, 1959, in Washington, D.C.

Released: February 3, 1959.

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

F.R. Doc. 59-1098; Filed, Feb. 5, 1959; 8:55 a.m.]

[Docket No. 12741; FCC 59M-145]

CONSOLIDATED AMUSEMENT CO. LTD., AND HIALAND DEVELOPMENT CORP.

Order Scheduling Hearing

In re application of Consolidated Amusement Company, Ltd., (transferor) and Hialand Development Corporation (transferee), Docket No. 12741, File No. BTC-2958; for commission consent to the transfer of control of Hawaiian Broadcasting Corporation, licensee of Stations KGMB and KGMB-TV, Honolulu, KHBC and KHBC-TV, Hilo, and KMAU-TV Wauluka, Territory of Hawaii.

It is ordered, This 30th day of January 1959, that Forest L. McClenning will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on March 3, 1959, in Washington, D.C.

Released: February 3, 1959.

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

[F.R. Doc. 59-1099; Filed, Feb. 5, 1959; 8:55 a.m.]

FEDERAL POWER COMMISSION

[Docket No. G-17674]

PLYMOUTH OIL CO.

Order for Hearing, Suspending Proposed Change in Rate, and Allowing Increased Rate to Become Effective

JANUARY 28, 1959.

Plymouth Oil Co. (Plymouth) on December 29, 1958, tendered for filing a proposed change in its presently effective rate schedule[1] for sales of natural gas subject to the jurisdiction of the Commission. The proposed change is contained in the following designated filing:

Description: Notice of Change, undated.

Purchaser: Texas Eastern Transmission Corporation.

Rate schedule designation: Supplement No. 5 to Plymouth's FPC Gas Rate Schedule No. 10.

Effective date: January 29, 1959 (effective date is the first day after expiration of the required thirty days' notice).

[1] Present rate is currently in effect subject to refund in Docket Nos. G-13532, G-15840, G-16631.

In support of the proposed rate and charge, Plymouth has interpreted the tax provisions of the aforementioned rate schedule to the effect that the tax reimbursement for the Louisiana severance tax will be at the same reimbursement level that Plymouth received for the Louisiana gathering tax. The interpretation appears to be questionable and should be determined after hearing.

The increased rate and charge so proposed has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful.

The Commission finds:

(1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change, and that the above-designated supplement be suspended and the use thereof deferred as hereinafter ordered.

(2) It is necessary and proper in the public interest in carrying out the provisions of the Natural Gas Act that the proposed rate be made effective as hereinafter provided and that Plymouth be required to file an undertaking as hereinafter ordered and conditioned.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed rate and charge contained in Supplement No. 5 to Plymouth's FPC Gas Rate Schedule No. 10.

(B) Pending such hearing and decision thereon, said supplement be and it is hereby suspended and the use thereof deferred until January 30, 1959, and thereafter until such further time as it is made effective in the manner hereinafter prescribed.

(C) The rate, charge and classification set forth in the above-designated supplement shall be effective on January 30, 1959: *Provided, however*, That within 20 days from the date of this order, Plymouth shall execute and file with the Secretary of the Commission the agreement and undertaking described in paragraph (E) below.

(D) Plymouth shall refund at such times and in such amounts to the persons entitled thereto, and in such manner as may be required by final order of the Commission, the portions of the increased rates found by the Commission in this proceeding not justified, together with interest thereon at the rate of six percent per annum from the date of payment to Plymouth until refunded: shall bear all costs of any such refunding; shall keep accurate accounts in detail of all amounts received by reason of the changed rate or charge allowed by this order to become effective, for each billing period, specifying by whom and in whose behalf such amounts were paid, and shall report (Original and one copy), in writing and under oath, to the Commission monthly, or quarterly

if Plymouth so elects, for each billing period, and for each purchaser, the billing determinants of natural gas sales to such purchasers and the revenues resulting therefrom, as computed under the rates in effect immediately prior to the date upon which the changed rate allowed by this order becomes effective, and under the rate allowed by this order to become effective, together with the differences in the revenues so computed.

(E) As a condition of this order within 20 days from the date of issuance thereof, Plymouth shall execute and file in triplicate with the Secretary of this Commission its written agreement and undertaking to comply with the terms of paragraph (D) hereof, as follows:

Agreement and Undertaking of Plymouth Oil Company To Comply With the Terms and Conditions of Paragraph (D) of Federal Power Commission's Order Making Effective Proposed Rate Changes

In conformity with the requirements of the order issued (Date), in Docket No. G-17674, Plymouth Oil Company hereby agrees and undertakes to comply with the terms and conditions of paragraph (D) of said order, and for that purpose has caused this agreement and undertaking to be executed and sealed in its name by its officers, thereupon duly authorized in accordance with the terms of the resolution of its board of directors, a certified copy of which is appended hereto this _____ day of _____.

By _____

Attest:

_____

As further condition of this order, Plymouth shall file with said agreement and undertaking a certificate showing service of copies thereof upon all purchasers under the rate schedule involved. Unless Plymouth is advised to the contrary within 15 days after the date of filing such agreement and undertaking, the agreement and undertaking shall be deemed to have been accepted.

(F) If Plymouth shall, in conformity with the terms and conditions of paragraph (D) of this order make the refunds as may be required by order of the Commission, the undertaking shall be discharged; otherwise, it shall remain in full force and effect.

(G) Neither the supplement hereby suspended nor the rate schedule sought to be altered thereby shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(H) Interested State commissions may participate as provided by §§ 1.8 and 1.37(f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37(f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 59-1023; Filed, Feb. 5, 1959; 8:45 a.m.]

[Docket No. G-17604]

F. A. CALLERY, INC., ET AL.

Order for Hearing and Suspending Proposed Change in Rates

JANUARY 29, 1959.

F. A. Callery, Inc., et al. (Callery) on December 30, 1958, tendered for filing a proposed change in its presently effective rate schedule [1] for sales of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of Change, dated December 29, 1958.

Purchaser: Southern Natural Gas Company.

Rate schedule designation: Supplement No. 3 to Callery's FPC Gas Rate Schedule No. 14.

Effective date: January 30, 1959 (effective date is the first day after expiration of the required thirty days' notice).

In support of the proposed favored-nation rate increase, Callery merely cites the contract provisions and submits a letter from the Southern Natural Gas Company advising Callery of the higher rate.

The increased rate and charge so proposed has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change, and that Supplement No. 3 to Callery's FPC Gas Rate Schedule No. 14 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in Supplement No. 3 to Callery's FPC Rate Schedule No. 14.

(B) Pending such hearing and decision thereon, said supplement be and it is hereby suspended and the use thereof deferred until June 30, 1959, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended nor the rate schedule sought to be altered thereby shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by § 1.8 and 1.37(f) of the Commission's rules of may participate as provided by §§ 1.8 and 1.37(f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 59-1024; Filed, Feb. 5, 1959; 8:45 a.m.]

[1] Supplement No. 1 to Callery's FPC Gas Rate Schedule No. 14 (Louisiana gathering tax increase) was suspended for 1 day until August 2, 1958, in Docket No. G-15956, and is now in effect subject to refund.

[Docket No. G-17605]

COLUMBIAN FUEL CORP. ET AL.

Order for Hearing and Suspending Proposed Change in Rates

JANUARY 29, 1959.

Columbian Fuel Corporation (Operator) et al. (Columbian) on December 30, 1958, tendered for filing a proposed change in its presently effective rate schedule for sales of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filings:

Description: (1) Supplemental Agreement,[1] dated November 17, 1958. (2) Supplemental Agreement,[2] dated November 13, 1958. (3) Notice of Change, dated December 22, 1958.

Purchaser: Colorado Interstate Gas Company.

Rate schedule designation: (1) Supplement No. 2 to Columbian's FPC Gas Rate Schedule No. 25. (2) Supplement No. 3 to Columbian's FPC Gas Rate Schedule No. 25. (3) Supplement No. 4 to Columbian's FPC Gas Rate Schedule No. 25.

Effective date: January 30, 1959 (effective date is the first day after expiration of the required thirty days' notice).

In support of the proposed redetermined rate increase, Columbian states that the redetermined rate is provided for by the supplemental agreements and is less than the market value of the gas in the area. Columbian also states that the contract was negotiated at arm's length and the increase is no higher than is necessary to encourage exploration and development.

The increased rate and charge so proposed has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change, and that Supplements Nos. 2, 3 and 4 to Columbian's FPC Gas Rate Schedule No. 25 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of

[1] Redetermines rate to 16.0 cents per Mcf (Agreement between buyer and et al parties).

[2] Redetermines rate to 16.0 cents per Mcf (Agreement between buyer and Columbian).

practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in Supplements Nos. 2, 3 and 4 to Columbian's FPC Gas Rate Schedule No. 25.

(B) Pending such hearing and decision thereon, said supplements be and they are each hereby suspended and the use thereof deferred until June 30, 1959, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplements hereby suspended nor the rate schedule sought to be altered thereby shall be changed until this proceeding has been disposed of or until the periods of suspension have expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37(f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37(f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 59-1025; Filed, Feb. 5, 1959; 8:45 a.m.]

[Docket No. G-17606]

UNION PRODUCING CO.

Order for Hearing and Suspending Proposed Change in Rates

JANUARY 29, 1959.

Union Producing Company (Union) on December 30, 1958, tendered for filing a proposed change in its presently effective rate schedule [1] for sales of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of Change, dated December 29, 1958.

Purchaser: United Gas Pipe Line Company.

Rate schedule designation: Supplement No. 8 to Union's FPC Gas Rate Schedule No. 78.

Effective date: February 1, 1959 (effective date is the effective date proposed by Union).

In support of the proposed periodic rate increase, Union states that periodic increases are necessary because of the long-term nature of the contract, that the cost of doing business has materially increased, and that Union's exploration and development program requires an investment of large amounts of risk capital. Union further states that Humble Oil & Refining Company will receive 16.0 cents per Mcf effective February 1, 1959, for an intrastate sale from the same field to the same buyer.

The increased rate and charge so proposed has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change, and that Supplement No. 8 to Union's FPC Gas Rate Schedule No. 78 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in Supplement No. 8 to Union's FPC Gas Rate Schedule No. 78.

(B) Pending such hearing and decision thereon, said supplement be and it is hereby suspended and the use thereof deferred until July 1, 1959, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended nor the rate schedule sought to be altered thereby shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 59-1026; Filed, Feb. 5, 1959; 8:45 a.m.]

[Docket No. G-17671]

R. R. FRANKEL

Order for Hearing, Suspending Proposed Change in Rate, and Allowing Increased Rate to Become Effective

JANUARY 29, 1959.

R. R. Frankel (Frankel) on December 30, 1958, tendered for filing a proposed change in his presently effective rate schedule [1] for sales of natural gas subject to the jurisdiction of the Commission. The proposed change is contained in the following designated filing:

Description: Notice of Change, dated December 29, 1958.

Purchaser: E. A. Courtney.

Rate schedule designation: Supplement No. 2 to Frankel's FPC Gas Rate Schedule No. 1.

Effective date: January 30, 1959 (effective date is the first day following expiration of statutory notice).

In support of the proposed rate and charge, Frankel has interpreted the tax provisions of the aforementioned rate schedule to the effect that the tax reimbursement for the Louisiana severance tax will be at the same reimbursement level that Frankel received for the Louisiana gathering tax. This interpretation appears to be questionable and should be determined after hearing.

The changed rate and charge so proposed has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful.

The Commission finds:

(1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change, and that the above-designated supplement be suspended and the use thereof deferred as hereinafter ordered.

(2) It is necessary and proper in the public interest in carrying out the provisions of the Natural Gas Act that the proposed rate be made effective as hereinafter provided and that Frankel be required to file an undertaking as hereinafter ordered and conditioned.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed rate and charge contained in Supplement No. 2 to Frankel's FPC Gas Rate Schedule No. 1.

(B) Pending such hearing and decision thereon, said supplement be and it hereby is suspended and the use thereof deferred until January 31, 1959, and thereafter until such further time as it is made effective in the manner hereinafter prescribed.

(C) The rate, charge and classification set forth in the above-designated supplement shall be effective on January 31, 1959: *Provided, however,* That within 20 days from the date of this order, Frankel shall execute and file with the Secretary of the Commission the agreement and undertaking described in paragraph (E) below.

(D) Frankel shall refund at such times and in such amounts to the persons entitled thereto, and in such manner as may be required by final order of the Commission, the portion of the increased rates found by the Commission in this proceeding not justified, together with interest thereon at the rate of six percent per annum from the date of payment to Frankel until refunded; shall bear all costs of any such refunding; shall keep accurate accounts in detail of all amounts received by reason of the changed rate or charge allowed by this order to become effective, for each billing period, specifying by whom and in whose behalf such amounts were paid; and shall report (original and one (1) copy), in writing and under oath, to the Commission monthly, or quarterly if Frankel so elects, for each billing period, and for each purchaser, the billing determinants of natural gas sales to such

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[1] Present rate previously suspended and is now in effect subject to refund in Docket No. G-14352 (also subject to Commission's orders in Docket No. G-13811).

[1] Rate is currently in effect subject to refund in Docket No. G-16475 (Louisiana gathering tax).

purchasers and the revenues resulting therefrom, as computed under the rate in effect immediately prior to the date upon which the changed rate allowed by this order becomes effective, and under the rate allowed by this order to become effective, together with the differences in the revenues so computed.

(E) As a condition of this order, within 20 days from the date of issuance thereof, Frankel shall execute and file in triplicate with the Secretary of this Commission its written agreement and undertaking to comply with the terms of paragraph (D) hereof, as follows:

Agreement and Undertaking of R. R. Frankel To Comply With the Terms and Conditions of Paragraph (D) of Federal Power Commission's Order Making Effective Proposed Rate Change.

In conformity with the requirements of the order issued (Date), in Docket No. G-17671, R. R. Frankel hereby agrees and undertakes to comply with the terms and conditions of paragraph (D) of said order, and for that purpose has caused this agreement and undertaking to be executed.

R. R. Frankel

Date ----------

Witness:

Unless Frankel is advised to the contrary within 15 days after the date of filing such agreement and undertaking, the agreement and undertaking shall be deemed to have been accepted.

