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Title 46—SHIPPING

Chapter I—Coast Guard, Department of the Treasury

SUBCHAPTER N—EXPLOSIVES OR OTHER DANGEROUS ARTICLES OR SUBSTANCES AND COMBUSTIBLE LIQUIDS ON BOARD VESSELS

[CGFR 59–14]

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

PART 147—USE OF DANGEROUS ARTICLES AS SHIPS' STORES AND SUPPLIES ON BOARD VESSELS

Miscellaneous Amendments Respecting Dangerous Cargoes

Pursuant to the notice of proposed rule making published in the FEDERAL REGISTER on April 9, 1959 (24 F.R. 2742–2751), and Merchant Marine Council Public Hearing Agenda, CG–249, dated April 27, 1959, the Merchant Marine Council held a Public Hearing on April 27, 1959, for the purpose of receiving comments, views and data. The proposals considered were identified as Items I through XII, inclusive. The proposed regulations regarding the transportation and stowage of dangerous cargoes on board merchant vessels were set forth as Item IX in the Agenda, CG–249. A summary of the proposals was set forth in the previously mentioned FEDERAL REGISTER of April 9, 1959.

This document is the sixth of a series covering the regulations and actions considered at the April 27, 1959 Public Hearing and annual session of the Merchant Marine Council. The first document, CGFR 59–17 (24 F.R. 4057), contains the action taken with respect to Item VIII regarding power-operated industrial trucks. The second document, CGFR 59–20 (24 F.R. 4169), contains the actions taken with respect to Item XI regarding suspension or revocation proceedings involving licenses, certificates or documents issued to individuals. The third document, CGFR 59–16 (24 F.R. 4213), contains the final actions taken with respect to Item X regarding licensing or certificating of seamen, motorboat operators, or staff officers. The fourth document, CGFR 59–15, contains the final actions taken with respect to Item XII regarding the person in charge of a manned platform and emergency signals, and with respect to use of work vests on offshore artificial islands and fixed structures considered with Item VII. The fifth document, CGFR 59–22, contains the action taken with respect to Item VII regarding work vests on vessels inspected and certificated by the Coast Guard.

This document contains the final actions taken with respect to the proposed changes in Item IX regarding dangerous cargoes. On the basis of information received changes were made in 46 CFR 146.20–23(g), 146.21–25 (d), (e), 146.22–5(b), 146.22–15(b), 146.22–30(c) (1) and (2), (d)(2), 146.22–100, and 146.25–45.

Final action with respect to 46 CFR 146.22–40 pertaining to nitro carbo nitrate was delayed for an additional sixty days from April 27, 1959, in which to permit submission of additional written comments. When action is completed with respect to nitro carbo nitrate, notification of change in regulations will be published in the FEDERAL REGISTER as a separate Federal Register Document.

The provisions of R.S. 4472, as amended (46 U.S.C. 170), require that the land and water regulations governing the transportation of dangerous cargo articles or substances shall be as nearly parallel as practical. The provisions in 46 CFR 146.02–18 and 146.02–19 make the Dangerous Cargo Regulations applicable to all shipments of dangerous cargoes by vessels. The Interstate Commerce Commission in Orders Nos. 37 and 38 has made changes in the ICC Regulations with respect to the definitions, descriptive names, classifications, specifications of containers, packing, marking, labeling, and certification, which are now in effect for land transportation. Various amendments to the Dangerous Cargo Regulations in 46 CFR Part 146 have been included in this document in order that these regulations governing water trans-

(Continued on p. 5267)

CONTENTS

FEDERAL REGISTER

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CONTENTS—Continued

CONTENTS—Continued

CODIFICATION GUIDE

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

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

CODIFICATION GUIDE—Con.

portation of certain dangerous cargoes will be as nearly parallel as practicable with the regulations of the Interstate Commerce Commission which govern the land transportation of the same commodities. For those changes in 46 CFR Parts 146 and 147, which involved changes other than shippers' requirements, the proposed amendments were considered at the Merchant Marine Council Public Hearing held on April 27, 1959.

The amendments to 46 CFR Part 146, which were not described in the FEDERAL REGISTER of April 9, 1959 (24 F.R. 2748, 2749), are considered to be interpretations of law, or revised requirements to agree with existing ICC Regulations, or relaxations of previous requirements, or editorial in nature, and it is hereby found that compliance with the Administrative Procedure Act (respecting notice of proposed rule making, public rule making procedure thereon, and effective date requirements thereof) is unnecessary with respect to such changes.

By virtue of the authority vested in me as Commandant, United States Coast Guard, by Treasury Department Orders 120, dated July 31, 1950 (15 F.R. 6521), 167–14, dated November 26, 1954 (19 F.R. 8026), and CGFR 56–28, dated July 24, 1956 (21 F.R. 5659), to promulgate regulations in accordance with the statutes cited with the regulations below, the following amendments are prescribed and shall become effective on July 1, 1959:

Subpart—General Regulations

1. Section 146.02–10 is amended by changing paragraphs (a) and (b) to read as follows:

§ 146.02–10 Export shipments.

(a) Export shipments of commerical Class A explosives and radioactive materials, Groups I, II or III, regardless of whether in interstate transportation prior to delivery to the vessel, shall be packed, marked, labeled or otherwise in conformity with the Interstate Commerce Commission requirements for the transportation of explosives or other dangerous articles in effect at the time of shipment.

(b) Export shipments of explosives or other dangerous articles or combustible liquids (except commerical Class A explosives and radioactive materials, Groups I, II and III) may be accepted for transportation when packed, marked, labeled and described in accordance with the regulations of the country of destination. The bill of lading or other shipping paper shall identify such shipments by the shipping name shown in the regulations in this part for the particular substance, and also shall certify that the packing, marking and labeling is in accordance with the foreign regulations and identify by title or otherwise such foreign regulations. Markings on export packages may be in the language of the country of destination. Labels as prescribed in the regulations in this part shall be affixed or printed or stamped upon such export packages when offered for transportation in lots of one hundred (100) or less packages. Stowage on board a vessel shall be in accordance with the regulations in this part as applicable to the particular character of vessel.

2. Section 146.02–11 is amended by changing paragraphs (a), (b), (c), and (d) to read as follows:

§ 146.02–11 Import shipments.

(a) Import shipments of commercial Class A explosives and radioactive materials, Groups I, II, and III, regardless of whether destined upon arrival at domestic ports for further transportation or not shall be packed, marked, labeled, or otherwise in conformity with the Interstate Commerce Commission requirements for the transportation of explosives or other dangerous articles in effect at the time of shipment.

(b) Import shipments of explosives or other dangerous articles (except commerical Class A explosives and radioactive materials, Groups I, II, and III) destined upon arrival at domestic ports for further transportation, in original containers, by common carrier by rail, or by common or contract carrier by motor vehicle, shall comply with the Interstate Commerce Commission regulations for the transportation of explosives or other dangerous articles in effect at the time of shipment. The importer shall furnish with the order to the foreign shipper, and also to the forwarding agent at the port of entry, full and complete information as to packing, marking, labeling and other requirements as prescribed by the Interstate Commerce Commission regulations (see § 146.05–14).

(c) Import shipments of explosives or other dangerous articles or combustible liquids (except commercial Class A explosives and radioactive materials, Groups I, II, and III) accepted for transportation in a foreign port in outside metal or wooden barrels or drums not exceeding 110 gallons capacity, wooden boxes not exceeding 300 pounds weight of box and contents, or fiberboard boxes

not exceeding 65 pounds weight of box and contents, which upon arrival at domestic ports are not destined for transportation in these original import containers by common carrier by rail, or common or contract carrier by motor vehicle, may be accepted on board vessels provided the shipper certified upon the bill of lading or other shipping paper that the container is in conformity with the regulations of the country of origin. If the country of origin has no regulations governing the transportation by vessel of the explosives and dangerous substances involved, the shipper shall certify that the container is so constructed as to maintain its complete integrity under all conditions likely to be encountered during transportation. The master of the vessel, before accepting such import shipments, shall satisfy himself that the containers are sufficiently strong to stand, without rupture or leakage of contents, all risks ordinarily incident to transportation. Stowage of import shipments on board vessels shall be in accordance with the provisions of the regulations in this part.

(d) Shipments of explosives or other dangerous articles or combustible liquids (except commercial Class A explosives and radioactive materials, Groups I, II, and III) accepted for transportation in a foreign port which upon arrival at domestic ports are destined for transshipment on vessels subject to the regulations of this part, may be accepted on such vessels provided the bill of lading or other shipping paper identifies the shipment by the shipping name shown in the regulations in this part for the particular substance and provided further that the dangerous cargo is certified to be described as above and to be packaged, marked and labeled in accordance with the regulations or the regulations of the country of origin of the cargo (provided such regulations are compatible with minimum safety requirements of the regulations in this part). The connecting carrier, before accepting such transshipments, shall satisfy himself that the provisions of this paragraph are complied with. The master of the vessel shall satisfy himself that the containers are sufficiently strong to withstand, without rupture or leakage of contents, all risks incident to transportation. Stowage on board vessels shall be in accordance with the provisions of the regulations in this part.

Subpart—List of Explosives or Other Dangerous Articles Containing the Shipping Name or Description of Articles Subject to the Regulations in This Chapter

§ 146.04–5 List of explosives and other dangerous articles and combustible liquids.

Article	Classed as—	Label required [1]
Items Added		
* * *	* * *	* * *
Cyanogen bromide	Pois. B	Poison.
* * *	* * *	* * *

[1] Unless otherwise exempt by the provisions of the detailed regulations.

Article	Classed as—	Label required [1]
Items Added		
Dinitrophenol solutions	Pois. B	Poison.
* * *	* * *	* * *
Hydraulic accumulators	Noninf. G	Green gas.
* * *	* * *	* * *
Methyl acetylene—15% to 20% propadiene mixture.	Inf. G	Red gas.
* * *	* * *	* * *
Mild detonating fuse, metal clad (see: "Cordean detonant fuse").	Expl. C	
* * *	* * *	* * *
Paramenthane hydroperoxide (see: "Cumene hydroperoxide").	Oxy. M	Yellow.
* * *	* * *	* * *
Petroleum coke	Haz	
* * *	* * *	* * *
Silicon tetrafluoride	Noninf. G	Green gas.
* * *	* * *	* * *
Vinyl fluoride, inhibited	Inf. G	Red gas.
Changed		
* * *	* * *	* * *
*Acetone oils	Inf. L	Red.
* * *	* * *	* * *
Aluminum nitrate (see: "*Nitrates*").	Oxy. M	Yellow.
* * *	* * *	* * *
Barium nitrate (see: "*Nitrates*").	Oxy. M	Yellow.
* * *	* * *	* * *
Calcium nitrate (see: "*Nitrates*").	Oxy. M	Yellow.
* * *	* * *	* * *
Guanidine nitrate (see: "*Nitrates*").	Oxy. M	Yellow.
* * *	* * *	* * *
Iron mass, spent	Inf. S	Yellow.
* * *	* * *	* * *
Iron sponge, spent	Inf. S	Yellow.
* * *	* * *	* * *
Lead nitrate (see: "*Nitrates*")	Oxy. M	Yellow.
* * *	* * *	* * *
Magnesium nitrate (see: "*Nitrates*").	Oxy. M	Yellow.
* * *	* * *	* * *
Matches, book	Inf. S	Yellow.
Matches, book, card or strike-on box, *with other articles* (see: "Matches, book".)		
Matches, card	Inf. S	Yellow.
* * *	* * *	* * *
Matches, strike-on-box	Inf. S	Yellow.
* * *	* * *	* * *
Motion-picture film scrap (*nitrocellulose base*) *other than samples.*	Inf. S	Yellow.
Motion-picture film scrap (*nitrocellulose base*) *samples of.*	Inf. S	Yellow.
* * *	* * *	* * *
Nitrate of aluminum (see: "*Nitrates*").	Oxy. M	Yellow.
Nitrate of ammonia (see: "Ammonium nitrate").	Oxy. M	Yellow.
* * *	* * *	* * *
Nitrate of barium (see: "*Nitrates*").	Oxy. M	Yellow.
Nitrate of lead (see: "*Nitrates*")	Oxy. M	Yellow.
Nitrate of potash (Potassium nitrate) (see: "*Nitrates*").	Oxy. M	Yellow.
Nitrate of soda (Sodium nitrate) (see: "*Nitrates*").	Oxy. M	Yellow.
Nitrate of soda and potash (see: "*Nitrates*").	Oxy. M	Yellow.
Nitrate of strontium (Strontium nitrate) (see: "*Nitrates*").	Oxy. M	Yellow.
Nitrates	Oxy. M	Yellow.
Nitrates, N.O.S. (see: "*Nitrates*").	Oxy. M	Yellow.
* * *	* * *	* * *
Photographic film scrap (*Nitrocellulose base*) (see: "Motion-picture film scrap (*nitrocellulose* base)").	Inf. S	Yellow.
* * *	* * *	* * *
Potassium nitrate (see: "*Nitrates*").	Oxy. M	Yellow.
* * *	* * *	* * *
Potassium sulfide (fused or concentrated when ground).	Inf. S	Yellow.
* * *	* * *	* * *
Silver cyanide (see: "Cyanide of silver").		
* * *	* * *	* * *
Sodium nitrate (see: "*Nitrates*").	Oxy. M	Yellow.
* * *	* * *	* * *
Sodium sulfide (fused or concentrated when ground).	Inf. S	Yellow.
* * *	* * *	* * *
Spent oxide (see: "Iron mass, spent").	Inf. S	Yellow.
* * *	* * *	* * *

Article	Classed as—	Label required [1]
Changed		
Strike-on-box matches (see: "Matches, strike-on-box").	Inf. S	Yellow.
* * *	* * *	* * *
Strontium nitrate (see: "*Nitrates*").	Oxy. M	Yellow.
* * *	* * *	* * *
Sulfide of potassium (see: "Potassium sulfide").	Inf. S	Yellow.
* * *	* * *	* * *
X-ray film scrap (*nitrocellulose base*) (see: "Motion picture film scrap (*nitrocellulose base*)").	Inf. S	Yellow.
Cancelled		
*Cresol, liquid (*cresylic acid*)	Comb. L	
*Cresylic acid (see: "Cresol, liquid").		

Subpart—Shipper's Requirements Re: Packing, Marking, Labeling and Shipping Papers

1. Section 146.05–5 is amended by adding a new paragraph (g) as follows:

§ 146.05–5 I.C.C. specification containers.

* * * * *

(g) Where the regulations limit the capacity of ICC–IX STC carboys to not over 6 gallons, these export carboys of capacity not over 6½ gallons may be used.

2. Section 146.05–10 *Reuse of containers* is amended by changing paragraph (h) to read as follows:

§ 146.05–10 Reuse of containers.

* * * * *

(h) Single trip I.C.C. specification containers, from which the contents have once been removed following use for shipment of any article, must not again be used as shipping containers for explosives, inflammable liquids, inflammable solids, oxidizing materials, corrosive liquids, or poisons, Class B or C, as defined in this part except under approval of the I.C.C. for each reuse and for specific commodities or classes of commodities. Where specific permission is given in these detailed regulations in the tables for Combustible Liquids or Hazardous Articles such single-trip containers are permitted for reuse when in compliance with paragraphs (a), (b), and (c) of this section.

Subpart—Railroad or Highway Vehicles Loaded With Dangerous Substances and Transported On Board Vessels

1. Section 146.08-45 is amended by designating the present text as (a) and by adding a new paragraph (b) to read as follows:

§ 146.08–45 Private passenger type motor vehicles (automobiles).

* * * * *

(b) Motorboats being transported on boat trailers shall be considered as part of the towing vehicle, and the provision of this section shall apply. Gasoline may be transported in the motorboat tanks, and in other containers, provided such tanks and containers are unbreak-

able, leakproof and have adequate closures. Containers shall not exceed 6 gallon capacity each, and two such containers shall be permitted for each engine.

Subpart—Cargo Handling and Stowage Devices, U.S. Coast Guard Container Specifications

1. Section 146.09–1 is amended by deleting the present text and rewording the section as follows:

§ 146.09–1 Magazines, location of.

(a) Magazines shall be located in a hold, preferably a tween deck hold that is dry and well ventilated. They shall be so located as not to be in horizontal proximity to crew or passenger accommodations nor below such living spaces. Magazines shall not be built on or under the principal bridge or other navigation spaces. The hold or compartment in which a magazine is constructed shall provide a positive closing means to prevent all traffic through the area after the explosives are stowed, except ingress and egress for inspection purposes.

(b) Magazines shall not be constructed in bearing with the collision bulkhead, nor with a bulkhead forming a boiler room, engine room, coal bunker or galley boundary. If it is necessary to construct a magazine in proximity to these bulkheads a cofferdam space of at least one foot shall be provided between the permanent bulkhead and the magazine bulkhead. This cofferdam space shall remain open to the free circulation of air and shall not be used for stowage or storage purposes.

(c) When a magazine is to be constructed over a tween deck hatch, the hatch girders or strongbacks and the hatch covers forming the tween deck hatch shall be of such design and size as to insure their carrying the imposed load with safety. Covers of the tween deck and over deck hatch shall completely close the hatch opening and fit securely in place. Tween deck hatch covers of wood forming the base of the magazine shall be completely covered with asbestos board at least ¼ inch thick, fitted tight at the sides of the magazine, the joints of the asbestos board being staggered midway between joints formed by the wooden hatch covers. Magazines shall be constructed in accordance with the applicable provisions of § 146.09–2, except floor shall be formed by dunnaging over the asbestos board. In the construction of a magazine care should be taken that no metal structural parts protrude within the magazine. If it is proposed to carry the stowage of explosives up into the over deck hatch coaming, this coaming shall be sheathed with wood. A magazine located in the hatchway may be so constructed as to occupy only a part of the area of the hatchway. Portable magazines may be stowed in the square of the hatchway and either lashed or tommed to prevent movement.

(d) Construction and location of magazines for stowage of explosives other than as provided in this subpart or as provided in § 146.20–15 shall be authorized by the Commandant of the Coast Guard.

2. Section 146.09–2 is amended by deleting the present text and rewording the section as follows:

§ 146.09–2 Magazines, construction of.

The following shall be observed in the construction of a magazine for stowage of explosives requiring magazine stowage:

(a) Magazines may be constructed of steel or wood.

(b) Magazines constructed of steel shall have the whole of the interior completely protected by wood sheathing of a minimum thickness of ¾-inch to form a smooth surface, free of projections. Metal stanchions within the magazine shall be boxed with wood of a thickness of not less than ¾-inch. When steel decks or tank tops are utilized to form the floor of a magazine, a wooden floor of not less than 1¼-inch commerical lumber, constructed on bearers shall be fitted. Such floor may be portable but tight to prevent movement.

(c) Magazines constructed of wood shall have the bulkheads forming the sides and ends constructed of commercial 1-inch lumber, of ¾-inch tongue and groove sheathing, or of ¾-inch plywood, secured to uprights of at least a 3- by 4-inch size, spaced not more than 18 inches apart and secured at top, bottom and center with horizontal bracing. Uprights shall not be stepped directly onto a metal deck. A 2- by 4-inch bearer to carry the uprights shall be laid upon the metal deck. A 2- by 4-inch header shall be fitted against the underside of an overhead deck to receive the top of uprights. Top of uprights fitted against channel beams may be wedged directly to the beam with 2- by 4-inch spacers fitted between. Care shall be taken in securing upright framing that no nails penetrate to the interior of the magazine. When a magazine is constructed as a permanent compartment in the vessel, increased size and finish of lumber and other methods of fastening may be used provided such fastenings are recessed below the surface of the boarding to avoid projections within the interior of the magazine. All boardings shall be fitted and finished so as to form a smooth surface within the interior of the magazine. Construction shall be such as to separate all containers of explosives from contact with metal surfaces of the structure of the vessel. When a metal stanchion, post or other obstruction is located within the interior area of the magazine, such obstruction must be completely covered with wood of a thickness of at least ¾-inch secured in place with nails or screws. All screws or nails used in the magazine for fastening shall be countersunk below the surface of the wood. Flooring of magazines shall be of not less than 1¼-inch commercial lumber, constructed on bearers. Such floor may be portable but tight to prevent movement. The door of the magazine shall be of substantial construction, fitted reasonably tight in its jamb and provided with a locking means of a tamper-proof type. The door shall be so located as to be easily accessible.

(d) If the bulkheads forming the sides of a magazine are to be constructed directly against the ship's side and battens are fitted, then 5/16-inch plywood may be used, provided the plywood is fastened to furring strips of not less than 1 inch by 3 inches, spaced not more than 18 inches apart, and securely fastened vertically to the battens.

(e) A magazine constructed in accordance with the provisions of paragraphs (b) and (c) of this section, in which it is proposed to stow containers of explosives within 12 inches of the overdeck beams, or hatch coaming, shall have such deck beams and coaming sheathed with wood similar to that required for metal stanchions, posts or other obstructions by the provisions of paragraph (c) of this section.

(f) When a Class A magazine measures more than 40 feet in any direction, a partition bulkhead shall be fitted within the magazine as near half length as practicable, extending from the deck to at least the top of the stowage. Such partition bulkhead shall be constructed to the same scantlings as the sides of the magazine, except the boardings may be spaced not more than 6 inches apart alternately on both sides of the uprights. This bulkhead shall be constructed before loading commences and care shall be exercised that nail points do not protrude beyond the surface of the boarding.

§ 146.09–6 [Cancellation]

3. Section 146.09–6 *Portable magazine chest and portable magazine containers* is canceled.

4. A new section 146.09–6 is added to read as follows:

§ 146.09–6 Portable magazines for stowage of explosives.

Portable magazines used for the stowage of explosives shall conform to the following provisions:

(a) Portable magazines shall be constructed watertight of wood, or of metal lined with wood ¾-inch minimum thickness. Not more than 100 cubic feet plus 10 percent (gross) of explosives shall be stowed therein.

(b) All inner surfaces of the magazine shall be smooth and free of nails, screws or other projections.

(c) When constructed of wood the scantlings shall not be less than those required by § 146.09–2, and a strong, close fitting hinged cover or door fitted with hasps and padlock shall be provided.

(d) When constructed of metal, the minimum thickness shall be not less than ⅛-inch sheet.

(e) Runners, bearers, or skids shall be provided to elevate the magazine a minimum of 4 inches from the deck. Pad eyes, ring bolts, or other suitable means shall be provided for securing, and they shall be so lashed, chocked or braced as to prevent movement in any direction.

(f) Portable magazines shall be stowed in the square of a tween deck hatch except when other stowage is authorized by § 146.20–15.

(g) Portable magazine containers may be used for the stowage of explosives exceeding 100 cubic feet plus 10 percent (gross) under such conditions of con-

struction, handling and stowage that meet the approval of the Commandant of the Coast Guard.

(h) Portable magazines shall be marked on the top and sides in letters at least 3 inches high with the legend "EXPLOSIVES—HANDLE CAREFULLY—KEEP LIGHTS AND FIRE AWAY."

Subpart—Detailed Regulations Governing Explosives

1. Section 146.20–7 is amended by changing paragraph (u) to read as follows:

§ 146.20–7 Class A explosives.

* * * * *

(u) *Charged oil well jet perforating guns.* Charged oil well jet perforating guns are steel tubes or metallic strips into which are inserted shaped charges connected in series by primacord. These devices are not permitted to be shipped as cargo on board any vessel subject to the regulations in this subchapter.

2. Section 146.20–11 is amended by changing paragraph (a)(3) and by adding a new paragraph (bb) as follows:

§ 146.20–11 Class C explosives.

* * * * *

(a) * * *

(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 mass as a result of the functioning of any single cartridge in the container or as a result of exposure to external flame.

* * * * *

(bb) Mild detonating fuse, metal clad, consists of a core containing not more than 2½ grains of high explosive composition per lineal foot, clad with metal either with or without a covering of tapes, yarns, plasters or waterproofing compounds.

3. Section 146.20–13 is amended by changing paragraph (a) to read as follows:

§ 146.20–13 Samples of explosives and explosive articles for laboratory and examination purposes.

(a) New explosives, including fireworks and explosive devices, other than Army, Navy or Air Force explosive or chemical ammunition of a security classification, must be approved by the I.C.C. as safe for transportation before being offered for shipment, except that a sample of such explosives, fireworks and explosive devices, not to exceed 5 pounds net weight, may be offered for transportation on board cargo vessels subject to the regulations in this subchapter for the purpose of this examination. Samples of explosives, except liquid nitroglycerin, other than new explosives for laboratory examination not exceeding 5 pounds net weight may be offered for transportation by cargo vessels subject to the regulations of this subchapter. For the purposes of the regulations in this part a new explosive, including fireworks and explosive devices, is the product of a new factory or an explosive or explosive device of an essentially new composition or character made by any factory.

4. Section 146.20–15 is amended by deleting the present wording and inserting new text to read as follows:

§ 146.20–15 Stowage of explosives.

(a) All articles of cargo classified as explosives by the regulations in this subpart shall be stowed on board a vessel in conformity with the conditions specified for the individual articles as set forth in Tables A, B, and C in §§ 146.20–100, 146.20–200, and 146.20–300. Mixed stowage of explosives with other explosives shall be in conformity with the stowage chart § 146.20–90. Magazine specifications required for stowage of explosives are detailed in Subpart 146.09.

(b) The District Commander or the Captain of the Port may approve the stowage of blasting caps or small quantities of explosives in locations other than "Under deck", such as in an isolated compartment, mast or deckhouse, or in portable magazines secured "On deck" provided that:

(i) No other stowage is available.

(ii) The compartment or area is sheathed with wood.

(iii) No other dangerous cargo is stowed in the area.

(iv) The location is at least 8 feet from the vessel's side.

(v) The stowage is separated from other explosives or other dangerous articles by a permanent steel deck or bulkhead and a minimum distance of 25 feet.

(c) Vessels engaged in transfer of explosives between receiving points and delivery points within the harbors, bays, sounds, lakes and rivers including the explosive anchorages on the navigable waters may, when transporting explosives, stow such cargo "On deck in open", "On deck under cover", or "Under deck." Explosives stowed "On deck in open" shall after loading and during transportation be covered by fire-resistant and/or flame-proof tarpaulins securely lashed in place.

5. Section 146.20–23 is amended by revising the text to read as follows:

§ 146.20–23 Stowage of explosives with other dangerous articles.

The stowage of explosives with other dangerous articles shall conform to the following conditions.

(a) Class A or Class B explosives shall not be stowed on a vessel carrying inflammable liquids below deck or in excess of one ton on deck unless the engine and boiler room spaces or one complete hatch intervenes.

(b) Class A or Class B explosives shall not be stowed in a hold or compartment immediately below an "On deck" stowage of less than one ton of inflammable liquids.

(c) Class C explosives shall not be stowed in the same hold or compartment with inflammable liquids.

(d) Class A or Class B explosives shall not be stowed in the same hold or compartment with, nor in a hold or compartment above, below or adjacent to one containing inflammable solids, nor in a hatch above which inflammable solids are stowed on deck.

(e) Class C explosives shall not be stowed in the same hold or compartment with inflammable solids.

(f) Class A or Class B explosives shall not be stowed in the same hold or compartment with, nor in a hold or compartment above, below or adjacent to one containing oxidizing materials, nor in a hatch above which oxidizing materials are stowed on deck.

(g) Dynamite, commercial boosters and/or other non-priming non-initiating types of explosives which are compatible with dynamite may be stowed in a magazine located in the same hold or compartment with nitro carbo nitrate or in holds or compartments adjacent to nitro carbo nitrate.

(h) Class C explosives shall not be stowed in the same hold or compartment with oxidizing materials.

(i) Class A or Class B explosives shall not be stowed on a vessel carrying corrosive liquids below deck unless one complete hatch or the engine and boiler room spaces intervene, nor on a vessel carrying corrosive liquids on deck unless the engine and boiler room spaces or bridge structural erections intervene.

(j) Class C explosives shall not be stowed in the same hold or compartment with corrosive liquids.

(k) Class A or Class B explosives shall not be stowed on a vessel carrying inflammable compressed gases "On deck" unless the engine and boiler room spaces or bridge structural erections intervene, nor in the same hold with non-inflammable compressed gases.

(l) Class C explosives shall not be stowed in a hold or compartment immediately below an "On deck" stowage of inflammable compressed gases.

(m) Class A or Class B explosives shall not be stowed in the same hold or compartment with poisonous articles.

(n) Class C explosives shall not be stowed in the same hold or compartment with Class D poisons.

(o) Class A or Class B explosives shall not be stowed in the same hold or compartment with combustible liquids.

(p) Explosives shall not be stowed in the same hold or compartment with hazardous articles.

(q) Explosives shall not be stowed on a vessel carrying cotton unless the engine and boiler room spaces or one complete hatch intervenes.

(r) Small arms ammunition without explosives loaded bullets may be stowed in a hold or compartment above, below, or adjacent to a hold or compartment containing cotton provided the hatch covers separating the hold or compartment concerned are covered with asbestos paper, tarpaulins and dunnage.

6. Section 146.20–27 is amended by changing paragraph (d) to read as follows:

§ 146.20–27 Stowage and dunnaging of containers of explosives.

* * * * *

(d) The top tier of boxes and kegs shall be so braced and blocked or secured

in such a manner that no displacement of any package can occur either upwardly or laterally.

7. Section 146.20-90 is amended as follows:

a. Change title to read as follows:

§ 146.20-90 Stowage and storage chart for explosives.

b. Delete vertical and horizontal columns 17, 18, 19, 20, 21, 22, 23, and 24. Delete footnotes 1 and 4.

§ 146.20-300 [Amendment]

8. Section 146.20-300 *Table C—Classification: Class C; relatively safe explosives* is amended by revising various items as follows:

a. Amend the item "Cordeau detonant fuse" as follows:

In column 1, add:

Mild detonating fuse, metal clad.

In column 2, after first paragraph add:

Mild detonating fuse, metal clad, consists of a core containing not more than 2½ grains of high explosives composition per lineal foot, clad with metal with or without a covering of tapes, yarns, plastics or waterproofing compounds.

In column 2, change the last paragraph to read as follows:

Each outside container must be plainly marked: "Cordeau Detonant Fuse—Handle Carefully" or "Mild Detonating Fuse, Metal Clad—Handle Carefully" as the case may be.

b. Amend "Small-Arms Ammunition" as follows:

In column 4, change the last paragraph to read as follows:

Strong outside wooden boxes, fiberboard boxes or metal containers with ammunition contained in metal clips, in partitions designed to fit snugly in the outside container or in pasteboard or other inside boxes.

Subpart—Detailed Regulations Governing Inflammable Liquids

1. Section 146.21-25 is amended to read as follows:

§ 146.21-25 "Under deck" stowage.

(a) Stowage of inflammable liquids "Under deck" shall be either in ventilated holds or in holds that are gastight.

(b) Inflammable liquids that are permitted by the regulations in this subpart to be stowed in a cargo hold or a compartment on board a passenger vessel shall not be so stowed unless the compartment or hold authorized for such stowage is fitted with either an overhead water sprinkler system, inert gas or steam smothering system.

(c) Inflammable liquids permitted on passenger vessels may be stowed in a hold or compartment the overdeck of which forms a boundary of a passenger space, provided such overdeck is of an AI type of construction or in lieu thereof is fitted on its underside in way of the passenger area with three inches of incombustible insulation.

(d) Compartments or holds in which inflammable liquid cargo is to be stowed and which are fitted with electrical circuits having outlets within the compartment or hold shall have such circuits disconnected from all sources of power supply unless the fixtures within the hold are of explosion proof type, and such circuits shall not be again connected for power until the compartment or hold has been freed of any accumulation of inflammable vapors.

(e) After the stowage of inflammable liquid cargo has commenced in a compartment or hold that is not fitted with explosion proof type of electrical outlets no portable means of artificial lighting shall be used within such a compartment or hold unless such portable equipment is of the explosion proof type. Electrical connections for permitted portable lighting shall be made to outlets located outside of the compartment or hold and above the weather deck. Hand flashlights shall be of the non-sparking type.