(F) If Frankel shall, in conformity with the terms and conditions of paragraph (D) of this order, make the refunds as may be required by order of the Commission, the undertaking shall be discharged; otherwise, it shall remain in full force and effect.

(G) Neither the supplement hereby suspended nor the rate schedule sought to be altered thereby shall be changed until the period of suspension has expired, unless otherwise ordered by the Commission.

(H) Interested State commissions may participate as provided by §§ 1.8 and 1.37(f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37(f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 59-1027; Filed, Feb. 5, 1959; 8:45 a.m.]

[Docket No. G-17717]

SUN OIL CO.

Order for Hearing and Suspending Proposed Change in Rate

JANUARY 29, 1959.

The Sun Oil Company (Sun) on December 30, 1958, tendered for filing a proposed change in its presently filed rate schedule for the sale of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of Change, undated.
Purchaser: United Gas Pipe Line Company.
Rate schedule designation: Supplement No. 9 to Sun's FPC Gas Rate Schedule No. 63.
Effective date: January 30, 1959 (effective date is the first day after expiration of statutory notice).

In support of the proposed increased rate and charge, Sun relies upon the tax reimbursement provisions contained in Supplement No. 7 to its FPC Gas Rate Schedule No. 63, which supplement provided for a renegotiated rate increase and at the same time amended the tax reimbursement provisions of the basic rate schedule. The said supplement is presently under suspension by order issued October 6, 1958, in Docket No. G-16410. Since the supplement amending the tax reimbursement provisions of the basic rate schedule is presently under suspension, the instant filing, which relies upon those provisions, must also be suspended until Supplement No. 7 is made effective.

The increased rate and charge so proposed has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change, and that Supplement No. 9 to Sun's FPC Gas Rate Schedule No. 63 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in Supplement No. 9 to Sun's FPC Gas Rate Schedule No. 63.

(B) Pending such hearing and decision thereon said supplement be and it hereby is suspended and the use thereof deferred until January 31, 1959, or until Supplement No. 7 to Sun's FPC Gas Rate Schedule No. 63 is made effective, whichever is later, and thereafter until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended nor the rate schedule sought to be altered thereby shall be changed until this proceeding has been disposed or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37(f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37(f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 59-1028; Filed, Feb. 5, 1959; 8:45 a.m.]

[Docket No. G-14871, etc.]

TRANSWESTERN PIPELINE CO. ET AL.

Order Granting Motion, Fixing Date of Hearing, and Specifying Procedure

JANUARY 30, 1959.

In the matters of Transwestern Pipeline Company, Docket No. G-14871; Gulf Oil Corporation, Docket Nos. G-14925, G-14940, G-14950, G-16139, G-16141, G-16218; Pure Oil Company, Docket No. G-15040; Monsanto Chemical Company, Docket No. G-15318; Pan American Petroleum Corporation, Docket No. G-15389; Humble Oil Refining Company, Docket No. G-15714; Sun Oil Company, Docket No. G-15791; Union Oil Company of California, Docket No. G-15810; Warren Petroleum Company, Docket Nos. G-16030, G-16031; British American Oil Producing Company, Docket Nos. G-16091, G-16093, G-16103; Curtis R. Inman, Docket No. G-16106; Richardson & Bass et al., Docket No. G-16137; G. H. Vaughn, Jr., et al., Docket No. G-16195; Cities Service Gas Company, Docket No. G-16216; Superior Oil Company, Docket No. G-16261; Magnolia Petroleum Company, Docket Nos. G-16367, G-16368, G-16432; Hunt Oil Company, Docket No. G-16445.

On January 8, 1959, Transwestern Pipeline Company filed a motion requesting the Commission to reconsider its order issued January 2, 1959, in which it ordered the hearing in the above-entitled proceedings to be reconvened on April 13, 1959.

The Commission finds: Upon consideration of the allegations set forth in the motion of Transwestern Pipeline Company indicating the urgency of an accelerated hearing, the hearing date in the above-entitled proceedings should be advanced to March 10, 1959.

The Commission orders:

(A) For the reason stated above, the proceedings herein shall be reconvened for further hearing on March 10, 1959.

(B) The procedure at the reconvened hearing shall be as follows: Staff Counsel and other parties may conduct their full cross-examination of the various witnesses who have already presented their direct evidence; and thereafter the Staff may present such direct evidence as it may see fit. Immediately thereafter, and without recess, the applicants and other parties shall conduct such cross-examination of Staff's witnesses as they may desire.

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 59-1029; Filed, Feb. 5, 1959; 8:46 a.m.]

[Docket No. G-17603]

RUSSELL MAGUIRE ET AL.

Order for Hearing and Suspending Proposed Changes in Rates

JANUARY 30, 1959.

Russell Maguire (Operator) et al. (Maguire) on January 2, 1959, tendered

for filing proposed changes in his presently effective rate schedules [1] for sales of natural gas subject to the jurisdiction of the Commission. The proposed changes, which constitute increased rates and charges, are contained in the following designated filings:

Description: Notices of Change, dated December 30, 1958.
Purchaser: Texas Eastern Transmission Corporation.
Rate schedule designation: Supplement No. 5 to Maguire's FPC Gas Rate Schedule No. 2. Supplement No. 3 to Maguire's FPC Gas Rate Schedule No. 4.
Effective date: February 2, 1959.[2]

In support of the proposed periodic rate increases,[3] Maguire states that the proposed increases should be accepted in view of increased drilling and development costs, increased production costs and the arm's length negotiation of the original contract.

The increased rates and charges so proposed have not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed changes, and that Supplement No. 5 to Maguire's FPC Gas Rate Schedule No. 2, and Supplement No. 3 to Maguire's FPC Gas Rate Schedule No. 4, be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rates and charges contained in Supplement No. 5 to Maguire's FPC Gas Rate Schedule No. 2, and Supplement No. 3 to Maguire's FPC Gas Rate Schedule No. 4.

(B) Pending such hearing and decision thereon, said supplements be and they are each hereby suspended and the use thereof deferred until July 2, 1959, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplements hereby suspended nor the rate schedules sought to be altered thereby shall be changed until this proceeding has been disposed of or until the periods of suspension have expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 59-1030; Filed, Feb. 5, 1959; 8:46 a.m.]

[1] Present rates previously suspended and are now in effect subject to refund in Docket No. G-14317 (also subject to Commission's orders in Docket No. G-11652).

[2] The stated effective date is the first day after expiration of the required thirty days' notice.

[3] Based on favored-nation amendment to basic contract.

[Docket No. G-17607]

PAUL R. DAVIS AND LESTOR B. WOOD

Order for Hearing and Suspending Proposed Change in Rates

JANUARY 30, 1959.

Paul R. Davis and Lestor B. Wood (Davis and Wood) on December 31, 1958, tendered for filing a proposed change in their presently effective rate schedule [1] for sales of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of Change, dated December 23, 1958.
Purchaser: Texas Eastern Transmission Corporation.
Rate schedule designation: Supplement No. 5 to Davis and Wood's FPC Gas Rate Schedule No. 1.
Effective date: February 1, 1959 (effective date is the effective date proposed by Davis and Wood).

In support of the proposed two-step periodic rate increase.[2] Davis and Wood merely cite the pricing provision of their contract and state that such pricing provisions should be enforced the same as the other contract provisions.

The increased rate and charge so proposed has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change, and that Supplement No. 5 to Davis and Wood's FPC Gas Rate Schedule No. 1 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in Supplement No. 5 to Davis and Wood's FPC Gas Rate Schedule No. 1.

(B) Pending such hearing and decision thereon, said supplement be and it is hereby suspended and the use thereof deferred until July 1, 1959, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended nor the rate schedule sought to be altered thereby shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37(f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37(f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 59-1031; Filed, Feb. 5, 1959; 8:46 a.m.]

[1] Present rate previously suspended and is in effect subject to refund in Docket No. G-13287.

[2] Based on favored-nation amendment to contract.

[Docket No. G-17608]

J. M. FLAITZ AND R. B. MITCHELL ET AL.

Order for Hearing and Suspending Proposed Change in Rates

JANUARY 30, 1959.

J. M. Flaitz and R. B. Mitchell (Operator) et al. (Flaitz and Mitchell) on December 31, 1958, tendered for filing a proposed change in their presently effective rate schedule for sales of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of Change, dated December 30, 1958.
Purchaser: Tennessee Gas Transmission Company.
Rate schedule designation: Supplement No. 4 to Flaitz and Mitchell's FPC Gas Rate Schedule No. 1.
Effective date: January 31, 1959 (effective date is the first day after expiration of the required thirty days' notice).

In support of the proposed redetermined rate increase, Flaitz and Mitchell state that their proposed redetermined rate is in line with other prices in the area, and that they chose to sell their gas at a lower initial rate than they could have obtained elsewhere only because of the renegotiation clause of their basic contract.

The increased rate and charge so proposed has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change, and that Supplement No. 4 to Flaitz and Mitchell's FPC Gas Rate Schedule No. 1 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of

practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in Supplement No. 4 to Flaitz and Mitchell's FPC Gas Rate Schedule No. 1.

(B) Pending such hearing and decision thereon, said supplement be and it is hereby suspended and the use thereof deferred until June 30, 1959, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended nor the rate schedule sought to be altered thereby shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37(f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 59-1032; Filed, Feb. 5, 1959; 8:46 a.m.]

[Docket No. G-17609]

LeCUNO OIL CORP.

Order for Hearing and Suspending Proposed Change in Rates

JANUARY 30, 1959.

LeCuno Oil Corporation (LeCuno) on December 31, 1958, tendered for filing a proposed change in its presently effective rate schedule [1] for sales of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of Change, undated.
Purchaser: Texas Eastern Transmission Corporation.
Rate schedule designation: Supplement No. 9 to LeCuno's FPC Gas Rate Schedule No. 1.
Effective date: January 31, 1959.[2]

In support of the proposed periodic rate increase,[3] LeCuno states that the favored-nation clause responsible for the instant increase was a material inducement to it to enter into a long-term contract, that such contract was negotiated at arm's length, and that the increase is necessary to encourage exploration and development.

The increased rate and charge so proposed has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change, and that Supplement No. 9 to LeCuno's FPC Gas Rate Schedule No. 1 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in Supplement No. 9 to LeCuno's FPC Gas Rate Schedule No. 1.

(B) Pending such hearing and decision thereon, said supplement be and it is hereby suspended and the use thereof deferred until June 30, 1959, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended nor the rate schedule sought to be altered thereby shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37(f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37(f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 59-1033; Filed, Feb. 5, 1959; 8:46 a.m.]

[Docket No. G-17611]

E. J. HUDSON ET AL.

Order for Hearing and Suspending Proposed Change in Rates

JANUARY 30, 1959.

E. J. Hudson et al. (Hudson) on December 31, 1958, tendered for filing a proposed change in his presently effective rate schedule [1] for sales of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of Change, dated December 23, 1958.
Purchaser: Texas Eastern Transmission Corporation.
Rate schedule designation: Supplement No. 7 to Hudson's FPC Gas Rate Schedule No. 1.
Effective date: February 2, 1959.[2]

In support of the proposed two-step periodic rate increase,[3] Hudson cites the pricing provision of his contract and states that such pricing provision should be enforced the same as the other contract provisions.

The increased rate and charge so proposed has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change, and that Supplement No. 7 to Hudson's FPC Gas Rate Schedule No. 1 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in Supplement No. 7 to Hudson's FPC Gas Rate Schedule No. 1.

(B) Pending such hearing and decision thereon, said supplement be and it is hereby suspended and the use thereof deferred until July 1, 1959, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended nor the rate schedule sought to be altered thereby shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State Commissions may participate as provided by §§ 1.8 and 1.37(f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37(f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 59-1034; Filed, Feb. 5, 1959; 8:46 a.m.]

[Docket No. G-17613]

TEXACO SEABOARD, INC.

Order for Hearing and Suspending Proposed Change in Rates

JANUARY 30, 1959.

Texaco Seaboard, Inc. (Texaco) on December 31, 1958, tendered for filing a proposed change in its presently effective rate schedule for sales of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge,

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[1] Present rate previously suspended and is in effect subject to refund in Docket No. G-14070.

[2] The stated effective date is the first day after expiration of the required thirty days' notice.

[3] Based on favored-nation clause of basic contract.

[1] Present rate previously suspended and is now in effect subject to refund in Docket No. G-13312.

[2] The stated effective date is the effective date proposed by Hudson.

[3] Based on favored-nation amendment to the contract.

is contained in the following designated filing:

Description: Notice of Change, undated.
Purchaser: Transcontinental Gas Pipe Line Corporation.
Rate schedule designation: Supplement No. 4 to Texaco's FPC Gas Rate Schedule No. 16.
Effective date: January 31, 1959 (effective date is the first day after expiration of the required thirty days' notice).

In support of the proposed favored-nation rate increase, Texaco submits a letter of notification from the buyer, Transcontinental Gas Pipe Line Corporation, and states that increases in Texaco's booked expenses justify the requested increase. Additionally, Texaco states that the increase is necessary to encourage exploration and development and that such proposed increased rate is in line with recently negotiated prices in the area.

The increased rate and charge so proposed has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change, and that Supplement No. 4 to Texaco's FPC Gas Rate Schedule No. 16 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in Supplement No. 4 to Texaco's FPC Gas Rate Schedule No. 16.

(B) Pending such hearing and decision thereon, said supplement be and it is hereby suspended and the use thereof deferred until June 30, 1959, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended nor the rate schedule sought to be altered thereby shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37(f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37(f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 59-1035; Filed, Feb. 5, 1959; 8:46 a.m.]

[Docket No. G-17614]

UNITED CARBON CO., INC. (MD)

Order for Hearing and Suspending Proposed Change in Rates

JANUARY 30, 1959.

United Carbon Company, Inc. (MD) (United Carbon) on December 31, 1958, tendered for filing a proposed change in its presently effective rate schedule for sales of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of Change, dated December 26, 1958.
Purchaser: Colorado Interstate Gas Company.
Rate schedule designation: Supplement No. 14 to United Carbon's FPC Gas Rate Schedule No. 1.
Effective date: February 1, 1959 (effective date is the effective date proposed by United Carbon).

In support of the proposed periodic rate increase, United Carbon cites the price provision of the contract and states that the periodic price arrangement is beneficial to both seller and buyer under a long-term contract. United Carbon further states that the costs of doing business have sharply increased in recent years, that the proposed rate is in line with the prices for similar gas sold in the same area, and that the increase is necessary for continued exploration and development.

The increased rate and charge so proposed has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commisson finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change, and that Supplement No. 14 to United Carbon's FPC Gas Rate Schedule No. 1 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in Supplement No. 14 to United Carbon's FPC Gas Rate Schedule No. 1.

(B) Pending such hearing and decision thereon, said supplement be and it is hereby suspended and the use thereof deferred until July 1, 1959, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended nor the rate schedule sought to be altered thereby shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State Commissions may participate as provided by §§ 1.8 and 1.37(f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37(f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 59-1036; Filed, Feb. 5, 1959; 8:46 a.m.]

[Docket No. G-17615]

HENDERSON TRUSTS

Order for Hearing and Suspending Proposed Change in Rates

JANUARY 30, 1959.

Henderson Trusts (Henderson) on December 31, 1958, tendered for filing a proposed change in its presently effective rate schedule for sales of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of Change, undated.
Purchaser: Colorado Interstate Gas Company.
Rate schedule designation: Supplement No. 7 to Henderson's FPC Gas Rate Schedule No. 1.
Effective date: February 1, 1959 (effective date is the effective date proposed by Henderson).

In support of the proposed periodic rate increase, Henderson cites the price provision of the contract and states that the periodic price arrangement is beneficial to both seller and buyer under a long-term contract. Henderson further states that the costs of doing business have sharply increased in recent years, that the proposed rate is in line with the prices for similar gas sold in the same area, and that the increase is necessary for continued exploration and development.

The increased rate and charge so proposed has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change, and that Supplement No. 7 to Henderson's FPC Gas Rate Schedule No. 1 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the

Secretary concerning the lawfulness of the proposed increased rate and charge contained in Supplement No. 7 to Henderson's FPC Gas Rate Schedule No. 1.

(B) Pending such hearing and decision thereon, said supplement be and it is hereby suspended and the use thereof deferred until July 1, 1959, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended nor the rate schedule sought to be altered thereby shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State Commissions may participate as provided by §§ 1.8 and 1.37(f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37(f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 59-1037; Filed, Feb. 5, 1959; 8:47 a.m.]

[Docket No. G-17622]

MAGNOLIA PETROLEUM CO. ET AL.

Order for Hearing and Suspending Proposed Change in Rates

JANUARY 30, 1959.

Magnolia Petroleum Company (Operator) et al. (Magnolia) on December 31, 1958, tendered for filing a proposed change in its presently effective rate schedule [1] for sales of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of Change, undated.
Purchaser: Trunkline Gas Company.
Rate schedule designation: Supplement No. 13 to Magnolia's FPC Gas Rate Schedule No. 41.
Effective date: January 31, 1959 (effective date is the first day after expiration of the required thirty days' notice).

In support of the proposed periodic rate increase, Magnolia states that its gas is sold on an installment price schedule as a result of arm's-length bargaining, that unlike transporters and distributors, producers are selling a commodity the prices of which are determined by supply and demand, and that the costs of exploration, discovery, production, gathering and processing of natural gas are continually increasing.

The increased rates and charges so proposed have not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, and preferential, or other wise unlawful.

[1] Present rate previously suspended and is now in effect subject to refund in Docket No. G-16591. (Also subject to Commission's order in Docket Nos. G-15755 and G-14068).

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change, and that Supplement No. 13 to Magnolia's FPC Gas Rate Schedule No. 41 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in Supplement No. 13 to Magnolia's FPC Gas Rate Schedule No 41.

(B) Pending such hearing and decision thereon, said supplement be and it is hereby suspended and the use thereof deferred until June 30, 1959, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended nor the rate schedule sought to be altered thereby shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State Commissions may participate as provided by §§ 1.8 and 1.37(f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37(f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 59-1038; Filed, Feb. 5, 1959; 8:47 a.m.]

[Docket No. G-17675]

HIAWATHA OIL & GAS CO.

Order for Hearing, Suspending Proposed Change in Rate and Allowing Changed Rate To Become Effective

JANUARY 30, 1959.

Hiawatha Oil & Gas Company (Hiawatha) on December 31, 1958, tendered for filing a proposed change in its presently effective rate schedule [1] for the sale of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of Change, dated December 24, 1958.
Purchaser: Texas Eastern Transmission Corporation.
Rate schedule designation: Supplement No. 5 to Hiawatha's FPC Gas Rate Schedule No. 6.
Effective date: January 31, 1959 (effective date is the first day after expiration of statutory notice).

[1] Present rate is in effect subject to refund in Docket Nos. G-15838 and G-13528.

In support of the proposed increased rate, Hiawatha has interpreted the tax provisions of the rate schedule to the effect that the tax reimbursement for the increase in the Louisiana severance tax will be at the same reimbursement level or higher that Hiawatha received for the Louisiana gathering tax. This interpretation appears to be questionable and should be determined after hearing.

The increased rate and charge has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful.

The Commission finds:

(1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the proposed change, and that Supplement No. 5 to Hiawatha's FPC Gas Rate Schedule No. 6 be suspended and the use thereof deferred as hereinafter ordered.

(2) It is necessary and proper in the public interest in carrying out the provisions of the Natural Gas Act that the proposed rate be made effective as hereinafter provided and that Hiawatha be required to file an undertaking as hereinafter ordered and conditioned.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing shall be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in Supplement No. 5 to Hiawatha's FPC Gas Rate Schedule No. 6.

(B) Pending the hearing and decision thereon, the supplement hereby is suspended and the use thereof deferred until February 1, 1959 and thereafter until such further time as it is made effective in the manner hereinafter prescribed.

(C) The rate, charge and classification set forth in the above-designated supplement shall be effective on February 1, 1959: *Provided, however,* That within 20 days from the date of this order, Hiawatha shall execute and file with the Secretary of the Commission the agreement and undertaking described in paragraph (E) below.

(D) Hiawatha shall refund at such times and in such amounts to the persons entitled thereto, and in such manner as may be required by final order of the Commission, the portion of the increased rates found by the Commission in this proceeding not justified, together with interest thereon at the rate of six percent per annum from the date of payment to Hiawatha until refunded; shall bear all costs of any such refunding; shall keep accurate acounts in detail of all amounts received by reason of the increased rates or charges allowed by this order to become effective, for each billing period, specifying by whom and in whose behalf such amounts were paid; and shall report (original and one copy),

in writing and under oath, to the Commission monthly, or quarterly if Hiawatha so elects, for each billing period, and for each purchaser, the billing determinants of natural gas sales to such purchasers and the revenues resulting therefrom as computed under the rate in effect immediately prior to the date upon which the increased rate allowed by this order becomes effective, and under the rate allowed by this order to become effective, together with the differences in the revenues so computed.

(E) As a condition of this order, within 20 days from the date of issuance hereof, Hiawatha shall execute and file in triplicate with the Secretary of this Commission its written agreement and undertaking to comply with the terms of paragraph (D) hereof, as follows:

Agreement and Undertaking of Hiawatha Oil & Gas Company To Comply With the Terms and Conditions of Paragraph (D) of Federal Power Commission's Order Making Effective Proposed Rate Change

In conformity with the requirements of the order issued (Date) in Docket No. G–17675, Hiawatha Oil & Gas Company hereby agrees and undertakes to comply with the terms and conditions of paragraph (D) of said order, and has caused this agreement and undertaking to be executed and sealed in its name by its officers, thereupon duly authorized in accordance with the terms of the resolution of its board of directors, a certified copy of which is appended hereto this ------ day of ----------.

By ----------

Attest:

As a further condition of this order, Hiawatha shall file with said agreement and undertaking a certificate showing service of copies thereof upon all purchasers under the rate schedule involved. Unless Hiawatha is advised to the contrary within 15 days after the date of filing such agreement and undertaking, the agreement and undertaking shall be deemed to have been accepted.

(G) Neither the supplement hereby suspended nor the rate schedule sought to be altered thereby shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(H) Interested State commissions may participate as provided by §§ 1.8 and 1.37(f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37(f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 59–1039; Filed, Feb. 5, 1959; 8:47 a.m.]

[Docket No. G–17715]

MISSISSIPPI RIVER FUEL CORP.

Order for Hearing Suspending Proposed Tariff Sheet, Allowing Tariff Sheet to Become Effective

JANUARY 30, 1959.

Mississippi River Fuel Corporation (Mississippi) on January 2, 1959, tendered for filing Second Revised Sheet No. 124 to its FPC Gas Tariff, Original Volume No. 2 (Rate Schedule F–11)[1] reflecting the increase in the Louisiana gas severance tax and the suspension of the Louisiana gas gathering tax for the sale of natural gas to Southern Natural Gas Company from the Coquille Bay Field, Plaquemine Parish, Louisiana. Mississippi requests that the tendered filing become effective December 1, 1958.

In support of the proposed filing, Mississippi contends that the tax reimbursement provision in the contract will effect no change in the total rate and that the instant filing is made merely to reflect the Louisiana tax change. This interpretation appears to be questionable and should be determined after hearing.

The proposed change in rates, charges, classifications, and services has not been shown to be justified and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds:

(1) It is necessary and proper in the public interest, and to aid in the enforcement of the provisions of the Natural Gas Act, that the Commission enter upon a hearing concerning the lawfulness of the proposed change in rates, charges, classifications, and services, and that the above-designated tariff sheet be suspended and the use thereof deferred as hereinafter ordered.

(2) It is appropriate in the public interest and in carrying out the provisions of the Natural Gas Act that Mississippi's proposed tariff sheet be made effective as hereinafter provided and that Mississippi be required to file an undertaking as hereinafter ordered and conditioned.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed rates, charges, classifications, and services contained in the above-designated tariff sheet.

(B) Pending such hearing and decision thereon, Second Revised Sheet No. 124 to Mississippi's FPC Gas Tariff, Original Volume No. 2 (Rate Schedule F–11) is hereby suspended and the use thereof deferred until February 3, 1959, and until such further time as it is made effective in the manner hereinafter prescribed.

(C) The rates, charges, classifications, and services set forth in the above-designated filing shall be effective as of February 3, 1959: *Provided, however,* That, within 20 days from the date of this order, Mississippi shall execute and file with the Secretary of the Commission the agreement and undertaking described in paragraph (E) below.

(D) Mississippi shall refund at such times and in such amounts to persons entitled thereto, and in such manner as may be required by final order of the Commission, the portion of the increased rates and charges found by the Commission in this proceeding not justified, together with interest thereon at the rate of 6 percent per annum from the date of payment to Mississippi until refunded; shall bear all costs of any such refunding, shall keep accurate accounts in detail of all amounts received by reason of the increased rates or charges effective as of February 3, 1959, for each billing period, specifying by whom and in whose behalf such amounts were paid; and shall report (original and one copy), in writing and under oath, to the Commission monthly, for each billing period, and for each purchaser, the billing determinants of natural gas sales to such purchasers and the revenues resulting therefrom as computed under the rates in effect immediately prior to February 3, 1959, and under the rates and charges allowed by this order to become effective, together with the differences in the revenues so computed.

(E) As a condition of this order, within 20 days from the date of issuance hereof, Mississippi shall execute and file in triplicate with the Secretary of this Commission its written agreement and undertaking to comply with the terms of paragraph (D) hereof, signed by a responsible officer of the corporation, evidenced by proper authority from the Board of Directors, and accompanied by a certificate showing service of copies thereof upon all purchasers under the tariff sheet involved, as follows:

Agreement and Undertaking of Mississippi River Fuel Corporation To Comply With the Terms and Conditions of Paragraph (D) of Federal Power Commission's Order Making Effective Proposed Tariff Sheet

In conformity with the requirements of the order issued (Date), in Docket No. G–17715, Mississippi River Fuel Corporation hereby agrees and undertakes to comply with the terms and conditions of paragraph (D) of said order, and has caused this agreement and undertaking to be executed and sealed in its name by its officers, thereupon duly authorized in accordance with the terms of the resolution of its Board of Directors, a certified copy of which is appended hereto this ------ day of ------ ----------.

MISSISSIPPI RIVER FUEL CORPORATION----------

By ----------

Attest:

(F) If Mississippi shall, in conformity with the terms and conditions of paragraph (D) of this order, make the refunds as may be required by order of the Commission, the undertaking shall be discharged; otherwise, it shall remain in full force and effect.

(G) Neither the tariff sheet hereby suspended nor the tariff sought to be altered thereby shall be changed until the proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(H) Interested State commissions may participate as provided by §§ 1.8 and 1.37(f) of the Commission's rules of

[1] The rate is presently in effect subject to refund in Docket No. G–16468.

practice and procedure (18 CFR 1.8 and 1.37(f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 59-1040; Filed, Feb. 5, 1959; 8:47 a.m.]

[Docket No. G-17716]

MISSISSIPPI RIVER FUEL CORP.

Order for Hearing, Suspending Proposed Tariff Sheets, and Allowing Tariff Sheets to Become Effective

JANUARY 30, 1959.

Mississippi River Fuel Corporation (Mississippi), on December 31, 1958, tendered for filing Fourth Revised Sheet No. 2-a and Second Revised Sheet No. 2-aa to its FPC Gas Tariff, Original Volume No. 2 reflecting the addition to the Louisiana gas severance tax and the suspension of the Louisiana gas gathering tax for the field sale of gas to Texas Eastern Transmission Corporation in the Bethany-Longstreet Field Area, DeSoto Parish, Louisiana, under its Rate Schedule No. 7. The proposed tariff sheets reflect revised billing determinants under Rate Schedule No. 7 which result in a reduction in the effective rate for such sale from 15.4257 cents per Mcf to 14.8905 cents per Mcf, as a result of the said tax change. The 15.4257 cent rate is presently effective subject to refund in the proceeding in Docket No. G-16027. Mississippi requests waiver of the Commission's Regulations to permit its filings to become effective as of December 1, 1958.