(f) Inflammable liquids may be stowed in a compartment having a boundary bulkhead or deck which also forms a boundary to a boiler room, engine room or a coal bunker or galley provided no containers of such inflammable liquid are stowed within twenty (20) feet of such bulkhead or deck. When the amount of such inflammable liquid to be stowed in the hold exceeds the space available the twenty (20) feet separation need not be complied with provided one or more of the following protections are provided:

(1) The bulkhead or deck is insulated with at least three (3) inches of insulation throughout its entire area subject to heat.

(2) A temporary wooden bulkhead of at least two inches thickness is constructed in the hold at least three inches off the engine room and six inches off the boiler room bulkhead and covering the entire area of the bulkhead that is subject to heat. The space between the permanent bulkhead and the temporary wooden bulkhead shall be filled full with bulk asbestos or mineral wool.

(3) A temporary wooden bulkhead constructed of one inch T and G sheathing located three feet off the boiler room or engine room bulkhead and filled with sand to a height of six feet above the tank top.

(g) Cargo compartments located "Tween decks" and having a boundary bulkhead which also forms a boundary to a boiler room, engine room, coal bunker, galley or a boiler room uptake casing may be utilized for the stowage of inflammable liquids under the conditions as outlined in paragraph (f) of this section except that the provision in paragraph (f) (3) of this section requiring filling with sand to a height of 6 feet shall be modified to provide for only 3 feet of sand.

(h) Inflammable liquids in drums or in export wooden cases having inside containers in excess of one quart capacity shall not be stowed as beam fillers. Wooden barrels, wooden boxes, and fiberboard boxes with inside containers of inflammable liquids of less than one quart capacity shall not be stowed as beam fillers unless it is possible to stow and observe "This Side Up" markings.

2. Section 146.21-30 is amended by deleting the present wording and inserting the following:

§ 146.21-30 Stowage of inflammable liquids with explosives and other dangerous articles.

The stowage of inflammable liquids with explosives and other dangerous articles shall conform to the following conditions:

(a) Inflammable liquids in any quantity shall not be stowed on deck immediately over a hold or compartment containing Class A or Class B explosives.

(b) Inflammable liquids shall not be stowed below deck or in excess of one ton on deck on a vessel carrying Class A or Class B explosives unless the engine and boiler room spaces or one complete hatch intervenes.

(c) Inflammable liquids shall not be stowed in the same hold or compartment with Class C explosives.

(d) Inflammable liquids shall not be stowed in the same hold or compartment with inflammable solids.

(e) Inflammable liquids shall not be stowed in the same hold or compartment with oxidizing materials.

(f) Inflammable liquids shall not be stowed in the same hold or compartment with corrosive liquids.

(g) Inflammable liquids in excess of one ton shall not be stowed in a hold beneath inflammable compressed gases stowed "On deck".

(h) Inflammable liquids shall not be stowed in the same hold or compartment over cylinders of non-inflammable compressed gases.

(i) Inflammable liquids shall not be stowed in the same hold or compartment with poisonous articles.

(j) Inflammable liquids shall not be stowed in the same hold or compartment with cotton, nor in a hold above or below one containing cotton.

3. Section 146.21-65 is amended by changing paragraph (a) as follows:

§ 146.21-65 Limited quantity shipments.

(a) Inflammable liquids, except those enumerated in paragraph (c) of this section, in inside metal containers not over 1 quart capacity each, or in inside containers not over 1 pint or 16 ounces by weight each, packed in strong outside containers, except as otherwise provided, are exempt from specification packaging, marking other than name of contents, and labeling requirements.

§ 146.21-100 [Amendment]

4. Section 146.21-100 *Table D—Classification: Inflammable Liquids* is amended by revising certain items as follows:

a. Amend the following items as indicated:

(1) Aluminum triethyl, etc.

(2) Pyroforic fuel, etc.

(3) Zinc ethyl.

In column 4, under "Containers" insert:

Tank cars complying with ICC regulations. Portable tanks (ICC-51) with minimum design pressure of 100 psi, not over 8,000 lb. gr. wt.

Subpart—Detailed Regulations Governing Inflammable Solids and Oxidizing Substances

1. Section 146.22–5 is amended by designating the present wording as paragraph (a) and by adding a new paragraph (b) to read as follows:

§ 146.22–5 Stowage on board vessels.

(a) All inflammable solids and oxidizing materials offered for transportation on board vessels shall, when taken on board a vessel, be stowed in accordance with the provisions applying to the particular character of vessel as shown in the tables forming § 146.22–100, and with the detailed regulations of stowage.

(b) When "On deck in open" stowage is permitted for any substance by § 146.22–100 it shall apply only when such substance is packed in watertight containers.

§ 146.22–10 [Cancellation]

2. Section 146.22–10 *Limitation of "On deck" stowage* is canceled.

3. A new section 146.22–10 is added to read as follows:

§ 146.22–10 Stowage of inflammable solids with explosives and other dangerous articles.

The stowage of inflammable solids with explosives and other dangerous articles shall conform to the following conditions:

(a) Inflammable solids shall not be stowed in a hold or compartment containing Class A or Class B explosives, nor in any hold or compartment above, below or adjacent to one containing Class A or Class B explosives. Inflammable solids shall not be stowed on deck over a hatch containing Class A or Class B explosives. Inflammable solids shall not be stowed in the same hold or compartment with Class C explosives.

(b) Inflammable solids shall not be stowed in the same hold or compartment with inflammable liquids.

(c) Inflammable solids shall not be stowed in the same hold or compartment with oxidizing materials.

(d) Inflammable solids shall not be stowed in the same hold or compartment with corrosive liquids.

(e) Inflammable solids shall not be stowed in a hold or compartment over cylinders of non-inflammable compressed gases.

(f) Inflammable solids shall not be stowed in the same hold or compartment with poisonous articles.

(g) Inflammable solids shall not be stowed in the same hold or compartment with cotton, nor in a hold or compartment above or below one containing cotton.

4. Section 146.22–15 is amended by revising the text to read as follows:

§ 146.22–15 Stowage of oxidizing materials with explosives and other dangerous articles.

The stowage of oxidizing materials with explosives and other dangerous articles shall conform to the following conditions:

(a) Oxidizing materials shall not be stowed in a hold or compartment containing Class A or Class B explosives, nor in any hold or compartment above, below or adjacent to one containing Class A or Class B explosives. Oxidizing materials shall not be stowed on deck over a hatch containing Class A or Class B explosives. Oxidizing materials shall not be stowed in the same hold or compartment with Class C explosives.

(b) Nitro carbo nitrate may be stowed in the same hold or compartment with magazines containing dynamite, commercial boosters and/or other nonpriming, non-initiating types of explosives compatible with dynamite.

(c) Oxidizing materials shall not be stowed in the same hold or compartment with inflammable liquids.

(d) Oxidizing materials shall not be stowed in the same hold or compartment with inflammable solids.

(e) For regulations pertaining to the stowage of ammonium nitrate and ammonium nitrate fertilizers see §§ 146.22–30 and 146.22–100.

(f) Oxidizing materials shall not be stowed in the same hold or compartment with readily combustible materials such as combustible liquids and textile products or with finely divided substances such as organic powder, etc.

(g) Oxidizing materials shall not be stowed in the same hold or compartment with corrosive liquids.

(h) Oxidizing materials shall not be stowed in a hold or compartment over cylinders of non-inflammable compressed gases.

(i) Oxidizing materials shall not be stowed in a hold or compartment containing sulfur in bulk nor in any hold or compartment above, below or adjacent to one containing sulfur in bulk.

(j) Oxidizing materials shall not be stowed in the same hold or compartment with cotton, nor in a hold or compartment above or below one containing cotton.

5. Section 146.22–30 is amended by revising the text to read as follows:

§ 146.22–30 Authorization to load or discharge ammonium nitrate and ammonium nitrate fertilizers.

(a) Ammonium nitrate, ammonium nitrate fertilizers and fertilizer mixtures packaged in paper bags or other combustible containers, except those types exempt by this section, in amounts exceeding 1,000 pounds, shall not be laden on or discharged from any vessel at any point or place in the United States, its territories or possessions not including the Panama Canal Zone, until a permit authorizing such loading or discharging has been obtained by the owner, agent, charterer, master or person in charge of the vessel from the Coast Guard District Commander or other officer designated by the Commandant of the United States Coast Guard for such purpose. The Coast Guard officer issuing the permit shall satisfy himself that no local regulations or rules will be violated by the issuance of such permit. This permit requirement shall not apply to ammonium nitrate, ammonium nitrate fertilizers and fertilizer mixtures loaded in railroad or highway vehicles offered for transportation on board vessels under the provisions of subparts 146.07 and 146.08.

(b) (1) Ammonium nitrate, organic coated, in paper bags shall be loaded or discharged at facilities so remotely situated from populous areas and/or high value or high hazard industrial facilities, that in the event of fire or explosion, loss of lives and property may be minimized.

(i) This facility shall conform with port security and local regulations and shall provide an abundance of water for fire fighting.

(ii) This facility shall be so located as to permit unrestricted passage to open water. The vessel shall be moored bow to seaward, and shall be maintained in a mobile status either by presence of tugs or readiness of engines. The vessel shall provide at the bow and stern a wire towing hawser having an eye splice and lowered to the water's edge.

(iii) The detailed requirements of § 146.22–100 pertaining to this product, and other applicable sections of this part shall be strictly adhered to.

(2) Ammonium nitrate, organic coated, packaged in substantial metal barrels or drums, may be handled in accordance with paragraph (c) of this section. A permit is required for this transaction.

(c) (1) Ammonium nitrate and ammonium nitrate products (prills, crystals, grains or flakes) containing 90 percent or more ammonium nitrate by weight with no organic coating, including fertilizer grade, dynamite grade, nitrous oxide grade and technical grade, and ammonium nitrate phosphate (60 percent or more ammonium nitrate by weight) with no organic coating, packaged in multi-wall paper bags or other combustible containers, shall be loaded or discharged at facilities removed from congested areas and/or those having high value or high hazard industrial facilities. A permit is required for this transaction.

(i) This facility shall conform with port security and local regulations and shall provide an abundance of water for fire fighting.

(ii) This facility shall be so located as to permit unrestricted passage to open water. The vessel shall be moored bow to seaward, and shall be maintained in a mobile status either by presence of tugs or readiness of engines. The vessel shall provide at the bow and stern a wire towing hawser having an eye splice and lowered to the water's edge.

(iii) The detailed requirements of § 146.22–100 pertaining to these products and other applicable sections of this part shall be strictly adhered to.

(2) Ammonium nitrate and ammonium nitrate products (prills, crystals, grains or flakes) containing 90 percent or more ammonium nitrate by weight with no organic coating, including fertilizer grade, dynamite grade, nitrous oxide grade and technical grade, and ammonium nitrate phosphate (60 percent or more ammonium nitrate by weight) with no organic coating, packaged in ICC or nonspecification metal barrels or drums may be loaded or discharged at any waterfront facility which conforms to port security and local reg-

ulations. No permit is required for this transaction.

(d) (1) Ammonium nitrate-carbonate mixtures (60 percent or less ammonium nitrate by weight) may be loaded or discharged at any waterfront facility which conforms to port security and local regulations and provides an abundance of water for fire fighting. No permit is required for this transaction. The detailed requirements of § 146.22–100 pertaining to these products, and applicable sections of this part shall be strictly adhered to.

(2) Ammonium nitrate mixed fertilizers (over 13 percent but less than 60 percent ammonium nitrate by weight) including ammonium nitrate phosphate and ammonium nitrate phosphate fertilizers containing less that 60 percent ammonium nitrate by weight with no organic fillers may be loaded or discharged at any waterfront facility which conforms to port security and local regulations and provides an abundance of water for fire fighting. No permit is required for this transaction. The detailed requirements of § 146.22–100 pertaining to these products, and applicable sections of this part shall be strictly adhered to.

(3) Ammonium nitrate fertilizer materials containing 60 percent or more by weight of ammonium nitrate and those products not otherwise described in this section shall be tested as prescribed in paragraph (e).

(e) A person desiring to import or export ammonium nitrate materials and formulations not conforming to any of the classes listed in this section, or described in § 146.22–100, shall make application for a permit to the U.S. Coast Guard. A sample of 1,000 lbs. of the material in bags as prepared for shipment shall be furnished at least 60 days prior to intended date of shipment. This sample shall be tested by a competent laboratory designated by the Coast Guard to determine whether the characteristics of the material require its classification as a dangerous article for purposes of transportation. After such tests, conditions of loading, discharging and transportation shall be prescribed by the Commandant of the Coast Guard. Costs of such tests shall be borne by the shipper.

(f) Ammonium nitrate formulations shipped in multiwall paper bags shall be stowed in conformity with the following general plan:

(1) Minimum dunnage and sweatboards shall be used in ships' holds to prevent friction or abrasion of bags and to allow for circulation of air and access of water in the event of fire.

(2) The bags may be stowed from side to side, out to sweatboards.

(3) A space of 18 inches shall be provided between transverse bulkheads and the bagged cargo.

(4) An 18-inch athwartship trench shall be provided along the center line of the compartment, continuous from botton to top.

(5) An 18-inch amidship trench shall be provided running fore and aft from bulkhead to bulkhead.

(6) Bags shall not be stowed closer than 18 inches from the overhead deck beams.

(7) The bags shall be stowed so as to provide vent flues 14 inches square at each corner of the hatch or in way of ventilators, continuous from top to bottom.

(8) Trenching shall be accomplished by alternating the direction of the bags in each tier (bulkheading). The master or person in charge of loading shall determine the amount of bracing and chocking necessary to prevent shifting of the bagged cargo adjacent to trench areas.

§ 146.22–100 [Amendment]

6. Section 146.22–100 *Table E—Classification: Inflammable solids and oxidizing materials* is amended by changing various items as follows:

a. Amend "Calcium hypochlorite compounds, dry, etc." as follows:

In column 4, change the paragraph "Strong wooden or fiberboard packages, etc." to read as follows:

Strong outside wooden or fiberboard packages with inside containers of glass or metal not over 5 lb. cap. each. Outside wooden containers not to exceed 150 lb. gross weight and outside fiberboard containers not to exceed 65 lb. gross weight. Inside metal containers not over 7½ lb. cap. each are authorized only for material in tablet form.

b. Amend "Cumene hydroperoxide, etc." as follows:

In column 1, delete the entry "Dicumyl peroxide of strength exceeding 50% may be shipped as Inflammable Solids N.O.S."

In column 1, after "Dicumyl peroxide (*strength not exceeding 50% in a non-volatile solvent, etc.*)" add:

Paramenthane hydroperoxide (*strength not exceeding 60% in a non-volatile solvent*). See "Cumene hydroperoxide" for containers and stowage.

In column 2, insert:

do----

In column 3, insert:

Yellow.

In column 4, delete "Authorized for 75% or less Cumene hydroperoxide, etc." and insert in lieu thereof:

Authorized for 90% or less cumene hydroperoxide in nonvolatile solvent and paramenthane hydroperoxide of strength not exceeding 60% in a nonvolatile solvent;
Tank cars complying with ICC regulations.

c. After "Motion-picture film, old and worn out, etc." insert the following:

In column 1, insert:

Motion-picture film scrap (*nitrocellulose base*).
Photographic film scrap (*nitrocellulose base*).
X-ray film scrap (*nitrocellulose base*).

In column 2, insert:

Consists of the scrap obtained from motion-picture film, X-ray film and photographic film.
Being finely divided, it is more hazardous than the original materials.
Stow well away from all sources of heat. Protect from temperatures exceeding 100° F.

In column 3, insert:

Yellow.

In column 4, insert:

Stowage:
"On deck protected."
"On deck under cover."
Outside containers:
Steel barrels or drums:
(ICC–6A, 6J) not over 880 lb. gr. wt.
(ICC–6B, 6C) not over 1760 lb. gr. wt.
(ICC–17H, 37A, 37B) STC, not over 880 lb. gr. wt.
Wooden barrels or kegs (ICC–11B) WIL, not over 375 lb. gr. wt.
Wooden boxes (ICC–15A, 15B) WIL, not over 450 lb. gr. wt.
Fiberboard boxes (ICC–12B) WIC, not over 65 lb. gr. wt.
Fiber drums (ICC–21A, 21B) not over 220 lb. gr. wt.

In columns 5, 6, and 7 insert:

Not permitted.

d. Amend the item "*Nitrates*" as follows:

i. Change "Ammonium nitrate (*no organic coating*), etc." as follows:

In column 1, delete the present wording and insert:

Ammonium nitrate and ammonium nitrate products containing 90% or more ammonium nitrate by weight (*no organic coating*).
Fertilizer grade.
Dynamite grade.
Nitrous oxide grade.
Technical grade.
For permit requirements see § 146.22–30(c).

In column 2, change paragraph 1 to read as follows:

May be prills, crystals, grains or flakes. Contains 90% or more by weight of ammonium nitrate and a small quantity of impurity or additive and no organic material.

ii. Amend "Ammonium nitrate mixed fertilizer, etc." as follows:

In column 1 change paragraph 1 to read as follows:

Ammonium nitrate mixed fertilizer (containing over 13% but less than 60% by weight of ammonium nitrate).

In column 2 change paragraph 1 to read as follows:

Mixed fertilizers not specified by name in this section. Includes ammonium nitrate phosphate and ammonium nitrate phosphate fertilizers containing less than 60% ammonium nitrate with no organic fillers.

e. Amend the item "Potassium sulfide (fused or concentrated and ground) etc." as follows:

In column 1, delete the present wording and insert the following:

Potassium sulfide (fused or concentrated, when ground).
Sodium sulfide (fused or concentrated, when ground).

f. Amend the item "Pyroxylin plastic scrap, etc." as follows:

In column 1, change the entry to read:

Pyroxylin plastic scrap.

g. Amend the item "Zirconium powder or sponge, dry" as follows:

In column 2, change paragraph 1 to read:

A dark gray combustible metallic solid.

h. Amend "Zirconium powder, wet or sludge" as follows:

In column 4, under "Outside containers" insert:

Metal drums (ICC–6A, 6B, 6C, 17C, 17H) WIMC, not over 55 gal. cap.

Subpart—Detailed Regulations Governing Corrosive Liquids

1. Section 146.23–10 is amended by deleting paragraphs (a) and (d) and redesignating paragraphs (b), (c) and (e) to read as follows:

§ 146.23–10 General stowage requirements.

In the stowage of corrosive liquids, the following conditions shall be observed:

(a) Corrosive liquids shall be stowed well away from living quarters, foodstuffs or cargo of an organic nature.

(b) Stowage shall be in such manner that the containers may be readily observed.

(c) Corrosive liquids shall not be stowed over any combustible substance even though such substance is not dangerous by the regulations in this part.

2. Section 146.23–25 is amended by deleting the title and text and inserting the following:

§ 146.23–25 Stowage of corrosive liquids with explosives and other dangerous articles.

The stowage of corrosive liquids with explosives and other dangerous articles shall conform to the following conditions:

(a) Corrosive liquids shall not be stowed "Under deck" on a vessel carrying Class A or Class B explosives unless one complete hatch or the engine and boiler room spaces intervene, nor "On deck" on a vessel carrying Class A or Class B explosives unless the engine and boiler room spaces or the bridge structural erection intervene.

(b) Corrosive liquids shall not be stowed in the same hold or compartment with Class C explosives.

(c) Corrosive liquids shall not be stowed in the same hold or compartment with inflammable liquids.

(d) Corrosive liquids shall not be stowed in the same hold or compartment with inflammable solids.

(e) Corrosive liquids shall not be stowed in the same hold or compartment with oxidizing materials.

(f) Corrosive liquids shall not be stowed adjacent to or over cylinders of compressed gases.

(g) Corrosive liquids shall not be stowed adjacent to or over containers of poisonous articles.

(h) Corrosive liquids shall not be stowed adjacent to or over containers of hazardous articles.

(i) Corrosive liquids shall not be stowed in a hold or compartment over one in which cotton is stowed unless the deck is of steel and the hatch is fitted with a tight coaming and the deck itself is tight against leakage. Corrosive liquids shall not be stowed over the square of the hatch.

§ 146.23–100 [Amendment]

3. Section 146.23–100 *Table F—Classification: Corrosive liquids* is amended by revising various items as follows:

a. Amend "Antimony pentachloride, solution" as follows:

In column 4, add:

Tank cars complying with ICC regulations.

b. Amend "Hydrofluoric acid, anhydrous" as follows:

In column 4, add:

Portable tanks (ICC–51) not over 8,000 lb. gr. wt.

c. Amend "Hydrogen peroxide etc." as follows:

In columns 4, 5, 6 and 7 change "Fiberboard boxes (ICC–12B) WIMC, etc." to read as follows:

Fiberboard boxes (ICC–12B) WIC, not over 65 lb. gr. wt.

Subpart—Detailed Regulations Governing Compressed Gases

1. Section 146.24–55 is amended by deleting the title and text and inserting the following:

§ 146.24–55 Stowage of compressed gases with explosives and other dangerous articles.

The stowage of compressed gases with explosives and other dangerous articles shall conform to the following conditions:

(a) Inflammable compressed gases shall not be stowed "Under deck", nor "On deck" with any other dangerous cargo.

(b) Inflammable compressed gases shall not be stowed "On deck" on a vessel carrying Class A or Class B explosives unless the engine and boiler room spaces or the bridge structural erections intervene.

(c) Non-inflammable compressed gases shall not be stowed in the same hold or compartment with Class A or Class B explosives.

(d) Inflammable compressed gases shall not be stowed "On deck" immediately over a hold or compartment containing Class C explosives.

(e) Cylinders of non-inflammable compressed gases shall not be overstowed by containers of inflammable liquids.

(f) Cylinders of inflammable compressed gases shall not be stowed "On deck" over a hold containing inflammable liquids in excess of 1 ton.

(g) Cylinders of non-inflammable compressed gases shall not be overstowed by containers of inflammable solids.

(h) Cylinders of non-inflammable compressed gases shall not be overstowed by containers of oxidizing materials.

(i) Cylinders of non-inflammable compressed gases shall not be overstowed by or stowed adjacent to containers of corrosive liquids.

(j) Cylinders of non-inflammable compressed gases shall not be overstowed by containers of poisonous articles.

(k) Cylinders of non-inflammable compressed gases shall not be overstowed by containers of hazardous articles.

§ 146.24–100 [Amendment]

2. Section 146.24–100 *Table G—Classification: Compressed gases* is amended by revising various items and inserting new items as follows:

a. Amend the item "Acetylene" as follows:

In column 4, under "Stowage" delete the present requirements and insert:

Stowage:
"On deck protected."
"On deck under cover."

b. Insert the following after "Helium-oxygen mixture":

In column 1, insert:

Hydraulic accumulators.

In column 2, insert:

Hydraulic accumulators and component parts thereof containing a nonliquefied gas for the purpose of operation.
Gas must be noninflammable.
Must be shipped as inside containers.
Each outside package shall be marked "Hydraulic accumulators containing compressed gas".

In column 3, insert:

No label required.

In columns 4 and 5, insert:

Stowage:
"On deck under cover".
"Tween decks readily accessible."
"Under deck away from heat".
Containers: Wooden boxes or crates (nonspecification).

In column 6, insert:

Ferry stowage (AA).
Containers: Wooden boxes or crates (nonspecification).

In column 7, insert:

Ferry stowage (BB).
Containers: Wooden boxes or crates (nonspecification).

c. After "Methane" insert the following:

In column 1, insert:

Methyl acetylene—15% to 20% propadiene mixture.

In column 2, insert:

Inflammable gas.

In column 3, insert:

Red gas.

In column 4, insert:

Stowage:
"On deck protected."
"On deck under cover."
Containers:
Cylinders:
(With valve protection cap.)
(With dished heads.)
(Boxed.)
Tank cars complying with ICC regulations.

In columns 5 and 6, insert:

Not permitted.

In column 7, insert:

Ferry stowage (BB).
Containers:
Cylinders.

d. Amend the item "Refrigerating machines, etc." as follows:

In column 1, delete the present wording and insert:

Refrigerating machines.

In column 2, delete the leader and insert:

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.
Each outside container shall be marked "REFRIGERATING MACHINE CONTAINING COMPRESSED GAS."

e. Insert the following after "Refrigerating machines, etc.":

In column 1, insert:

Silicon tetrafluoride.

In column 2, insert:

Colorless gas.
Suffocating odor.
Fumes strongly in air.

In column 3, insert:

Green gas.

In columns 4 and 5 insert:

Stowage:
"On deck protected."
"On deck under cover."
"Tween decks readily accessible."
Containers:
Cylinders:
(With valve protection cap.)
(With dished heads.)
(Boxed.)

In column 6, insert:

Ferry stowage (AA).
Containers:
Cylinders:
(With valve protection cap.)
(With dished heads.)
(Boxed.)

In column 7, insert:

Ferry stowage (BB).
Containers:
Cylinders.

f. Insert the following after "Vinyl chloride, inhibited":

In column 1, insert:

Vinyl fluoride, inhibited.

In column 2, insert:

Inflammable colorless gas.
Insoluble in water.

In column 3, insert:

Red gas.

In column 4, insert:

Stowage:
"On deck protected".
"On deck under cover".
Containers:
Cylinders:
(With valve protection cap.)
(With dished heads.)
(Boxed.)

In columns 5, 6, and 7, insert:

Not permitted.

Subpart—Detailed Regulations Governing Poisonous Articles

1. Section 146.25–25 is amended by changing paragraph (c) to read as follows:

§ 146.25–25 Exemptions for radioactive materials.

* * * * *

(c) Radioactive materials, such as ores, residues, salts of natural uranium and thorium, etc. of low activity, packed in strong tight containers, are exempt from specification packaging, marking other than name of contents, and labeling requirements for transportation on board vessels only if the gamma radiation or equivalent at any point in any space or area continuously occupied by passengers, crew or shipments of animals will not exceed 40 milliroentgens per 24 hours at any time during transportation. The consignor or consignee shall advise the person in charge of loading or discharging of the hazards of the cargo and the regulations pertaining thereto.

2. Section 146.25–35 is amended by deleting the title and text and inserting the following:

§ 146.25–35 Stowage and handling of radioactive materials on board vessels.

(a) All containers of radioactive materials stowed on board a vessel must be efficiently lashed, chocked, or braced to prevent sifting or leakage by movement of the containers in any direction.

(b) No person shall remain unnecessarily in a hold or compartment or close to a hold, compartment, or deck cargo space containing radioactive materials and the shipper must furnish the carrier with such information and equipment as is necessary for the protection of the carrier's employees, stevedores, or other persons engaged in the handling of such cargo. In no instance shall any person who must necessarily remain in a hold, compartment, or in the proximity of a hold, compartment, or deck cargo space containing radioactive material be exposed to a total of more than 300 milliroentgens of gamma radiation or equivalent in any 7-day period.

(c) All containers of radioactive material (red label) must be carried by the handles when handles are provided.

(d) Enclosed compartments in which are stowed any extremely dangerous poisons, Class A, or radioactive materials, Class D, shall not be left open to entrance by persons unfamiliar with the type of cargo being transported.

(e) No radioactive materials, Groups I, II, or III, shall be stowed on board a vessel in any hold, compartment, or deck space so that the total gamma radiation or equivalent in any space or area continuously occupied by passengers, crew, or shipments of animals will exceed 40 milliroentgens per 24 hours at any time during transportation. Any hold, compartment, or enclosed deck space containing radioactive materials shall be so ventilated that there will be no accumulation of radioactive gases in that hold, compartment, or enclosed deck space.

(f) Not more than 40 units of radioactive materials, red label (Groups I and II), shall be stowed together in any 1 area or place. One unit equals 1 milliroentgen per hour at a distance of 1 meter (39.3 inches) for hard gamma radiation or the amount of radiation which has the same effect on film as 1 milliroentgen per hour per meter of hard gamma rays of radium filtered by ½ inch of lead. If the shipment exceeds 40 units, a distance of at least 60 feet must separate increments of not more than 40 units each.

3. Section 146.25–45 is amended by deleting the title and text and inserting the following:

§ 146.25–45 Stowage of poisonous articles with explosives and other dangerous articles.

The stowage of poisonous articles with explosives and other dangerous articles shall conform to the following conditions:

(a) Containers of poisonous articles offered for transportation on board vessels shall, when taken on board a vessel, be stowed in accordance with the provisions applying to the particular character of vessel as shown in §§ 146.25–100 to 146.25–400, inclusive, and with the detailed regulations for stowage in this subpart.

(b) Poisonous articles shall not be stowed in the same hold or compartment with Class A or Class B explosives.

(c) Class D poisons shall not be stowed in the same hold or compartment with Class C explosives.

(d) Poisonous articles shall not be stowed in the same hold or compartment with inflammable liquids.

(e) Poisonous articles shall not be stowed in the same hold or compartment with inflammable solids.

(f) Poisonous articles shall not be stowed adjacent to or under containers of corrosive liquids. Cyanides, or cyanide mixtures shall not be stowed in the same hold or compartment with corrosive liquids.

(g) Poisonous articles shall not be stowed in the same hold or compartment over cylinders of non-inflammable compressed gases.

(h) Poisonous articles, Class A, Class C, and Class D shall not be stowed in the same hold or compartment with cotton.

(i) Containers of poisonous articles shall be stowed well away from living quarters, refrigerated cargo and foodstuffs not packed in hermetically sealed containers.

4. Section 146.25–55 is amended by revising paragraph (a)(2); by correcting paragraph (a)(3)b; by revising the introductory text of paragraph (b); and by adding a new paragraph (b)(3) to read as follows:

§ 146.25–55 Exemptions for poisons, 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.

(3) * * *

b. 4—Chloro-o-toluidine hydrochloride.

(b) Poisonous solids, Class B as defined in this subpart except those enumerated in subparagraph (3) of this paragraph in tightly closed containers, securely cushioned when necessary to prevent breakage and packed as follows are exempt from specification packaging, marking other than name of contents, and labeling requirements:

* * * * *

(3) The exemption provisions of this section do not apply to the following:

a. Beryllium metal powder.
b. Cyanides, other than those specified in paragraphs (c) and (d) of this section.
c. Cyanogen bromide.
d. Hexaethyl tetraphosphate mixtures.
e. Methyl parathion mixtures.
f. Parathion mixtures.
g. Tetraethyl dithio pyrophosphate mixtures.
h. Tetraethyl pyrophosphate mixtures.

§ 146.25–200 [Amendment]

5. Section 146.25–200 *Table H—Classification: Class B; less dangerous poisons* is amended by revising various items and inserting new items as follows:

a. Amend "Beryllium metal powder" as follows:

In columns 4, 5, 6 and 7 under "steel barrels or drums" add the following:

(ICC–37P) NRC, not over 5 gal. cap.

b. After "Cyanide of potassium, liquid, etc." insert the following:

In column 1 insert:

Cyanogen bromide.

In column 2 insert:

Transparent crystals.
Penetrating odor.
Corrodes most metals.
Irritant and toxic.
Stow away from living quarters and foodstuffs.

In column 3 insert:

Poison.

In column 4 insert:

Stowage:
"On deck in open"
"On deck under cover"
Outside Containers:
Wooden boxes, WIC of glass, earthenware or metal, not over 25 lb. net wt.

In columns 5, 6 and 7 insert:

Not Permitted.

c. After "Dinitrochlorbenzol solid, etc." insert the following:

In column 1, insert:

Dinitrophenol solutions.

In column 2, insert:

Colorless to yellow solution of dinitrophenol. May be absorbed through contact with skin. Contact may cause severe skin irritation.
Stow away from living quarters and foodstuffs.

In column 3, insert:

Poison.

In column 4, insert:

Stowage:
"On deck under cover."
"Tween decks."
"Under deck."
Outside containers:
Fiberboard boxes (ICC–12B) WIC, not over 65 lb. gr. wt.