Mississippi further requests that the suspension proceeding in Docket No. G-16792 be continued in effect in order to allow Mississippi to file substitute tariff sheets to replace those presently suspended therein, which substitute sheets would reflect the reduction in tax reimbursement caused by the aforementioned tax change. Mississippi agrees to tender the substituted tariff sheets before the suspended sheets are placed in effect upon appropriate motion by the company.

The proposed changes in rates, charges, classifications, and services provided for in the tariff sheets tendered by Mississippi on December 31, 1958, have not been shown to be justified and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds:

(1) It is necessary and proper in the public interest, and to aid in the enforcement of the provisions of the Natural Gas Act, that the Commission enter upon a hearing concerning the lawfulness of the proposed changes in rates, charges, classifications and services, and that the above-designated tariff sheets be suspended and the use thereof deferred as hereinafter ordered.

(2) It is appropriate in the public interest and in carrying out the provisions of the Natural Gas Act that Mississippi's proposed tariff sheets be made effective as hereinafter provided and that Mississippi be required to file an undertaking as hereinafter ordered and conditioned.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed rates, charges, classifications and services contained in the above-designated tariff sheets.

(B) Pending such hearing and decision thereof, Fourth Revised Sheet No. 2-a and Second Revised Sheet No. 2-aa to Mississippi's FPC Gas Tariff, Original Volume No. 2, are each hereby suspended and the use thereof deferred until February 1, 1959, and thereafter until such further time as they are made effective in the manner hereinafter prescribed.

(C) The rates, charges, classifications, and services set forth in the above-designated filings shall be effective as of February 1, 1959: *Provided, however,* That within 20 days from the date of this order, Mississippi shall execute and file with the Secretary of the Commission the agreement and undertaking described in paragraph (E) below, and shall also file, prior to March 1, 1959, substitute tariff sheets reflecting the decrease in tax reimbursement to replace the tariff sheets presently under suspension in Docket No. G-16792.

(D) Mississippi shall refund at such times and in such amounts to persons entitled thereto, and in such manner as may be required by final order of the Commission, the portion of the revised rates and charges found by the Commission in this proceeding not justified, together with interest thereon at the rate of 6 percent per annum from the date of payment to Mississippi until refunded; shall bear all costs of any such refundings; shall keep accurate accounts in detail of all amounts received by reason of the revised rates or charges to be made effective as of February 1, 1959, for each billing period, specifying by whom and in whose behalf such amounts were paid; and shall report (original and one copy) in writing and under oath, to the Commission monthly, for each billing period, and for each purchaser, the billing determinants of natural gas sales to such purchasers and the revenues resulting therefrom as computed, not under the rates in effect immediately prior to February 1, 1959, but under the rates in effect immediately prior to August 2, 1958, and under the rates and charges allowed by this order to become effective, together with the differences in the revenues so computed.

(E) As a condition of this order, within 20 days from the date of issuance hereof, Mississippi shall execute and file in triplicate with the Secretary of this Commission its written agreement and undertaking to comply with the terms of paragraph (D) hereof, as follows:

Agreement and Undertaking of Mississippi River Fuel Corporation To Comply With the Terms and Conditions of Paragraph (D) of Federal Power Commission's Order Making Effective Proposed Tariff Sheets

In Conformity with the requirements of the order issued (Date) in Docket No. G-17716, Mississippi River Fuel Corporation hereby agrees and undertakes to comply with the terms and conditions of paragraph (D) of said order, and has caused this agreement and undertaking to be executed and sealed in its name by its officers, thereupon duly authorized in accordance with the terms of the resolution of its board of directors, a certified copy of which is appended hereto this ------ day of ----------.

MISSISSIPPI RIVER FUEL CORPORATION

By ----------

Attest:

As a further condition of this order, Mississippi shall file with said agreement and undertaking a certificate showing service of copies thereof upon all purchasers under the tariff sheets involved. Unless Mississippi is advised to the contrary within 15 days after the date of filing such agreement and undertaking, the agreement and undertaking shall be deemed to have been accepted.

(F) If Mississippi shall, in conformity with the terms and conditions of paragraph (D) of this order make the refunds as may be required by order of the Commission, the undertaking shall be discharged; otherwise it shall remain in full force and effect.

(G) Neither the tariff sheets hereby suspended nor the tariff sought to be altered thereby shall be changed until the proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(H) Interested State commissions may participate as provided by §§ 1.8 and 1.37(f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37(f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 59-1041; Filed, Feb. 5, 1959; 8:47 a.m.]

[Docket No. G-17718 etc.]

SOCS VRATIS ET AL.

Order for Hearings and Suspending Proposed Changes in Rates

JANUARY 30, 1959.

In the matters of Socs Vratis et al., Docket No. G-17718; Skinner Corporation (Operator) et al., Docket No. G-17720; Gordon Street, Inc., Docket No. G-17722; Christie Mitchell and Mitchell Company, Docket No. G-17728.

The proposed changes hereinafter designated, which constitute increased rates and charges in presently effective rate schedules for sales of natural gas subject to the jurisdiction of the Commission, have been tendered for filing

by the above-named respondents. In each filing the purchaser is Tennessee Gas Transmission Company. The stated effective date in each of these filings is the first day after expiration of the required statutory notice.[1]

Respondent	Rate Schedule No.	Supplement No.	Notice of change dated—	Date tendered	Effective date	Rate suspended and deferred until—
Foes Vratis, et. al.	1	2	12-31-58	1-2-59	2-2-59	7-2-59
Skinner Corp. (operator) et. al.	1	1	12-22-58	1-5-59	2-5-59	7-5-59
Gordon Street, Inc.	1	1	Undated	1-7-59	2-7-59	7-7-59
Christie Mitchell and Mitchell Co.	3	12	12-31-58	1-2-59	2-2-59	7-2-59

In support of the increases, respondents submit copies of Tennessee's rate redetermination letters, cite the contract provisions and state that the contracts were negotiated at arm's length. In addition, they state the proposed prices are just and reasonable and will afford sellers only a fair return upon their investment.

The increased rates and charges so proposed have not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon hearings concerning the lawfulness of the several proposed changes and that the above-designated supplements be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), public hearings be held upon dates to be fixed by notices from the Secretary concerning the lawfulness of the several proposed increased rates and charges contained in the above-designated supplements.

(B) Pending hearing and decision thereon, each of said supplements be and it is hereby suspended and the use thereof deferred until the time to which it was suspended as hereinbefore indicated, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) None of the several supplements hereby suspended, nor the rate schedule sought to be altered thereby, shall be changed until the relevant proceeding has been disposed of or until the applicable period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 or 1.37(f) of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.37(f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 59-1042; Filed, Feb. 5, 1959; 8:47 a.m.]

[Docket No. G-17719]

AMERADA PETROLEUM CORP.

Order for Hearing and Suspending Proposed Change in Rate

JANUARY 30, 1959.

Amerada Petroleum Corporation (Amerada) on January 2, 1959, tendered for filing a proposed change in its presently effective rate schedule for the sale of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of Change, dated December 29, 1958.

Purchaser: Colorado Interstate Gas Company.

Rate schedule designation: Supplement No. 4 to Amerada's FPC Gas Rate Schedule No. 52.

Effective date: February 2, 1959 (effective date is the first day after expiration of the required thirty days' notice).

In support of the proposed increase Amerada states that the increased price was agreed to as a result of arm's-length bargaining in good faith.

The increased rate and charge so proposed has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed changes, and that Supplement No. 4 to Amerada's FPC Gas Rate Schedule No. 52 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in Supplement No. 4 to Amerada's FPC Gas Rate Schedule No. 52.

(B) Pending such hearing and decision thereon, said supplement be and it is hereby suspended and the use thereof deferred until July 2, 1959, and thereafter until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended nor the rate schedule sought to be altered thereby shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37(f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37(f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 59-1043; Filed, Feb. 5, 1959; 8:47 a.m.]

[Docket No. G-17733]

COASTAL STATES GAS PRODUCING CO.

Order for Hearing and Suspending Proposed Change in Rate

JANUARY 30, 1959.

Coastal States Gas Producing Company (Coastal States), on January 2, 1959, tendered for filing a proposed change in its presently effective rate schedule for the sale of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of Change, dated January 2, 1959.

Purchaser: Texas Illinois Natural Gas Pipe Line Company.

Rate schedule designation: Supplement No. 5 to Coastal State's FPC Gas Rate Schedule No. 23.

Effective date: February 2, 1959 (effective date is the first day after expiration of statutory notice).

In support of the proposed increase in rate, Coastal State's submitted copies of the letter agreement redetermining the price and states that the contract providing for such redetermination resulted from bargaining at arm's length.

The increased rate and charge so proposed has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the proposed change, and that Supplement No. 5 to Coastal State's FPC Gas Rate Schdule No. 23 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of

[1] This order does not provide for the consolidation for hearing or disposition of the several matters covered herein, nor should it be so construed.

practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing shall be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in Supplement No. 5 to Coastal State's FPC Gas Rate Schedule No. 23.

(B) Pending hearing and decision thereon, the supplement is hereby suspended and the use thereof deferred until July 2, 1959, and thereafter until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended nor the rate schedule sought to be altered shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37(f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37(f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 59-1046; Filed, Feb. 5, 1959; 8:48 a.m.]

[Docket No. G-17725, etc.]

SINCLAIR OIL AND GAS CO. ET AL.

Order for Hearings and Suspending Proposed Changes in Rates

JANUARY 30, 1959.

In the matters of Sinclair Oil & Gas Company, Docket No. G-17725; Sunray Mid-Continent Oil Company (Operator) et al., Docket No. G-17726; Sunray Mid-Continent Oil Company, Docket No. G-17727; The Pure Oil Company, Docket No. G-17729; Amerada Petroleum Corporation, Docket No. G-17730.

The proposed changes hereinafter designated which constitute increased rates and charges in presently effective rate schedules for sales of natural gas subject to the jurisdiction of the Commission have been tendered for filing by the above-named Respondents. In each filing the purchaser is Transcontinental Gas Pipe Line Corporation.[1]

In support of these increases Respondents (except for Amerada) cite the contract provisions of their respective rate schedules, state that these contracts were negotiated at arm's-length, and state that the proposed rate is just and reasonable and only fair consideration for long-term commitment of their gas. Sunray in addition states that denial of the increased price would be unjust and unduly discriminatory. Amerada merely cited the contract provisions of its rate schedule. Each Respondent submitted copies of Transcontinental Gas Pipe Line Corporation's favored-nation letter.

The increased rates and charges so proposed have not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful.

Respondent	Rate schedule No.	Supplement No.	Notice of change dated—	Date tendered	Effective date	Rate suspended and deferred until—	Rate in effect subject to refund in Docket No.
1. Sinclair Oil and Gas Co.	58	4	12-30-58	1-2-59	[1] 2-2-59	7-2-59	G-15662
2. Sunray Mid-Continent Oil Co. (operator et al.).	77	7	12-31-58	1-2-59	[1] 2-2-59	7-2-59	G-15594
3. Sunray Mid-Continent Oil Co	13	12	12-31-58	1-2-59	[1] 2-2-59	7-2-59	G-15593
4. Sunray Mid-Continent Oil Co	108	3	12-31-58	1-2-59	[1] 2-2-59	7-2-59	G-15593
5. The Pure Oil Co.	33	3	Undated	1-9-59	[2] 2-9-59	7-9-59	G-15582
6. Amerada Petroleum Corp.	48	3	12-31-58	1-5-59	[1] 2-5-59	7-5-59	G-15561

[1] The stated effective date is that proposed by the Respondent.
[2] The stated effective date is the first day after expiration of the required thirty days' notice.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the Natural Gas Act that the Commission enter upon hearings concerning the lawfulness of the several proposed changes and that the above-designated supplements be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), public hearings be held upon dates to be fixed by notices from the Secretary concerning the lawfulness of the several proposed increased rates and charges contained in the above-designated supplements.

(B) Pending hearing and decision thereon, each of said supplements be and it is hereby suspended and the use thereof deferred until the date hereinbefore indicated, and thereafter until such further time as it is made effective in the manner prescribed in the Natural Gas Act.

(C) None of the several supplements hereby suspended, nor the rate schedule sought to be altered thereby, shall be changed until the relevant proceeding has been disposed of or until the applicable period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 or 1.37(f) of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.37(f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 59-1045; Filed, Feb. 5, 1959; 8:48 a.m.]

[Docket No. G-17721, etc.]

MAGNOLIA PETROLEUM CO. ET AL.

Order for Hearings and Suspending Proposed Changes in Rates

JANUARY 30, 1959.

In the matters of Magnolia Petroleum Company, Docket No. G-17721; United Producing Company, Inc., Docket No. G-17723; United Carbon Company, Inc. (Maryland), Docket No. G-17724.

The proposed changes hereinafter designated, which constitute increased rates and charges in presently effective rate schedules for sales of natural gas subject to the jurisdiction of the Commission, have been tendered for filing by the above-named Respondents. In each filing the purchaser is Colorado Interstate Gas Company.[1]

Respondent	Rate Schedule No.	Supplement No.	Notice of change dated—	Date tendered	Effective date	Rate suspended and deferred until—
Magnolia Petroleum Co.	140	1	Undated	1-5-59	[1] 2-5-59	7-5-59
United Producing Co., Inc.	19	3	[2] 11-4-58	1-8-59	[3] 2-10-59	7-10-59
United Producing Co., Inc.	19	4	1-7-59	1-8-59	[3] 2-10-59	7-10-59
United Carbon Co., Inc. (Md.)	6	7	[2] 11-4-58	1-8-59	[3] 2-10-59	7-10-59
United Carbon Co., Inc. (Md.)	6	8	1-7-59	1-8-59	[3] 2-10-59	7-10-59

[1] The stated effective date is the first day after expiration of the required thirty days' notice.
[2] The instrument in this instance was a supplemental agreement.
[3] The stated effective date is that proposed by the respondent.

In support of the proposed redetermined increased rate, Magnolia submits that the contract resulted from arm's length bargaining in good faith, the increased price does not exceed the market value of the gas and denial thereof would be confiscatory. United Producing and United Carbon cite the contract provisions and state that the contracts resulted from arm's length negotiations, the proposed price is in line with other prices in the area and is necessary to

[1] This order does not provide for the consolidation for hearing or disposition of the several matters covered herein, nor should it be so construed.

compensate sellers for increasing costs of development, operation and maintenance.

The increased rates and charges so proposed have not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon hearings concerning the lawfulness of the several proposed changes and that the above-designated supplements be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), public hearings be held upon dates to be fixed by notices from the Secretary concerning the lawfulness of the several proposed increased rates and charges contained in the above-designated supplements.

(B) Pending hearing and decision thereon, each of said supplements be and it is hereby suspended and the use thereof deferred until the time to which it was suspended as hereinbefore indicated, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) None of the several supplements hereby suspended, nor the rate schedule sought to be altered thereby, shall be changed until the relevant proceeding has been disposed of or until the applicable period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 or 1.37(f) of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.37(f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 59-1044; Filed, Feb. 5, 1959; 8:47 a.m.]

[Docket No. G-17735]

HUDGINS OIL & GAS CO.

Order for Hearing and Suspending Proposed Change in Rate

JANUARY 30, 1959.

Hudgins Oil & Gas Company (Hudgins) on January 2, 1959, tendered for filing a proposed change in its presently effective rate schedule for the sale of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of Change, dated December 31, 1958.

Purchaser: Tennessee Gas Transmission Company.

Rate schedule designation: Supplement No. 5 to Hudgins' FPC Gas Rate Schedule No. 1.

Effective date: February 2, 1959 (effective date is the first day after expiration of statutory notice).

In support of the proposed redetermined rate increase, Hudgins cites the contract provisions, its increasing costs, and states that the increase will merely bring its rate up to the average prices in the area.

The increased rate and charge so proposed has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change, and that Supplement No. 5 to Hudgins' FPC Gas Rate Schedule No. 1 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in Supplement No. 5 to Hudgins' FPC Gas Rate Schedule No. 1.

(B) Pending such hearing and decision thereon, said supplement be and it is hereby suspended and the use thereof deferred until July 2, 1959, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended nor the rate schedule sought to be altered thereby shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37(f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37(f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 59-1047; Filed, Feb. 5, 1959; 8:48 a.m.]

[Docket No. G-17739]

SINCLAIR OIL & GAS CO.

Order for Hearing and Suspending Proposed Change in Rate

JANUARY 30, 1959.

Sinclair Oil & Gas Company (Sinclair) on January 2, 1959, tendered for filing a proposed change in its presently effective rate schedule[1] for the sale of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of Change, dated December 30, 1958.

Purchaser: Transcontinental Gas Pipe Line Corporation.

Rate schedule designation: Supplement No. 4 to Sinclair's FPC Gas Rate Schedule No. 78.

Effective date: February 2, 1959 (effective date is that proposed by Sinclair).

In support of the proposed favored-nation rate increase, Sinclair cited the contract provisions and submitted a copy of the purchaser's favored-nation letter. Sinclair further states that the contracts were negotiated at arm's length and that the increased rate will not result in excessive returns.

The increased rate and charge so proposed has not been shown to be just, and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful.

The Commission orders: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the proposed change, and that Supplement No. 4 to Sinclair's FPC Gas Rate Schedule No. 78 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing shall be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in Supplement No. 4 to Sinclair's FPC Gas Rate Schedule No. 78.

(B) Pending the hearing and decision thereon, the supplement is suspended and the use thereof deferred until July 2, 1959, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended nor the rate schedule sought to be altered shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37(f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 59-1048; Filed, Feb. 5, 1959; 8:48 a.m.]

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[1] Present rate in effect subject to refund in Docket No. G-15662.

[Docket No. G-12399 etc.]

NATURAL GAS PIPELINE COMPANY OF AMERICA ET AL.

Notice and Order Consolidating Applications and Permitting Intervention

JANUARY 30, 1959.

In the matters of Natural Gas Pipeline Company of America, Docket No. G-12399; Champlin Oil & Refining Co., Docket No. G-14830; Amerada Petroleum Corporation, Docket No. G-16029; Cities Service Gas Company, Docket No. G-16217; Phillips Petroleum Company, Docket No. G-16280, G-16439; Carter-Jones Drilling Company, Inc., Docket No. G-16288; Magnolia Petroleum Company, Docket No. G-16295, G-16296, G-16393; Johntom Oil Company, Inc., Docket No. G-16375; McCommons Oil Company, Docket No. G-16376; Anson L. Clark, Docket No. G-16382; Cornell Oil Company, Docket No. G-16383; Bond Oil Company, Docket No. G-16392; Hudson Oil & Metals Company, Docket No. G-16436; Gulf Oil Corporation, Docket No. G-16761.

Docket No. G-12399: Natural Gas Pipeline Company of America (Natural), on April 12, 1957, filed an application in Docket No. G-12399 on which notice was issued July 25, 1957, and published in the FEDERAL REGISTER on July 31, 1957 (22 F.R. 6025). On April 3, 1958, Natural filed an amendment to this application which was supplemented on April 15, 1958, and notice was issued on April 29, 1958, and published in the FEDERAL REGISTER on May 3, 1958 (23 F.R. 2994-5). On September 10, 1958, Natural filed a second amendment. This last amendment proposes to increase the capacity of the compressor station to be located in Kiowa County, Oklahoma, and decrease the compressor capacity at the station in Wise County, Texas, and also to construct four further lateral supply lines including a side-tap connection. Natural states that the capacity of its main transmission system north of Fritch, Texas, will not change by reason of this last amendment. The total estimated cost of all facilities now proposed to be constructed in this docket is $70,260,000, plus additions to the gathering system in Jack and Wise Counties, Texas, of $728,000. With the amendment of September 10, 1958, there has been submitted revisions and amendments to Exhibits F, G, H, K, L, N and P of said application. The above application as amended is on file with the Commission and open to public inspection.

Docket No. G-14830: Take notice that Champlin Oil & Refining Co. (Champlin), a Delaware corporation with its principal place of business at 5301 Camp Bowie Boulevard, Fort Worth, Texas, and authorized to do business in twenty states including Texas, filed on April 4, 1958, an application for a certificate of public convenience and necessity, pursuant to section 7 of the Natural Gas Act. Champlin proposes to deliver and sell natural gas to Natural produced from the Boonesville Field in Jack and Wise Counties, Texas, at a price of 13 cents per Mcf, subject to certain adjustments. The application is on file with the Commission and open to public inspection.

Docket No. G-16029: Take notice that Amerada Petroleum Corporation (Amerada), a Delaware corporation with its principal place of business in Tulsa, Oklahoma, and authorized to do business in nineteen states including Oklahoma, filed on August 18, 1958, an application for a certificate of public convenienee and necessity, pursuant to section 7 of the Natural Gas Act. Amerada proposes to deliver and sell natural gas to Natural from the West Cement Field, Caddo County, Oklahoma, at a price of 16 cents per Mcf, subject to certain adjustments. The application is on file with the Commission and open to public inspection.

Docket No. G-16217: Take notice that Cities Service Gas Company (Cities Service), a Delaware corporation with its principal place of business in Oklahoma City, Oklahoma, and authorized to do business in five states including Oklahoma, filed on September 5, 1958, an application which was supplemented on September 24, 1958, for a certificate of public convenience and necessity, pursuant to section 7 of the Natural Gas Act. Cities Service proposes to construct approximately 7 miles of 16-inch pipeline in Gavin County, Oklahoma, and two meter settings located in Carson County, Texas, and Carter County, Oklahoma, for the purpose of exchanging and selling to Natural an average of 25,000 Mcf of natural gas per day. The 16-inch line is required to transport gas acquired by Cities Service from Phillips Petroleum Company and Magnolia Petroleum Company at the Bradley gasoline plant at a price of 11 cents per Mcf, subject to certain adjustments, for which Cities Service will receive 15 cents per Mcf from Natural. The application is on file with the Commission and open to public inspection.

Docket Nos. G-16280 and G-16439: Take notice that Phillips Petroleum Company (Phillips), a Delaware corporation with its principal place of business in Bartlesville, Oklahoma, and authorized to do business in all of the states and in the District of Columbia, filed on September 8, 1958, in Docket No. G-16280, an application for a certificate of public convenience and necessity, pursuant to section 7 of the Natural Gas Act. Phillips proposes to deliver and sell natural gas from the Bradley gasoline plant in Gavin County, Oklahoma, to Cities Service at a price of 11 cents per Mcf, subject to certain adjustments.

Take further notice that Phillips filed on September 24, 1958, in Docket No. G-16439, an application for a certificate of public convenience and necessity, pursuant to section 7 of the Natural Gas Act. Phillips proposes to deliver and sell natural gas to Natural in the Wise County area of Wise, Parker and Jack Counties, Texas, at a price of 13 cents per Mcf, subject to certain adjustments.

The above applications filed by Phillips are on file with the Commission and open to public inspection.

Docket No. G-16288: Take notice that Carter-Jones Drilling Company, Inc. (Carter-Jones), a Texas corporation with its principal place of business at Kilgore, Texas, filed on September 10, 1958, an application for a certificate of public convenience and necessity, pursuant to section 7 of the Natural Gas Act, Carter-Jones proposes to deliver and sell natural gas to Natural produced from the Wise County area in Wise County, Texas, at a price of 13 cents per Mcf, subject to certain adjustments. The co-owners listed are: Dorothy N. Manziel, W. M. Plaster, M. E. Pollard, John Pope, W. C. Smith, Bluford Stinchcomb, Jean C. Young, L. M. Young, and Carter-Jones. The application is on file with the Commission and open to public inspection.

Docket Nos. G-16295, G-16296 and G-16393: Take notice that Magnolia Petroleum Company (Magnolia), a Texas corporation with its principal place of business in Dallas, Texas, and authorized to do business in eighteen states including Oklahoma, filed in Docket No. G-16295 on September 12, 1958, an application for a certificate of public convenience and necessity, pursuant to section 7 of the Natural Gas Act. Magnolia proposes to deliver and sell natural gas to Natural at an outlet of the Chitwood Gasoline Plant in Grady County, Oklahoma, at a price of 16 cents, subject to certain adjustments, and lists the Gulf Oil Corporation as a co-owner.

Docket Nos. G-12399 et al.: Take further notice that Magnolia filed in Docket No. G-16296 an application for a certificate of public convenience and necessity, pursuant to section 7 of the Natural Gas Act. Magnolia proposes in this application to deliver and sell natural gas to Natural in the South Rainey Field, Washita County, Oklahoma, at a price of 16 cents per Mcf, subject to certain adjustments. The co-owners listed are: Fain Porter Drilling Company, Riddell Petroleum Corporation and Magnolia.

Take further notice that Magnolia filed in Docket No. G-16393 an application which was amended on November 5, 1958, for a certificate of public convenience and necessity, pursuant to section 7 of the Natural Gas Act. Magnolia proposes by this application to deliver and sell natural gas to Natural in the Alvord Field, Wise County, Texas, at a price of 13 cents per Mcf, subject to certain adjustments.

The above applications are on file with the Commission and open to public inspection.

Docket No. G-16375: Take notice that Johntom Oil Company, Inc. (Johntom), a Texas corporation with its principal place of business at 425 Meadows Building, Dallas, Tex., filed on September 22, 1958, an application for a certificate of public convenience and necessity, pursuant to section 7 of the Natural Gas Act. Johntom proposes to deliver and sell natural gas to Natural from the Wise County area, Texas, at a price of 13 cents per Mcf, subject to certain adjustments. The co-owners listed are: Geo. F. Scanlon, James G. Maynard, John H. MacDonald and Johntom. The application is on file with the Commission and open to public inspection.

Docket No. G-16376: Take notice that McCommons Oil Company (McCommons), a Texas corporation with its principal place of business at 1510 Mer-

cantile Securities Building, Dallas, Texas, filed on September 22, 1958, an application for a certificate of public convenience and necessity, pursuant to section 7 of the Natural Gas Act. McCommons proposes to deliver and sell natural gas to Natural from the Wise County area, Texas, at a price of 13 cents per Mcf, subject to certain adjustments. The co-owners listed are: Mark Conrad, John A. Jackson, Texas R.F.O. Inc., and Sam Ventura. The application is on file with the Commission and open to public inspection.

Docket No. G–16382: Take notice that Anson L. Clark (Clark), an individual with his principal place of business at 4616 Greenville Avenue, Dallas 6, Texas, filed on September 22, 1958, an application for a certificate of public convenience and necessity, pursuant to section 7 of the Natural Gas Act. Clark proposes to deliver and sell natural gas to Natural from the West Cement Field, Caddo County, Oklahoma, at a price of 16 cents per Mcf, subject to certain adjustments. The co-owners listed are: Amerada Petroleum Corporation, Pure Oil Company and Anson L. Clark. The application is on file with the Commission and open to public inspection.

Docket No. G–16383: Take notice that Cornell Oil Company (Cornell), a Delaware corporation with its principal place of business at 4616 Greenville Avenue, Dallas 6, Texas, filed on September 26, 1958, an application for a certificate of public convenience and necessity, pursuant to section 7 of the Natural Gas Act. Cornell proposes to deliver and sell natural gas to Natural from the West Cement Field, Caddo County, Oklahoma, at a price of 16 cents per Mcf, subject to certain adjustments. The co-owners listed are: Amerada Petroleum Corporation, F. E. Harper and Cornell. The application is on file with the Commission and open to public inspection.

Docket No. G–16392: Take notice that Bond Oil Corporation (Bond), a Texas corporation and authorized to do business in the State of Oklahoma, with its principal place of business in Dallas, Texas, filed on September 23, 1958, an application for a certificate of public convenience and necessity, pursuant to section 7 of the Natural Gas Act. Bond proposes to deliver and sell natural gas to Natural from Wise County, Tex., at a price of 13 cents per Mcf, subject to certain adjustments. The co-owners listed are: R. F. Dorsey, Clyde E. Thomas, Jr., and Bond. The application is on file with the Commission and open to public inspection.