In columns 5, 6, and 7, insert:

Not permitted.

d. Amend "Hydrocyanic acid solutions" as follows:

In column 1, delete the present wording and insert:

Hydrocyanic acid solutions.

In column 4, under "Outside Containers" insert:

Hydrocyanic acid solutions must be in glass bottles not over 1 lb. cap. each for solutions of not over 5% strength and not over 5 pints cap. each for solutions of not over 2% strength.

e. Amend the item "Methyl bromide, etc." as follows:

In column 4, after "Authorized only for mixtures containing not over 40% by weight of methyl bromide", insert the following:

Specification wooden or fiberboard boxes with inside metal cans not over 1 lb. net wt. may be stowed "Under deck" in a mechanically ventilated hold or compartment provided the ventilation ducts discharge directly to the atmosphere.

f. Amend "Motor fuel antiknock compound" as follows:

In column 4, under "Outside Containers" insert:

Portable tanks (ICC–51) minimum design pressure 100 psi, not over 8,000 lb. gr. wt.

g. Amend the following items as indicated:

1. Acetone cyanhydrin
2. Alcohol, allyl
3. Arsenic chloride (arsenous) liquid, etc.
4. Arsenical compounds or mixtures, N.O.S., liquid, etc.
5. Compounds, tree or weed killing, liquid
6. Dinitrobenzol, liquid
7. Drugs, chemicals, medicines or cosmetics, N.O.S. (liquid)
8. Insecticide, liquid
9. Mercuric iodide solution
10. Nicotine hydrochloride, etc.
11. Nitrobenzol, liquid (oil of mirbane), etc.
12. Poisonous liquids, N.O.S.
13. Sodium arsenite (solution) liquid

In columns 4, 5, 6 and 7 where applicable, under "Outside Containers: Steel barrels or drums" insert:

(ICC–6J) WIC (ICC–2S polyethylene) not over 55 gal. cap.

Subpart—Detailed Regulations Governing Combustible Liquids

§ 146.26–100 [Amendment]

1. Section 146.26–100 *Table J—Classification: Combustible liquids* is amended by deleting an item as follows:

a. Amend the "Creosote, coal tar, etc." as follows:

Delete "Cresol, liquid (*Cresylic acid*) (When possessing a flash point at or below 150° F. and above 80° F.)" and all wording pertaining thereto in columns 2 and 3.

Subpart—Detailed Regulations Governing Hazardous Articles

§ 146.27–100 [Amendment]

1. Section 146.27–100 *Table K—Classification: Hazardous articles* is amended as follows:

a. Amend the item "Automobiles, motorcycles, tractors, or other self-propelled vehicles, etc." as follows:

Change Note 2 by adding a new subparagraph (f) to read as follows:

(f) Self-propelled vehicles or mobile agricultural machinery may be shipped with a container of electrolyte (acid) or corrosive battery fluid secured in a position to prevent damage and packaged as follows: Wooden boxes (ICC–15A, 15B, 15C, 16A, 19A) or Fiberboard boxes (ICC–12B, 12C) WIC, meeting the requirements of ICC regulations.

b. After "Paper scrap, etc." insert the following:

In column 1, insert:

Petroleum coke.

In column 2, insert:

A black finely divided residue, in the form of powder and small lumps.
Before loading, temperature tests of the material should be taken at several points in the pile to determine if there is any heating. If the temperature is over 110° F. the shipment should be carefully watched. If the temperature rises to 130° F. or above, the material shall not be accepted for transportation.
Remove wooden sweat battens and dunnage and clean hold of debris before loading bulk shipments.
Observe temperatures of cargo during voyage for signs of heating.
Do not stow explosives in a hold above, below or adjacent to stowage of this material.
Do not stow in same hold or compartment with explosives, inflammable or combustible cargo or oxidizing materials.

In column 3, insert:

No label required.

In column 4, insert:

Stowage:
"On deck."
"Tween decks."
"Under deck."
Outside containers:
Metal barrels or drums.
Bulk.

In column 5, insert:

Stowage:
"On deck."
"Tween decks."
"Under deck."
Outside containers:
Metal barrels or drums.

In column 6, insert:

Ferry stowage (AA).
Outside containers:
Metal barrels or drums.
Bulk in highway vehicles.

In column 7, insert:

Ferry stowage (BB).
Outside containers:
Metal barrels or drums.
Bulk in railroad cars.
Bulk in highway vehicles.

(R.S. 4405, as amended, 4462, as amended, 4472, as amended; 46 U.S.C. 375, 416, 170. Interpret or apply sec. 3, 68 Stat. 675; 50 U.S.C. 198; E.O. 10402, 17 F.R. 9917, 3 CFR, 1952 Supp.)

DETAILED REGULATIONS GOVERNING USE OF SHIPS' STORES AND SUPPLIES

1. A new section 147.04–6 is added to read as follows:

§ 147.04–6 Portable magazine chest for stowage of ships' signal and emergency equipment.

(a) Portable magazine chests shall be constructed of metal and lined with wood, and not less than 6 nor more than 40 cubic feet capacity. The lining shall be so fitted and finished as to form a smooth surface within the interior of the chest. Fastenings shall be recessed below the surface to avoid projections within the interior. Construction shall be such as to separate all containers of explosives or pyrotechnics from contact with metal surfaces. The metal shall be ⅛ inch thick and free from crimps, buckles, and rough edges. All metal surfaces shall be wire brushed and all oil, grease, rust, loose scale, and other extraneous matter, removed before application of any primer. All surfaces of the metal chest and fittings shall be given a heavy coat of quick drying red lead, zinc chromate, or other suitable

primer before painting. The finish shall consist of two coats of paint. The interior shall be lined with wood sheathing of a minimum thickness of ¾ inch. Securing means shall be countersunk below the surface of the sheathing. Securing means for the cover and four (4) lashing rings shall be provided. The lashing rings shall be 3-inch I.D. by ⅜-inch wire permanently attached to the magazine chest. Two runners, not less than 2 inches high shall be permanently attached to the bottom of the chest.

(b) Portable magazine chests used for the stowage of pyrotechnic signals, rockets, and powder for line-throwing guns shall be marked, in letters at least 3 inches high, with the following legend: "Portable Magazine Chest," "Inflammable—Keep Lights and Fire Away."

SHIPS' STORES AND SUPPLIES OF A DANGEROUS NATURE

§ 147.05–100 [Amendment]

2. Section 147.05–100 *Table S—Classification: Ships' stores and supplies of a dangerous nature* is amended by deleting an item as follows:

a. Delete the item *"Compounds,* etc." and all wording pertaining thereto appearing in columns 1, 2, 3, 4, 5, 6 and 7.

(R.S. 4405, as amended, 4462, as amended, 4472, as amended; 46 U.S.C. 375, 416, 170. Interpret or apply sec. 3, 68 Stat. 675; 50 U.S.C. 198; E.O. 10402, 17 F.R. 9917, 3 CFR, 1952 Supp.)

Dated: June 25, 1959.

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

[F.R. Doc. 59–5414; Filed, June 29, 1959; 8:49 a.m.]

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

Department of Justice

Effective upon publication in the FEDERAL REGISTER, subparagraph (3) is added to § 6.108(b) as set out below.

§ 6.108 **Department of Justice.**

* * * * *

(b) *Immigration and Naturalization Service.* * * *

(3) Until June 30, 1961, positions of Port Receptionists and Supervisory Port Receptionists.

(R.S. 1753, sec. 2, 22 Stat. 403, as amended; 5 U.S.C. 631, 633)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] WM. C. HULL,
Executive Assistant.

[F.R. Doc. 59–5437; Filed, June 29, 1959; 8:51 a.m.]

PART 20—RETENTION PREFERENCE REGULATIONS FOR USE IN REDUCTIONS IN FORCE

Order of Selection

Effective June 26, 1959, § 20.4(c) is amended by adding a proviso clause at the end of the paragraph. As amended, the paragraph will read as follows:

§ 20.4 **Order of selection.**

* * * * *

(c) *Determination of tenure groups.* For the purpose of determining relative retention preference in reductions in force, competing employees with performance ratings of "Satisfactory" or better shall be classified in tenure groups and subgroups according to tenure of employment and veteran preference. In the competitive service, tenure groups shall be as prescribed in subparagraphs (1), (2), and (3) of this paragraph. In the excepted service, employees shall be arranged in tenure groups I, II, or III to correspond with the grouping of employees having similar tenure in competitive positions: *Provided,* That employees who complete one year of current continuous service under temporary appointment shall be in tenure group III.

(Secs. 11, 19, 58 Stat. 390, 391; 5 U.S.C. 860, 868)

UNITED STATES CIVIL SERVICE COMMISSION.
[SEAL] WM. C. HULL,
Executive Assistant.

[F.R. Doc. 59–5436; Filed, June 29, 1959; 8:51 a.m.]

Chapter II—Employment and Compensation in the Canal Zone

PART 204—COMPENSATION AND ALLOWANCES

Special

By virtue of authority vested in the President by section 15 of the Act of July 25, 1958 (72 Stat. 411), and delegated to the Secretary of the Army by section 2 of Executive Order 10794 of December 10, 1958 (23 F.R. 9627; 3 CFR, 1958 Supp.) § 204.7 is amended to read as follows:

§ 204.7 **Special.**

Those occupational groupings which are excepted from the Non-Manual, Manual, and Service Categories, and whose bases generally have been traditionally or by statute evaluated, classified, and titled by reference to applicable Government or industry standards for the same or similar work.

[Regs., 10 June 1959] (Sec. 15, 72 Stat. 411)

R. V. LEE,
Major General, U.S. Army, The Adjutant General.

[F.R. Doc. 59–5384; Filed, June 29, 1959; 8:45 a.m.]

Title 6—AGRICULTURAL CREDIT

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

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[Amdt. 3]

PART 421—GRAINS AND RELATED COMMODITIES

Subpart—Provisions for Participation of Financial Institutions in Pools of CCC Price Support Loans on Certain Commodities

The regulations issued by the Commodity Credit Corporation published in 23 F.R. 3913, as amended at 23 F.R. 8383 and 24 F.R. 2931, containing the terms and conditions under which financial institutions may participate in pools of CCC price support loans on certain commodities are hereby further amended by deleting § 421.3803 in its entirety and substituting in lieu thereof the following:

§ 421.3803 **Rate of interest and basis of computation of interest earned.**

(a) *1958 crop programs.* Certificates evidencing participation in financing 1958 crop price support program loans shall earn interest at the rates of 1¾ percent per annum through and including September 17, 1958, 2½ percent per annum from September 18, 1958, through and including April 30, 1959, and 2¾ percent per annum from May 1, 1959, through and including July 31, 1959.

(b) *1959 and subsequent crop programs.* Certificates evidencing participation in financing 1959 and subsequent crop price support program loans shall earn interest at the rate of 2¾ percent per annum through and including June 30, 1959, and 3¼ percent per annum thereafter.

(c) *Rate increases or decreases.* The rate of interest as specified in paragraphs (a) and (b) of this section may be increased or decreased by CCC upon publication in the FEDERAL REGISTER of an amendment to these regulations providing for such increase or decrease: *Provided,* That with respect to any decrease in the interest rate, the effective date of such decrease shall be at least 30 days subsequent to publication of such amendment in the FEDERAL REGISTER.

(d) *Basis of computation of interest earned.* Interest earned will be paid on a 365 day basis from and including the date disbursed shown on the certificate to, but not including, the maturity date of the certificate, the date the certificate is presented, at option of holder, to CCC for purchase or the date a certificate is to be presented to CCC for purchase or cancellation in accordance with notice given the holder of record pursuant to § 421.3802, whichever date first occurs.

(Sec. 4, 62 Stat. 1070, as amended; 15 U.S.C. 714b. Interpret or apply sec. 5, 62 Stat. 1072; 15 U.S.C. 714c)

Issued this 26th day of June 1959.

WALTER C. BERGER,
Executive Vice President,
Commodity Credit Corporation.

[F.R. Doc. 59-5466; Filed, June 29, 1959; 8:52 a.m.]

Title 7—AGRICULTURE

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

PART 52—PROCESSED FRUITS AND VEGETABLES, PROCESSED PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD PRODUCTS

Subpart—United States Standards for Grades of Concentrated Lemon Juice for Manufacturing [1]

On January 14, 1959, a notice of proposed rule making was published in the FEDERAL REGISTER (24 F.R. 319) regarding the proposed issuance of United States Standards for Grades of Concentrated Lemon Juice for Manufacturing.

After consideration of all relevant matters presented, including the proposal set forth in the aforesaid notice, the following United States Standards for Grades of Concentrated Lemon Juice for Manufacturing are hereby promulgated pursuant to the authority contained in the Agricultural Marketing Act of 1946 (Secs. 202–208, 60 Stat. 1087, as amended; 7 U.S.C. 1621–1627).

PRODUCT DESCRIPTION AND GRADES

Sec.
52.3951 Product description.
52.3952 Grades of concentrated lemon juice for manufacturing.

FILL OF CONTAINER

52.3953 Recommended fill of container.

PULP REQUIREMENTS

52.3954 Pulp.

CONCENTRATION

52.3955 Degree of concentration.

FACTORS OF QUALITY

52.3956 Ascertaining the grade of a sample unit.
52.3957 Ascertaining the rating for the factors which are scored.
52.3958 Color.
52.3959 Defects.
52.3960 Flavor.

EXPLANATIONS AND METHODS OF ANALYSES

52.3961 Definition of terms.

LOT INSPECTION AND CERTIFICATION

52.3962 Ascertaining the grade of a lot.

SCORE SHEET

52.3963 Score sheet for concentrated lemon juice for manufacturing.

[1] Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act or with applicable State laws and regulations.

AUTHORITY: §§ 52.3951 to 52.3963 issued under sec. 202–208, 60 Stat. 1087, as amended; 7 U.S.C. 1621–1627.

PRODUCT DESCRIPTION AND GRADES

§ 52.3951 Product description.

Concentrated lemon juice for manufacturing is the concentrated product obtained from sound, mature lemons. The fruit is prepared by sorting and by washing prior to extraction of the juice. The concentrated lemon juice is prepared and concentrated in accordance with good commercial practice. It may or may not require processing by heat, subsequent refrigeration, or freezing to assure preservation of the product. The finished product may contain added pulp, lemon oil to standardize flavor, and/or chemical preservatives permissible under provisions of the Federal Food, Drug, and Cosmetic Act.

§ 52.3952 Grades of concentrated lemon juice for manufacturing.

(a) "U.S. Grade A for Manufacturing" (or "U.S. Fancy for Manufacturing") is the quality of concentrated lemon juice which shows no material gelation and reconstitutes properly, of which the reconstituted juice possesses a reasonably good color and is practically free from defects; when prepared for flavor evaluation, possesses a reasonably good flavor; and scores not less than 85 points when scored in accordance with the scoring system outlined in this subpart.

(b) "U.S. Grade C for Manufacturing" (or "U.S. Standard for Manufacturing") is the quality of concentrated lemon juice which shows no serious gelation and reconstitutes properly; of which the reconstituted juice possesses a fairly good color and is fairly free from defects; when prepared for flavor evaluation, possesses a fairly good flavor; and scores not less than 70 points when scored in accordance with the scoring system outlined in this subpart.

(c) "Substandard for Manufacturing" is the quality of concentrated lemon juice that fails to meet the requirements of U.S. Grade C for Manufacturing.

FILL OF CONTAINER

§ 52.3953 Recommended fill of container.

The recommended fill of container is not incorporated in the grades of the finished product since fill of container, as such, is not a factor of quality for the purposes of these grades. It is recommended that each container be filled with concentrated lemon juice as full as practicable without impairment of quality.

PULP REQUIREMENTS

§ 52.3954 Pulp.

(a) Pulp is not considered a factor of quality for the purpose of these standards. It is recommended that purchase contracts specify the type and amount of pulp desired in the product. The amount of pulp in the concentrate may be determined by the methods outlined in this subpart.

CONCENTRATION

§ 52.3955 Degree of concentration.

The degree of concentration of the lemon juice is not considered a factor of quality for the purpose of these standards. It is recommended that the degree of concentration be indicated by the number of grams of anhydrous citric acid contained in each liter of the concentrate.

FACTORS OF QUALITY

§ 52.3956 Ascertaining the grade of a sample unit.

(a) *General.* The grade of a sample unit of concentrated lemon juice for manufacturing is ascertained by examining the concentrate, the reconstituted juice, and a sweetened product prepared therefrom; and in addition to considering other requirements outlined in the standards, the following quality factors are evaluated:

(1) *Factors not rated by score points.* (i) Degree of gelation; (ii) Faculty of reconstituting properly.

(2) *Factors rated by score points.* The relative importance of each factor which is scored is expressed numerically on the scale of 100. The maximum number of points that may be given such factors are:

Factors:	Points
Color	40
Defects	20
Flavor	40
Total score	100

§ 52.3957 Ascertaining the rating for the factors which are scored.

The essential variations within each factor which is scored are so described that the value may be ascertained for each factor and expressed numerically. The numerical range within each factor which is scored is inclusive. (For example, "17 to 20 points" means 17, 18, 19, or 20 points.)

§ 52.3958 Color.

(a) Color of the product is evaluated by observing the reconstituted juice in a glass test tube one inch in diameter by six inches deep; observation to be made through the side of the tube.

(b) (A-Mfg.) classification: Concentrated lemon juice of which the reconstituted juice possesses a reasonably good color may be given a score of 34 to 40 points. "Reasonably good color" means that the color is reasonably bright and typical of properly processed lemon juice and is practically free from browning caused by scorching, oxidation, storage conditions, or other causes.

(c) (C-Mfg.) classification: If the reconstituted juice possesses a fairly good color a score of 28 to 33 points may be given. Concentrated lemon juice that falls into this classification shall not be graded above U.S. Grade C for Manufacturing, regardless of the total score for the product (this is a limiting rule). "Fairly good color" means a color that may be only fairly bright and is typical of reconstituted lemon juice that is reasonably free from browning due to scorching, oxidation, improper storage, or other causes.

(d) (SStd-Mfg.) classification: Concentrated lemon juice that fails to meet the requirements of paragraph (c) of this section may be given a score of 0 to 27 points and shall not be graded above

Substandard for Manufacturing, regardless of the total score for the product (this is a limiting rule).

§ 52.3959 Defects.

(a) The factor of defects refers to the degree of freedom from particles of seed, dark specks, particles of peel and other defects which affect the utility of the product.

(b) (A-Mfg.) classification: Concentrated lemon juice of which the reconstituted juice is practically free from defects may be given a score of 17 to 20 points. "Practically free from defects" means that any defects present do not more than slightly affect the appearance or utility of the product.

(c) (C-Mfg.) classification: If the reconstituted juice is fairly free from defects a score of 14 to 16 points may be given. Concentrated lemon juice that falls into this classification shall not be graded above U.S. Grade C for Manufacturing, regardless of the total score for the product (this is a limiting rule). "Fairly free from defects" means that any defects present do not seriously affect the appearance or utility of the product.

(d) (SStd-Mfg.) classification: Concentrated lemon juice that fails to meet the requirements of paragraph (c) of this section may be given a score of 0 to 13 points and shall not be graded above Substandard for Manufacturing, regardless of the total score for the product (this is a limiting rule).

§ 52.3960 Flavor.

(a) The flavor of the product is evaluated after preparing as follows:

Concentrated lemon juice diluted to 5.7 grams acid/100 ml	30 ml.
Sugar	26 gm.
Water	160 ml.

(b) (A-Mfg.) classification: Concentrated lemon juice of which the prepared product possesses a reasonably good flavor may be given a score of 34 to 40 points. "Reasonably good flavor" means that the flavor is typical of such a product prepared from properly processed concentrated lemon juice and is free from terpenic, oxidized, rancid or other similar flavors and is free from abnormal flavors of any kind.

(c) (C-Mfg.) classification: If the prepared product possess a fairly good flavor a score of 28 to 33 points may be given. Concentrated lemon juice that falls into this classification shall not be graded above U.S. Grade C for Manufacturing, regardless of the total score for the product (this is a limiting rule). "Fairly good flavor" means a normal lemon flavor which is fairly free from terpenic, oxidized or other similar flavors and is free from abnormal flavors of any kind.

(d) (SStd-Mfg.) classification: Concentrated lemon juice that fails to meet the requirements of paragraph (c) of this section may be given a score of 0 to 27 points and shall not be graded above Substandard for Manufacturing, regardless of the total score for the product (this is a limiting rule).

EXPLANATIONS AND METHODS OF ANALYSES

§ 52.3961 Definitions of terms.

(a) *Reconstituted juice.* "Reconstituted juice" means the product obtained by thoroughly mixing the concentrated lemon juice with a volume of distilled water so that the concentration is reduced to approximately 5.7 grams acid per 100 ml.

(b) *Acid.* "Acid" means the number of grams of total acidity, calculated as anhydrous citric in a specified volume of concentrated lemon juice or reconstituted juice. Total acidity is determined by titration with standard sodium hydroxide solution, using phenolphthalein as indicator.

(c) *Reconstitutes properly.* "Reconstitutes properly" means that the concentrate dissolves readily in water.

(d) *Pulp.* "Pulp" means light membranous materials and fine centrifuged pulp and other similar lemon fruit material, defined and ascertained as follows:

(1) *Light membranous materials.* "Light membranous materials" means pulp including juice sacs but exclusive of peel particles, that is recoverable by the following method:

(i) *Equipment.* United States Standard No. 20 Circular Sieve 8-inches in diameter containing 20 meshes to the inch (0.0331 inch ±5 percent) square openings; graduated cylinder or centrifuge tube; spatula.

(ii) *Procedure.* (a) Pour one liter of the product through the sieve with the aid of gentle stream of tap water;

(b) Rinse the retained pulp with a gentle stream of tap water only until all of the product is removed from the pulp;

(c) Dry and gather the pulp into a ball by shaking the sieve back and forth;

(d) As soon as the pulp has been gathered into a ball, place it into a suitable dry graduated cylinder or centrifuge tube and settle by tapping lightly in the palm of one's hand. If air pockets remain a thin spatula may be used to effect their removal;

(e) The number of milliliters of pulp divided by ten is the percent by volume of "light membranous material;"

(f) If the light membranous material so recovered exceeds 100 milliliters or will not dry and gather into a small ball, discard results and repeat the test using a sample so reduced in size as to yield less than 100 milliliters of such material which will so dry and gather. Calculate the percent of light membranous materials as follows:

$$\text{Percent of light membranous materials by volume} = \frac{\text{Ml. recovered material} \times 100}{\text{Ml. of sample}}$$

(2) *Fine centrifuged pulp.* "Fine centrifuged pulp" means pulp that settles out on centrifuging by the following method:

(i) Remove the light membranous material from the sample of reconstituted juice by pouring it through a No. 20 sieve, and

(ii) Fill graduated centrifuge tubes, of a capacity of 50 ml., with the sieved reconstituted lemon juice and place in a suitable centrifuge. Adjust the speed as nearly as possible according to diameter as indicated in Table I and centrifuge for exactly 10 minutes. As used herein, "diameter" means the overall distance between the bottoms of opposing centrifuge tubes in operating position. After centrifuging, the milliliter reading at the top of the layer of pulp in the tube is multiplied by two to give the percentage of pulp.

TABLE I [1]

Diameter (inches):	*Revolutions per minute*
10	1,609
10½	1,570
11	1,534
11½	1,500
12	1,468
12½	1,438
13	1,410
13½	1,384
14	1,359
14½	1,336
15	1,313
15½	1,292
16	1,271
16½	1,252
17	1,234
17½	1,216
18	1,199
18½	1,182
19	1,167
19½	1,152
20	1,137

[1] This table, calculated from the formula R.C.F.=0.00001118 N^2r, provides a Relative Centrifugal Force of 364.6 times gravity.

LOT INSPECTION AND CERTIFICATION

§ 52.3962 Ascertaining the grade of a lot.

The grade of a lot of concentrated lemon juice for manufacturing covered by these standards is determined by the procedures set forth in the regulations governing inspection and certification of processed fruits and vegetables, processed products thereof, and certain other processed food products (§§ 52.1 to 52.87).

SCORE SHEET

§ 52.3963 Score sheet for concentrated lemon juice for manufacturing.

Size and kind of container			----
Container mark or identification			----
Label (including concentration)			----
Liquid measure (fluid ounces)			----
Net weight			----
Anhydrous citric acid in concentrate (grams/liter)			----
Reconstitutes properly: (Yes) (No)			----
Factors		**Score points**	
Color	40	(A-Mfg.) 34-40 (C-Mfg.) [1] 28-33 (SStd-Mfg.) [1] 0-27	
Defects	20	(A-Mfg.) 17-20 (C-Mfg.) [1] 14-16 (SStd-Mfg.) [1] 0-13	
Flavor	40	(A-Mfg.) 34-40 (C-Mfg.) [1] 28-33 (SStd-Mfg.) [1] 0-27	
Total score	100		
Percent of light membranous materials			----
Percent of fine centrifuged pulp			----
Grade for manufacturing			----

[1] Indicates limiting rule.

Effective time. The United States Standards for Grades of Concentrated

Lemon Juice for Manufacturing (which is the first issue) contained in this subpart will become effective on August 1, 1959.

Dated: June 25, 1959.

ROY W. LENNARTSON,
Deputy Administrator,
Marketing Services.

[F.R. Doc. 59-5430; Filed, June 29, 1959; 8:50 a.m.]

PART 53—LIVESTOCK, MEATS, PREPARED MEATS, AND MEAT PRODUCTS (GRADING, CERTIFICATION AND STANDARDS)

Subpart A—Regulations

On January 7 and May 18, 1956, notices of rule-making were published in the FEDERAL REGISTER (21 F.R. 134, 3284) concerning a proposed revision of the Federal meat grading regulations (7 CFR, Part 53, Subpart A, as amended), under sections 203 and 205 of the Agricultural Marketing Act of 1946, as amended by Public Law 272, 84th Congress. Numerous comments on the proposed revision were received from interested persons. After due consideration of all relevant matters presented with respect to the proposed revision, and under the authority of said sections 203 and 205, the provisions in 7 CFR, Part 53, Subpart A, as amended, are hereby revised to read as follows:

DEFINITIONS

Sec.
53.1 Meaning of words.
53.2 Designation of official certificates, memoranda, marks, other identifications, and devices for purposes of the Agricultural Marketing Act.

ADMINISTRATION

53.3 Authority.

SERVICE GENERALLY

53.4 Kind of service.
53.5 Availability of service.
53.6 Recognition of non-Federal meat inspection systems; withdrawal of recognition.
53.7 Survey and recognition of nonfederally inspected establishments; withdrawal of recognition.
53.8 How to obtain service.
53.9 Order of furnishing service.
53.10 When request for service deemed made.
53.11 Withdrawal of application or request for service.
53.12 Authority of agent.
53.13 Denial or withdrawal of service.
53.14 Financial interest of official grader.
53.15 Accessibility and refrigeration of products; access to establishments.
53.16 Official certificates.
53.17 Advance information concerning service rendered.
53.18 Marking of products.
53.19 Official identifications.
53.20 Custody of identification devices.

APPEAL SERVICE

53.21 What is appeal service; marking products on appeal; requirements for appeal; certain determinations not appealable.
53.22 Request for appeal service.
53.23 When request for appeal service may be withdrawn.
53.24 Denial or withdrawal of appeal service.
53.25 Who shall perform appeal service.
53.26 Appeal certificates.
53.27 Superseded certificates.
53.28 Application of other regulations to appeal service.

CHARGES FOR SERVICE

53.29 Fees and other charges for service.
53.30 Payment of fees and other charges.

MISCELLANEOUS

53.31 Identification.
53.32 Errors in service.

AUTHORITY: §§ 53.1 to 53.32 issued under sec. 205, 60 Stat. 1090, as amended; 7 U.S.C. 1624.

DEFINITIONS

§ 53.1 Meaning of words.

Words used in this subpart in the singular form shall be deemed to import the plural, and vice versa, as the case may demand. For the purposes of such regulations, unless the context otherwise requires, the following terms shall be construed, respectively, to mean:

(a) *The Act.* The Agricultural Marketing Act of 1946 (Title II of the act of Congress approved August 14, 1946, 60 Stat. 1087, as amended by Pub. Law 272, 84th Cong., 69 Stat. 553, 7 U.S.C. 1621–1627).

(b) *The regulations.* The regulations in this subpart.

(c) *Department.* The United States Department of Agriculture.

(d) *Agricultural Marketing Service.* The Agricultural Marketing Service of the Department.

(e) *Administrator.* The Administrator of the Agricultural Marketing Service, or any officer or employee of the Agricultural Marketing Service to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

(f) *Division.* The Livestock Division of the Agricultural Marketing Service.

(g) *Director.* The Director of the Division, or any officer or employee of of the Division to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

(h) *Branch.* The Meat Grading Branch of the Division.

(i) *Chief.* The Chief of the Branch, or any officer or employee of the Branch to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

(j) *Official grader.* An employee of the Department authorized to determine and certify or otherwise identify the class, grade, other quality, or compliance of products under the regulations.

(k) *Supervisor of grading.* An official grader or other person designated by the Chief to supervise and maintain uniformity and accuracy of service under the regulations.

(l) *Office of grading.* The office of an official grader.

(m) *Person.* Any individual, partnership, corporation, or other legal entity, or Government agency.

(n) *Financially interested person.* Any person having a financial interest in the products involved, including but not limited to the shipper, receiver, or carrier of the products.

(o) *Applicant.* Any person who has applied for service under the regulations.

(p) *Grading service.* The service established and conducted under the regulations for the determination and certification or other identification of the class, grade, or other quality of products under standards.

(q) *Acceptance service.* The service established and conducted under the regulations for the determination and certification or other identification of the compliance of products with specifications.

(r) *Service.* Grading service or acceptance service.

(s) *Class.* A subdivision of a product based on essential physical characteristics that differentiate between major groups of the same kind of species.

(t) *Grade.* (1) As a noun, this term means an important commercial subdivision of a product based on certain definite and preference determining factors, such as conformation, finish, and quality in meats.

(2) As a verb, this term means to determine the class, grade, or other quality of a product according to applicable standards for such product in Subpart B of this part.

(u) *Quality.* A combination of the inherent properties of a product which determine it relative degree of excellence.

(v) *Compliance.* Conformity of a product to the specifications under which the product was purchased or sold, with particular reference to its quality, cleanliness, state of refrigeration, method of processing, and trim.

(w) *Standards.* The standards of the Department contained in Subpart B of this part.

(x) *Specifications.* Descriptions with respect to the class, grade, other quality, quantity or condition of products, approved by the Administrator, and available for use by the industry regardless of the origin of the descriptions.

(y) *Products.* Meats, prepared meats, meat by-products, or meat food products.

(z) *Animals.* Cattle, sheep, swine, or goats.

(aa) *Carcass.* The commercially prepared or dressed body of any animal intended for human food.

(bb) *Meat.* The edible part of the muscle of an animal, which is skeletal, or which is found in the tongue, in the diaphragm, in the heart, or in the esophagus, and which is intended for human food, with or without the accompanying and overlying fat and the portions of bone, skin, sinew, nerve, and blood vessels which normally accompany the muscle tissue and which are not separated from it in the process of dressing. This term does not include the muscle found in the lips, snout, or ears.

(cc) *Prepared meats.* The products intended for human food which are obtained by subjecting meat to drying, curing, smoking, cooking, grinding, seasoning, or flavoring, or to any combination of such procedures, and to which no considerable quantity of

any substance other than meat or meat by-products has been added.

(dd) *Meat by-products.* All edible parts (other than meat and prepared meats) intended for human food, derived from one or more animals, and including but not limited to such organs and parts as livers, kidneys, sweetbreads, brains, lungs, spleens, stomachs, tripe, lips, snouts, and ears.

(ee) *Meat food products.* Any articles intended for human food (other than meat, prepared meats, and meat by-products) which are derived or prepared, in whole or in substantial and definite part, from any portion of any animal, except such articles as organotherapeutic substances, meat juice, meat extract, and the like, which are only for medicinal purposes and are advertised only to the medical profession.