Docket No. G–16436: Take notice that Hudson Oil & Metals Company (Hudson), a partnership existing under the laws of the State of Texas with its principal place of business at 1700 Corrigan Tower, Dallas 1, Texas, filed on September 25, 1958, an application for a certificate of public convenience and necessity, pursuant to section 7 of the Natural Gas Act. Hudson proposes to deliver and sell natural gas to Natural at a plant located near Bridgeport, Texas, in Wise County, Texas, at a price of 13 cents per Mcf, subject to certain adjustments. The application is on file with the Commission and open to public inspection.

Docket No. G–16761: Take notice that Gulf Oil Corporation (Gulf), a Pennsylvania corporation, address P.O. Box 9607, Oklahoma City 18, Oklahoma, and authorized to do business in the District of Columbia and all of the states except Nevada, filed on October 23, 1958, an application for a certificate of public convenience and necessity, pursuant to section 7 of the Natural Gas Act. Gulf proposes to deliver and sell natural gas to Natural from the West Cement Field in Caddo County, Oklahoma, at a price of 16 cents per Mcf, subject to certain adjustments. The application is on file with the Commission and open to public inspection.

Oklahoma Natural Gas Company (Oklahoma Natural) has heretofore been permitted to intervene in Docket No. G–12399 by order issued July 7, 1958. Subsequent to the filing of the above petition in Docket No. G–12399, Oklahoma Natural has filed petitions in all of the above-entitled dockets, except Docket Nos. G–16217 and G–16280, seeking leave to intervene therein in opposition to the granting of the applications or if granted that a condition be imposed fixing the maximum charge for gas.

The Commission finds:

(1) The above-entitled applications are all related and should be consolidated for hearing.

(2) The participation of Oklahoma Natural in the above-entitled proceedings as applied for may be in the public interest.

The Commission orders:

(A) The above-entitled applications be and the same hereby are consolidated for hearing.

(B) The petitioner, Oklahoma Natural, be and it hereby is permitted to become an intervener in the above-entitled proceedings, save and except Docket Nos. G–16217 and G–16280, subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such intervener shall be limited to matters affecting asserted rights and interests specifically set forth in the petitions for leave to intervene; and *Provided, further,* That the admission of such intervener shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders of the Commission entered in these proceedings.

(C) Additional protests and petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before February 25, 1959.

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 59–1075; Filed, Feb. 5, 1959; 8:52 a.m.]

[Docket No. G–16767]

MICHIGAN WISCONSIN PIPE LINE CO.

Notice of Application and Date of Hearing

FEBRUARY 2, 1959.

Take notice that on October 27, 1958, Michigan Wisconsin Pipe Line Company (Applicant) filed in Docket No. G–16767 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 lateral and field facilities to enable Applicant to take into its certificated main pipeline system natural gas which it may purchase from producers in the general area of its existing transmission system during the 12-month period following the date on which such certificate may be issued herein, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The total cost of the facilities proposed under this application is not to exceed $3,000,000, with the total cost of any single connection limited to $500,000.

The purpose of this proposal is to augment Applicant's ability to act with reasonable dispatch in contracting for and connecting to its existing pipeline system new supplies of gas in various producing areas generally coextensive with said system.

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

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on March 5, 1959, at 9:30 a.m., e.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. 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 February 24, 1959. 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. 59–1076; Filed, Feb. 5, 1959; 8:52 a.m.]

[Docket No. G-8246]

APPELL DRILLING CO.

Notice of Postponement of Hearing

FEBRUARY 2, 1959.

Take notice that the hearing now scheduled for February 12, 1959, in Docket No. G-8246 is postponed to a date to be hereafter fixed by further notice.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 59-1077; Filed, Feb. 5, 1959; 8:52 a.m.]

[Docket No. G-11219]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Application and Date of Hearing

FEBRUARY 2, 1959.

Take notice that Transcontinental Gas Pipe Line Corporation (Applicant), a Delaware corporation with its principal place of business in Houston, Texas, filed, on October 9, 1956, an application for a certificate of public convenience and necessity, pursuant to section 7(c) of the Natural Gas Act, authorizing the Applicant to construct and operate certain facilities as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate a new sales meter station for Mid-Georgia Natural Gas Company, an existing customer, and to deliver natural gas for resale and distribution in Comer, Colber, and Danielsville, Georgia.

Applicant has heretofore been authorized in Docket No. G-10000 to sell natural gas to Mid-Georgia for resale in the three communities. The proposed facilities are those necessary to effectuate the authorized sale.

The estimated cost of the facilities is $12,000 which Applicant proposes to defray from cash on hand.

Temporary authorization to construct and operate the facilities was granted to Applicant on October 19, 1956.

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 March 3, 1959 at 9:30 a.m., e.s.t., in a hearing room of the Federal Power Commission, 441 G. Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. 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 February 24, 1959. 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. 59-1078; Filed, Feb. 5, 1959; 8:52 a.m.]

[Docket Nos. G-8233, G-8234]

JONES-O'BRIEN, INC.

Notice of Applications and Date of Hearing

FEBRUARY 2, 1959.

Take notice that Jones-O'Brien, Incorporated (Applicant), an independent producer with its principal place of business in Shreveport, Louisiana, filed, on December 16, 1954, applications for certificates of public convenience and necessity, as amended May 13, 1955, pursuant to section 7(c) of the Natural Gas Act, authorizing the Applicant to sell natural gas as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in the applications which are on file with the Commission and open to public inspection.

Applicant proposes to sell natural gas to Arkansas-Louisiana Gas Company from Carter-Crystal C-1 Well (Docket No. G-8233) and Phillips Emerantia No. 1 Well (Docket No. G-8234), both located in the Ivan Field, Bossier Parish, Louisiana, pursuant to contracts dated November 5, 1954, and October 29, 1954, respectively, which are on file as Jones-O'Brien, Inc.'s FPC Gas Rate Schedules Nos. 2 and 4. Arkansas-Louisiana Gas Company will transport this gas in interstate commerce for resale.

These related matters should be heard on a consolidated record and disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on March 5, 1959, at 9:30 a.m., e.s.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such applications: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for 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 February 27, 1959. 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. 59-1079; Filed, Feb. 5, 1959; 8:52 a.m.]

[Docket Nos. G-9928, G-12707]

GULF OIL CORP. ET AL.

Notice of Application, Petition To Amend Certificate, and Date of Hearing

FEBRUARY 2, 1959.

In the matters of Gulf Oil Corporation, Docket No. G-9928; Steeple Oil & Gas Company et al., Docket No. G-12707.

Take notice that Steeple Oil & Gas Company (Steeple), a Delaware corporation with principal place of business at P.O. Box 1208, Dallas, Texas and Petroleum Exploration, Inc. (Petroleum), a Texas corporation with principal place of business at 1501 Taylor Street, Amarillo, Texas, filed a joint application for a certificate of public convenience and necessity in the above-captioned proceeding on June 6, 1957, pursuant to section 7(c) of the Natural Gas Act (Act), authorizing Steeple and Petroleum to render service as hereinafter described; and that Gulf Oil Corporation (Gulf), a Pennsylvania corporation with principal place of business at Pittsburgh, Pennsylvania, filed on September 6, 1957, in the above-captioned proceeding, pursuant to Section 16 of the Act, a petition to amend the certificate of public convenience and necessity heretofore granted it in Docket No. G-9928 as hereinafter described, all subject to the jurisdiction of the Commission and as more fully represented in the application and petition which are on file with the Commission and open for public inspection.

Heretofore, by order issued on June 22, 1956, In the Matters of Gulf Oil Corporation, et al., Docket No. G-9928, et al., Gulf was granted a certificate of public convenience and necessity, pursuant to section 7(c) of the Act, authorizing Gulf to sell natural gas in interstate commerce from production of various properties including the Tenney Talley lease which covers section 16 of said acreage, Quinduno (Lower Albany Dolomite) and Quinduno (Strawn) Oil Fields, Roberts County, Texas, to Natural Gas Pipeline

Company of America (Natural) for resale. The contract covering this sale of gas, dated January 3, 1956, is on file as Gulf's FPC Gas Rate Schedule No. 43.

By assignment dated January 18, 1957, as amended by instrument dated April 15, 1957, Gulf transferred all of its oil, gas and casinghead gas rights in the N/2 of the aforesaid Tenney Talley lease (N/2 of Section 16) down to a depth of 4,300 feet to Petroleum subject to the aforesaid gas sales contract of January 3, 1956. Thereafter, by assignment dated January 31, 1957, Petroleum transferred an undivided ⅞ of its interest in said Tenney Talley lease to Steeple.

Steeple and Petroleum propose to take over and continue, without interruption, the sale of natural gas from the N/2 of the Tenney Talley lease as aforesaid to Natural.

Gulf seeks to have the certificate issued it in Docket No. G–9928 amended so as to remove gas produced from formations down to 4,300 feet of the N/2 of the Tenney Talley lease from the dedication to the performance of its Rate Schedule No. 43 as aforesaid.

These related matters 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 March 5, 1959 at 9:30 a.m., e.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by the application in Docket No. G–12707: *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 Petroleum and Steeple 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 February 24, 1959. 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. 59–1080; Filed, Feb. 5, 1959; 8:52 a.m.]

[Docket No. G–17218]

ALABAMA-TENNESSEE NATURAL GAS CO.

Order Amending Order

FEBRUARY 2, 1959.

On December 22, 1958, Alabama-Tennessee Natural Gas Company (Alabama-Tennessee) filed a motion requesting that the Commission postpone the effective date of Alabama-Tennessee's First Revised Sheet No. 11–D to its FPC Gas Tariff, First Revised Volume No. 1 from December 15, 1958, to May 15, 1959. In the motion, Alabama-Tennessee stated that such tariff sheet pertains to the sale of natural gas for resale for industrial use only and that it did not desire to collect an increased rate for such industrial gas prior to May 15, 1959, when its supplier's, Tennessee Gas Transmission Company, increased rates may become effective in Docket No. G–17166.

The Commission finds: Good cause has been shown for amending the Commission's order of December 12, 1958, to allow Alabama-Tennessee's First Revised Sheet No. 11–D to its FPC Gas Tariff, First Revised Volume No. 1 to become effective on May 15, 1959.

The Commission orders: Paragraph "(C)" of the order issued in this proceeding on December 12, 1958, is hereby amended to read as follows:

(C) First Revised Sheet No. 11–D to Alabama-Tennessee's FPC Gas Tariff, First Revised Volume No. 1, is hereby allowed to become effective on May 15, 1959.

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 59–1082; Filed, Feb. 5, 1959; 8:53 a.m.]

[Docket No. G–17013]

TENNESSEE GAS TRANSMISSION CO. AND ALABAMA-TENNESSEE NATURAL GAS CO.

Notice of Application and Date of Hearing

FEBRUARY 2, 1959.

Take notice that on November 20, 1958, as supplemented on January 7, 1959, Tennessee Gas Transmission Company (Tennessee) and Alabama-Tennessee Natural Gas Company (Alabama-Tennessee) filed a joint application in Docket No. G–17013 for a certificate of public convenience and necessity pursuant to section 7(c) of the Natural Gas Act, authorizing the construction and operation of an additional delivery point for the receipt of natural gas by Alabama-Tennessee from Tennessee at the point where Tennessee's new Delta-Portland pipeline intersects Alabama-Tennessee's system near Barton, Colbert County, Alabama, all as more fully set forth in the application and supplement which are on file with the Commission and open to public inspection.

Alabama-Tennessee presently receives its entire gas supply from Tennessee at a delivery point near Corinth, Mississippi, on Tennessee's Kinder-Portland line, from which point Alabama-Tennessee transports the gas eastward through its own transmission system for delivery to 14 resale customers and three industrial customers in Tennessee, Mississippi and Alabama. The new interconnection proposed herein would initially be used for emergency purposes only, to guard against interruption of service to Alabama-Tennessee's customers in the event of failure on Tennessee's Kinder-Portland line or the western portion of Alabama-Tennessee's system. At some future time this proposed new interconnection would be used for regular daily receipts of gas.

The estimated cost of the proposed facility to be constructed by Tennessee, a metering station, is $22,900, to be paid for from cash on hand. Alabama-Tennessee proposes to construct flow control and regulating facilities, adjacent to Tennessee's meter station, at an estimated cost of $26,949, also to be defrayed from cash on hand. Alabama-Tennessee will provide the site for the meter station, will reimburse Tennessee for all costs of construction thereof except the side valve assembly estimated to cost $700, and will own the meter station which it will lease to Tennessee for maintenance and operation.

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 March 5, 1959, at 9:30 a.m., e.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before February 24, 1959. 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. 59–1081; Filed, Feb. 5, 1959; 8:52 a.m.]

[Docket No. G–7419]

CARL CASEY

Notice of Application and Date of Hearing

FEBRUARY 2, 1959.

Take notice that Carl Casey (Applicant), an independent producer with principal place of business in Dallas, Texas, filed, on December 1, 1954, an application for a certificate of public

convenience and necessity, pursuant to section 7(c) of the Natural Gas Act, authorizing the Applicant to sell natural gas as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in the application which is on file with the Commission and open to public inspection.

Applicant sells natural gas to Arkansas Louisiana Gas Company from production in the South Hallsville Field, Harrison County, Texas, for resale in interstate commerce pursuant to a contract dated August 14, 1953, which is on file as Carl Casey, et al., FPC Gas Rate Schedule No. 1. Sales under this contract commenced prior to June 7, 1954.

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 March 10, 1959, at 9:30 a.m., e.s.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. 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 February 27, 1959. 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. 59–1084; Filed, Feb. 5, 1959; 8:53 a.m.]

[Docket No. G–11586]

M. B. ARMER ET AL.[1]

Notice of Application for Authority To Abandon Service and Date of Hearing

FEBRUARY 2, 1959.

Take notice that M. B. Armer, Operator, et al. (Applicant) [1] filed an application on December 7, 1956, pursuant to section 7(b) of the Natural Gas Act, for authorization to abandon service to Cities Service Gas Company (Cities Service), consisting of the sale of natural gas produced from the Fitzgerald Lease, McClure Pool, Barber County, Kansas, and the operation of facilities necessary therefor, subject to the jurisdiction of the Commission, all as more fully represented in the application which is on file with the Commission and open to public inspection.