(ff) *Processing.* Drying, curing, smoking, cooking, seasoning, or flavoring or any combination of such processes, with or without fabricating.

(gg) *Fabricating.* Cutting into wholesale or retail cuts, or dicing or grinding.

(hh) *Immediate container.* The carton, can, pot, tin, casing, wrapper, or other receptacle or covering constituting the basic unit in which products are directly contained or wrapped when packed in the customary manner for delivery to the meat trade or to consumers.

(ii) *Shipping container.* The receptacle or covering in which one or more immediate containers of products are packed for transportation.

(jj) *Cooperative agreement.* A cooperagreement between the Agricultural Marketing Service and another Federal agency or a State agency, or other agency, organization or person as specified in the Agricultural Marketing Act of 1946, as amended, for conducting the service.

(kk) *Federal meat inspection.* The meat inspection system conducted under the Meat Inspection Act, as amended (21 U.S.C. 71 et seq.) and the import meat provisions of the Tariff Act (19 U.S.C. 1306 (b) and (c)), and the regulations thereunder (9 CFR Parts 1–28, as amended).

§ 53.2 Designation of official certificates, memoranda, marks, other identifications, and devices for purposes of the Agricultural Marketing Act.

Subsection 203(h) of the Agricultural Marketing Act of 1946, as amended by Public Law 272, 84th Congress, provides criminal penalties for various specified offenses relating to official certificates, memoranda, marks or other indentifications, and devices for making such marks or identifications, issued or authorized under section 203 of said act, and certain misrepresentations concerning the inspection or grading of agricultural products under said section. For the purposes of said subsection and the provisions in this part, the terms listed below shall have the respective meanings specified:

(a) "Official certificate" means any form of certification, either written or printed, including that prescribed in § 53.16, used under the regulations to certify with respect to the inspection, class, grade, quality, size, quantity, or condition of products (including the compliance of products with applicable specifications).

(b) "Official memorandum" means any initial record of findings made by an authorized person in the process of grading, determining compliance, inspecting, or sampling pursuant to the regulations, any processing or plant-operation report made by an authorized person in connection with grading, determining compliance, inspecting, or sampling under the regulations, and any report made by an authorized person of services performed pursuant to the regulations.

(c) "Official mark" or "other official identification" means any form of mark or other identification, including those prescribed in § 53.19, used under the regulations in marking any products, or the immediate or shipping containers thereof, to show inspection, class, grade, quality, size, quantity, or condition of the products (including the compliance of products with applicable specifications), or to maintain the identity of products for which service is provided under the regulations.

(d) "Official device" means any roller, stamp, brand or other device used under the regulations to mark any products, or the immediate or shipping containers, thereof, with any official mark or other official identification.

ADMINISTRATION

§ 53.3 Authority.

The Chief is charged with the administration, under the general supervision and direction of the Director, of the regulations and the Act insofar as it relates to the subject matter of the regulations.

SERVICE

§ 53.4 Kind of service.

Grading service under the regulations shall consist of the determination and certification and other identification, upon request by the applicant, of the class, grade, or other quality of products under applicable standards in Subpart B of this part. Class, grade, and other quality may be determined under said standards for meat of cattle, sheep, or swine in carcass form or for wholesale cuts of such meat other than pork wholesale cuts. Acceptance service under the regulations shall consist of the determination of the conformity of products to specifications approved by the Chief and the certification and other identification of such products in accordance with the specifications, upon request by the applicant. Determination as to compliance with specifications for ingredient content or method of preparation may be based upon information received from the inspection system having jurisdiction over the products involved.

§ 53.5 Availability of service.

Service under the regulations may be made available under a cooperative agreement with respect to products shipped or received in interstate commerce, and with respect to products not so shipped or received if the Chief determines that the furnishing of service for such products would facilitate the marketing, distribution, processing, or utilization of agricultural products through commercial channels. Subject to § 53.6(a)(1)(iv), service will be furnished for products only if they were derived from animals slaughtered in accordance with Federal meat inspection requirements, or at establishments recognized under § 53.7 and operated under some official meat inspection system recognized under § 53.6, and if any processing and fabricating of the products were done in accordance with such requirements or at such establishments.

§ 53.6 Recognition of non-Federal meat inspection systems; withdrawal of recognition.

(a) *Conditions of recognition.* Non-Federal meat inspection systems will be recognized by the Chief for the purpose of § 53.5 only if they are established under the authority of laws, ordinances, or similar provisions of a State, county, city, or other political subdivision; if the inspection is conducted by qualified inspectors who are veterinarians (or who are supervised by qualified veterinarians), who are employed, assigned, and paid for their work as such inspectors, only by an agency of the State, county, city or other political subdivision conducting the meat inspection service, and who perform no work in or for an establishment operated under the meat inspection system other than in their official capacities; if such laws, ordinances or similar provisions are consistent with the following applicable requirements; if such meat inspection systems are willing to enforce such requirements with respect to the establishments under their jurisdiction applying for recognition under § 53.7; and if such requirements are enforced in a manner satisfactory to the Chief:

(1) *Requirements for slaughtering establishments.* The following requirements shall be applicable to establishments where any animals are slaughtered for preparation as products for which grading or acceptance service is desired under the regulations:

(i) Except as provided in (iv) and (v) the inspection of slaughtering operations shall include ante-mortem and post-mortem inspections.

(ii) Ante-mortem inspection of each animal shall be made immediately prior to slaughter for the purpose of eliminating all unfit animals and segregating, for more thorough examination, all animals suspected of being affected with a condition which might influence their disposition on post-mortem inspection. The unfit animals shall not be permitted to enter the slaughtering department of the establishment, and the suspected animals shall not be permitted to enter the slaughtering department until they have been found by veterinary inspection to be fit for slaughter. The suspected animals that are permitted to be slaughtered shall be handled separately and apart from the regular kill and shall be given a special post-mortem examination.

(iii) The post-mortem examination shall be made at the time the animals are slaughtered. The inspectors shall examine the cervical lymph glands, the skeletal lymph glands, the viscera and organs with their lymph glands, and all exposed surfaces of the carcasses of all animals. Such examination shall be conducted in the slaughtering department of the establishment (at the time of evisceration) during the slaughtering operations and shall not be conducted on a spot-check basis.

(iv) Carcasses of cattle, sheep, swine, and goats, slaughtered by a farmer on the farm, may be received for inspection at recognized establishments where there is a veterinary meat inspector, if the head and all viscera other than the stomach, bladder, and intestines of such carcasses are held by the natural attachments. Every such carcass shall be given a thorough post-mortem examination. If, on inspection of any such carcass, there is found any lesion or other condition indicating that the animal was diseased, the carcass shall be condemned and disposed of as provided in subdivision (vi) of this subparagraph. If on inspection the carcass is found to be free from disease and otherwise fit for human food, it may be passed for food purposes.

(v) When it is necessary for humane reasons to slaughter an injured animal at night or on Sunday or a holiday when the inspector cannot be obtained, the carcass and all parts shall be kept for inspection, with the head and all viscera except the stomach, bladder, and intestines held by the natural attachments. If all parts are not so kept for inspection, the carcass shall be condemned. If an inspection of a carcass slaughtered in the absence of an inspector any lesion or other condition is found indicating that the animal was diseased, or if there is lacking evidence of the condition which rendered emergency slaughter necessary, the carcass shall be condemned and disposed of as provided in subdivision (vi) of this subparagraph. Otherwise the carcass may be passed for food purposes if on inspection it is found to be fit for human consumption.

(vi) All carcasses and parts of carcasses, including the viscera, found to be diseased or otherwise unfit for human food shall be condemned and removed from the slaughtering department of the establishment in equipment designated for the purpose and shall be destroyed for food purposes under the supervision of an inspector. The disposition of all such carcasses and parts thereof, including the viscera, shall be under the control of a veterinary inspector.

(vii) Each carcass and part thereof which has been inspected and passed shall be marked at the time of inspection with a mark assigned by and identifying the State, county, city, or other political subdivision. Such marking shall be done under the supervision of the inspector and the marking device shall be in the custody of the inspector at all times.

(2) *Requirements for processing establishments.* The following requirements shall be applicable to establishments processing products for which acceptance service is desired under the regulations. At least daily inspection shall be made at each establishment to assure:

(i) That all processing operations are being conducted in a clean and sanitary manner;

(ii) That all products processed are clean and wholesome;

(iii) That products processed or fabricated, or derived from animals slaughtered, at plants in the United States that are not federally inspected or approved by the Chief are not permitted to enter the establishment, except as provided in paragraph (a)(1)(iv) of this section;

(iv) That the inspectors shall be able to certify to the Agricultural Marketing Service the ingredient content and the manner of preparation of all products processed. In addition, the requirements of subparagraph (1) of this paragraph shall be applicable to establishments within this subparagraph which also conduct slaughtering operations whether or not the products processed at such establishments are derived from the animals slaughtered.

(3) *Requirements for fabricating establishments.* Establishments fabricating products for which grading or acceptance service is desired under the regulations shall meet the requirements of subparagraph (4) of this paragraph.

(4) *General requirements for all establishments and premises.* The following requirements shall be applicable to all establishments within subparagraph (1), (2), or (3) of this paragraph.

(i) The establishment as a whole and its facilities shall be well constructed, properly fitted and equipped for the purpose used, and so maintained that all products prepared therein will be clean and otherwise sound, healthful, wholesome, and fit for human food. The floors of the establishment shall be smooth and impervious and sloped so as to drain freely and rapidly to sewer connections. Walls and pillars in the slaughtering department, if any, must be tight, smooth, and free from crevices. All parts of the slaughtering department, if any, and other departments of the establishment in which products are processed, fabricated, or otherwise handled or stored shall be kept clean, and all of the operations in such departments shall be conducted in a clean and sanitary manner. Facilities shall be provided for the cleaning and sterilization of tools, utensils, and other equipment. All equipment used in the establishment shall be made of such materials and be so constructed as to be readily and thoroughly cleaned and shall be kept clean and in a sanitary condition. Contaminated equipment shall be promptly cleaned and sterilized. Rooms used for condemned products, inedible offal, hides, and other materials and supplies likely to contaminate products or render products inedible shall be completely partitioned from edible product departments, except for one aperture to the slaughtering department if there is one. This aperture shall be equipped with a close-fitting door and shall be of sufficient size to allow ready and free passage of materials designated as unfit for human food and all equipment used therewith.

(ii) Drainage and sewage disposal shall be adequate to maintain the establishment and premises in a sanitary condition.

(iii) Ventilation shall be sufficient to insure that the atmosphere in rooms where products are kept is free from obnoxious odors emanating from inedible product tanks, offal rooms, catch basins, toilet rooms, hide cellars, refuse heaps, livestock pens, and similar sources. Lighting shall be adequately maintained in all rooms of the establishment.

(iv) The establishment shall be provided with ample supplies of potable hot and cold water and steam, with outlets conveniently located and equipped with faucets for hose connections, for ready use during slaughtering, processing, or fabricating operations and for cleaning. Wash basins equipped with running hot and cold water, soap, and towels shall be placed in or near the dressing rooms and at such other places in the establishments as may be necessary to insure cleanliness of all persons handling products. Water for sterilizing purposes shall be maintained at a temperature of at least 180° F.

(v) Toilet rooms shall not communicate directly with any room in which animals are killed or products are processed, fabricated, otherwise handled, or stored. Dressing room facilities shall be adequate in size, convenient, equipped properly, and kept clean.

(vi) All departments in the establishment shall have adequate protection against flies, rodents, and other vermin. However, the use of poisons for any purpose in rooms or compartments where any unpacked products are processed, fabricated, otherwise handled, or stored is forbidden except under such restrictions and precautions as the chief veterinary inspector in charge of inspection at the establishment may require. So-called rat viruses shall not be used in any part of the establishment or its premises.

(vii) Barnyards stock pens, runways, unloading docks, and other facilities appurtenant to the establishment shall be keep clean. No nuisance shall be allowed on the premises, such as fly breeding places, dead stock, rat or cockroach infestation, rubbish heaps, decomposing animal material, polluted water supply, or insanitary drainage disposal.

(b) *Withdrawal of recognition.* The Chief may at any time, without hearing, withdraw the recognition of any nonfederal meat inspection system recognized under paragraph (a) of this section if he finds that the laws, ordinances or similar enactments authorizing the system are not consistent with the applicable requirements prescribed in said paragraph or that the system has failed to take reasonable measures to assure that the applicabe requirements are enforced in every respect in a satisfactory manner at each establishment recognized under § 53.7. Upon such withdrawal the recognition under § 53.7 of all establishments operating under said system shall be automatically terminated.

§ 53.7 Survey and recognition of nonfederally inspected establishments; withdrawal of recognition.

(a) *Conditions of recognition.* Recognition will be given by the Chief for the purposes of § 53.5 to a nonfederally inspected establishment only if it is operated in accordance with the applicable requirements of § 53.6(a) under a meat inspection system recognized under § 53.6 and is otherwise eligible for recognition. A survey will be made to determine the eligibility for recognition under the regulations of any nonfederally inspected establishment preparing products for which an application for service is made.

(b) *Withdrawal or recognition.* (1) The Chief may at any time, without hearing, withdraw his recognition of any nonfederally inspected establishment when he finds that the operator of the establishment or any other person conducting slaughtering, processing, or fabricating operations at the establishment has failed to comply with the applicable requirements under § 53.6. Recognition will not be restored to such establishment until it has been demonstrated for at least 30 days after application is made for reinstatement of the recognition of such establishment that the establishment is being operated in accordance with the applicable requirements under § 53.6. For each subsequent withdrawal of recognition under this subparagraph, the minimum period of withholding of recognition shall be the same as the prior period of withholding, plus an additional 30 days.

(2) The Chief may at any time, without hearing, withdraw his recognition of any nonfederally inspected establishment when he finds that, for a period of 60 consecutive days, no request has been made for service for products prepared at such establishment.

(c) *Resurvey requirements.* Whenever recognition of an establishment is terminated or withdrawn under § 53.6 or this section, or service at a recognized establishment is denied or withdrawn under § 53.13(a), a resurvey of the establishment under paragraph (a) of this section may be required before restoration of recognition or service.

§ 53.8 How to obtain service.

(a) *Application.* Any person may apply to the Chief for service under the regulations with respect to products in which the applicant is financially interested. The application shall be made on a form approved by the Director, and if the service is intended to be furnished with respect to products processed or fabricated, or derived from animals slaughtered, at a nonfederally inspected establishment in the United States, the application shall also include such other form as is approved by the Director for purposes of determining the eligibility of such establishment for recognition under § 53.7. If such nonfederally inspected establishment is not operated by the applicant for service, the application shall be approved by the operator and he shall thereby be deemed to request recognition for his establishment and to agree to pay for surveys made, in accordance with § 53.29(e), if the applicant does not pay therefor. In any case in which the service is intended to be furnished at an establishment not operated by the applicant, the application shall be approved by the operator of such establishment and such approval shall constitute an authorization for the entry of the establishment by any employees of the Department for the purpose of performing their functions under the regulations. The application shall state (1) the name and address of the establishment at which service is desired; (2) the name and post office address of the applicant; (3) the financial interest of the applicant in the products, except where application is made by an official of a government agency in his official capacity; (4) the signature of the applicant (or the signature and title of his representative); and such other information as may be required by the Chief to determine the eligibility of the applicant for service. The application shall indicate the legal status of the applicant as an individual, partnership, corporation, or other form of legal entity. Any change in such status at any time while service is being received shall be promptly reported to the Chief by the person receiving the service.

(b) *Notice of eligibility for service.* The applicant for service at any establishment will be notified whether his application is approved.

(c) *Request by applicant for service—*(1) *Noncommitment.* Upon notification of the approval of an application for service, the applicant may, from time to time as desired, make oral or written requests for service under the regulations with respect to specific products for which the service is to be furnished under such application. Such requests shall be made at an office of grading either directly or through any employee of the Agricultural Marketing Service who may be designated for such purpose.

(2) *Commitment.* If desired, the applicant may enter into an agreement with the Agricultural Marketing Service for the furnishing of service on a weekly commitment basis, whereby the applicant agrees to pay for 40 hours of service per week as provided in § 53.29(b) and the Agricultural Marketing Service agrees to make an official grader available to perform such service for the applicant. However, the Agricultural Marketing Service reserves the right to use any grader assigned to a plant under such a commitment to perform service for other applicants when in the opinion of the Chief he is not needed to perform service for the applicant.

§ 53.9 Order of furnishing service.

Service under the regulations shall be furnished to applicants in the order in which requests therefor are received, insofar as consistent with good management, efficiency and economy. Precedence will be given, when necessary, to requests made by any government agency or any regular user of the service, and to requests for appeal service under § 53.22.

§ 53.10 When request for service deemed made.

A request for service under the regulations shall be deemed to be made when received by an office of grading. Records showing the date and time of the request shall be made and kept in such office.

§ 53.11 Withdrawal of application or request for service.

An application or a request for service under the regulations may be withdrawn by the applicant at any time before the application is approved or prior to performance of service, upon payment, in accordance with §§ 53.29 and 53.30, of any expenses already incurred by the Agricultural Marketing Service in connection therewith.

§ 53.12 Authority of agent.

Proof of the authority of any person making an application or a request for service under the regulations on behalf of any other person may be required at the discretion of the Chief or the official in charge of the office of grading or other employee receiving the application or request under § 53.8.

§ 53.13 Denial or withdrawal of service.

(a) *For misconduct—*(1) *Bases for denial or withdrawal.* An application or a request for service may be rejected, or the benefits of the service may be otherwise denied to, or withdrawn from, any person who, or whose employee or agent in the scope of his employment or agency, (i) has wilfully made any misrepresentation or has committed any other fraudulent or deceptive practice in connection with any application or request for service under the regulations; (ii) has given or attempted to give, as a loan or for any other purpose, any money, favor, or other thing of value, to any employee of the Department authorized to perform any function under the regulations; (iii) has interfered with or obstructed, or attempted to interfere with or to obstruct, any employee of the Department in the performance of his duties under the regulations by intimidation, threats, assaults, abuse, or any other

improper means; (iv) has knowingly falsely made, issued, altered, forged, or counterfeited any official certificate, memorandum, mark, or other identification, or device for making any such mark or identification; (v) has knowingly uttered, published, or used as true any such falsely made, issued, altered, forged, or counterfeited certificate, memorandum, mark, identification, or device; (vi) has knowingly obtained or retained possession of any such falsely made, issued, altered, forged, or counterfeited certificate, memorandum, mark, identification, or device, or of any such official device, or of any product bearing any such falsely made, issued, altered, forged, or counterfeited mark or identification, or of any carcass or wholesale or retail cut bearing any designation specified in subdivision (vii) of this subparagraph which has not been federally graded or derived from a carcass graded as being of the indicated grade; (vii) has applied the designation "Prime," "Choice," "Good," "Standard," "Commercial," "Utility," "Cutter," "Canner," "Cull," "Medium," "No. 1," "No. 2," or "No. 3" by stamp or brand directly on any carcass or wholesale or retail cut of any carcass, as part of a grade designation or otherwise; or (viii) has in any manner not specified in this paragraph violated subsection 203(h) of the Act: *Provided*, That subdivision (vi) of this subparagraph shall not be deemed to be violated if the person in possession of any item mentioned therein notifies the Chief without delay that he has possession of such item and, in the case of an official device, surrenders it to the Chief, and, in the case of any other item, surrenders it to the Chief or destroys it or brings it into compliance with the regulations by obliterating or removing the violative features under supervision of the Chief: *And provided, further*, That subdivisions (ii) through (vii) of this subparagraph shall not be deemed to be violated by any act committed by any person prior to the making of an application for service under the regulations by the principal person to whom service would be denied in any case. An application or a request for service may be rejected, or the benefits of the service may be otherwise denied to, or withdrawn from, any person who operates an establishment for which he has made application for service if, with the knowledge of such operator, any other person conducting any operations in such establishment has committed any of the offenses specified in subdivisions (i) through (viii) of this subparagraph after such application was made. Moreover, an application or a request for service made in the name of a person otherwise eligible for service under the regulations may be rejected, or the benefits of the service may be otherwise denied to, or withdrawn from, such a person (*a*) in case the service is or would be performed at an establishment operated (*1*) by a corporation, partnership, or other person from whom the benefits of the service are currently being withheld under this paragraph, or (*2*) by a corporation, partnership, or other person having an officer, director, partner, or substantial investor from whom the benefits of the service are currently being withheld and who has any authority with respect to the establishment where service is or would be performed, or (*b*) in case the service is or would be performed with respect to any product in which any corporation, partnership, or other person within (*a*)(*1*) of this subdivision has a contract or other financial interest.

(2) *Procedure.* All cases arising under this paragraph shall be reported to the Director, for informal settlement of the controversy if possible. If the efforts at informal settlement are not successful, the matter shall be reported to the Administrator who will make the final determination as to the action to be taken, after opportunity for hearing before a proper official in the Department is accorded the persons involved. The final order denying or withdrawing the benefits of the service under the regulations may also deny or withdraw any or all other benefits under the Act and similar voluntary inspection services provided by the Department under other authorities. In any case under this paragraph, the official in charge of the appropriate office of grading may, with the concurrence of the Chief, deny or withdraw service under the regulations, without hearing, pending efforts at informal settlement and final determination in accordance with this paragraph. Notice of any denial or withdrawal of service under this paragraph, and the reasons therefor, shall promptly be given to the persons involved.

(b) *For miscellaneous reasons.* An application or a request for service may be rejected, or the benefits of the service may be otherwise denied to, or withdrawn from, any person, without a hearing, by the official in charge of the appropriate office of grading, with the concurrence of the Chief (1) for administrative reasons such as the nonavailability of personnel to perform the service; (2) for the failure to pay for service; (3) in case the application or request relates to products which are not eligible for service under § 53.5, or which are unclean or are in an unclean establishment; (4) for other noncompliance with the conditions on which service is available as provided in the regulations, except matters covered by paragraph (a) of this section; or (5) in case the person is a partnership, corporation, or other person from whom the benefits of the service are currently being withheld under paragraph (a) of this section. Notice of such denial or withdrawal, and the reasons therefor, shall promptly be given to the person involved.

(c) *Filing of records.* The final orders in formal proceedings under paragraph (a) of this section to deny or withdraw the service under the regulations (except orders required for good cause to be held confidential and not cited as precedents) and other records in such proceedings (except those required for good cause to be held confidential) shall be filed with the Hearing Clerk and shall be available for inspection by persons having a proper interest therein.

§ 53.14 Financial interest of official grader.

No official grader shall grade or determine compliance of any products in which he or any of his relatives by blood or marriage is directly or indirectly financially interested.

§ 53.15 Accessibility and refrigeration of products; access to establishments.

(a) The applicant shall cause the products, with respect to which service is requested, to be made easily accessible for examination and to be so placed, with adequate illuminating facilities, as to disclose their class, grade, other quality, and compliance. Supervisors of grading and other employees of the Department responsible for maintaining uniformity and accuracy of service under the regulations shall have access to all parts of establishments covered by approved applications for service under the regulations, for the purpose of examining all products in the establishments which have been or are to be graded or examined for compliance with specifications or which bear any marks of grade or compliance.

(b) Grading service will be furnished for meat in carcass form or wholesale cuts only if properly chilled. Determination of class, grade, or other quality of carcass meat or wholesale cuts of meat under the standards in Subpart B of this part will not be made if such carcass meat or wholesale cuts are in a frozen state.

§ 53.16 Official certificates.

(a) *Required; exception.* The official grader shall prepare, sign, and issue official certificates covering products graded by him, or for which he has determined compliance, unless through special arrangements approved by the Chief this is not required, in which case complete records of the service shall be furnished the office of grading.

(b) *Form.* (1) The following constitutes a form of official certificate for products under the regulations:

Form LS-5 (8-25-55)

UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE

No.

MEAT GRADE CERTIFICATE

MAIN STATION _____ DATE _____

TO _____ (Applicant) _____ (Address)

_____ (Shipper or Seller) _____ (Address)

_____ (Receiver or Buyer) _____ (Address)

Establishment No. _____ Location _____

This certificate is receivable in all Courts of the United States as prima facie evidence of the truth of the statements therein contained (This certificate does not excuse failure to comply with any of the regulatory laws enforced by the United States Department of Agriculture.)

Service Performed in Cooperation with The National Live Stock and Meat Board.

KIND OF PRODUCT AND SERVICE	CLASS	USDA GRADE OR OTHER QUALITY	PIECES	WEIGHT

I certify that in compliance with the Federal meat grading regulations (7 CFR Subpart 53 A, as amended) under the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621-1627), I examined the products described above, at the time and place stated, and found that at said time and place the class, grade, and other quality of such products were as stated above and/or such products complied with the specifications listed, with any qualifications noted above.

WEIGHTS NOT VERIFIED

Time _____ Hour (s)

Fee _____

Expenses _____ Grader.

Total _____ Address _____

PLEASE REFER TO THIS CERTIFICATE BY NUMBER AND MAIN STATION

Where the service rendered is or includes acceptance service, the word "Grade" shall be deleted from the heading "Meat Grade Certificate." Where weight is certified, the word "Not" shall be deleted from the phrase "Weights Not Verified."

(2) Where determination of ingredient content or method of preparation of products in acceptance service is based upon a certification of the facts by the inspection system having jurisdiction of the products, this fact shall be stated on the certificate.

(c) *Distribution.* The original certificate and not to exceed two copies shall be delivered or mailed to the applicant or other person designated by him. One copy shall be filed in the office of the official grader, and one copy shall be forwarded to a central office designated by the Chief, and such copies shall be kept on file until other disposition is ordered by the Administrator. Additional copies will be furnished to any person financially interested in the products involved upon the payment of fees as provided in § 53.29(g).

§ 53.17 Advance information concerning service rendered.

Upon request of any applicant, all or any part of the contents of any certificate issued to him under the regulations, or other notification concerning the determination of class, grade, other quality, or compliance of products for such applicant may be transmitted by telegraph or telephone to him, or to any person designated by him, at his expense.

§ 53.18 Marking of products.

All products for which class and grade under the standards in Subpart B of this part, or compliance, is determined under the regulations, or the immediate and shipping containers thereof, shall be stamped, branded, or otherwise marked with an appropriate official identification: *Provided,* That except as otherwise directed by the Chief, such marking will not be required when an applicant only desires official certificates. The marking of products, or their containers, as required by this section shall be done by official graders or under their immediate supervision.

§ 53.19 Official identifications.

(a) A shield enclosing the letters "USDA" as shown below, with the appropriate grade designation "Prime," "Choice," "Good," "Standard," "Commercial," "Utility," "Cutter," "Canner," or "Cull," as provided in the standards in Subpart B of this part, also enclosed in the shield, and accompanied when necessary by the class designation "Stag," "Bull," "Veal," "Calf," "Yearling Mutton" or "Mutton," constitutes a form of official identification under the regulations to show the grade, and where necessary the class, under said standards, of steer, heifer and cow beef, stag beef, bull beef, veal, calf, lamb, yearling mutton, and mutton.

(b) The following constitute forms of official identifications under the regulations to show compliance of products:

FIGURE 1.

FIGURE 2.

FIGURE 3.

FIGURE 4.

The date, location, and letters "DN" and "AC" shown in figures 2, 3, and 4 are examples, respectively, of the date and place of service and the code identification of the grader performing the service.

§ 53.20 Custody of identification devices.

All identification devices used in marking products or the containers thereof under the regulations, including those indicating compliance with specifications approved by the Chief, shall be kept in the custody of the Branch, and accurate records shall be kept by the Branch of all such devices. Each office of grading shall keep a record of the devices assigned to it. Such devices shall be distributed only to authorized employees of the Branch who shall keep the devices in their possession or control at all times and maintain complete records of such devices.

APPEAL SERVICE

§ 53.21 What is appeal service; marking products on appeal; requirements for appeal; certain determinations not appealable.

(a) Appeal service is a redetermination of the class, grade, other quality, or compliance of product when the applicant for the appeal service formally challenges the correctness of the original determination. Only a person who has title to, or is a party to a contract for the sale of, a product may request appeal service with respect to such product and if the original determination of class, grade, other quality or compliance is found on appeal to have been in error all incorrect marks of class, grade, other quality and compliance will be removed from the product, and if the person having title to the product so requests, correct marks as determined on the appeal will be applied to the product. Examination requested to determine the class, grade, other quality, or compliance of a product which has been altered or has undergone a material change since the original service, or examination of product requested for the purpose of obtaining an up-to-date certificate and not involving any question as to the correctness of the original service for the product involved, shall be considered equivalent to original service and not appeal service.

(b) Grade determinations for the following cannot be appealed: any lot of a product consisting of less than ten similar units; wholesale cuts, or other subdivisions of meat originally graded as larger units; and veal and calf carcasses originally graded with hides on. Moreover, appeal service will not be furnished with respect to product that has been altered or has undergone any material change since the original service.

§ 53.22 Request for appeal service.

Except as otherwise provided in § 53.21, a request for appeal service with respect to any product under the regulations may be made by any person who is financially interested in the product when he disagrees with the determination as to class, grade, other quality, or compliance of the product as shown by the markings on the product or its containers, or as stated in the applicable certificate. A request for appeal service shall be filed with the Chief, directly or through the official grader who performed the original service or the official in charge of the office of grading to which such grader was assigned at the time of the service, or through the nearest office of grading. The request shall state the reasons therefor and may be accompanied by a copy of any previous certificate or report, or any other information which the applicant may have received regarding the product at the time of the original service. Such request may be made orally (including by telephone) or in writing (including by telegram). If made orally, the person receiving the request may require that it be confirmed in writing. Requests for appeal service received through an official grader or an office of grading shall be transmitted promptly to the Chief for instructions.

§ 53.23 When request for appeal service may be withdrawn.

A request for appeal service may be withdrawn by the applicant at any time before the appeal service has been performed, upon payment of any expenses already incurred under the regulations by the Branch in connection therewith.

§ 53.24 Denial or withdrawal of appeal service.

A request for appeal service may be rejected or such service may be otherwise denied to or withdrawn from any person, without a hearing, in accordance with the procedure set forth in § 53.13(b), if it shall appear that the person or product involved is not eligible for appeal service under § 53.21, or that the identity of the product has been lost; or for any of the causes set forth in § 53.13(b). Appeal service may also be denied to, or withdrawn from, any person in any case under § 53.13(a), in accordance with the procedure set forth in said section.

§ 53.25 Who shall perform appeal service.

Appeal service for products shall be performed by official graders designated by the Chief or by the official in charge of an office of grading when so authorized by the Chief, and shall be conducted jointly by two official graders, or more when practicable. No official grader shall perform appeal service for any product for which he previously performed the service.

§ 53.26 Appeal certificates.

Immediately after appeal service has been performed for any products, a certificate designated as an "appeal certificate" shall be prepared, signed, and issued referring specifically to the original certificate and stating the class, grade, other quality, or compliance of the products as shown by the appeal service.

§ 53.27 Superseded certificates.

The appeal certificate shall supersede the original certificate which, thereupon, shall become null and void and shall not thereafter be deemed to show the class, grade, other quality, or compliance of the products described therein. However, the fees charged for the original service shall not be remitted. If the original and all copies of the superseded certificate are not delivered to the official with whom the request for appeal service is filed, the official graders issuing the appeal certificate shall forward notice of such issuance and of the cancellation of the original certificate to such persons as they may deem necessary to prevent fraudulent use of the superseded certificate.

§ 53.28 Application of other regulations to appeal service.

The regulations in §§ 53.1 through 53.20 and §§ 53.29 through 53.32 shall apply to appeal service except insofar as they are manifestly inapplicable.

CHARGES FOR SERVICES

§ 53.29 Fees and other charges for service.

Fees and other charges equal as nearly as may be to the cost of the services rendered shall be assessed and collected from applicants in accordance with the following provisions unless otherwise provided in the cooperative agreement under which the services are furnished, or as provided in § 53.8.

(a) *Fees based on hourly rates.* Except as otherwise provided in this section, fees for service shall be based on the time required to render the service, calculated to the nearest 15 minute period, including the time required for the preparation of certificates and travel of the official grader in connection with the performance of the service, and shall be at the base rate of $6.00 per hour for work performed on days other than Sundays or legal holidays; and at one and one-half times the base rate for work performed on Sundays, and at double the base rate for work performed on legal holidays. A minimum charge for one-half hour shall be made for service pursuant to each request notwithstanding that the time required to perform the service may be less than thirty minutes.

(b) *Fees for service on weekly commitment basis.* Minimum fees for service performed under a weekly commitment shall be on the basis of 40 hours of work on days other than Sundays or legal holidays calculated at the base rate in accordance with paragraph (a) of this section. Hours worked in excess of such 40 hours will be charged at the same base rate, except charges will be made for work performed on Sundays and legal holidays as stated in paragraph (a) of this section. The Agricultural Marketing Service reserves the right under

such a commitment to use any grader assigned to the plant on a weekly basis to perform service for other applicants as provided in § 53.8(c), crediting the commitment applicant with the number of hours charged to the other applicants, provided the allowable credit hours, plus hours actually worked for the applicant, do not exceed 40 in any week.

(c) *Travel charges.* (1) When service is requested at a place so distant from an official grader's headquarters or place of prior assignment on a circuit routing, that a total of one-half hour or more is required for the grader to travel to such place and back to the headquarters or to the next place of assignment on a circuitous routing, the charge for such service shall include a mileage charge at 8 cents per mile, and travel tolls if applicable, for such travel prorated against all the applicants furnished the service involved on an equitable basis, or, where the travel is made by public transportation (including hired vehicle), a fee equal to the actual cost thereof.

(d) *Per diem charges.* When service is requested at a place so distant from an official grader's headquarters that the work and travel required for such service cannot be performed within a calendar day, the fee for such service shall include a per diem charge, at the rate paid the grader which shall not exceed $12.00 per diem, for each full day or quarter portion of a day spent by the grader away from his headquarters in the performance of such work and travel. A fee of $3.00 shall be charged for such work and travel although the time spent therein is less than a quarter portion of a day.

(e) *Charges to applicants for recognition of nonfederally inspected establishments.* (1) The initial survey conducted to determine the eligibility of a nonfederally inspected establishment for service under § 53.7 shall be without cost to the applicant when the survey is made at the convenience of the Chief. Fees shall be charged, as provided in subparagraph (2) of this paragraph, (i) when the applicant requests in writing that a special trip be made to conduct the initial survey, and such survey is conducted within 30 days from receipt of such request; (ii) when any survey subsequent to the initial one is required by the Chief to determine whether the establishment meets the specific requirements for recognition of which it has been previously notified as a result of the initial survey, such survey is made within 2 years after the initial survey, and there has been no change in ownership of the establishment since the initial survey; or (iii) when a survey is conducted to determine the eligibility for recognition of an establishment the recognition of which has been withdrawn under § 53.6 or § 53.7 or at which service has been denied or withdrawn under § 53.13(a).

(2) A fee at the applicable hourly rate calculated in accordance with paragraph (a) of this section shall be charged for time spent by an authorized official in making any survey for which fees are required to be charged under subparagraph (1) of this paragraph, including time spent in traveling to the establishment from his normal route of assignment and return. In addition, there shall be a travel charge for such travel and a per diem charge for each day, or quarter portion thereof, spent by such official away from his headquarters in the performance of such survey, including travel, at the rates provided for in paragraphs (c) and (d) of this section.

(3) In no case shall the total fees chargeable under subparagraph (2) of this paragraph for any such survey be less than $15.00.

(f) *Fees for appeal service.* Fees for appeal service shall be determined on the basis of the time, of two official graders, required to render the service, calculated to the nearest fifteen minute period, including the time required for the preparation of certificates and travel of such graders in connection with the performance of the service, at the applicable hourly rate prescribed in paragraph (a) of this section, plus any travel charges and per diem for such graders ordinarily chargeable under paragraphs (c) and (d) of this section: *Provided*, That when on appeal it is found that there was error in the original determination equal to or exceeding ten percent of the total number of similar units of the products involved, no charge will be made for the appeal service unless a special agreement therefor was made with the applicant in advance.

(g) *Fees for extra copies of certificates.* In addition to copies of certificates furnished under § 53.16, any financially interested person may obtain not to exceed three copies of any such certificate within one year from its date of issuance upon payment of a fee of $1.00, and not to exceed three copies of any such certificate at any time thereafter, while a copy of such certificate is on file in the Department, upon payment of a fee of $5.00.

§ 53.30 Payment of fees and other charges.

Fees and other charges for service shall be paid in accordance with the following provisions unless otherwise provided in the cooperative agreement under which the service is furnished. Upon receipt of billing for fees and other charges for service the applicant shall remit by check, draft, or money order, made payable to the Agricultural Marketing Service, U.S.D.A., payment for the service in accordance with directions on the billing, and such fees and charges shall be paid in advance if required by the official grader or other authorized official.

MISCELLANEOUS

§ 53.31 Identification.

All official graders and supervisors of grading shall have their Agricultural Marketing Service identification cards in their possession at all times while they are performing any function under the regulations and shall identify themselves by such cards upon request.

§ 53.32 Errors in service.

When an official grader, supervisor of grading, or other responsible employee of the Branch has evidence of misgrading, or of incorrect certification or other incorrect determination or identification as to the class, grade, other quality, or compliance of a product, he shall report the matter to his immediate supervisor. The supervisor of grading will investigate the matter and, if he deems advisable, will report it to the owner or his agent. The supervisor of grading shall take appropriate action to correct errors found in the determination or identification of class, grade or other quality or compliance of products if the products are still owned by the person who owned them when, and are still located at the establishment where, the incorrect service was rendered and if such service was rendered by a grader under the jurisdiction of such supervisor, and the supervisor of grading shall take adequate measures to prevent the recurrence of such errors.

The revision is intended to clarify the Federal meat grading regulations and make various changes therein found advisable on the basis of experience in conducting the Federal meat grading service. The revision also would implement subsection 203(h) of the Agricultural Marketing Act of 1946, as amended by Public Law 272, 84th Congress, by indicating the certificates, memoranda, marks and other identifications, and devices for making such marks and identifications, with respect to inspection, class, grade, quality, size, quantity, or condition of products (including compliance with specifications) under the regulations, that are official for purposes of said subsection.

The regulations set forth above are the same in most respects as the proposed regulations contained in the notice of rule-making published on May 18, 1956. Insofar as there are differences they are due to modifications to relieve restrictions or clarify the provisions of the regulations proposed in the notice, or they consist of changes which are deemed necessary to the conduct of the Federal meat grading service and which it is believed will be acceptable to affected persons. Since two notices of rule-making have been published with respect to the proposed revision and numerous comments have been received, the Department of Agriculture is well informed as to the views of interested persons. Therefore it is believed that further public rule-making procedure would serve no useful purpose. Accordingly, under section 4 of the Administrative Procedure Act (5 U.S.C. 1003), it is found upon good cause that further notice of rule-making and other public procedure on the revision of the regulations are unnecessary

The regulations set forth above shall become effective 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 23d day of June 1959.

ROY W. LENNARTSON,
Deputy Administrator.

[F.R. Doc. 59-5327; Filed, June 29, 1959; 8:45 a.m.]

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

[1026 (Cigar-Binder and Cigar-Filler and Binder-59)-1]

PART 723—CIGAR-FILLER TOBACCO, CIGAR-BINDER TOBACCO, AND CIGAR-FILLER AND BINDER TOBACCO

Cigar-Binder (Types 51 and 52) Tobacco, and Cigar-Filler and Binder (Types 42, 43, 44, 53, 54 and 55) Tobacco Marketing Quota Regulations, 1959–60 Marketing Year

Correction

In F. R. Document 59-5175—appearing in the issue for Tuesday, June 23, 1959, at page 5106, make the following change:

In § 723.1038(b), line 4, after the word "cards" insert "except with respect to the issuance of marketing cards".

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

[Milk Order 100]

PART 1000—MILK IN CHATTANOOGA, TENNESSEE, MARKETING AREA

Order Amending Order

§ 1000.0 Findings and determinations.

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

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Chattanooga, Tennessee, marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

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

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than July 1, 1959.

The provisions of the said order are known to handlers. The recommended decision of the Deputy Administrator of the Agricultural Marketing Service was issued June 8, 1959, and the decision of the Assistant Secretary containing all amendment provisions of this order, was issued June 18, 1959. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective July 1, 1959, and that it would be contrary to the public interest to delay the effective date of this amendment for 30 days after its publication in the FEDERAL REGISTER. (See sec. 4c), Administrative Procedure Act, 5 U.S.C. 1001 et seq.)

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in sec. 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as hereby amended; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

Order Relative to Handling. It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Chattanooga, Tennessee, marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as hereby amended, and the aforesaid order is hereby amended as follows:

1. Delete § 1000.6 and substitute therefor the following:

§ 1000.6 Producer.

"Producer" means any approved dairy farmer who produces milk which is (a) received during the month at a pool plant: *Provided,* That this definition shall not include any approved dairy farmer with respect to milk produced by him which is subject to the pricing and payment provisions of the order regulating the handling of milk in the Knoxville, Tennessee, marketing area (Part No. 988); or (b) diverted from a pool plant by a handler to a nonpool plant for his account any day during the months of March through July or on not more than 10 days during any other month. The milk so diverted shall be deemed to have been received by the diverting handler at a pool plant at the location of the plant from which diverted.

2. Delete § 1000.7 and substitute therefor the following:

§ 1000.7 Pool plant.

"Pool plant" means any:

(a) Milk distributing plant approved or recognized by a duly constituted health authority for the receiving or processing of Grade A milk and from which Class I milk equal to not less than 50 percent of its receipts of milk from other pool plants and from approved dairy farmers is disposed of during the month on a route(s) and from which Class I milk equal to not less than 20 percent of its total Class I disposition is disposed of during the month on a route(s) in the marketing area;

(b) Milk supply plant which, during the month, ships fluid milk products approved or recognized by a duly constituted health authority as eligible for distribution under a Grade A label in a volume equal to not less than 50 percent of its receipts of milk from approved dairy farmers to a plant specified in paragraph (a) of this section: *Provided,* That any plant which qualifies as a pool plant pursuant to this paragraph in each of the months of August through February shall be designated as a pool plant for the following months of March through July unless the operator of such plant files with the market administrator prior to the first day of any of the months of March–July a written request for withdrawal; or

(c) A plant operated by a cooperative association if, during the month, the sum of the milk delivered to other pool plants by approved dairy farmers who are members of such cooperative association plus the milk which is transferred thereto from the plant operated by the cooperative association is equal to not less than 50 percent of the total volume of milk delivered to all plants by approved dairy farmers who are members of the association.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Issued at Washington, D.C., this 24th day of June 1959, to be effective on and after the 1st day of July 1959.

MARVIN L. MCLAIN,
Assistant Secretary.

[F.R. Doc. 59-5406; Filed, June 29, 1959; 8:48 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Agency

[Regulatory Docket 38; Amdt. 45-3]

PART 45—COMMERCIAL OPERATOR CERTIFICATION AND OPERATION RULES

Postponement of Effective Date of Amendment

Part 45 of the Civil Air Regulations presently contains provisions which are applicable to commercial operators who conduct their operations in small aircraft.

Civil Air Regulations Amendment 45-2 (24 F.R. 90), adopted by the Civil Aeronautics Board concurrently with Part 47, made them subject to the applicable provisions of Part 47, effective July 1, 1959. By Civil Air Regulations Amendment 47-1, issued concurrently herewith, the effective date of Part 47 is postponed until December 31, 1959, to permit the Federal Aviation Agency to revise the scope and contents of such part. Therefore, pending such revision, the effective date of Civil Air Regulations Amendment 45-2 is also postponed until December 31, 1959.

Since this regulatory action imposes no additional burden upon any person, notice and public procedure hereon are unnecessary, and good cause exists for making the amendment effective on less than 30 days' notice.

In consideration of the foregoing, the effective date of Civil Air Regulations Amendment 45-2 (24 F.R. 90) is hereby postponed from July 1, 1959, to December 31, 1959.

(Sec. 313(a), 72 Stat. 752, 49 U.S.C. 1354(a); sec. 601, 72 Stat. 775, 49 U.S.C. 1421)

Issued in Washington, D.C., on June 24, 1959.

JAMES T. PYLE,
Acting Administrator.

JUNE 24, 1959.

[F.R. Doc. 59-5388; Filed, June 29, 1959; 8:45 a.m.]

[Regulatory Docket 37; Amdt. 47-1]

PART 47—AIR TAXI CERTIFICATION AND OPERATION RULES AND RULES GOVERNING OTHER SMALL AIRCRAFT COMMERCIAL OPERATIONS

Postponement of Effective Date of Part

On December 30, 1958, the Civil Aeronautics Board adopted Part 47 of the Civil Air Regulations prescribing certification and operation rules for air taxi operators and operation rules for other citizens of the United States engaging in the carriage in air commerce of goods or passengers for compensation or hire with small aircraft. This part was published in the FEDERAL REGISTER (24 F.R. 91) to become effective on July 1, 1959.

The preamble to that part stated that considerable supplementary material in the form of Civil Aeronautics Manual (CAM) rules, policies, and interpretations would be issued by the Civil Aeronautics Administration prior to the effective date of the part. Since the Federal Aviation Agency is now the sole agency responsible for the issuance and administration of all safety regulations it appears unnecessary to issue such supplemental rules, policies, and interpretations as manual material, separate from the basic safety rules of this part. The rules and the necessary implementing material can now be combined into a single system of regulations within the part. Therefore, in order to accomplish this integration of the safety rules, the Federal Aviation Agency is conducting an overall review of new Part 47 and the manual material prepared for its implementation and will revise those sections which require further clarifying or implementing material for their proper administration.

Since Part 47 does not apply to Alaskan Air taxi operators, small aircraft operations of Alaskan air carriers, and charter flights or other special services conducted by other air carriers using small aircraft, the part will also be amended to include such operations. When this revision has been completed the Director, Bureau of Flight Standards, will issue an appropriate notice of proposed rulemaking containing a single and uniform set of rules applicable to all operators of small aircraft engaged in the carriage of goods or passengers for compensation or hire.

Because there is insufficient time prior to the effective date of Part 47 to accomplish the foregoing revision in accordance with the normal rulemaking procedures required by the Administrative Procedure Act, the effective date of that part will be postponed for 6 months pending the revision. In the meantime, all operators of small aircraft will continue to conduct their operations in accordance with the applicable rules in effect prior to July 1, 1959. Accordingly, Part 42 will continue to be applicable to all air taxi operators, commercial operators using small aircraft, and air carriers permitted to conduct small aircraft operations in accordance with Part 42.

Since this regulatory action imposes no additional burden upon any person, notice and public procedure hereon are unnecessary, and good cause exists for making the amendment effective on less than 30 days' notice.

In consideration of the foregoing, the effective date of Part 47 of the Civil Air Regulations (24 F.R. 91) is hereby postponed from July 1, 1959, to December 31, 1959.

(Secs. 313(a), 601, 604, 72 Stat. 752, 775, 778; 49 U.S.C. 1354, 1421, 1424)

Issued in Washington, D.C. on June 24, 1959.

JAMES T. PYLE,
Acting Administrator.

JUNE 24, 1959.

[F.R. Doc. 59-5387; Filed, June 29, 1959; 8:45 a.m.]

Chapter III—Federal Aviation Agency

SUBCHAPTER C—AIRCRAFT REGULATIONS

[Regulatory Docket 36; Amdt. 27]

PART 507—AIRWORTHINESS DIRECTIVES

Miscellaneous Amendments

As a result of a reported case involving a De Havilland Dove Model 104 aircraft where a powerplant fire extinguisher spray pipe had been installed without having spray holes drilled in it, inspection, replacement or rework is required.

Due to a recent in-flight incident on a Piper PA-24 aircraft where a control wheel sprocket stud failed, inspection and/or replacement is necessary.

Cases of excessive wear of splines in the flap motor and fracturing of the internal clutch drive shaft have occurred on Vickers Viscount aircraft requiring inspection and replacement within the approved life period.

Revisions to clarify AD 57-7-4 Lockheed (24 F.R. 4651) and correct the wording of AD 59-11-2 Vertol (24 F.R. 4652) are necessary.

For the reasons stated above, the Administrator finds that corrective action is required in the interest of safety, that notice and public procedure hereon are impracticable and that good cause exists for making this amendment effective on less than 30 days notice.

In consideration of the foregoing § 507.10(a) is amended as follows:

1. 59-7-4 Lockheed 049, 149, 649, 749, and 1049 series aircraft is revised by changing the second paragraph to read as follows: "On all aircraft which have accumulated 10,000 or more flight hours, the following must be accomplished at the next block overhaul, or 4,000 flight hours, whichever occurs first, and thereafter at intervals not to exceed 10,000 flight hours."

2. 59-11-2 Vertol 44 series helicopters is amended by changing the third and fourth sentences of the first paragraph to read as follows: "The X-ray of the spar must be accomplished at a point 1 5/16 inches inboard of the outboard edge of the No. 4 box and at a point 7 inches outboard of the socket through bolt. X-ray photograph must be taken in a plane perpendicular to the spar chord with an iridium source equivalent to 300 KV or a 200 KV X-ray covering an area approximately 8 by 10 inches."

3. The following new airworthiness directives are added:

59-12-8 DE HAVILLAND. Applies to all De Havilland Dove Model 104 aircraft.

Compliance required not later than July 20, 1959.

(1) Spray pipe P/N 4M99ND must be inspected to ascertain whether it has the spray holes drilled in it as follows:

(a) Open the engine cowlings and inspect the spray pipe running from the distributor unit round the blower casing.

(b) If the pipe has not had the spray holes drilled in it remove the pipe and replace with a serviceable item; or

(c) The unserviceable pipe may be rendered serviceable by working to the details shown in De Havilland Technical News Sheet CT (104) No. 163.

(2) The above inspection, and replacement or rework action where necessary, must be accomplished on all spare powerplants and spares stock before installation in aircraft.

The British Air Registration Board considers this mandatory.

(De Havilland TNS CT (104) No. 163 covers the same subject.)

59-12-9 PIPER. Applies to PA-24 and PA-24 "250" aircraft Serial Numbers 24-1 through 24-764, 24-766 through 24-779, 24-781 through 24-820, 24-822 through 24-842, 24-844 through 24-849, 24-851 through 24-856, 24-858, 24-860 through 24-865, 24-867 through 24-871, 24-875, 24-878, 24-880, 24-881, and 24-885.

Compliance required by June 30, 1959.

Due to a recent in-flight incident where control wheel sprocket stud P/N 20913-00 failed, inspect the sprocket stud P/N 20913-00 where the sprocket was attached on all aircraft that have or have had an automatic control system installed and ascertain that the stud is not cracked or twisted and the hole is not elongated. Parts found cracked or damaged are to be replaced before further operation. Piper Service Bulletin No. 172 covers this inspection in detail.

59-12-10 VICKERS. Applies to all Viscount 745D and 810 aircraft.

Compliance required as indicated.

Flap Motor P/N C.9601. A case of excessive wear has occurred on the splines of the clutch drive shaft, P/N N117500, at the point of engagement with the clutch shaft, P/N N98825, which was revealed by failure of the flaps to operate electrically. In addition to the above failure, cases have occurred of fracturing of the internal clutch drive shaft, P/N N117500, at a point adjacent to the splines at the clutch shaft end, P/N N98825. This type of failure does not affect the normal operation of the flap gearbox assembly and is revealed only during overhaul. In the event of failure of the clutch drive shaft, flap "blow back" could occur under flap selection conditions.

(1) *Inspections.* Flap motor assemblies must be inspected at every 1,000 flight hours in accordance with the "inspection procedure" detailed in PTL 183 (700 series) and PTL 61 (800/810 series).

(2) *Approved life.* The clutch drive shafts, P/N's N117500 and N145421, are now "lifed" at 4,000 flight hours and all shafts are to be replaced within this period irrespective of the results of the dimensional wear test given under the "inspection procedure" in the respective PTL's mentioned above.

The British Air Registration Board considers compliance mandatory.

(Vickers-Armstrongs PTL 183, issue 3, Modification D.2766 (700 series), PTL 61, issue 3, Modification FG.1294 (800/810 series), and Rotax Modification No. 3017C cover this subject.)

This amendment shall become effective immediately.

(Sec. 313(a), 601, 603; 72 Stat. 752, 775, 776; 49 U.S.C. 1354(a), 1421, 1423)

Issued in Washington, D.C., on June 24, 1959.

JAMES T. PYLE,
Acting Administrator.

[F.R. Doc. 59-5386; Filed, June 29, 1959; 8:45 a.m.]

[Regulatory Docket 35; Amdt. 21]

PART 514—TECHNICAL STANDARD ORDERS FOR AIRCRAFT MATERIALS, PARTS, PROCESSES, AND APPLIANCES

TSO-C14a, Aircraft Fabric, Intermediate Grade TSO-C15b, Aircraft Fabric, Grade A

Proposed amendments to Technical Standard Orders which establish minimum performance standards for aircraft fabric for use as external covering on civil aircraft of the United States were published in 24 F.R. 3699.

Interested persons have been afforded an opportunity to participate in the making of the rules. No comments were received.

In consideration of the foregoing, Part 514 of the Regulations of the Administrator (14 CFR Part 514) is hereby amended as follows effective on the dates indicated:

1. Section 514.24 is amended as follows:

§ 514.24 Aircraft fabric, intermediate grade; external covering material—TSO-C14a

(a) *Applicability*—(1) *Minimum performance standards.* Minimum performance standards are hereby established for aircraft fabric, intermediate grade, for use as an external covering on civil aircraft of the United States with wing loadings of less than 9 p.s.f. and never-exceed speeds of less than 160 m.p.h. Fabric manufactured on or after July 31, 1959, shall meet the requirements set forth in section 3 of SAE Aeronautical Material Specification 3804A, "Cloth, Airplane, Cotton, Mercerized; 65 lb Breaking Strength," revised May 1, 1954.[1] Fabric approved by the Administrator prior to July 31, 1959, may continue to be manufactured under the provisions of its original approval.

(b) *Marking.* The weight required in § 514.3 need not be included. The TSO number shall be marked continuously along the selvage edge of the fabric.

(c) *Effective date.* July 31, 1959.

2. Section 514.25 is amended as follows:

§ 514.25 Aircraft fabric, grade A; external covering material—TSO-C15b

(a) *Applicability*—(1) *Minimum performance standards.* Minimum performance standards are hereby established for aircraft fabric, grade A, for use as an external covering on civil aircraft of the United States. Fabric manufactured on or after July 31, 1959, shall meet the requirements set forth in section 3 of SAE Aeronautical Material Specification 3806A, "Cloth, Airplane, Cotton, Mercerized; 80 lb Breaking Strength," revised June 15, 1952.[1] Fabric approved by the Administrator prior to July 31, 1959, may continue to be manufactured under the provisions of its original approval.

(b) *Marking.* The weight required in § 514.3 need not be included. The TSO number shall be marked continuously along the selvage edge of the fabric.

(c) *Effective date.* July 31, 1959.

(Sec. 313(a), 72 Stat. 752; 49 U.S.C. 1354(a). Interpret or apply sec. 601, 72 Stat. 775; 49 U.S.C. 1421)

Issued in Washington, D.C., on June 24, 1959.

JAMES T. PYLE,
Acting Administrator.

[F.R. Doc. 59-5385; Filed, June 29, 1959; 8:45 a.m.]

[1] Copies may be obtained from the Society of Automotive Engineers, 485 Lexington Avenue, New York 17, New York.

SUBCHAPTER E—AIR NAVIGATION REGULATIONS

[Airspace Docket 59-WA-33, Amdt. 16]

PART 600—DESIGNATION OF FEDERAL AIRWAYS

Modifications

The purpose of this action is to make minor modifications in VOR Federal airway No. 18S, Allendale, S.C., to Charleston, S.C., and VOR Federal airway No. 437, Charleston, S.C., to Florence, S.C., due to the relocation of the Charleston VOR.

The Charleston VOR is temporarily situated on the Charleston AFB/Municipal Airport near the approach end of the northwest/southeast runway. Because of intermittent technical difficulties which might provide improper navigational guidance and could adversely affect safety, the VOR has been relocated on a new site near the approximate center of the Charleston AFB/Municipal Airport (latitude 32°53'39" North, longitude 80°02'16" West), less than one mile from the location of the temporary VOR.

VOR Federal airway No. 18, Dallas, Tex., to Charleston, S.C., VOR Federal airway No. 1, Jacksonville, Fla., to New York, N.Y., VOR Federal airway No. 437W, Charleston, S.C., to Florence, S.C., and VOR Federal airway No. 53, Charleston, S.C., to Chicago, Ill., are also affected to a minor degree, but are so designated and described that they will be automatically realigned with the relocation of the Charleston VOR. Therefore, no amendments relating to such airways are necessary. Moreover, the control areas associated with the above-mentioned airways are so designated and described that they will automatically conform, as pertinent, to the modified airways. Accordingly, no amendments relating to such control areas are necessary.

The modifications of these airways have been coordinated with various civil aviation organizations, the Army, the Navy and the Air Force. Moreover, in view of the improved service which will be provided, the public interest will be best served by the use of the Charleston VOR at the new site at the earliest practicable date. Since it is necessary that sufficient time be allowed to permit ap-

propriate changes to be made on aeronautical charts, the modification of the airways will be effective on July 30, 1959.

For the reasons stated above, it has been determined that notice and public procedure requirements of Section 4 of the Administrative Procedure Act would be contrary to the public interest.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (24 F.R. 4530), the following action is taken:

1. Section 600.6018, as amended (14 CFR, 1958 Supp. 600.6018; 24 F.R. 941), *VOR Federal airway No. 18 (Dallas, Tex., to Charleston, S.C.)*, is further amended as follows: Delete "to the Charleston, S.C., VOR, including a south alternate via the INT of the Allendale VOR 115° and the Charleston VOR 261° radials." and substitute therefor "to the Charleston, S.C., VOR, including a south alternate via the INT of the Allendale VOR 119° and the Charleston VOR 262° radials."

2. Section 600.6437, as amended (24 F.R. 942; 24 F.R. 2230), *VOR Federal airway No. 437 (Charleston, S.C., to Florence, S.C.)*, is further amended as follows: Delete "via the INT of the Charleston VOR 031° and the Florence VOR 181° radials;" and substitute therefor "via the INT of the Charleston VOR 029° and the Florence VOR 179° radials;"

This amendment shall become effective 0001 e.s.t. July 30, 1959.

(Secs. 307(a) and 313(a), 72 Stat. 749, 752; 49 U.S.C. 1348, 1354)

Issued in Washington, D.C., on June 25, 1959.

D. D. THOMAS,
Director,
Bureau of Air Traffic Management.

[F.R. Doc. 59-5420; Filed, June 29, 1959; 8:49 a.m.]

[Airspace Docket 59-WA-42; Amdt. 16]

PART 601—DESIGNATION OF THE CONTINENTAL CONTROL AREA, CONTROL AREAS, CONTROL ZONES, REPORTING POINTS, AND POSITIVE CONTROL ROUTE SEGMENTS

Modification

The El Paso, Texas, control zone is described, in part, by reference to the "Hueco FM" (23 F.R. 10288). The term "Hueco" does not lend itself to easy understanding and pronunciation. As part of the Federal Aviation Agency's program to simplify the identification of air navigation facilities, the name "Hueco FM" is being changed to "Rio FM". As a matter of information, the Federal Aviation Agency is also making a similar change in the name of the associated nondirectional radio beacon. However, its frequency (317 kcs) and identification (HCO) will remain unchanged.

This amendment is minor in nature and does not impose any additional burden on any person. For these reasons, it has been determined that compliance with the notice, public participation and effective date provisions of Section 4 of the Administrative Procedure Act is unnecessary.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (24 F.R. 4530), Part 601 (14 CFR 1958, Supp. Part 601), is hereby amended as follows:

Section 601.2028 El Paso, Texas, control zone is amended by deleting "Hueco FM" and substituting therefor "Rio FM".

This amendment shall become effective 0001 e.s.t. July 30, 1959.

(Secs. 307(a) and 313(a), 72 Stat. 749, 752; 49 U.S.C. 1348, 1354)

Issued in Washington, D.C., on June 25, 1959.

D. D. THOMAS,
Director,
Bureau of Air Traffic Management.

[F.R. Doc. 59-5411; Filed, June 29, 1959; 8:48 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket 7371 c.o.]

PART 13—DIGEST OF CEASE AND DESIST ORDERS

Henry Klous Company, Inc., et al.

Subpart—*Misbranding or mislabeling:* § 13.1190 *Composition:* Wool Products Labeling Act; § 13.1212 *Formal regulatory and statutory requirements:* Wool Products Labeling Act. Subpart—*Neglecting, unfairly or deceptively to make material disclosure:* § 13.1852 *Formal regulatory and statutory requirements:* Wool Products Labeling Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, secs. 2-5, 54 Stat. 1128-1130; 15 U.S.C. 45, 68-68(c)) [Cease and desist order, Henry Klous Company, Inc., et al., Lawrence, Mass., Docket 7371, May 21, 1959]

In the Matter of Henry Klous Company, Inc., a Corporation, and Aylward W. Corcoran and G. Ernest Chiras, Individually and as Officers of Said Corporation

This proceeding was heard by a hearing examiner on the complaint of the Commission charging a manufacturer in Lawrence, Mass., with violating the Wool Products Labeling Act by labeling as "Wool", bales of wool stock which contained a substantial quantity of reprocessed wool, and by failing to label other wool products as required.

After acceptance of an agreement containing consent order, the hearing examiner made his initial decision and order to cease and desist which became on May 21 the decision of the Commission.

The order to cease and desist is as follows:

It is ordered, That respondents Henry Klous Company, Inc., a corporation, and its officers, and Aylward W. Corcoran, individually and as an officer of the corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction into commerce, or the offering for sale, sale, transportation or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act and the Wool Products Labeling Act of 1939, of wool products, do forthwith cease and desist from misbranding such products by:

1. Falsely or deceptively stamping, tagging, labeling, or otherwise identifying such products as to the character or amount of the constituent fibers contained therein;

2. Failing to securely affix to or place on each such product a stamp, tag, label or other means of identification showing in a clear and conspicuous manner (a) the percentage of the total fiber weight of such wool product, exclusive of ornamentation not exceeding five per centum of said total fiber weight, of (1) wool, (2) reprocessed wool, (3) reused wool, (4) each fiber other than wool where said percentage by weight of such fiber is five per centum or more and (5) the aggregate of all other fibers; (b) the maximum percentage of the total weight of such wool products of any non-fibrous loading, filling or adulterating matter; (c) the name or the registered identification number of a manufacturer of such wool product or of one or more purchasers engaged in introducing such wool products in commerce, or in the offering for sale, sale, transportation, distribution or delivery for shipment thereof in commerce, as "commerce" is defined in the Wool Products Labeling Act of 1939.

It is further ordered, That the complaint as to G. Ernest Chiras should be, and same hereby is, dismissed.

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

It is ordered, That respondents Henry Klous Company, Inc., a corporation, and Aylward W. Corcoran, individually and as an officer of said corporation, 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: May 21, 1959.

By the Commission.

[SEAL] ROBERT M. PARRISH,
Secretary.

[F.R. Doc. 59-5395; Filed, June 29, 1959; 8:46 a.m.]

[Docket 7335 c.o.]

PART 13—DIGEST OF CEASE AND DESIST ORDERS

Nut-Distributors, Inc., et al.