Armer was authorized on February 21, 1956, in Docket No. G–8546 to sell the gas produced from said acreage to Cities Service, and has been making the sale pursuant to the terms of the sale contract on file with the Commission as M. B. Armer FPC Gas Rate Schedule No. 2.

Applicant states that declining pressure in the Fitzgerald No. 1 well, the only well on the Fitzgerald Lease, has reached the point where gas production therefrom is no longer capable of being fed into Cities Service's pipeline.

Applicant recites, further, that The Kansas Power and Light Company (KP&L) has tested Applicant's Fitzgerald well in order to determine whether gas therefrom might be injected into KP&L's low pressure line located approximately 500 feet from the well. KP&L, by letter dated November 2, 1956, informed the operator, M. B. Armer, that the test results showed the well to have an open flow of only 362 Mcf and a working pressure of 108 pounds, and therefore, KP&L could not justify the cost of connecting said Fitzgerald well to its line.

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 March 3, 1959, at 9:30 a.m., e.s.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a non-contested hearing dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. 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 February 26, 1959. 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. 59–1083; Filed, Feb. 5, 1959; 8:53 a.m.]

[1] M. B. Armer files on behalf of himself and the other co-owners. Signatory co-owners under said contract are: Herman Kaiser, Francis Oil & Gas, Inc., Willard J. Kaiser, Merle E. Britting and William Levitt.

[Docket No. G–2690]

ARMSTRONG & HORN DRILLING CO.

Notice of Application and Date of Hearing

FEBRUARY 2, 1959.

Take notice that Armstrong & Horn Drilling Company, Operator (Applicant), an independent producer with its principal place of business in San Antonio, Texas, filed, on September 8, 1954, as supplemented September 27, 1954, an application for a certificate of public convenience and necessity, pursuant to section 7(c) of the Natural Gas Act, authorizing the Applicant to sell natural gas as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in the application which is on file with the Commission and open to public inspection.

Applicant proposes to sell natural gas produced from the C. A. Barber Well No. 1 located in the Blanconia Field, Bee County, Texas, to United Gas Pipe Line Company for transportation in interstate commerce for resale. The gas sale contract, dated July 8, 1954, is on file with the Commission as Applicant's FPC Gas Rate Schedule No. 1.

Applicant was granted temporary authorization to commence this sale by telegram sent November 16, 1954. Applicant filed this application for itself and on behalf of 17 non-operating owners of interest in the property involved.

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 March 3, 1959, at 9:30 a.m., e.s.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. 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 February 26, 1959. 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. 59–1085; Filed, Feb. 5, 1959; 8:53 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 70-3754]

EASTERN UTILITIES ASSOCIATES

Notice of Filing of Declaration Regarding Issuance and Sale of Additional Common Shares

JANUARY 30, 1959.

Notice is hereby given that Eastern Utilities Associates ("EUA"), a registered holding company, has filed with this Commission, pursuant to the Public Utility Holding Company Act of 1935 ("Act"), a declaration regarding a proposal to issue and sell additional of its common shares; and has designated therein sections 6(a) and 7 of the Act and Rule 50 promulgated thereunder as applicable thereto.

All interested persons are referred to the declaration on file at the office of the Commission for a statement of the transactions therein proposed, which are summarized as follows:

EUA proposes to issue and offer for sale to the holders of its outstanding common shares 96,765 additional of its authorized but unissued common shares, and to apply the proceeds to the partial payment of its outstanding short-term bank loans. The proposed common share offering to its stockholders will be on the basis of one new share for each twelve shares held of record on a date in March 1959 to be fixed by the company prior to the offering, with the privilege of subscribing for additional shares, subject to allotment (in the event of oversubscription) on the basis of primary subscription rights exercised. The subscription price will be fixed by the company shortly prior to the offering, and will be not lower than 85 percent of the average bid prices for EUA common shares on the day next preceding the day on which the subscription price is fixed. All unsubscribed shares will be sold at the subscription price to underwriters to be selected and their compensation will be determined by competitive bidding, pursuant to Rule 50 promulgated under the Act.

Pursuant to Amended Reorganization Plan No. 4 of EUA, some of its common shares are held by a distribution agent for exchange for old convertible shares. Rights applicable to such shares will be sold and the net proceeds held by the distribution agent and paid to the persons entitled thereto when exchanges are made.

The declaration states that the fees and expenses to be incurred will be supplied by an amendment to the declaration. It also states that no State commission, and no Federal commission other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than February 16, 1959, request in writing that a hearing be held in respect of such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law which he desires to controvert, or he may request that he be notified should the Commission order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D.C. At any time after said date, the Commission may permit the declaration, as filed or as it may be amended, to become effective, as provided in Rule 23 under the Act, or the Commission may grant exemption from its rules, as provided in Rules 20(a) and 100 thereof, or take such other action as it deems appropriate.

By the Commission.

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

[F.R. Doc. 59-1062; Filed, Feb. 5, 1959; 8:51 a.m.]

[File No. 7-1962]

CORN PRODUCTS CO.

Notice of Application for Unlisted Trading Privileges, and of Opportunity for Hearing

FEBRUARY 2, 1959.

In the matter of application by the Philadelphia-Baltimore Stock Exchange for unlisted trading privileges in Corn Products Company common stock; File No. 7-1962.

The above named stock exchange, pursuant to section 12(f)(2) of the Securities Exchange Act of 1934 and Rule 12f-1 promulgated thereunder, has made application for unlisted trading privileges in the specified security, which is listed and registered on the New York Stock Exchange.

Upon receipt of a request, on or before February 18, 1959, from any interested person, 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 making the request and the position he proposes to take at the hearing. 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. 59-1063; Filed, Feb. 5, 1959; 8:51 a.m.]

[File No. 7-1963]

UPJOHN CO.

Notice of Application for Unlisted Trading Privileges, and of Opportunity for Hearing

FEBRUARY 2, 1959.

In the matter of application by the Philadelphia-Baltimore Stock Exchange for unlisted trading privileges in the Upjohn Company common stock; File No. 7-1963.

The above named stock exchange, pursuant to section 12(f)(2) of the Securities Exchange Act of 1934 and Rule 12f-1 promulgated thereunder, has made application for unlisted trading privileges in the specified security, which is listed and registered on the New York Stock Exchange.

Upon receipt of a request, on or before February 18, 1959, from any interested person, 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 making the request and the position he proposes to take at the hearing. 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. 59-1064; Filed, Feb. 5, 1959; 8:51 a.m.]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Area 211]

INDIANA

Declaration of Disaster Area

Whereas, it has been reported that during the month of January 1959, because of the effects of certain disasters, damage resulted to residences and business property located in certain areas in the State of Indiana;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the areas affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such areas constitute a catastrophe within the purview of the Small Business Act.

Now, therefore, as Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b) of the Small Business Act may be received and considered by the Offices below indicated from persons or firms whose property situated in the following County (including any areas adjacent to said County) suffered damage or other destruction as a result of the catastrophe hereinafter referred to:

County: Jefferson (flood occurring on or about January 21, 1959).

Offices: Small Business Administration Regional Office, 226 West Jackson Boulevard, Room 1402, Chicago 6, Illinois. Small Business Administration Branch Office, Federal Building, Room 506, Indianapolis, Indiana.

2. No special field offices will be established at this time.

3. Applications for disaster loans under the authority of this declaration will not be accepted subsequent to July 31, 1959.

Dated: January 23, 1959.

WENDELL B. BARNES,
Administrator.

[F.R. Doc. 59-1065; Filed, Feb. 5, 1959; 8:51 a.m.]

[Declaration of Disaster Area 212]

KENTUCKY

Declaration of Disaster Area

Whereas, it has been reported that during the month of January 1959, because of the effects of certain disasters, damage resulted to residences and business property located in certain areas in the State of Kentucky;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the areas affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such areas constitute a catastrophe within the purview of the Small Business Act.

Now, therefore, as Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b) of the Small Business Act may be received and considered by the Offices below indicated from persons or firms whose property situated in the following County (including any areas adjacent to said County) suffered damage or other destruction as a result of the catastrophe hereinafter referred to:

County: Grayson (tornado occurring on or about January 21, 1959).

Offices: Small Business Administration Regional Office, Standard Building, Fourth Floor, 1370 Ontario Street, Cleveland 13, Ohio. Small Business Administration Branch Office, Federal Building, Suite 413, Sixth and Broadway, Louisville 2, Kentucky.

2. No special field offices will be established at this time.

3. Applications for disaster loans under the authority of this declaration will not be accepted subsequent to July 31, 1959.

Dated: January 23, 1959.

WENDELL B. BARNES,
Administrator.

[F.R. Doc. 59-1066; Filed, Feb. 5, 1959; 8:51 a.m.]

[Declaration of Disaster Area 213]

PENNSYLVANIA

Declaration of Disaster Area

Whereas, it has been reported that during the month of January 1959, because of the effects of certain disasters, damage resulted to residences and business property located in certain areas in the State of Pennsylvania;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the areas affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such areas constitute a catastrophe within the purview of the Small Business Act.

Now, therefore, as Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b) of the Small Business Act may be received and considered by the Offices below indicated from persons or firms whose property situated in the following Counties (including any areas adjacent to said Counties) suffered damage or other destruction as a result of the catastrophe hereinafter referred to:

Counties: Allegheny, Armstrong, Crawford, Lawrence, Mercer and Venango (flash floods occurring on or about January 22-23, 1959).

Offices: Small Business Administration Regional Office, Jefferson Building, Rooms 1500-1515, 1015 Chestnut Street, Philadelphia 7, Pennsylvania. Small Business Administration Branch Office, Fulton Building, Rooms 801, 802, 107 Sixth Street, Pittsburgh 22, Pennsylvania.

2. No special field offices will be established at this time.

3. Applications for disaster loans under the authority of this declaration will not be accepted subsequent to July 31, 1959.

Dated: January 27, 1959.

WENDELL B. BARNES,
Administrator.

[F.R. Doc. 59-1067; Filed, Feb. 5, 1959; 8:51 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) and Administrative Order No. 507 (23 F.R. 2720), 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 product 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.

Angus Manufacturing Co., 364 North Thomas Street, Athens, Ga.; effective 1-23-59 to 1-22-60 (pants, shirts).

Big-Dad Manufacturing Co., Inc., Starke, Fla.; effective 1-23-59 to 1-22-60 (work pants).

Carolina Sportswear Co., Warrenton, N.C.; effective 2-5-59 to 2-4-60 (men's and boys' knitted sportswear).

Cluett, Peabody and Co., Inc., Lewistown, Pa.; effective 2-1-59 to 1-31-60 (men's sport shirts).

Eastwill Sportswear Co., Inc., Greenwood, S.C.; effective 2-2-59 to 2-1-60 (men's sport shirts).

The Enro Shirt Co., Inc., 133 Center Street, Madisonville, Ky.; effective 2-1-59 to 1-31-60 (men's sport shirts).

M. Fine & Sons Manufacturing Co., Inc., 12th and K Streets, Bedford, Ind.; effective 1-26-59 to 1-25-60 (cotton work pants).

Fleetwood Shirt Corp., 26 East Locust Street, Fleetwood, Pa.; effective 1-24-59 to 1-23-60 (men's dress and sport shirts).

Glenridge Trouser Corp., Tipton, Mo.; effective 1-20-59 to 1-19-60 (men's single dress trousers).

J. Jacobson & Sons, Inc., 127 Arch Street, Albany, N.Y.; effective 1-19-59 to 1-18-60 (men's shirts).

Kinston Shirt Co., Inc., Kinston, N.C.; effective 1-23-59 to 1-22-60 (men's shirts and pajamas).

Lee Manufacturing Co., 247-249 South Main Street, Pittston, Pa.; effective 1-23-59 to 1-22-60 (ladies' dresses).

McAlisterville Cutting and Pressing Plant, McAlisterville, Pa.; East Salem Sewing Plant, Mifflintown, Pa.; effective 1-26-59 to 12-27-59 (men's and boys' dress and sport shirts).

Mister Ease Inc., Philmont, N.Y.; effective 1-21-59 to 1-20-60 (men's knitted sport shirts).

Monleigh Garment Co., Yadkinville Highway, Mocksville, N.C.; effective 2-6-59 to 2-5-60 (ladies' apparel). New Hebron Manufacturing Co., New Hebron, Miss.; effective 1-23-59 to 1-22-60 (boys' bath robes, shirts and pants sets).

Reidbord Brothers Co., Lumber Street, Buckhannon, W. Va.; effective 1-24-59 to 1-23-60 (men's dress and work trousers).

Reliance Manufacturing Co., No. 44, Slater, Mo.; effective 1-26-59 to 1-25-60 (men's shirts).

The Richman Brothers Co., 6th and Main Streets, Sturgis, Ky.; effective 2-1-59 to 1-31-

60 (men's single pants, topcoats, interlinings).

Solomon Bros. Co., Thomasville, Ala.; effective 1-22-59 to 1-21-60 (men's sport shirts).

H. B. Spoont Co., 12-18 East Coal Street, Shenandoah, Pa.; effective 1-22-59 to 1-21-60 (ladies' car coats, shorts, pedal pushers).

Williamstown Dress Co., Inc., West Street, Williamstown, Pa.; effective 1-31-59 to 1-30-60 (women's 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.

Archbald Sewing Co., 140 Cherry Street, Archbald, Pa.; effective 1-21-59 to 1-20-60; 10 learners (children's dresses).

Belfast Manufacturing Co., Inc., 64 Anderson Street, Belfast, Maine; effective 2-1-59 to 1-31-60; 10 learners (trousers).

Goodman Manufacturing Co., 131 South Poplar Street, Shamokin, Pa.; effective 1-21-59 to 1-20-60; six learners. Learners may not be employed at special minimum wage rates in the production of separate skirts (women's sportswear).

Merrill Sportswear Co., 1500 West Main Street, Merrill, Wis., effective 2-1-59 to 1-31-60; 10 learners (jackets, hunting coats and pants).

The following learner certificates were issued for plant expansion purposes. The effective and expiration dates and the number of learners authorized are indicated.

Carolina Sportswear Co., Warrenton, N.C.; effective 1-23-59 to 7-22-59; 60 learners (men's and boys' knitted sportswear).