Subpart—*Advertising falsely or misleadingly:* § 13.15 *Business status, advantages, or connections:* Service; §13.50 *Dealer or seller assistance;* § 13.60 *Earn-*

ings and profits; §13.115 *Jobs and employment service;* § 13.155 *Prices:* Adequacy and additional charges unmentioned; § 13.195 *Safety:* Investment; § 13.205 *Scientific or other relevant facts;* § 13.255 *Surveys.* Subpart—*Misrepresenting oneself and goods*—Business status, advantages or connections: § 13.1553 *Services;*[1] [*Misrepresenting oneself and goods*]—Goods: § 13.1608 *Dealer or seller assistance;* § 13.1615 *Earnings and profits;* § 13.1670 *Jobs and employment;* §13.1740 *Scientific or other relevant facts;* [*Misrepresenting oneself and goods*]—Prices: § 13.1778 *Additional costs unmentioned.*

(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, I. E. M. Corp. (White Plains, N.Y.) et al., Docket 7335, May 21, 1959]

In the Matter of Nut-Distributors, Inc., a Corporation, I. E. M. Corp., a Corporation, Margaret Hynes, Individually and as an Officer of Each of Said Corporations, Pat Simone, Individually and as an Officer of Nut-Distributors, Inc., Paul Conant, Individually and as an Officer of I. E. M. Corp., and Michael Hynes, an Individual

This proceeding was heard by a hearing examiner on the complaint of the Commission charging New York City sellers of peanut vending machines and electron tube testing devices and supplies and equipment used therewith, with making, in newspaper advertisements and through their salesmen, a variety of false offers of employment, sales assistance, investment required, profits, etc., as in the order below set forth.

After acceptance of an agreement containing consent order, the hearing examiner made his initial decision and order to cease and desist which became on May 21 the decision of the Commission.

The order to cease and desist is as follows:

It is ordered, That respondents I. E. M. Corp., a corporation, and its officers, and Margaret Hynes, individually and as an officer of said corporation, and Pat Simone and Michael Hynes, individuals, and their agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of machines or devices which vend or dispense merchandise or which are accessory to the vending or dispensing of merchandise or the supplies and equipment used in connection therewith, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or indirectly, that:

1. Employment is offered either by respondents or by any other person, firm or corporation;

2. Established and profitable routes of said machines or devices are offered for sale;

3. Respondents will locate or relocate said machines or devices to assure desirable, suitable or profitable locations therefor;

4. Any amount of money is the total amount required to purchase or establish a route of said machines or devices which does not include all of the charges or expenses incident thereto;

5. The earnings or profits derived from the operation of respondents' said machines or devices will be any amount greater than that usually and customarily earned by operators of respondents' said machines or devices;

6. The cash investment required to purchase respondents' said machines or devices is secured;

7. Persons purchasing respondents' said machines or devices will not be required to engage in selling or soliciting;

8. The sale of merchandise by, through, or in connection with respondents' said machines or devices is a permanent business or is unaffected by economic depression;

9. Respondents will repurchase or find purchasers for or otherwise assist in the sale or disposition of said machines or devices sold by them;

10. Surveys or any other kind of investigations have been conducted by respondents to ascertain the feasibility of establishing a route of said machines or devices in any locality or that arrangements have been completed to establish a route of said machines or devices.

It is further ordered, That the complaint herein be, and the same hereby is, dismissed as to Nut-Distributors, Inc., and Margaret Hynes and Pat Simone as officers of said Nut-Distributors, Inc., and Paul Conant.

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

It is ordered, That respondents I.E.M. Corp., a corporation; Margaret Hynes, individually and as an officer of said corporation; and Pat Simone and Michael Hynes, individuals, 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: May 21, 1959.

By the Commission.

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

[F.R. Doc. 59-5396; Filed, June 29, 1959; 8:46 a.m.]

[Docket 7002 c.o.]

PART 13—DIGEST OF CEASE AND DESIST ORDERS

Stewart & Stevenson Services, Inc., et al.

Subpart—*Combining or conspiring:* § 13.430 *To enhance, maintain or unify prices.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Stewart & Stevenson Services, Inc. (Houston, Tex.), et al., Docket 7002, May 23, 1959]

In the Matter of Stewart & Stevenson Services, Inc., Lewis Diesel Engine Company (Inc.), of Memphis, Tennessee, Lewis Diesel Engine Company (Inc.), of Little Rock, Arkansas, Diesel Power Company, United Engines, Inc., Taylor Machinery Corporation, William Patrick Kennedy, Jr., Trading as Kennedy Marine Engine Company, Kennedy Marine Engine Co. Inc., and George Engine Company, Inc.

This proceeding was heard by a hearing examiner on the complaint of the Commission charging nine franchised wholesale distributors of General Motors diesel engines and replacement parts with conspiring to fix and maintain prices, terms, and conditions of sale for such replacement parts.

Following acceptance by five respondents of an agreement providing for entry of a consent order, the hearing examiner made his initial decision and order to cease and desist which became on May 23 the decision of the Commission. As to the other four wholesaler respondents, the matter remains pending.

The order to cease and desist is as follows:

It is ordered, That respondents Stewart & Stevenson Services, Inc., Lewis Diesel Engine Company (Inc.), of Memphis, Tennessee, and Diesel Power Company, their officers, agents, representatives and employees, in or in connection with the offering for sale, sale or distribution of General Motors replacement parts for diesel engines in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from entering into, continuing, cooperating in, or carrying out any planned common course of action, understanding, agreement, combination, or conspiracy between or among any two or more of said respondents named in the above-entitled proceeding, or, with any other party, to do or to perform the following:

Establish, fix, or maintain prices, terms, or conditions of sale of General Motors replacement parts for diesel engines, or adhere to any prices, terms, or conditions of sale so fixed or maintained.

Further ordered, That the respondents Lewis Diesel Engine Company (Inc.), of Little Rock, Arkansas, and George Engine Company, Inc., their respective officers, agents, representatives and employees, in or in connection with the offering for sale, sale or distribution of General Motors replacement parts for diesel engines in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from entering into, continuing, cooperating in, or carrying out any planned common course of action, understanding, agreement, combination, or conspiracy between or among any two or more of said respondents named in the above-entitled proceeding, or with any other party, or between any one or more of them and others not parties hereto to do or to perform the following: Establish, fix, or maintain prices, terms, or conditions of sale of General Motors replacement parts for diesel engines, or

[1] New.

adhere to any prices, terms, or conditions of sale so fixed or maintained.

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

It is ordered, That said respondents 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: May 25, 1959.

By the Commission.

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

[F.R. Doc. 59-5397; Filed, June 29, 1959; 8:46 a.m.]

[Docket 7367 c.o.]

PART 13—DIGEST OF CEASE AND DESIST ORDERS

Weingeroff & Son et al.

Subpart—*Furnishing means and instrumentalities of misrepresentation or deception:* § 13.1055 *Furnishing means and instrumentalities of misrepresentation or deception;* § 13.1056 *Preticketing merchandise misleadingly.* Subpart—*Misbranding or mislabeling:* § 13.1172 *Advertising and promotion;*[1] § 13.1185 *Composition;* § 13.1325 *Source or origin:* Maker or seller, etc. Subpart—*Misrepresenting oneself and goods*—Prices: § 13.1811 *Fictitious preticketing.*

(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, Weingeroff & Son, Providence, R.I., Docket 7367, May 27, 1959]

In the Matter of Louis Weingeroff and Frederick Weingeroff, Individually and as Co-partners Doing Business as Weingeroff & Son

This proceeding was heard by a hearing examiner on the complaint of the Commission charging manufacturers and distributors in Providence, R.I., engaged in the sale of sets of their own costume jewelry packaged with pens and pencils purchased from Waterman Pen Co., Inc., with stamping the name "Waterman's" and the company's trademark on the display box and an insert; representing falsely on a "seal" type insert in the display box that the contents were "24 Kt Gold Plated"; preticketing the sets with fictitiously high prices; and advertising falsely that they were advertised in Life Magazine and The Saturday Evening Post.

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 May 27 the decision of the Commission.

The order to cease and desist is as follows:

It is ordered, That respondents Louis Weingeroff and Frederick Weingeroff, individually and as co-partners trading as Weingeroff & Son, or trading under any other name, and their agents, representatives and employees, directly or through any corporate or other device, in connection with the manufacture, offering for sale, sale and distribution of jewelry or other products in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the name of a company in connection with a product that has not been made by said company or representing in any manner, directly or by implication, that a product has been made by a specified company, when such is not the fact.

2. Representing, directly or indirectly:

(a) That a product which has a surface coating of gold or gold alloy applied by an electrolytic process is gold plated; provided, however, that a product or a part thereof, upon all significant surfaces of which there has been affixed by an electrolytic process a coating of gold, or of gold alloy, of not less than 10 karat fineness, the minimum thickness of which is equivalent to seven one-millionths of an inch of fine gold, may be marked or described as gold electroplate or gold electroplated.

(b) By preticketing, or in any other manner, that any price is the retail price of a product when such price is in excess of the price at which the product is usually and regularly sold at retail.

(c) That their products, or any of them, have been advertised in Life Magazine or The Saturday Evening Post; or that they, or any of them, have been advertised in any other manner, unless such is the fact.

3. Furnishing means or instrumentalities to retailers or others by or through which they mislead the public with respect to any of the matters set out above.

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

It is further ordered, That the respondent, Louis Weingeroff and Frederick Weingeroff, 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 contained in said initial decision.

Issued: May 27, 1959.

By the Commission.

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

[F.R. Doc. 59-5398; Filed, June 29, 1959; 8:47 a.m.]

SUBCHAPTER B—TRADE PRACTICE CONFERENCE RULES

[File No. 21-529]

PART 47—MANIFOLD BUSINESS FORMS INDUSTRY

Promulgation of Trade Practice Rules

Due proceedings having been held under the trade practice conference procedure in pursuance of the Act of Congress approved September 26, 1914, as amended (Federal Trade Commission Act), and other provisions of law administered by the Commission:

It is now ordered, That the trade practice rules as hereinafter set forth, which have been approved by the Commission in this proceeding, be promulgated as of June 30, 1959.

Statement by the Commission. Trade practice rules for the Manifold Business Forms Industry, as hereinafter set forth, are promulgated by the Federal Trade Commission under the trade practice conference procedure.

The industry for which these rules are established consists of manufacturers, jobbers, wholesalers, and other marketers of business forms. Such business forms include, but are not limited to, (1) autographic register forms, (2) unit set forms, (3) continuous forms, (4) salesbooks, (5) fanfold forms, and (6) machine bookkeeping forms.

Proceedings for the establishment of these rules were instituted pursuant to an industry application. A general industry conference was held under Commission auspices in Chicago, Illinois, on April 23, 1959 at which proposals for rules were submitted for consideration of the Commission. Thereafter, proposed rules were published by the Commission and made available to all industry members and other interested or affected parties upon public notice whereby they were afforded opportunity to present their views, including such pertinent information, suggestions or amendments as they desired to offer, and to be heard in the premises. Pursuant to such notice a public hearing was held in Washington, D.C., on June 12, 1959, and all matters there presented, or otherwise received in the proceeding, were considered by the Commission.

Thereafter, and upon full consideration of the entire matter, final action was taken by the Commission whereby it approved the rules as hereinafter set forth.

The rules, as approved, become operative thirty (30) days after the date of promulgation.

The rules. These rules promulgated by the Commission are designed to foster and promote the maintenance of fair competitive conditions in the interest of protecting industry, trade, and the public. It is to this end, and to the exclusion of any act or practice which fixes or controls prices through combination or agreement, or which unreasonably restrains trade or suppresses competition, or otherwise unlawfully injures, destroys, or prevents competition, that the rules are to be applied.

The unfair trade practices embraced in the rules herein are considered to be unfair methods of competition, unfair or deceptive acts or practices, or other illegal practices, prohibited under laws administered by the Federal Trade Commission, and appropriate proceedings in the public interest will be taken by the Commission to prevent the use, by any person, partnership, corporation, or other organization subject to its juris-

[1] New.

diction, of such unlawful practices in commerce.

Sec.

AUTHORITY: §§ 47.0 to 47.18 issued under 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.

§ 47.0 The industry and its products defined.

The Manifold Business Forms Industry consists of manufacturers, jobbers, wholesalers, and other marketers of business forms. Such business forms include, but are not limited to, (a) autographic register forms, (b) unit set forms, (c) continuous forms, (d) salesbooks, (e) fanfold forms, and (f) machine bookkeeping forms.

§ 47.1 Deception (general).

It is an unfair trade practice to sell, offer for sale, or distribute industry products by any method, or under any representation, description, circumstance or condition, which has the capacity and tendency or effect of deceiving purchasers or prospective purchasers as to quantity, quality, size, grade, kind, type, cut, length, width, thickness, weight, strength, substance, composition, condition, color, price, origin, finish, fold, punch, perforation, durability, serviceability, use, manufacture, or distribution of any product of the industry or component part of such product, or in any other material respect. [Rule 1]

§ 47.2 Substitution of products.

It is an unfair trade practice for a member of the industry to make an unauthorized substitution of products, where such substitution has the capacity and tendency or effect of misleading or deceiving purchasers or prospective purchasers, by:

(a) Shipping or delivering industry products which do not conform to samples submitted, to specifications upon which the sale is consummated, or to representations made prior to securing the order, without advising the purchaser of the substitution and obtaining his consent thereto prior to making shipment or delivery; or

(b) Falsely representing the reason for making a substitution. [Rule 2]

§ 47.3 Defamation of competitors or false disparagement of their products.

(a) The defamation of competitors by falsely imputing to them dishonorable conduct, inability to perform contracts, questionable credit standing, or by other false representations, or the false disparagement of competitors' products in any respect, or of their business methods, selling prices, values, credit terms, policies, or services, is an unfair trade practice.

(b) Likewise, the deliberate tampering with, damaging, or destroying of competitors' products so as to disparage the products in the eyes of customers or prospective customers, is an unfair trade practice.

(c) Nothing in paragraphs (a) and (b) of this section shall be construed as preventing the full, fair, and nondeceptive comparison, by demonstration or otherwise, of competitors' products with the product of another industry member before public officials or other purchasers or prospective purchasers. [Rule 3]

§ 47.4 Procurement of competitors' confidential information by unfair means and wrongful use thereof.

It is an unfair trade practice for any member of the industry to obtain information concerning the business of a competitor by bribery of an employee or agent of such competitor, by false or misleading statements or representations, by the impersonation of one in authority, or by any other unfair means, and to use the information so obtained so as substantially to injure competition or unreasonably restrain trade. [Rule 4]

§ 47.5 Commercial bribery.

It is an unfair trade practice for a member of the industry, directly or indirectly, to give, or offer to give, or permit or cause to be given money or anything of value to agents, employees, or representatives of customers or prospective customers, or to agents employees, or representatives of competitors' customers or prospective customers, without the knowledge of their employers or principals, as an inducement to influence their employers or principals to purchase or contract to purchase products imported, manufactured, or sold by such industry member or the maker of such gift or offer or to influence such employers or principals to refrain from dealing in the products of competitors, or from dealing or contracting to deal with competitors. [Rule 5]

§ 47.6 Misrepresenting products as conforming to standard.

In connection with the sale or offering for sale of industry products, it is an unfair trade practice to represent, through advertising or otherwise, that such products conform to any standards recognized in or applicable to the industry when such is not the fact. [Rule 6]

§ 47.7 Enticing away employees of competitors.

It is an unfair trade practice for any member of the industry wilfully to entice away employees or sales-contact personnel of competitors with the intent and effect of thereby unduly hampering or injuring competitors in their business and destroying or substantially lessening competition; *Provided*, That nothing in this section shall be construed as prohibiting such persons from seeking more favorable employment, or as prohibiting employers from hiring or offering employment to employees of a competitor in good faith and not for the purpose of inflicting injury on such competitor. [Rule 7]

§ 47.8 Misrepresentation as to character of business.

It is an unfair trade practice for any member of the industry to represent, directly or indirectly, through the use of any word or term in his corporate or trade name, in his advertising or otherwise, that he is a manufacturer of industry products, or that he is the owner or operator of a factory manufacturing them, when such is not the fact, or in any other manner to misrepresent the character, extent, volume, or type of his business. [Rule 8]

§ 47.9 Prohibited forms of trade restraints (unlawful price fixing, etc.).[1]

It is an unfair trade practice for any member of the industry, either directly or indirectly, to engage in any planned common course of action, or to enter into or take part in any understanding, agreement, combination, or conspiracy, with one or more members of the industry, or with any other person or persons, to fix or maintain the price of any goods or otherwise unlawfully to restrain trade; or to use any form of threat, intimidation, or coercion to induce any member of the industry or other person or persons to engage in any such planned common course of action, or to become a party to any such understanding, agreement, combination, or conspiracy. [Rule 9]

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[1] The inhibitions of this section are subject to Public Law 542, approved July 14, 1952, 66 Stat. 632 (the McGuire Act) which provides that with respect to a commodity which bears, or the label or container of which bears, the trademark, brand, or name of the producer or distributor of such commodity and which is in free and open competition with commodities of the same general class produced or distributed by others, a seller of such a commodity may enter into a contract or agreement with a buyer thereof which establishes a minimum or stipulated price at which such commodity may be resold by such buyer when such contract or agreement is lawful as applied to intrastate transactions under the laws of the State, Territory, or territorial jurisdiction in which the resale is to be made or to which the commodity is to be transported for such resale, and when such contract or agreement is not between manufacturers, or between wholesalers, or between brokers or between factors, or between retailers, or between persons, firms or corporations in competition with each other.

§ 47.10 Prohibited sales below cost.

(a) The practice of selling products of the industry at a price less than the cost thereof to the seller, with the purpose or intent, and where the effect is, or where there is a reasonable probability that the effect will be, to substantially injure, suppress, or stifle competition or tend to create a monopoly, is an unfair trade practice.

(b) This section is not to be construed as prohibiting all sales below cost, but only such selling below the seller's cost as is resorted to and pursued with the wrongful intent or purpose referred to and where the effect is, or where there is reasonable probability that the effect will be, to substantially injure, suppress, or stifle competition or to create a monopoly. Among the situations in which the requisite purpose or intent would ordinarily be lacking are cases in which such sales were: (1) Of seasonal goods near the conclusion of the season; (2) of obsolescent goods; (3) made under judicial process; or (4) made in bona fide discontinuance of business in the goods concerned.

(c) As used in paragraphs (a) and (b) of this section, the term "cost" means the respective seller's cost and not an average cost in the industry whether such average cost be determined by an industry cost survey or some other method. It consists of the total outlay or expenditure by the seller in the acquisition, production, and distribution of the products involved, and comprises all elements of cost such as labor, material, depreciation, taxes (except taxes on net income and such other taxes as are not properly applicable to cost), and general overhead expenses, incurred by the seller in the acquisition, manufacture, processing, preparation for marketing, sale and delivery of the products. Not to be included are dividends or interest on borrowed or invested capital, or nonoperating losses, such as fire losses and losses from the sale or exchange of capital assets. Operating cost should not be reduced by items of non-operating income, such as income from investments, and gain on the sale of capital assets.

(d) Nothing in this section shall be construed as relieving an industry member from compliance with any of the requirements of the Robinson-Patman Act. [Rule 10]

§ 47.11 False invoicing.

Withholding from or inserting in invoices or sales slips any statements or information by reason of which omission or insertion a false record is made, wholly or in part, of the transactions represented on the face of such invoices or sales slips, with the capacity and tendency or effect of thereby misleading or deceiving purchasers, prospective purchasers, or the consuming public, is an unfair trade practice. [Rule 11]

§ 47.12 False and misleading price quotations, etc.

It is an unfair trade practice for any industry member, in the course of or in connection with the offering for sale, sale, or distribution of industry products, to publish or circulate to or among purchasers or prospective purchasers false price quotations, price lists, or terms or conditions of sale; or to publish, or circulate among purchasers or prospective purchasers, any price quotations, price lists, or terms or conditions of sale which have the capacity and tendency or effect of thereby misleading or deceiving purchasers or prospective purchasers in any material respect. [Rule 12]

§ 47.13 Coercing purchase of one product as a prerequisite to the purchase of other products.

The practice of coercing the purchase of one or more products as a prerequisite to the purchase of one or more other products, where the effect may be to substantially lessen competition or tend to create a monopoly or to unreasonably restrain trade, is an unfair trade practice. [Rule 13]

§ 47.14 Exclusive deals.

It is an unfair trade practice for any member of the industry to contract to sell or sell any industry product, or to fix a price charged therefor, or discount from, or rebate upon, such price, on the condition, agreement, or understanding that the purchaser thereof shall not use or deal in the products of a competitor or competitors of such industry member, where the effect of such sale or contract for sale, or such condition, agreement, or understanding, may be substantially to lessen competition or tend to create a monopoly in any line of commerce. [Rule 14]

§ 47.15 Inducing breach of contract.

(a) Knowingly inducing or attempting to induce the breach of existing lawful contracts between competitors and their customers or their suppliers, or interfering with or obstructing the performance of any such contractual duties or services, under any circumstances having the capacity and tendency or effect of substantially injuring or lessening present or potential competition, is an unfair trade practice.

(b) Nothing in this section is intended to imply that it is improper for any industry member to solicit the business of a customer of a competing industry member; nor is the section to be construed as in anywise authorizing any agreement, understanding, or planned common course of action by two or more industry members not to solicit business from the customers of either of them, or from customers of any other industry member. [Rule 15]

§ 47.16 Unfair threats of infringement suits.

The circulation of threats of suit for infringement of patents or trademarks among customers or prospective customers of competitors, not made in good faith but for the purpose and with the effect of harassing or intimidating such customers or prospective customers, or of unduly hampering, injuring, or prejudicing competitors in their business, is an unfair trade practice. [Rule 16]

§ 47.17 Prohibited Discrimination.[2]

(a) *Prohibited discriminatory prices, rebates, refunds, discounts, credits, etc., which effect unlawful price discrimination.* It is an unfair trade practice for any member of the industry engaged in commerce, in the course of such commerce, to grant or allow, secretly or openly, directly or indirectly, any rebate, refund, discount, credit, or other form of price differential, where such rebate, refund, discount, credit, or other form of price differential, effects a discrimination in price between different purchasers of goods of like grade and quality, where either or any of the purchases involved therein are in commerce, and where the effect thereof may be substantially to lessen competition or tend to create a monopoly in any line of commerce, or to injure, destroy, or prevent competition with any person who either grants or knowingly receives the benefit of such discrimination, or with customers of either of them: *Provided, however,*

(1) That the goods involved in any such transaction are sold for use, consumption, or resale within any place under the jurisdiction of the United States, and are not purchased by schools, colleges, universities, public libraries, churches, hospitals, and charitable institutions not operated for profit, as supplies for their own use;

NOTE: Purchases by U.S. Government: In an opinion submitted to the Secretary of War under date of December 26, 1936, the U.S. Attorney General advised that the Robinson-Patman Antidiscrimination Act" is not applicable to Government contracts for supplies." (38 Opinions, Attorney General 539.)

(2) That nothing contained in this paragraph shall prevent differentials which make only due allowance for differences in the cost of manufacture, sale, or delivery resulting from the differing methods or quantities in which such commodities are to such purchasers sold or delivered;

NOTE 1. Cost justification to be based on net savings in manufacture, sale or delivery: Cost justification under the above proviso depends upon net savings in cost based on all facts revelant to the transactions under the terms of subparagraph (2) of this paragraph. For example, if a seller regularly grants a discount based upon the purchase of a specified quantity by a single order for a single delivery, and this discount is justified by cost differences, it does not follow that the same discount can be cost justified if granted to a purchaser of the same quantity by multiple orders or for multiple deliveries.

NOTE 2. Credit or refund for return goods: In determining whether a price differential based on cost savings under the above pro-

[2] As used in this section the word "commerce" means "trade or commerce among the several States and with foreign nations, or between the District of Columbia or any Territory of the United States and any State, Territory, or foreign nation, or between any insular possessions or other places under the jurisdiction of the United States, or between any such possessions or place and any State or Territory of the United States or the District of Columbia or any foreign nation, or within the District of Columbia or any Territory or any insular possession or other place under the jurisdiction of the United States."

viso is warranted there shall be taken into account any portion of the goods involved which are returned by the customer-purchaser to the seller for credit or refund. See also Note 2 under paragraph (e) of this section.

(3) That nothing contained in this section shall prevent persons engaged in selling goods, wares, or merchandise in commerce from selecting their own customers in bona fide transactions and not in restraint of trade;

(4) That nothing contained in this paragraph shall prevent price changes from time to time where made in response to changing conditions affecting the market for or the marketability of the goods concerned, such as but not limited to obsolescence of seasonal goods, distress sales under court process, or sales in good faith in discontinuance of business in the goods concerned;

(5) That nothing contained in this section shall prevent the meeting in good faith of an equally low price of a competitor.

NOTE 1: Subsection (b) of section 2 of the Clayton Act, as amended, reads as follows:

Upon proof being made, at any hearing on a complaint under this section, that there has been discrimination in price or services or facilities furnished, the burden of rebutting the prima facie case thus made by showing justification shall be upon the person charged with a violation of this section, and unless justification shall be affirmatively shown, the Commission is authorized to issue an order terminating the discrimination; *Provided, however,* That nothing herein contained shall prevent a seller rebutting the prima facie case thus made by showing that his lower price or the furnishing of services or facilities to any purchaser or purchasers was made in good faith to meet an equally low price of a competitor, or the services or facilities furnished by a competitor.

NOTE 2: In complaint proceedings, justification of price differentials under subparagraphs (2), (4), and (5) of this paragraph is a matter of affirmative defense to be established by the person or concern charged with price discrimination.

(b) *Examples.* The following are examples of price differential practices to be considered as subject to the prohibitions of paragraph (a) of this section when involving goods of like grade and quality which are sold for use, consumption, or resale within any place under the jurisdiction of the United States, and which are not purchased by schools, colleges, universities, public libraries, churches, hospitals, and charitable institutions not operated for profit, as supplies for their own use,[3] and when:

(1) The commerce requirements specified in paragraph (a) of this section are present; and

(2) The price differential has a reasonable probability of substantially lessening competition or tending to create a monopoly in any line of commerce, or of injurying, destroying, or preventing competition with the industry member or with the customer receiving the benefit of the price differential, or with customers of either of them; and

(3) The price differential is not justified by cost savings (see subparagraph (2) of paragraph (a) of this section); and

(4) The price differential is not made in response to changing conditions affecting the market for or the marketability of the goods concerned (see subparagraph (4) of paragraph (a) of this section); and

(5) The lower price was not made to meet in good faith an equally low price of a competitor (see subparagraph (5) of paragraph (a) of this section).

Example No. 1. At the end of a given period an industry member grants a discount to a customer equivalent to a fixed percentage of the total of the customer's purchases during such period and fails to grant such discount to other customers under like conditions.

Example No. 2. An industry member sells goods to one or more of his customers at a higher price than he charges other customers for like merchandise. It is immaterial whether or not such discrimination is accomplished by misrepresentation as to the grade and quality of the products sold.

Example No. 3. Terms of 2/10th prox. are granted by an industry member to some customers on goods purchased by them from the industry member. Another customer or customers are, nevertheless, allowed to take a 5 percent instead of a 2 percent discount when making payment to the industry member within the time prescribed.

Example No. 4. An industry member sells goods to one or more of his customers at a lower price than he charges other customers therefor, basing his justification for the price difference solely on the fact that the goods sold at the lower price bear the private brand name of customers.

Example No. 5. An industry member invoices goods to all his customers at the same price but supplies additional quantities of such goods at no extra charge to one or more, but not to all, such customers; or supplies other goods or premiums to one or more, but not to all, such customers for which he makes no extra charge and which effects an actual price difference in favor of certain of his customers.

Example No. 6. An industry member sells goods to one or more of his customers at a higher price than he charges other customers for like merchandise. It is immaterial whether the goods sold at the lower price are classified by the industry member as "seconds," "secondary line," "rejects," or are otherwise represented by the industry member as inferior, if the goods are in fact of like grade and quality as the goods sold at the higher price.

NOTE: As previously indicated, the foregoing are examples of practices to be considered violative of the prohibitions of paragraph (a) of this section when involving goods of like grade and quality and when not subject to the other exemptions, exclusions, or defenses set forth in this paragraph.

(c) *Prohibited Brokerage and Commissions.* It is an unfair trade pratice for any member of the industry engaged in commerce, in the course of such commerce, to pay or grant, or to receive or accept, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, except for services rendered in connection with the sale or purchase of goods, wares, or merchandise, either to the other party to such transaction or to an agent, representative, or other intermediary therein where such intermediary is acting in fact for or in behalf, or is subject to the direct or indirect control, of any party to such transaction other than the person by whom such compensation is so granted or paid.

(d) *Prohibited advertising or promotional allowances, etc.* It is an unfair trade practice for any member of the industry engaged in commerce to pay or contract for the payment of advertising or promotional allowances or any other thing of value to or for the benefit of a customer of such member in the course of such commerce as compensation or in consideration for any services or facilities furnished by or through such customer in connection with the processing, handling, sale, or offering for sale of any products or commodities manufactured, sold, or offered for sale by such member, unless such payment or consideration is available on proportionally equal terms to all other customers competing in the distribution of such products or commodities.

NOTE 1: Industry members giving allowances for advertising or sales promotion must, in addition to according same to all competing customers on proportionally equal terms, exercise precaution and diligence in seeing that all such allowances are used by the customers for such purpose. Customers receiving such allowances must not use same for any other purpose.

When an allowance is made ostensibly for advertising or sales promotion of products and is not in fact used for that purpose the practice may constitute a price discrimination. In such case, the party giving the allowance may violate paragraph (a) of this section and the party receiving same may violate paragraph (f) of this section.

NOTE 2: When an industry member gives allowances to competing customers for advertising in a newspaper or periodical, the fact that a lower advertising rate for equivalent space is available to one or more, but not all, such customers, is not to be regarded by the industry member as warranting the retention by such customer or customers of any portion of the allowance for his or their personal use or benefit.

(e) *Prohibited discriminatory services or facilities.* It is an unfair trade practice for any member of the industry engaged in commerce to discriminate in favor of one purchaser against another purchaser or purchasers of a commodity bought for resale, with or without processing, by contracting to furnish or furnishing, or by contributing to the furnishing of, any services or facilities connected with the processing, handling, sale, or offering for sale of such commodity so purchased upon terms not accorded to all competing purchasers on proportionally equal terms.

NOTE 1: See subsection (b) of section 2 of the Clayton Act, as amended, which is set forth in Note 1 to subparagraph (5) of paragraph (a) of this section.

NOTE 2: Among the practices inhibited by paragraph (e) of this section is that of an industry member according to one or more customers the privilege of returning for credit or refund any or all of the goods purchased by them and failing to accord the same privilege to another or other competing customers on proportionally equal terms. In this connection see Note 2 under cost justification proviso (2) (subparagraph (2) of paragraph (a) of this section).

(f) *Inducing or receiving an illegal discrimination in price.* It is an unfair trade practice for any member of the industry engaged in commerce, in the

[3] See also Note under paragraph (a) (1) of this section.

course of such commerce, knowingly to induce or receive a discrimination in price which is prohibited by the foregoing provisions of this section.

NOTE: Section 47.17 is based on the provisions of section 2 of the Clayton Act as amended by the Robinson-Patman Act.

[Rule 17]

§ 47.18 Aiding or abetting use of unfair trade practices.

It is an unfair trade practice for any person, firm or corporation to aid, abet, coerce, or induce another, directly or indirectly, to use or promote the use of any unfair trade practice specified in this part. [Rule 18]

Issued: June 25, 1959.

Promulgated by the Federal Trade Commission June 30, 1959.

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

[F.R. Doc. 59-5399; Filed, June 29, 1959; 8:47 a.m.]

Title 26—INTERNAL REVENUE, 1954

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER E—ALCOHOL, TOBACCO, AND OTHER EXCISE TAXES

[T. D. 6393]

PART 196—STILLS

Miscellaneous Amendments

On May 7, 1959, a notice of proposed rule making with respect to the amendments of 26 CFR Part 196 was published in the FEDERAL REGISTER (24 F.R. 3695). No objection to the proposed amendments having been received during the 30-day period prescribed in the notice, the regulations as so published are hereby adopted.

Because this Treasury decision implements changes made in chapter 51 of the Internal Revenue Code of 1954 by the Excise Tax Technical Changes Act of 1958 (Public Law 85-859, 72 Stat. 1275) which are effective July 1, 1959, and in order that these regulations may become effective on the same date as the changes in law, it is hereby found that it is impracticable and contrary to the public interest to issue this Treasury decision subject to the effective date limitation of section 4(c) of the Administrative Procedure Act (60 Stat. 238; 5 U.S.C. 1003). Accordingly this Treasury decision shall be effective on July 1, 1959.

[SEAL] DANA LATHAM, *Commissioner of Internal Revenue.*

Approved: June 24, 1959.

FRED C. SCRIBNER, Jr., *Acting Secretary of the Treasury.*

In order to implement the applicable provisions of the Internal Revenue Code of 1954, as amended by the Excise Tax Technical Changes Act of 1958 (72 Stat. 1275), relating to stills and condensers, 26 CFR Part 196 is amended as follows:

PARAGRAPH 1. Section 196.1 is amended to read:

§ 196.1 Stills.

This part relates to the manufacture, taxpayment, removal, use, and registration of stills and condensers, and the exportation or transfer to foreign-trade zones of stills and condensers with benefit of drawback of internal revenue tax or without payment of tax.

PAR. 2. Section 196.9 is amended to read:

§ 196.9 Distilled spirits or spirits.

Distilled spirits or spirits shall mean that substance known as ethyl alcohol, ethanol, or spirits of wine, including all dilutions and mixtures thereof, from whatever source or by whatever process produced, and shall include whisky, brandy, rum, gin, and vodka.

§ 196.10 [Amendment]

PAR. 3. Section 196.10 is amended as follows:

(A) The first sentence is amended to read: " 'Distilling' shall mean the distillation of spirits as defined by section 5002(a)(6)(A), I.R.C."

(B) Paragraph (d) is amended by striking "ethyl alcohol" and "alcohol" and inserting "spirits" in lieu thereof.

(C) Paragraph (e) is amended by striking "alcohol" and inserting "spirits" in lieu thereof.

§ 196.11 [Amendment]

PAR. 4. Section 196.11 is amended by striking "or worm".

§ 196.17 [Amendment]

PAR. 5. Section 196.17 is amended by striking "or alcohol" and "alcohol or".

PAR. 6. Section 196.18 is amended to read:

§ 196.18 Condenser.

"Condenser" shall mean any apparatus capable of being used when connected with a still, for condensing or liquefying alcoholic or spirituous vapors, but shall not include condensers to be used with laboratory stills or stills used for distilling water or other nonalcoholic materials where the cubic capacity of such stills is one gallon or less.

PAR. 7. Subpart C is amended by striking "Or Worms" in the title thereof.

§ 196.25 [Amendment]

PAR. 8. Section 196.25 is amended as follows:

(A) By striking "or worms".

(B) The citation is amended to read:

(72 Stat. 1339; 26 U.S.C. 5102)

PAR. 9. Section 196.26 is amended to read as follows:

§ 196.26 Special tax liability; rate of tax.

Manufacturers of stills, as to each place of manufacture, shall pay a special (occupational) tax of $55, and, in addition thereto, a special (commodity) tax of $22, for each still or condenser to be used in distilling made by him, i.e., $22 for each still and $22 for each condenser: *Provided,* That the proprietor of a distilled spirits plant who manufactures stills or condensers exclusively for use in his plant or plants, shall not be subject to the special (occupational and commodity) taxes required by this section.

(72 Stat. 1339; 26 U.S.C. 5101, 5103)

§ 196.27 [Amendment]

PAR. 10. Section 196.27 is amended as follows:

(A) By striking "or worm" where it appears.

(B) By striking "distiller, or other" and the comma after "person".

(C) By changing the citation to read:

(72 Stat. 1339; 26 U.S.C. 5101)

PAR. 11. Section 196.28 is amended to read as follows:

§ 196.28 Materials or apparatus procured and converted into distilling apparatus.

If a person procures materials or apparatus which are not separately subject to tax under the provisions of this part and converts same into a still or condenser for distilling, he will, except as provided in § 196.26, incur liability for the special (occupational and commodity) taxes imposed upon manufacturers of stills.

(72 Stat. 1339; 26 U.S.C. 5102)

§ 196.29 [Amendment]

PAR. 12. Section 196.29 is amended as follows:

(A) By striking "or worm" where it appears.

(B) By inserting after "repairs or alterations" the following: ", unless exempted by the provisions of § 196.26,".

(C) By changing the citation to read:

(72 Stat. 1339; 26 U.S.C. 5101, 5102)

§ 196.30 [Amendment]

PAR. 13. Section 196.30 is amended as follows:

(A) By striking "or worm" in the two places it appears.

(B) By changing the citation to read:

(72 Stat. 1339; 26 U.S.C. 5102)

§ 196.31 [Amendment]

PAR. 14. Section 196.31 is amended as follows:

(A) By striking "or worm" in the first sentence.

(B) By changing the citation to read:

(72 Stat. 1339; 26 U.S.C. 5102)

§ 196.32 [Amendment]

PAR. 15. Section 196.32 is amended as follows:

(A) By striking "or worm" where it appears in the first sentence.

(B) By striking ", worm," after "still" in the last sentence.

(C) By changing the citation to read:

(72 Stat. 1339; 26 U.S.C. 5102)

§ 196.33 [Amendment]

PAR. 16. Section 196.33 is amended by striking "or worm" in the first sentence and "or worms" in the last sentence of paragraph (c).

§ 196.34 [Amendment]

PAR. 17. Section 196.34 is amended by striking "or worms".

PAR. 18. Section 196.36 is amended to read as follows:

§ 196.36 Special (occupational) tax.

Except as provided in § 196.26 (in the case of distillers), no person shall engage in or carry on the trade or business of manufacturing stills or condensers to be used in distilling until he has paid the special (occupational) tax imposed by section 5101, I.R.C. Special taxes shall be imposed as of the first day of July in each year, or on commencing any trade or business on which such tax is imposed. In the former case, the tax shall be reckoned for one year, and in the latter, it shall be reckoned proportionately from the 1st day of the month in which the liability to the special tax commenced, to and including the 30th day of June following.

(72 Stat. 1346; 26 U.S.C. 5142)

PAR. 19. Section 196.38 is amended to read as follows:

§ 196.38 Special (commodity) tax.

The special (commodity) tax on each still or condenser intended for distilling is due, except as provided in § 196.26, when the manufacture thereof is completed and shall be paid before such article is removed from the place of manufacture, unless removed without payment of tax for exportation or deposit in a foreign-trade zone, or before being set up, if manufactured on the premises where intended to be used. The special (commodity) tax stamp denoting tax-payment shall be canceled by the manufacturer by writing across the face thereof, in permanent ink, the word "canceled" followed by the name of the manufacturer, the manufacturer's serial number of the article, and the date of cancellation.

(72 Stat. 1339, 1340; 26 U.S.C. 5101, 5106)

§ 196.40 [Amendment]

PAR. 20. Section 196.40 is amended as follows:

(A) By striking "Under the law" in the first sentence and inserting "Except as provided in § 196.26," in lieu thereof.

(B) By striking "worm or" in the first sentence.

(C) By striking "or worm" and "worm or" in the second sentence.

(D) By striking "worm or" in paragraph (a).

(E) By striking "alcohol" in paragraph (a) and inserting "spirits" in lieu thereof.

(F) By striking "worm or" in paragraph (d).

(G) By changing the citation to read:

(72 Stat. 1339; 26 U.S.C. 5101)

§ 196.42 [Amendment]

PAR. 21. Section 196.42 is amended as follows:

(A) By striking "worm," in the first sentence.

(B) By inserting after "United States" in the second sentence "or without payment of tax for exportation or removal to a foreign-trade zone,".

(C) By deleting the parenthetical phrase "(see §§ 196.60 to 196.72 relative to exportation of stills and worms with benefit of drawback.)"

(D) By changing the citation to read:

(72 Stat. 1339; 26 U.S.C. 5105)

PAR. 22. Section 196.44 is amended to read as follows:

§ 196.44 Failure to give notice; penalty.

Failure to give notice of intention to remove and obtain the permit to set up a still is punishable by a fine of not more than $1,000 or imprisonment for not more than one year, or both, and the distilling apparatus is forfeitable to the Government.

(72 Stat. 1405, 1412; 26 U.S.C. 5615, 5687)

PAR. 23. Section 196.45 is amended as follows:

§ 196.45 Registration with assistant regional commissioner.

Every person having in his possession or custody, or under his control, any still, or distilling apparatus set up, shall register such still or apparatus with the assistant regional commissioner of the region in which such still or distilling apparatus is located immediately on its being set up (except that stills or distilling apparatus not used or intended to be used for the distillation, redistillation, or recovery of distilled spirits are not required to be registered under this section). The registration shall be filed on Form 26, except that where so provided in other regulations under this chapter the registration shall be accomplished by describing the still or distilling apparatus on the application for registration of the plant or on the permit application. An approved copy of the registration will be returned to the registrant by the assistant regional commissioner and shall be retained on the premises where the still is set up for examination by internal revenue officers.

(72 Stat. 1355; 26 U.S.C. 5179)

§ 196.46 [Amendment]

PAR. 24. Section 196.46 is amended as follows:

(A) By striking "worm or" in the first sentence, and "or worms" in the second sentence.

(B) By changing the citation to read:

(72 Stat. 1355; 26 U.S.C. 5179)

PAR. 25. The title of Subpart D is amended to read as follows: "Exportation and Removals to Foreign-Trade Zones."

PAR. 26. Section 196.60 is amended to read as follows:

§ 196.60 Exportation.

An exportation is a severance of goods from the mass of things belonging to this country with the intention of uniting them to the mass of things belonging to some foreign country. The export character of any shipment will be determined by the intention with which it is made. The shipment assumes an export character only when destined for use in a foreign country. For the purpose of this part, shipments to Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Panama Canal Zone shall be treated as exportations. Shipments to Hawaii, Kingman's Reef, the Midway Islands, or Wake Island are not exportations within the meaning of this part.

(68A Stat. 908; 26 U.S.C. 7653)

PAR. 27. By inserting a new section, reading as follows, immediately after § 196.60.

§ 196.60a Export status.

Stills and condensers of domestic manufacture deposited in a foreign-trade zone under this part shall be considered to be exported for the purpose of the internal revenue laws generally and the regulations in this part. Export status is not acquired until application on Zone Form D for admission of such stills or condensers into the zone has been approved by the collector of customs and he has certified on the Internal Revenue Service form as to the deposit of the apparatus in the zone.

(48 Stat. 999, 72 Stat. 1340; 19 U.S.C. 81c, 26 U.S.C. 5106)

PAR. 28. Sections 196.61 to 196.63 are amended to reads as follows:

§ 196.61 Marking of stills or condensers.

Stills or condensers to be exported or deposited in a foreign-trade zone shall be identified as required by § 196.33. If the apparatus is to be shipped in a container, the required marks shall also be shown on such container in a manner which will enable ready identification by customs officers.

EXPORTATION WITHOUT PAYMENT OF TAX

§ 196.62 Exportation without payment of tax.

Stills and condensers for distilling, marked and branded as required by § 196.61, may be removed from the place of manufacture without payment of tax for exportation, or for deposit in a foreign-trade zone. The manufacturer shall keep records and submit reports concerning such stills as required by §§ 196.80 and 196.82.

(72 Stat. 1340, 1348; 26 U.S.C. 5106, 5146)

EXPORTATION WITH BENEFIT OF DRAWBACK

§ 196.63 Drawback of tax.

Drawback of the tax paid on stills and condensers which have not been used is allowable upon their exportation or deposit in a foreign-trade zone for exportation, destruction, or storage therein pending exportation. Where such stills and condensers are to be exported or deposited in a foreign-trade zone and drawback is desired, the exporter shall make application for allowance of drawback, and deliver such articles into customs custody as provided in this part. Where distilling apparatus deposited in a foreign-trade zone is to be destroyed, the exporter shall file application for such destruction on Zone Form E with the collector of customs in accordance with the provisions of Customs Regulations (19 CFR Chapter 1). After the apparatus has been inspected and destroyed, the customs officer shall modify and sign his certificate on Form 1610 indicating receipt and destruction of the

apparatus under his supervision and indicate on the certificate the date of deposit, the date of destruction, and, in lieu of the port of clearance, the number and location of the zone.

(72 Stat. 1340; 26 U.S.C. 5106)

PAR. 29. Section 196.64 is amended to read as follows:

§ 196.64 Request for inspection; entry for exportation; drawback claim.

Before any still or condenser on which drawback is to be claimed is removed from the exporter's premises, he shall forward to the district director of his district Form 1610, in triplicate, with parts 1 and 2 properly executed. Where the still or condenser is to be removed to a foreign-trade zone or where the exporter is not the manufacturer of the apparatus to be exported, the exporter shall appropriately modify parts 1 and 2 of such form. Request for release of the apparatus and application for allowance of drawback, equal to the internal revenue tax paid on the apparatus shall be made in part 1 of the form. Entry for exportation of the apparatus or deposit in a foreign-trade zone and claim for drawback of the internal revenue tax paid thereon shall be made by the exporter in part 2 of the form. The stamps denoting payment of the tax shall be attached to the original of the claim.

PAR. 30. Section 196.65 is amended to read as follows:

§ 196.65 Payment of tax; inspection by internal revenue officer: certificate.

Upon the receipt of claim and entry on Form 1610 and on the payment of the tax due, the district director shall direct an internal revenue officer to proceed to the exporter's premises and, if the stills or condensers are found to agree with those described in the form, and are properly marked or branded as required by this part, such officer shall execute the certificate in part 4 of the form. The internal revenue officer shall determine that the stamp or stamps attached to the claims have been canceled in the manner prescribed in § 196.38. He shall then release the apparatus for delivery to the carrier or into customs custody, and mail or deliver two copies of the Form 1610 (one the original with the special tax stamps attached) to the collector of customs at the port of export or to the customs officer in charge at the foreign-trade zone, as the case may be, and forward the remaining copy to the district director.

(72 Stat. 1340; 26 U.S.C. 5106)

PAR. 31. Section 196.66 is amended to read as follows:

§ 196.66 Shipment from premises located at the port of exportation.

The exporter shall deliver the shipment directly for customs inspection and supervision of lading or to the customs officer in charge of the foreign-trade zone. If the apparatus is intended for immediate exportation, the drawback entry, Form 1610, shall be filed with the collector of customs at least six hours prior to the lading of the distilling apparatus in order to allow opportunity for customs inspection. The exporter shall file a copy of the bill of lading covering export or consignment to the foreign-trade zone, as the case may be, with the district director of the district from which the shipment is made, for attachment to the copy of Form 1610 retained by him. The bill of lading shall show the exporter as the shipper, the manufacturer's serial number of the articles and the number of articles contained in the shipment.

(72 Stat. 1340; 26 U.S.C. 5106)

PAR. 32. Section 196.67 is amended to read as follows:

§ 196.67 Shipment from premises not located at the port of exportation.

The exporter shall deliver the shipment either directly for customs inspection and supervision of lading, to a common carrier for transportation to the port of export, or to the customs officer in charge of the foreign-trade zone. The exporter shall transmit a copy of the bill of lading covering such transportation and a copy of the export bill of lading, or if consigned to a foreign-trade zone, a copy of the bill of lading covering shipment thereto, to the district director, for attachment to the copy of Form 1610 retained by him. In case of exportation through a border port to contiguous foreign territory, the bill of lading shall show the routing, particularly the name of the carrier that is to deliver the shipment for customs inspection at the border port, and shall cover transportation to the foreign destination: *Provided*, That where a through bill of lading is not obtainable, separate bills of lading covering the shipment to the border port and from the border port to the foreign destination shall be procured. The bill of lading shall also show that the shipment was sent in care of the collector of customs or the deputy collector of customs at the border port. One copy of the through bill of lading or of each of the separate bills of lading, as the case may be, shall be transmitted by the exporter or his agent immediately by letter to the district director, for attachment to the copy of Form 1610 retained by him.

(72 Stat. 1340; 26 U.S.C. 5106)

PAR. 33. Section 196.68 is amended to read as follows:

§ 196.68 Inspection and lading.

The collector of customs to whom claim and entry on Form 1610 is transmitted by the internal revenue officer shall fill in on each copy of said form the order for inspection and lading or deposit in a foreign-trade zone. The customs officer shall examine the apparatus described in the entry and he shall, if he finds the articles to be otherwise than described, make a special report thereon. After having complied with the order of inspection and after the apparatus has been duly laden on board the conveyance of the export carrier or deposited in the foreign-trade zone, the officer shall complete and sign the certificate of inspection and lading or deposit in part 6 of Form 1610. If the apparatus is deposited in a foreign-trade zone, the form shall be appropriately modified. If the customs officer discovers any evidence of fraud, he shall detain the apparatus and notify the collector of customs who shall inform the assistant regional commissioner of the region in which the port or foreign-trade zone is located.

(72 Stat. 1340; 26 U.S.C. 5106)

PAR. 34. Section 196.69 is amended to read as follows:

§ 196.69 Certificate of exportation.

After inspection and lading and clearance for a foreign port of the vessel or car on which the articles described in the entry were laden or after deposit in the foreign-trade zone, the collector of customs shall execute the certificate of exportation, appropriately modified to show deposit in a foreign-trade zone, where applicable, on each copy of the claim and entry, Form 1610. He shall retain one copy of the form for his entry record and transmit the original to the district director for the district from which the apparatus was shipped.

(72 Stat. 1340; 26 U.S.C. 5106)

PAR. 35. Section 196.72 is amended to read as follows:

§ 196.72 Penalty for fraudulently claiming drawback.

One who fraudulently claims or seeks to obtain an allowance of drawback on merchandise on which no tax has been paid, or a greater allowance of drawback than the tax actually paid, is liable to a fine of not more than $1,000, or imprisonment for not more than one year, or both.

(72 Stat. 1412; 26 U.S.C. 5687)

§ 196.80 [Amendment]

PAR. 36. Section 196.80 is amended as follows:

(A) By striking "territories" in the first sentence and inserting "territory" in lieu thereof.

(B) By striking "and Alaska" after Hawaii in the first sentence.

§ 196.81 [Amendment]

PAR. 37. Section 196.81 is amended by inserting "or transfer to a foreign-trade zone" after "exportation" in the text.

PAR. 38. Section 196.82 is amended to read as follows:

§ 196.82 Bill of lading required.

When any distilling apparatus is removed for exportation or for deposit in a foreign-trade zone without payment of tax, the vendor must obtain a copy of the bill of lading covering exportation or consignment to a foreign-trade zone, as the case may be. Such bill of lading must be kept available for a period of not less than 2 years for inspection by internal revenue officers.

[F.R. Doc. 59-5435; Filed, June 29, 1959; 8:51 a.m.]

PART 201—DISTILLED SPIRITS PLANTS

Correction

In F.R. Doc. 59-4880, appearing at page 4791 of the issue for Friday, June

12, 1959, the following changes should be made:

1. In § 201.142, that portion now shown as paragraph (c) should read:

(c) The premises on which the applicant proposes to conduct the business are not adequate to protect the revenue;

the assistant regional commissioner may institute proceedings for the denial of the application in accordance with the procedures set forth in Part 200 of this chapter.

2. In the 4th line of § 201.482, a comma should be inserted after the words "payment of tax".

[T.D. 6392]

PART 296—TOBACCO MATERIALS, TOBACCO PRODUCTS, AND CIGARETTE PAPERS AND TUBES

Losses Caused by Disaster

On April 8, 1959, a notice of proposed rulemaking with respect to regulations designated as Subpart C of Part 296 of Title 26 of the Code of Federal Regulations was published in the FEDERAL REGISTER (24 F.R. 2688). The proposed regulations would implement the provisions of section 5708 of the Internal Revenue Code of 1954, as amended by the Excise Tax Technical Changes Act of 1958 (Public Law 85–859, 72 Stat. 1275), which provides for relief in respect of internal revenue taxes paid or determined, and customs duties paid, on tobacco products and cigarette papers and tubes lost, rendered unmarketable, or condemned by duly authorized officials by reason of a "major disaster" occurring in any part of the United States on or after the day following the date of enactment of the Act. No data, views or arguments having been received during the period of 30 days prescribed in the notice, the regulations so published are hereby adopted.

Because section 5708 of the Internal Revenue Code of 1954, as amended by the Excise Tax Technical Changes Act of 1958, applies to losses caused by disasters occurring after the date of enactment of such Act, it is found that it is contrary to the public interest to issue this Treasury decision subject to the effective date limitation of section 4(c) of the Administrative Procedure Act (60 Stat. 238; 5 U.S.C. 1003). Accordingly, this Treasury decision shall be retroactively effective as of September 3, 1958.

(68A Stat. 917; 26 U.S.C. 7805)

[SEAL] DANA LATHAM,
Commissioner of Internal Revenue.

RALPH KELLY,
Commissioner of Customs.

Approved: June 24, 1959.

FRED C. SCRIBNER, Jr.,
Acting Secretary of the Treasury.

Section 5708 of the Internal Revenue Code of 1954, as amended by section 202 of the Excise Tax Technical Changes Act of 1958 (Public Law 85–859, 72 Stat. 1275), reads as follows:

SEC. 5708. *Losses caused by disaster.*

(a) *Authorization.* Where the President has determined under the Act of September 30, 1950 (42 U.S.C., sec. 1855), that a "major disaster" as defined in such Act has occurred in any part of the United States, the Secretary or his delegate shall pay (without interest) an amount equal to the amount of the internal revenue taxes paid or determined and customs duties paid on tobacco products and cigarette papers and tubes removed, which were lost, rendered unmarketable, or condemned by a duly authorized official by reason of such disaster occurring in such part of the United States on and after the effective date of this section, if such tobacco products or cigarette papers or tubes were held and intended for sale at the time of such disaster. The payments authorized by this section shall be made to the person holding such tobacco products or cigarette papers or tubes for sale at the time of such disaster.

(b) *Claims.* No claim shall be allowed under this section unless—

(1) Filed within 6 months after the date on which the President makes the determination that the disaster referred to in subsection (a) has occurred; and

(2) The claimant furnishes proof to the satisfaction of the Secretary or his delegate that—

(A) He was not indemnified by any valid claim of insurance or otherwise in respect of the tax, or tax and duty, on the tobacco products or cigarette papers or tubes covered by the claim, and

(B) He is entitled to payment under this section.

Claims under this section shall be filed under such regulations as the Secretary or his delegate shall prescribe.

(c) *Destruction of tobacco products or cigarette papers or tubes.* Before the Secretary or his delegate makes payment under this section in respect of the tax, or tax and duty, on the tobacco products or cigarette papers or tubes condemned by a duly authorized official or rendered unmarketable, such tobacco products or cigarette papers or tubes shall be destroyed under such supervision as the Secretary or his delegate may prescribe, unless such tobacco products or cigarette papers or tubes were previously destroyed under supervision satisfactory to the Secretary or his delegate.

(d) *Other laws applicable.* All provisions of law, including penalties, applicable in respect of internal revenue taxes on tobacco products and cigarette papers and tubes shall, insofar as applicable and not inconsistent with this section, be applied in respect of the payments provided for in this section to the same extent as if such payments constituted refunds of such taxes.

In order to implement the above provisions of law, Subpart C of 26 CFR Part 296, "Miscellaneous Regulations Relating to Tobacco Materials, Tobacco Products, and Cigarette Papers and Tubes," is prescribed.

Subpart C—Losses of Tobacco Products and Cigarette Papers and Tubes Caused by a Disaster Occurring After the Date of Enactment of the Excise Tax Technical Changes Act of 1958

Sec.
296.71 Scope of subpart.

DEFINITIONS

296.72 Meaning of terms.

PAYMENTS

296.73 Circumstances under which payment may be made.

CLAIMS PROCEDURE

296.74 Execution and filing of claims.
296.75 Separation of imported and domestic tobacco products and cigarette papers and tubes; separate claims for taxes and duties.
296.76 Claimant to furnish satisfactory proof.
296.77 Supporting evidence.
296.78 Action by assistant regional commissioner.

DESTRUCTION OF TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES

296.79 Supervision.

PENALTIES

296.80 Penalties.

AUTHORITY: §§ 296.71 to 296.80, inclusive, are issued under authority of section 7805, I.R.C. (68A Stat. 917; 26 U.S.C. 7805) and interpret or apply sec. 5708, I.R.C., (72 Stat. 1420; 26 U.S.C. 5708).

§ 296.71 Scope of subpart.

This subpart prescribes the requirements necessary to implement section 5708, I.R.C., concerning payments which may be made by the United States in respect to the internal revenue taxes paid or determined and customs duties paid on tobacco products and cigarette papers and tubes removed, which were lost, rendered unmarketable, or condemned by a duly authorized official by reason of a disaster occurring in the United States on or after the day following the date of enactment of the act.

DEFINITIONS

§ 296.72 Meaning of terms.

When used in this subpart, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meanings ascribed in this section. Words in the plural shall include the singular, and vice versa, and words importing the masculine gender shall include the feminine as well. The terms "includes" and "including" do not exclude things not enumerated which are in the same general class.

Act. The Excise Tax Technical Changes Act of 1958 (Public Law 85–859, 72 Stat. 1275), enacted September 2, 1958.

Assistant regional commissioner. An assistant regional commissioner (alcohol and tobacco tax) who is responsible to, and functions under the direction and supervision of, a regional commissioner of internal revenue.

Claimant. The person who held the tobacco products or cigarette papers or tubes for sale at the time of the disaster and who files claim under this subpart.

Commissioner. The Commissioner of Internal Revenue.

Commissioner of Customs. The Commissioner of Customs, Bureau of Customs, Treasury Department, Washington, D.C.

Disaster. A flood, fire, hurricane, earthquake, storm, or other catastrophe which has occurred in any part of the United States on and after the day following the date of enactment of the act and which the President of the United States has determined, under the Act of September 30, 1950 (64 Stat. 1109; 42 U.S.C. 1855), was a "major disaster" as defined in such Act.

Duly authorized official. Any Federal, State, or local government official in whom has been vested authority to condemn tobacco products and cigarette papers and tubes made the subject of a claim under this subpart.

Duty or duties. Any duty or duties paid under the customs laws of the United States.

I.R.C. The Internal Revenue Code of 1954.

Removal or remove. The removal of tobacco products or cigarette papers or tubes from the factory, or release of such articles from customs custody.

Tax paid or determined. The internal revenue tax on tobacco products and cigarette papers and tubes which has actually been paid, or which has been determined pursuant to section 5703(b), I.R.C., and regulations thereunder, at the time of their removal subject to tax payable on the basis of a return.

Tobacco products. Manufactured tobacco, cigars, and cigarettes.

United States. When used in a geographical sense, includes only the States, the Territory of Hawaii, and the District of Columbia.

PAYMENTS

§ 296.73 Circumstances under which payment may be made.

Assistant regional commissioners shall allow payment (without interest) of an amount equal to the amount of tax paid or determined, and the Commissioner of Customs shall allow payment (without interest) of an amount equal to the amount of customs duty paid, on tobacco products and cigarette papers and tubes removed, which are lost, rendered unmarketable, or condemned by a duly authorized official by reason of a disaster occurring in the United States on and after the day following the date of enactment of the act. Such payments may be made only if, at the time of the disaster, such tobacco products or cigarette papers or tubes were being held for sale by the claimant. No payment shall be made under this subpart with respect to any amount of tax or duty claimed or to be claimed under any other provision of law or regulations.

CLAIMS PROCEDURE

§ 296.74 Execution and filing of claims.

Claims under this subpart shall be executed on Form 843 (Internal Revenue) in accordance with such instructions thereon as are applicable, and filed with the assistant regional commissioner of the internal revenue region in which the tobacco products or cigarette papers or tubes were lost, rendered unmarketable, or condemned, within 6 months after the date on which the President makes the determination that the disaster has occurred. The claim shall state all the facts on which the claim is based, and shall set forth the number of small cigars, large cigars (itemized separately as to each tax class), small cigarettes, large cigarettes, cigarette papers, and cigarette tubes, and the quantity (in pounds) of manufactured tobacco, as the case may be, and the rate of tax and the amount claimed with respect to each article set forth, substantially in the form as shown in the example below.

Example:

Quantity	Article and tax class	Rate of tax [1]	Amount
20,000	Small cigars	$0.75 per M	$15.00
5,000	Large cigars—class D	$7 per M	35.00
1,000	Large cigars—class E	$10 per M	10.00
500	Large cigars—class G	$20 per M	10.00
10,000	Small cigarettes	$4 per M	40.00
5,000	Large cigarettes	$8.40 per M	42.00
2,000 sets	Cigarette papers—50 each set	$0.00½ per set	10.00
1,000 sets	Cigarette papers—100 each set	$0.01 per set	10.00
1,000	Cigarette tubes	$0.01 per 50 tubes	.20
500 pounds	Manufactured tobacco (including smoking and chewing tobacco, and snuff).	$0.10 per pound	50.00
Total claimed			222.20

[1] Rates shown are those in effect on September 2, 1958, date of enactment of the Excise Tax Technical Changes Act of 1958.

The claimant shall certify on the claim to the effect that no amount of internal revenue tax or customs duty claimed therein has been or will be otherwise claimed under any other provision of law or regulations.

§ 296.75 Separation of imported and domestic tobacco products and cigarette papers and tubes; separate claims for taxes and duties.

If a claim involves taxes on domestic tobacco products or cigarette papers or tubes and imported tobacco products or cigarette papers or tubes, the quantities of each must be shown separately in the claim. A separate claim must be filed, with the assistant regional commissioner, in respect of customs duties.

§ 296.76 Claimant to furnish satisfactory proof.

The claimant shall furnish proof to the satisfaction of the assistant regional commissioner regarding the following:

(a) That the tax on such tobacco products or cigarette papers or tubes has been paid or determined and customs duty has been paid;

(b) That such tobacco products or cigarette papers or tubes were lost, rendered unmarketable, or condemned by a duly authorized official, by reason of a disaster;

(c) The type and date of occurrence of the disaster and the location of the tobacco products or cigarette papers or tubes at that time;

(d) That the claimant was not indemnified by any valid claim of insurance or otherwise in respect of the tax, or tax and duty, on the tobacco products or cigarette papers or tubes covered by the claim; and

(e) That the claimant is entitled to payment under this subpart.

§ 296.77 Supporting evidence.

The claimant shall support his claim with any evidence (such as inventories, statements, invoices, bills, records, stamps, and labels) that he is able to submit, relating to the tobacco products or cigarette papers or tubes on hand at the time of the disaster and averred to have been lost, rendered unmarketable, or condemned as a result thereof. If the claim is for refund of duty the claimant shall furnish, if practicable, the customs entry number, date of entry, and the name of the port of entry.

§ 296.78 Action by assistant regional commissioner.

The assistant regional commissioner will date stamp and examine each claim filed under this subpart and will determine the validity of the claim. The claim will then be processed by him in accordance with existing procedures. Claims and supporting data involving customs duties will be forwarded to the Commissioner of Customs with a summary statement by the assistant regional commissioner concerning his findings. The Commissioner of Customs will notify the assistant regional commissioner as to allowance under this subpart of claims for duty in respect of unmarketable or condemned tobacco products and cigarette papers and tubes.

DESTRUCTION OF TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES

§ 296.79 Supervision.

Before payment is made under this subpart in respect of the tax, or tax and duty, on tobacco products or cigarette papers or tubes rendered unmarketable or condemned by a duly authorized official, such tobacco products or cigarette papers or tubes shall be destroyed by suitable means under the supervision of an internal revenue officer who will be assigned for that purpose by the assistant regional commissioner, unless such tobacco products or cigarette papers or tubes were previously destroyed under supervision satisfactory to the assistant regional commissioner.