Heath Springs Manufacturing Co., Inc., Heath Springs, S.C.; effective 1-22-59 to 7-11-59; 35 learners (supplemental certificate) (children's outerwear, jackets, slacks).

Rosemont Corp., 601 Lincoln Road; Oxford, Pa.; effective 1-21-59 to 7-20-59; 10 learners (ladies' dresses).

Tallassee Manufacturing Co., Tallassee, Ala.; effective 1-26-59 to 7-25-59; 10 learners (women's dusters and house coats).

Tic Tac Co., Inc., Dicey Creek Road, Camden, S.C.; effective 1-22-59 to 7-21-59; 40 learners (children's outerwear).

Twin Cities Mfg. Co., Inc., White Hall, Ill.; effective 1-26-59 to 7-25-59; 20 learners (women's sportswear and dresses).

Cigar Industry Learner Regulations (29 CFR 522.1 to 522.11, as amended, and 29 CFR 522.80 to 522.85, as amended).

General Cigar Co., Inc., 154 West Church Street, Nanticoke, Pa.; effective 1-26-59 to 1-25-60; 10 percent of the total number of factory production workers for normal labor turnover purposes.

Glove Industry Learner Regulations (29 CFR 522.1 to 522.11, as amended, and 29 CFR 522.60 to 522.65, as amended).

Indianapolis Glove Co., Inc., Montgomery County, Mount Ida, Ark.; effective 1-22-59 to 1-21-60; 10 learners for normal labor turnover purposes (jersey work gloves).

Hosiery Industry Learner Regulations (29 CFR 522.1 to 522.11, as amended, and 29 CFR 522.40 to 522.43, as amended).

Grenada Industries, Grenada, Miss.; effective 1-25-59 to 1-24-60; 5 percent of the total number of factory production workers for normal labor turnover purposes (full-fashioned).

Thornton Knitting Co., Inc., Denton, N.C.; effective 1-26-59 to 1-25-60; 5 percent of the total number of factory production workers for normal labor turnover purposes (seamless).

Van Raalte Co., Inc., Blue Ridge, Ga.; effective 1-25-59 to 1-24-60; 5 percent of the total number of factory production workers for normal labor turnover purposes (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).

Hazlehurst Manufacturing Co., Inc., 200 Gill Street, Hazlehurst, Ga.; effective 1-23-59 to 1-22-60; 5 percent of the total number of factory production workers for normal labor turnover purposes (women's underwear).

Strutwear, Inc., Clarksdale, Miss.; effective 1-24-59 to 1-23-60; 5 learners for normal labor turnover purposes (lingerie, sweaters).

Shoe Industry Learner Regulations (29 CFR 522.1 to 522.11, as amended, and 29 CFR 522.50 to 522.55, as amended).

Clover Shoe Manufacturing Co., Inc., Route No. 130, Burlington, N.J.; effective 1-31-59 to 1-30-60; 10 learners for normal labor turnover purposes (ladies' dress shoes—leather, cloth and plastic).

Columbia Novelty Slipper Co., Hazleton, Pa.; effective 1-31-59 to 1-30-60; 10 percent of the total number of factory production workers for normal labor turnover purposes (house slippers and sandals).

Farmington Shoe Co., Division of Breed Sandal Co., Inc., Farmington, Maine; effective 1-31-59 to 1-30-60; 10 percent of the total number of factory production workers for normal labor turnover purposes (women's novelty shoes).

Fashion-Bilt Shoe Co., Pontiac, Ill.; effective 1-27-59 to 1-26-60; 10 percent of the total number of factory production workers for normal labor turnover purposes (women's work and dress shoes).

Regulations Applicable to the Employment of Learners (29 CFR 522.1 to 522.11, as amended).

Carolina Manufacturing Co., Inc., 10 Townes Street, Greenville, S.C.; effective 1-21-59 to 7-20-59; five learners for normal labor turnover purposes in the occupation of sewing machine operator for a learning period of 320 hours at the rates of at least 90 cents an hour for the first 160 hours and not less than 95 cents an hour for the remaining 160 hours (men's cotton handkerchiefs).

Cricketeer Manufacturing Corp., Harrodsburg, Ky.; effective 1-26-59 to 7-25-59; 5 percent of the total number of factory production workers for normal labor turnover purposes in the occupations of sewing machine operator, hand sewer, final presser, and finishing operations involving hand sewing, each for a learning period of 480 hours at the rates of at least 90 cents an hour for the first 280 hours and not less than 95 cents an hour for the remaining 200 hours (men's sportcoats and suitcoats).

Stanberry Manufacturing Co., Stanberry, Mo.; effective 2-1-59 to 7-31-59; 5 percent of the total number of factory production workers for normal labor turnover purposes in the occupation of sewing machine operator for a learning period of 240 hours at the rate of 90 cents an hour (headwear).

The following learner certificates were issued in Puerto Rico and the Virgin Islands to the companies hereinafter named. The effective and expiration dates, learner rates, occupations, learning periods, and the number or proportion of learners authorized to be employed, are as indicated.

Bonita Uniforms, Inc., Juncos-Naguabo Road, Juncos, P.R.; effective 1-7-59 to 7-6-59; 50 learners for plant expansion purposes, in the occupations of: (1) sewing machine operators, and final pressers, each for a learning period of 480 hours at the rates of 58 cents an hour for the first 240 hours and 68 cents an hour for the remaining 240 hours; (2) final inspection of fully assembled garments for a learning period of 160 hours at the rate of 58 cents an hour (uniforms).

National Packing Co., Ponce, P.R.; effective 1-2-59 to 1-1-60; 15 learners for normal labor turnover purposes in the occupation of tuna fish cleaning for a learning period of 160 hours at the rates of 65 cents an hour for the first 80 hours and 75 cents an hour for the remaining 80 hours (fish canning).

Pan American Water Treatment Corp., 65 Infantry Road, Carolina, P.R.; effective 1-9-59 to 7-8-59; 40 learners for plant expansion purposes in the occupations of, punch press operators and welders, power press break operators and welders, and assembly, each for a learning period of 480 hours at the rates of 75 cents an hour for the first 240 hours and 88 cents an hour for the remaining 240 hours (water conditioners, swimming pool frames, tarpaulins and water treatment equipment).

Matthewsons, Inc., St. Thomas, V.I.; effective 1-12-59 to 1-11-60; five learners for normal labor turnover purposes in the occupation of machine embroidery operators for a learning period of 240 hours at the rate of 45 cents an hour (machine embroidery).

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 29th day of January 1959.

MILTON BROOKE,
Authorized Representative of the Administrator.

[F.R. Doc. 59-1061; Filed, Feb. 5, 1959; 8:50 a.m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

PAULINE BARTH

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

Pauline (Paula) Barth, 2, Hachajal Blvd., Tel Aviv, Israel; Claim No. 63752; $264.38 in the Treasury of the United States. Vesting Order No. 8711.

Executed at Washington, D.C., on January 30, 1959.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F.R. Doc. 59-1086; Filed, Feb. 5, 1959; 8:53 a.m.]

INGEBORG BLEY AND LYDIA FRIDA SACHS

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

Ingeborg Bley, New Milford, New Jersey; $297.50 in the Treasury of the United States. Lydia Frida Sachs, Hamburg, Germany; $297.50 in the Treasury of the United States. Claim No. 63150. Vesting Order No. 126.

Executed at Washington, D.C., on January 30, 1959.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F.R. Doc. 59-1087; Filed, Feb. 5, 1959; 8:53 a.m.]

GEERTRUIDA-BREGJE

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

Mrs. Geertruida-Bregje, Hampe-Schottee de Vries; Amsterdam, The Netherlands; Claim No. 60589; $1,186.23 in the Treasury of the United States. Vesting Order Nos. 17836 and 17840.

Executed at Washington, D.C., on January 30, 1959.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F.R. Doc. 59-1088; Filed, Feb. 5, 1959; 8:53 a.m.]

MARGARET FARENHOLTZ

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

Margaret Farenholtz, 12 Ave. Princesse Elisabeth, Schaerbeck-Bruxelles III, Belgium; Claim No. 62562; $211.86 in the Treasury of the United States. Vesting Order No. 9068.

Executed at Washington, D.C., on January 30, 1959.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F.R. Doc. 59-1089; Filed, Feb. 5, 1959; 8:53 a.m.]

ELIZABETH ROSINGH-HIETINK ET AL.

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

Mrs. Elizabeth Rosingh-Hietink, Lansinkweg, 53, Hengelo (O), The Netherlands; Mr. Izebrand Petrus Renke Rosingh, Jan van Scorelstraat 55, Utrecht, The Netherlands; Mr. Frederik Rosingh, Voorstraat 35, Sommelsdijk, The Netherlands; and Mrs. Anna Elisabeth Smits-Rosingh, Teunisbloemplein 3, The Hague, The Netherlands; Claim No. 62242; $645.75 in the Treasury of the United States. Vesting Order No. 17837.

Executed at Washington, D.C., on January 30, 1959.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F.R. Doc. 59-1090; Filed, Feb. 5, 1959; 8:54 a.m.]

MARTHA JUNGWIRTH

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

Martha Jungwirth, Dillbrecht, Germany; Claim No. 48095; $1,171.90 in the Treasury of the United States. $1,000 The Canada Southern Railway Co. Consolidated Guaranteed fifty-five year 5% gold bond, Series A, due October 1, 1962, interest payable April 1 and October 1, numbered 189 with April 1, 1959 and SCA, and A one-half interest in the securities described below, all of which are presently in the custody of the Federal Reserve Bank of New York, New York, N.Y. $800 United States Treasury Bonds of 1962/67 due June 15, 1967, with interest at 2½ payable June 15 and December 12. Bond numbered 6037H for $500 and bonds numbered 17971A, 43711A and 43712B for $100 each, with December 12, 1958 and SCA. Vesting Order No. 11771.

Executed at Washington, D.C., January 30, 1959.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F.R. Doc. 59-1091; Filed, Feb. 5, 1959; 8:54 a.m.]

PAULA SCHWALBE

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 Nos., Property, and Location

Paula Schwalbe, Wissmannstrasse 15, Berlin-Grunewald, Germany; Claims Nos. 40907 and 40908; $14,583.98 in the Treasury of the United States. Vesting Order No. 4461.

Executed at Washington, D.C., on January 30, 1959.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F.R. Doc. 59-1092; Filed, Feb. 5, 1959; 8:54 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

FEBRUARY 3, 1959.

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. 35228: *Substituted service—Chesapeake and Ohio Railway Company.* Filed by Middle Atlantic Conference, Agent (No. 16), for interested carriers. Rates on property of various kinds loaded in highway trailers and transported on railroad flat cars between Staunton, Va., and Charleston, W. Va., on traffic originating at or destined to points on motor carriers beyond the named substitution points.

Grounds for relief: Motor truck competition.

Tariff: Supplement 1 to Middle Atlantic Conference, Agent, tariff I.C.C. No. 9.

FSA No. 35229: *Blackstrap molasses—Texas points to western Louisiana points.* Filed by Southwestern Freight Bureau, Agent (No. B-7480), for interested rail carriers. Rates on blackstrap molasses, and related commodities, tank-car loads, from Galveston, Houston, Sugarland, and Texas City, Tex., to all stations in Louisiana west of the Mississippi River.

Grounds for relief: Short-line distance formula and market competition.

Tariff: Supplement 36 to Southwestern Lines tariff I.C.C. 4182.

FSA No. 35230: *Cement—Southern producing points to Florida.* Filed by O. W. South, Jr., Agent (SFA No. A3768), for interested rail carriers. Rates on cement and related articles, carloads, as described in the application from specified points in Alabama, Georgia, Kentucky, Louisiana, Maryland, Mississippi, Ohio, South Carolina, Tennessee, and Virginia to points in Florida.

Grounds for relief: Truck competition. Market competition with Florida producing points.

Tariff: Supplement 140 to Southern Freight Tariff Bureau tariff I.C.C. 1447.

FSA No. 35231: *Substituted service—N.Y., N.H. & H. Railroad.* Filed by The New York, New Haven and Hartford Railroad Company (No. 200), for interested carriers. Rates on property loaded in highway semi-trailers and transported on railroad flat cars between Providence, R.I. and Harlem River, N.Y., on traffic originating at or destined to points on motor carriers beyond the named rail substitution points.

Grounds for relief: Motor truck competition.

By the Commission.

[SEAL] HAROLD D. MCCOY, *Secretary.*

[F.R. Doc. 59-1056; Filed, Feb. 5, 1959; 8:50 a.m.]

[Rev. S.O. 562, Taylor's I.C.C. Order 97]

ERIE RAILROAD CO.

Diversion or Rerouting of Traffic

In the opinion of Charles W. Taylor, Agent, the Erie Railroad Company, because of bridge washout at Springfield, Ohio, is unable to transport traffic routed over its line: *It is ordered,* That:

(a) Rerouting traffic: The Erie Railroad Company, is hereby authorized to divert or reroute such traffic over any available route to expedite the movement, regardless of routing shown on the waybill. The billing covering all such cars rerouted shall carry a reference to this order as authority for the rerouting.

(b) Concurrence of receiving roads to be obtained: The railroad desiring to divert or reroute traffic under this order shall confer with the proper transportation officer of the railroad or railroads to which such traffic is to be diverted or rerouted, and shall receive the concurrence of such other railroads before the rerouting or diversion is ordered.

(c) Notification to shippers: The carrier rerouting cars in accordance with this order shall notify each shipper at the time each car is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic by said Agent is deemed to be due to carrier's disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipments on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic; divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with the pertinent authority conferred upon it by the Interstate Commerce Act.

(f) Effective date: This order shall become effective at 4:00 p.m., January 30, 1959.

(g) Expiration date: This order shall expire at 11:59 p.m., February 10, 1959, unless otherwise modified, changed, suspended or annulled.

It is further ordered, That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement and by filing it with the Director, Federal Register Division.

Issued at Washington, D.C., January 30, 1959.

INTERSTATE COMMERCE COMMISSION,
CHARLES W. TAYLOR, *Agent.*

[F.R. Doc. 59-1057; Filed, Feb. 5, 1959; 8:50 a.m.]

CUMULATIVE CODIFICATION GUIDE—FEBRUARY

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