PENALTIES

§ 296.80 Penalties.

Penalties are provided in sections 7206 and 7207 of the Internal Revenue Code for the execution under the penalties of perjury of any false or fraudulent statement in support of any claim and for the filing of any false or fraudulent document under this subpart. All provisions of law, including penalties, applicable in respect of internal revenue taxes on tobacco products and cigarette papers and tubes shall, insofar as applicable and not inconsistent with this subpart, be applied in respect of the payments provided for in this subpart to the same extent as if such payments constituted refunds of such taxes.

[F.R. Doc. 59-5434; Filed, June 29, 1959; 8:51 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

Effective Date of Order Acting on Proposal To Amend Color-Certification Regulations With Respect to Lakes

In the matter of amending the color-certification regulations with respect to lakes:

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (Sec. 701, 52 Stat. 1055, as amended 70 Stat. 919, 72 Stat. 948; 21 U.S.C. 371) and in accordance with the authority delegated to the Commissioner of Food and Drugs by the Secretary of Health, Education, and Welfare (22 F.R. 1045), notice is hereby given that no objections were filed to the order published in the FEDERAL REGISTER of May 13, 1959 (24 F.R. 3818), and the amendment promulgated by that order will become effective on July 12, 1959.

(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, 1052; 21 U.S.C. 346(b), 364)

Dated: June 23, 1959.

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

[F.R. Doc. 59-5400; Filed, June 29, 1959; 8:47 a.m.]

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 19—CHEESES; PROCESSED CHEESES; CHEESE FOODS; CHEESE SPREADS, AND RELATED FOODS; DEFINITIONS AND STANDARDS OF IDENTITY

Effective Date of Order Amending Standard of Identity for Samsoe Cheese

In the matter of amending the standard of identity for samsoe cheese:

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 701, 52 Stat. 1055, as amended; 21 U.S.C. 371) and in accordance with 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), notice is hereby given that no objections were filed to the order published in the FEDERAL REGISTER of May 14, 1959 (24 F.R. 3865), and the amendment promulgated by that order will become effective on July 14, 1959, on which date, as announced in the order, the stay of the definition and standard of identity for samsoe cheese (21 F.R. 2918) shall end.

(Sec. 701, 52 Stat. 1055, as amended; 21 U.S.C. 371. Interprets or applies sec. 401, 52 Stat. 1046, as amended; 21 U.S.C. 341)

Dated: June 23, 1959.

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

[F.R. Doc. 59-5401; Filed, June 29, 1959; 8:47 a.m.]

Title 24—HOUSING AND HOUSING CREDIT

Chapter II—Federal Housing Administration, Housing and Home Finance Agency

SUBCHAPTER M—MILITARY AND ARMED SERVICES HOUSING MORTGAGE INSURANCE

PART 292a—ARMED SERVICES HOUSING INSURANCE; ELIGIBILITY REQUIREMENTS OF MORTGAGE

Application Fee

Section 292a.3 is amended to read as follows:

§ 292a.3 Application fee.

(a) No application will be considered unless the fee therefor has been paid. This fee, referred to as the application fee, is $1.50 per thousand of the face amount of the loan applied for.

(b) If an application is rejected before it is assigned for processing by the Commissioner, or in such other instances as the Commissioner may determine, the entire fee or any portion thereof may be returned to the applicant.

(Sec. 807, 69 Stat. 651; 12 U.S.C. 1748f. Interprets or applies sec. 803, 69 Stat. 646, as amended; 12 U.S.C. 1748b)

Issued at Washington, D.C., June 25, 1959.

[SEAL] JULIAN H. ZIMMERMAN,
Federal Housing Commissioner.

[F.R. Doc. 59-5421; Filed, June 29, 1959; 8:49 a.m.]

Title 39—POSTAL SERVICE

Chapter I—Post Office Department

PART 2—DOMESTIC MAIL SERVICE

PART 15—MATTER MAILABLE UNDER SPECIAL RULES

PART 17—CONDITIONS APPLICABLE TO PARCELS ADDRESSED TO CERTAIN MILITARY POST OFFICES OVERSEAS

PART 36—SPECIAL CANCELLATIONS

Miscellaneous Amendments

Regulations of the Post Office Department are amended as follows:

§ 2.1 [Amendment]

I. In § 2.1 *Domestic mail service* strike out "Alaska" where it appears in the list of territories and possessions therein.

NOTE: The corresponding Postal Manual section is 112.

(R.S. 161, as amended, 396, as amended; 5 U.S.C. 22, 369)

§ 15.3 [Amendment]

II. In § 15.3 *Perishable matter* make the following changes in paragraph (c):

A. Amend subparagraph (7) to read as follows:

(7) Shipments shall not be forwarded to the addressee from the office of original address nor returned to sender if delivery cannot be made to either the addressee or sender within 60 hours of the time of hatching, but will be disposed of in accordance with § 48.2(h) of this chapter. Shipments that are delayed beyond the 60-hour limit by washouts, snow blockades, wrecks, and the like, will be disposed of by postmasters in accordance with instructions in § 48.2(h) of this chapter.

B. Subparagraph (8) is hereby rescinded, and subparagraphs (9), (10), (11), (12), (13) and (14) are redesignated (8), (9), (10), (11), (12) and (13) respectively.

C. New subparagraph (8) is amended to read as follows:

(8) If a shipment is received at the office of address and it is not promptly accepted by the addressee, it will be held for delivery until the expiration of the 60-hour period from the time of hatching, if there is a possibility that delivery may be made within that period. If, at the expiration of the 60-hour period, the shipment has not been accepted, it will be sold. Such shipments will not be sold to the original addressee unless paid for in full. If the parcel is sent collect-on-delivery, the COD charges plus the money order fee will show the minimum amount which may be accepted from the addressee, which is the amount that would have been collected from the addressee had the parcel been accepted when originally offered for delivery. If the parcel is sent as ordinary or insured mail and the price is not known to the postmaster, the addressee will not be permitted to buy the chicks after refusing to accept them but the shipment will be disposed of in accordance with § 48.2(h) of this chapter.

NOTE: The corresponding Postal Manual section is 125.33 g through n.

(R.S. 161, as amended, 396, as amended, sec. 24, 20 Stat. 361, sec. 1, 62 Stat. 781, as amended; 5 U.S.C. 22, 369, 18 U.S.C. 1716, 39 U.S.C. 250)

§ 17.1 [Amendment]

III. Section 17.1 *Conditions applicable to parcels addressed to certain military post offices overseas*, as amended by Federal Register Document 59-649 (24 F.R. 566), is further amended as follows:

A. The column headed "Weight restricted to 50 pounds" is amended to read "Weight for other than registered mail restricted to 50 pounds."

B. Delete the following APO numbers and their accompanying data: 126, 157, 190, 354 and 500.

C. Insert in proper order the following APO numbers and Post Offices Navy numbers with their accompanying data:

Military APO No.	Post offices Navy No.*	Cigarettes and other tobacco products prohibited [8]	Coffee prohibited	Other prohibited items	Weight for other than registered mail restricted to 50 pounds	Customs declaration on form 2966 or 2976-A required
95	------	------	------	[7] X	------	------
98	------	------	------	[7] X	------	------
330	------	X	X	[7] X	------	------
	566	X	------	[7] X	------	------
	570	------	------	[7] X	------	------
900	------	------	------	[7] X	------	------

D. Under the column headed "Other prohibited items" and opposite "Military APO numbers 319 and 843, strike out "7X" and insert in lieu thereof "10X".

E. Footnote 10 is added to read as follows:

[10] Mailable firearms may be shipped by air parcel post only. (See § 15.5 of this chapter concerning concealable firearms.) All other parcels may not contain firearms of any type.

NOTE: The corresponding Postal Manual Section is 127.

(R.S. 161, as amended, 396, as amended, 398, as amended; 5 U.S.C. 22, 369, 372)

IV. Part 36 Special cancellations, is amended to read as follows:

PART 36—SPECIAL CANCELLATIONS

Sec.
36.1 Description of machine cancellation.
36.2 Use of special cancellations.
36.3 Cost.
36.4 Wording.
36.5 Application.
36.6 Authorization.
36.7 Deposition.
36.8 Revocation.

AUTHORITY: §§ 36.1 to 36.8 issued under R.S. 161, as amended, 396, as amended, sec. 1, 2, 42 Stat. 539, 540; 5 U.S.C. 22, 369, 39 U.S.C. 368.

§ 36.1 Description of machine cancellations.

The canceling of postage stamps and the printing of the postmark circle on letter mail is accomplished simultaneously by the inked die hubs of high speed canceling machines. The cancellation portion of the impression appears to the right of the postmark circle and consists of lines, or messages, to sufficiently deface stamps in the area indicated in the following diagram:

§ 36.2 Use of special cancellations.

(a) *When.* (1) Special canceling machine die hubs may be authorized for use in place of the regular die hubs at designated post offices. Permission for their use is granted by the Postmaster General for advertising purposes in one of the following cases only:

(i) Where the event to be advertised is for some national purpose for which Congress has made an appropriation.

(ii) Where the event to be advertised is of general public interest and importance, to endure for a definite period of time, and is not to be conducted for private gain or profit.

(2) Special cancellations are not authorized for:

(i) Events of interest primarily to a particular local group.

(ii) Fraternal, political, religious, commercial, or trade organizations.

(iii) Campaigns or events promoting the sale or use of private products or services.

(iv) Idea or slogan promotion not directly connected with an event of general public interest and importance.

(v) Events which occur during a period when all canceling machines in the post office have already been scheduled for the use of other special cancellation die hubs.

(b) *Where.* The cancellation may be used only in first- or second-class post offices.

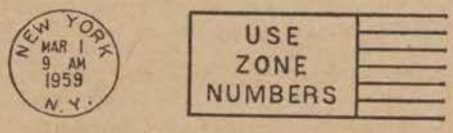
(c) *Period of time.* The special cancellation may not be used longer than 6 months, plus the duration of the event. If approval has already been given for the use of one or more special cancellations during the period desired, the time may be apportioned among the events.

§ 36.3 Cost.

The sponsor must pay the cost of manufacturing the special cancellation die hub, and any costs incurred in adapting canceling machines for its use or for installing the hub. The cost of a die hub is usually $36 to $60. The organization or persons assuming the cost of manufacturing the die hub are billed by the manufacturer.

§ 36.4 Wording.

The space available for the wording is shown in the illustration below. The wording must be limited to 3 lines of not more than 20 letters, numbers, or spaces each, so that the wording may be in type large enough to be legible.



§ 36.5 Application.

(a) *When to apply.* If the event to be advertised meets the conditions in § 36.2 (a) (1), submit the application in writing to the postmaster at the post office where the cancellation die hub is to be used, in order that the postmaster can furnish the Department certain necessary information.

(b) *When to apply.* The application should be submitted to the postmaster at least 2 months before the date the cancellation die hub is to be placed in operations.

(c) *Information needed.* The application must provide the following information:

(1) Complete description of the event to be advertised, including evidence that it is not being conducted for private profit.

(2) Wording of the proposed cancellation.

(3) Name of the post office where the cancellation is to be used.

(4) Period of use desired.

(5) Number of die hubs desired.

(6) Name and address of the sponsor who will be billed for the cost.

(d) *Action by postmaster.* The postmaster will forward the application to the Postal Services Division, Bureau of Operations, Post Office Department, Washington 25, D.C. The postmaster must furnish with the application the name of the manufacturer and model of the canceling machine on which the special die hub will be used, and must specify whether the machine is new or old (square or round type ring die). The postmaster must also state the effect the approval would have on the use of special cancellations already approved for his office.

§ 36.6 Authorization.

The sponsor will be informed through the postmaster of the approval or denial of the application. If the application is approved, the Department will arrange for the manufacture of the die hub, and instruct the postmaster as to its use.

§ 36.7 Disposition.

(a) *After use.* Sponsors may not obtain from the postmasters die hubs that have been used. Hubs not retained by the postmaster for future use shall be sent by him to the Procurement Parts Unit, Mail Equipment Shops, Fifth and W Streets NE., Washington 25, D.C., as soon as the period of use is completed.

(b) *Unserviceable die hubs.* (1) Replacement parts for a die hub which is retained for use during an event which recurs each year may be requisitioned from the Procurement Parts Unit, Mail Equipment Shops, if the die hub can be repaired by the postmaster. Die hubs that cannot be repaired by the postmaster should be sent to the Procurement Parts Unit, Mail Equipment Shops, Fifth and W Streets NE., Washington 25, D.C., together with a memorandum requesting their disposal. No facilities are available at the Shops for the repair of these die hubs.

(2) When the special cancellation die hub must be replaced, the postmaster will immediately notify the local sponsor so that the sponsor may, if he desires, make application for a replacement through the local postmaster.

§ 36.8 Revocation.

Authorization to use any special cancellation die hub may be curtailed or revoked when necessary to use special postmarking dies for government purposes.

[SEAL] HERBERT B. WARBURTON,
General Counsel.

[F.R. Doc. 59-5314; Filed, June 29, 1959; 8:45 a.m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 997]

[Docket No. AO 205–A2]

FILBERTS GROWN IN OREGON AND WASHINGTON

Decision With Respect to Proposed Amendment of Amended Marketing Agreement and Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), (hereinafter referred to as the "act"), and the rules of practice and procedure thereunder governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held at Portland, Oregon, February 19, 20, and 21, 1959, on proposed amendment of Marketing Agreement No. 115, as amended, and Order No. 97, as amended (7 CFR Part 997), regulating the handling of filberts grown in Oregon and Washington. Said amended marketing agreement and amended order are effective pursuant to the provisions of the act and any amendment which may result from this proceeding also will be effective pursuant thereto.

Upon the basis of the evidence adduced at the aforementioned hearing and the record thereof, the Deputy Administrator, Marketing Services, United States Department of Agriculture, on May 19, 1959, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision in this proceeding. The recommended decision, which afforded all interested parties an opportunity to file written exceptions thereto was published in the FEDERAL REGISTER (F.R. Doc. 59–4351; 24 F.R. 4169) on May 23, 1959.

Material issues, findings, and conclusions. The material issues, findings and conclusions, and the general findings of the recommended decision set forth in the FEDERAL REGISTER (F.R. Doc. 59–4351; 24 F.R. 4169) are hereby approved and adopted as the material issues, findings and conclusions, and the general findings of this decision as if set forth in full herein, except as may otherwise be stated in this decision.

Rulings on exceptions. Within the period reserved therefor, exceptions to the recommended decision were filed by the Filbert Control Board, established pursuant to the amended marketing agreement and order as the agency to administer the terms and provisions thereof. Each of the exceptions was carefully and fully considered in conjunction with the record evidence and the relevant discussions in the recommended decision in arriving at the findings, conclusions, and regulatory provisions set forth in this decision. To the extent that the exceptions are at variance with the findings, conclusions, and actions decided upon herein, such exceptions are denied on the basis of the findings and conclusions to which the exceptions refer.

Exception was taken to paragraph (d) of proposed § 997.32 authorizing the Board, in specified circumstances, to request County Agricultural Agents in certain filbert producing counties to recommend "an eligible grower" for each position to be included with the ballot to the extent that this limited the recommendation to a single grower. It was pointed out that filbert production varies greatly among counties and that in some of the larger producing counties it would be appropriate to request more than a single name under some circumstances. Since it may be desirable to obtain more than one name from a single county and it is not intended to establish limitations on the number of eligible growers to be included with ballots, the exception is granted and proposed § 997.32(d) is revised accordingly.

Exception was taken to paragraph (c) of proposed § 997.50 in that it does not specify all aspects of the optional procedures as to time of meeting restricted and assessment obligations on certified merchantable filberts. As pointed out in the recommended decision, it is intended that handlers be specifically granted an option as to whether such filberts which are to be carried over beyond one fiscal year should bear such obligations of that fiscal year or of the fiscal year in which handled. The exception is therefore recognized and the language in proposed paragraph (c) modified to authorize such option and to provide that the Board shall establish procedures necessary to its application. Thus, its application to various operational situations should be assured.

Exception was taken to paragraph (a) of proposed § 997.62 which provides for an operating reserve not exceeding 50 percent of the average fiscal year Board expenses for the most recent five preceding years in that it offers the Board no flexibility when the operating reserve exceeds such limit only because a recomputation of the five-year average results in a lower figure. As discussed in the recommended decision the 50 percent limitation on the size of the operating reserve is not intended to be an exact figure but a limit that should be adhered to as near as is practical. Where recomputation of the five-year average of Board expenses results in an operating reserve of over 50 percent, immediate reduction should not be required. However, no additions to the operating reserve should be made until it falls below the 50 percent limitation. The exception is therefore granted and proposed § 997.62(a) has been revised accordingly.

(4) Exception was taken to the requirement in paragraph (b) of proposed § 997.62 that handlers be refunded any assessments paid in excess of their pro rata share of the Board expenses and reserve requirements after the end of each fiscal year. The expressed concern was that it would not be possible to fully refund such excess unless each handler had paid at least his pro rata share of expenses.

However, the requirement is to be administered within a provision where refunds are not required until five months from the beginning of the subsequent fiscal year and after accounting determinations as to any delinquent accounts. Hence extent of payment by each handler need not be a limiting factor in making refunds. The exception is, therefore, denied.

Amended marketing agreement and order. Annexed hereto, and made a part hereof, are two documents entitled, respectively, "Marketing Agreement, As Amended, Regulating the Handling of Filberts Grown in Oregon and Washington", and "Amended Order Regulating the Handling of Filberts Grown in Oregon and Washington", which have been decided upon as the appropriate and detailed means of effectuating the foregoing conclusions. These documents shall not become effective unless and until the requirements of § 900.14 of said rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

It is hereby ordered, That all of this decision, except the annexed marketing agreement, as amended, be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreement, as amended, are identical with those contained in the annexed order, which will be published with this decision.

Dated: June 25, 1959.

MARVIN L. MCLAIN,
Acting Secretary.

Amended Order[1] Regulating the Handling of Filberts Grown in Oregon and Washington

[1] This document shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

FILBERT CONTROL BOARD

Sec.
997.30 Establishment and membership.
997.31 Independent grower districts.
997.32 Nomination.
997.33 Selection and term of office.
997.34 Qualification.
997.35 Vacancy.
997.36 Alternates.
997.37 Procedure.
997.38 Powers.
997.39 Duties.

MARKETING POLICY

997.40 Board's estimates and recommendations.
997.41 Free and restricted percentages.

GRADE AND SIZE REGULATION

997.45 Establishment of grade and size regulations.
997.46 Inspection and certification.

CONTROL OF DISTRIBUTION

997.50 Restricted obligation.
997.51 Restricted credit for ungraded filberts.
997.52 Disposition of restricted filberts.
997.53 Substandard filberts.
997.54 Deferment of restricted obligation.
997.55 Exchange of certified merchantable filberts withheld.
997.56 Interhandler transfers.
997.57 Exemptions.

EXPENSES AND ASSESSMENTS

997.60 Expenses.
997.61 Assessments.
997.62 Accounting.

RECORDS AND REPORTS

997.65 Carryover reports.
997.66 Shipment reports.
997.67 Reports of disposition of restricted filberts.
997.68 Other reports.
997.69 Verification of reports.
997.70 Confidential information.
997.71 Records.

MISCELLANEOUS PROVISIONS

997.80 Right of the Secretary.
997.81 Personal liability.
997.82 Separability.
997.83 Derogation.
997.84 Duration of immunities.
997.85 Agents.
997.86 Effective time, termination or suspension.
997.87 Effect of termination or amendment.
997.88 Amendments.

AUTHORITY: §§ 997.0 to 997.88 issued under secs. 1–19, 48 Stat. 31, as amended, 7 U.S.C. 601–674.

§ 997.0 Findings and determinations.

(a) *Previous findings and determinations.* The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations made in connection with the issuance of the order and the previously issued amendment thereto; and all of said findings and determinations are hereby ratified and affirmed except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(b) *Findings upon the basis of the hearing record.* Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674), and the applicable rules of practice and procedure effective thereunder (7 CFR Part 900), a public hearing was held at Portland, Oregon, on February 19, 20, and 21, 1959, upon a proposed amendment of Marketing Agreement No. 115, as amended, and Order No. 97, as amended (7 CFR Part 997), regulating the handling of filberts grown in Oregon and Washington. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order, as amended and as hereby further amended, and all of the terms and conditions thereof will tend to effectuate the declared policy of the act;

(2) The said order, as amended and as hereby further amended, regulates the handling of filberts (inshell and shelled) grown in Oregon and Washington in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, the marketing agreement and order upon which hearings have been held;

(3) The said order, as amended and as hereby further amended, is limited in its application, to the smallest regional production area that is practicable, consistently with carrying out the declared policy of the act;

(4) There are no differences in the production and marketing of filberts (inshell and shelled) in the area of production covered by the order, as amended and as hereby further amended, which make necessary different terms applicable to different parts of such area; and

(5) All handling of filberts (inshell and shelled) grown in the designated area of production is in the current of interstate or foreign commerce, or directly burdens, obstructs, or affects such commerce.

It is, therefore, ordered, That, on and after the effective time hereof, all handling of fiberts (inshell and shelled) grown in Oregon and Washington shall be in conformity to, and in compliance with, the terms and conditions of the said order, as amended, and as hereby further amended as follows:

DEFINITIONS

§ 997.1 Secretary.

"Secretary" means the Secretary of Agriculture of the United States, or any other officer or employee of the United States Department of Agriculture who is, or who may be, authorized to perform the duties of the Secretary of Agriculture of the United States.

§ 997.2 Act.

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

§ 997.3 Person.

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

§ 997.4 Filberts.

"Filberts" means filberts or hazelnuts produced in the States of Oregon and Washington from trees of the genus Corylus.

§ 997.5 Area of production.

"Area of production" means the States of Oregon and Washington.

§ 997.6 Grower.

"Grower" is synonymous with "producer" and means any person engaged, in a proprietary capacity, in the commercial production of filberts.

§ 997.7 To handle.

"To handle" means to sell, consign, transport or ship (except as a common carrier of filberts owned by another person), or in any other way to put filberts, inshell or shelled, into the channels of trade either within the area of production or from such area to points outside thereof: *Provided,* That sales or deliveries by growers to handlers within the area of production or authorized disposition of restricted filberts and substandard filberts shall not be considered as handling.

§ 997.8 Handler.

"Handler" means any person who handles filberts.

§ 997.9 Cooperative handler.

"Cooperative handler" means any handler which is a cooperative marketing association of growers regardless of where or under what laws it may be organized.

§ 997.10 Independent handler.

"Independent handler" means a handler who is not a cooperative handler.

§ 997.11 Pack.

"Pack" means a specific commercial classification according to size, internal quality, and external appearance and condition of filberts packed in accordance with any of the pack specifications prescribed pursuant to § 997.45.

§ 997.12 Merchantable filberts.

"Merchantable filberts" means inshell filberts that meet the grade and size regulations in effect pursuant to § 997.45 and are likely to be available for handling as inshell filberts.

§ 977.13 Substandard filberts.

"Substandard filberts" means filberts, inshell or shelled, that do not meet the minimum standards effective pursuant to § 997.45.

§ 997.14 Restricted filberts.

"Restricted filberts" means inshell filberts withheld in satisfaction of a restricted obligation.

§ 997.15 Inshell handler carryover.

"Inshell handler carryover" as of any given date means all inshell filberts (except restricted filberts) wherever located then held by handlers or for their accounts, whether or not sold, including certified merchantable filberts and the estimated merchantable content of those uncertified filberts then held by handlers which are intended for handling as inshell filberts.

§ 997.16 Inshell trade demand.

"Inshell trade demand" means the quantity of inshell filberts acquired by

the trade from all handlers during a fiscal year for distribution in the Continental United States.

§ 997.17 Fiscal year.

"Fiscal year" means the 12 months from August 1 to the following July 31, both inclusive.

§ 997.18 Board.

"Board" means the Filbert Control Board established pursuant to § 997.30.

§ 977.19 Part and subpart.

"Part" means the order, as amended, regulating the handling of filberts grown in Oregon and Washington, and all rules, regulations, and supplementary orders issued thereunder. This order, as amended, regulating the handling of filberts grown in Oregon and Washington shall be a "subpart" of such part.

FILBERT CONTROL BOARD

§ 997.30 Establishment and membership.

There is hereby established a Filbert Control Board consisting of nine members, each of whom shall have an alternate. The nine member positions shall be allocated as follows:

(a) One handler member to represent cooperative handlers;

(b) One handler member to represent independent handlers;

(c) One handler member to represent cooperative handlers or independent handlers, whichever group of such handlers handled more than 50 percent of the filberts handled by all handlers during the fiscal year preceding the fiscal year in which nominations are made;

(d) Two grower members to represent cooperative growers (i.e., growers, whose filberts are handled through cooperative handlers);

(e) Two grower members to represent independent growers (i.e., growers whose filberts are handled through independent handlers);

(f) One grower member to represent growers whose filberts are handled through cooperative handlers or independent handlers whichever group of such handlers handled more than 50 percent of the filberts handled by all handlers during the fiscal year preceding the fiscal year in which nominations are made;

(g) One member who is neither a grower nor a handler.

§ 997.31 Independent grower districts.

(a) Whenever the grower member provided in § 997.30(f) is to represent independent growers, one independent grower member and his alternate shall be nominated and selected from each of the following districts, except as may be otherwise provided pursuant to paragraph (b) of this section:

(1) District No. 1—The State of Washington, and Multnomah and Washington Counties in Oregon.

(2) District No. 2—Clackamas, Marion and Yamhill Counties in Oregon.

(3) District No. 3—Benton, Lane, Linn, Polk and all other Counties in Oregon except those included in District No. 1 and District No. 2.

(b) Whenever, pursuant to § 997.30(f) the grower member is not to represent independent growers, or the districts as established pursuant to paragraph (a) of this section fail to provide equitable representation to such independent growers, the Secretary, on the basis of a recommendation of the Board or other information, may establish different districts within the production area. In recommending any changes in districts, the Board shall consider shifts in filbert acreage within and among the districts, and other relevant factors.

§ 997.32 Nomination.

(a) Nominees shall be chosen for the respective member and alternate member positions specified in § 997.30 (a) through (g) by such groups.

(b) Nominations for each handler group shall be submitted on the basis of ballots to be mailed by the Board to all handlers in such group.

(c) Nominations on behalf of growers who market their filberts through cooperative handlers shall be submitted on the basis of ballots cast by each cooperative handler for its grower patrons.

(d) Nominations on behalf of independent growers shall be submitted after balloting by such growers conducted as follows: Names of the grower candidates to accompany the ballot shall be submitted to the Board each fiscal year on petitions signed by not less than 10 independent growers who are of record with the Board; each grower may sign only as many petitions as there are persons to be nominated and whenever such petitions fail to result in submission of two names for each position to be filled, the Board shall request all County Agricultural Agents in filbert producing counties which produced at least 10 percent of the total filbert production during the preceding fiscal year to recommend one or more eligible growers for each position to be included on the ballot. Ballots, accompanied by the names of all such candidates together with instructions, shall be mailed to all independent growers who are of record with the Board; each ballot shall contain appropriate blank spaces for the voter to indicate his choice for each member position and for each alternate member position which is to be filled. The eligible person receiving the highest number of votes for a particular position shall be the nominee for that position, except that, in case of a tie, the names of the tied candidates shall be submitted. If the Secretary determines that this procedure is unsatisfactory to independent growers because it is too difficult or costly to administer, it does not result in the names of a sufficient number of eligible candidates being submitted with the ballots, or it should be changed for other reasons, he may change this procedure through the formulation and issuance of superseding regulations.

(e) All votes cast by cooperative handlers, independent handlers or for cooperative growers, shall be weighted according to the tonnage of certified merchantable filberts and, when shelled filbert grade and size regulation are in effect, the inshell equivalent of certified shelled filberts (computed to the nearest whole ton) recorded by the Board as handled by each such handler or cooperative grower group during the preceding fiscal year, and if less than one ton is recorded for any such handler or cooperative grower group, the vote shall be weighted as one vote. All votes cast by independent growers shall be given equal weight. Nominations received in the foregoing manner by the Board shall be reported to the Secretary by June 1 of each fiscal year, together with a certificate of all necessary data and other information deemed by the Board to be pertinent or requested by the Secretary. If such nominations of any group are not submitted as hereinbefore provided to the Secretary on or before that date, the Secretary may select the representatives of that group without nomination.

(f) Nominees for the member and alternate member positions specified in § 997.30(g) shall be chosen by the other eight members who are to serve on the Board during the ensuing fiscal year. If nominations for such member or alternate are not submitted by July 1 of any year, the Secretary may select such member or alternate without nomination.

(g) No independent grower who during the then current fiscal year handled any filberts other than of his own production may vote for or be a nominee to represent independent growers on the Board nor may he be any such nominee if during such fiscal year he was employed by a filbert handler.

§ 997.33 Selection and term of office.

(a) *Selection.* Members and their respective alternates shall be selected by the Secretary from nominees submitted by the Board or from among other qualified persons.

(b) *Term of office.* (1) The term of office of each member and alternate member shall be two years beginning August 1, except that (i) the terms of office of one of the grower members and his alternate member specified in § 997.30(d), one of the grower members and his alternate member specified in § 997.30(e), and the handler members and alternate members specified in § 997.30 (a) and (b) shall expire on July 31 of the first even-numbered year following the year of selection, and the terms of office of all other members and alternate members shall expire on July 31 of the first odd-numbered year following the year of selection; (ii) if the representation on the Board in an ensuing fiscal year will, by reason of change in representation pursuant to § 997.30 (c) and (f), be different from that in the current fiscal year, the terms of office of all grower and handler members and alternate members holding office in the current fiscal year shall expire at the end of the current fiscal year and successor members and alternate members shall be nominated and selected in conformance with §§ 997.30 and 997.33; (iii) if the districts for independent grower representation in an ensuing fiscal year will be different from that in the current fiscal year, the terms of office of all inde-

pendent grower members and alternate members specified in § 997.30 (e) and (f) shall expire on July 31 of the current fiscal year and persons nominated to succeed them shall be nominated and selected so as to conform with such changed representation.

(2) Members and alternate members shall serve for the term of office for which they are selected and have qualified, and until their respective successors are selected and have qualified.

§ 997.34 Qualification.

Any person selected to serve as a member or an alternate of the Board shall qualify by filing with the Secretary a written acceptance of his appointment. Any member or alternate member who at the time of his selection was a member or employed by a member of the group which nominated him shall, upon ceasing to be such a member or employee, become disqualified to serve further and his position on the Board shall be deemed vacant. In the event any member or alternate member of the Board qualified and selected, in accordance with the provisions of §§ 997.30 and 997.32, to represent independent growers should, during his term of office, handle filberts produced by other growers, or become an employee of a handler, his position on the Board shall thereupon be deemed to be vacant.

§ 997.35 Vacancy.

To fill any vacancy occasioned by the death, removal, resignation, or disqualification of any member or alternate of the Board, a successor for his unexpired term shall be nominated and selected in the manner provided in §§ 997.32 and 997.33, so far as applicable, unless selection is deemed unnecessary by the Secretary.

§ 997.36 Alternates.

(a) An alternate for a member of the Board shall act in the place of such member in his absence, and in the event of his death, removal, resignation or disqualification, until a successor for his unexpired term has been selected and has qualified.

(b) If a member of the Board and his alternate are unable to attend a Board meeting, the Board may designate any other alternate from the group in § 997.30 represented by such absent member to serve in the member's place. For purposes of this section the cooperative handler group and cooperative grower group shall be considered as one group.

§ 997.37 Procedure.

(a) Seven members of the Board shall constitute a quorum at an assembled meeting of the Board, and any action of the Board shall require the concurring vote of at lease five members. At any assembled meeting all votes shall be cast in person.

(b) The Board may vote by mail, telephone, telegraph, or other means of communication: *Provided,* That any votes (except mail votes) so cast shall be confirmed in writing. When any proposition is submitted for voting by any such method its adoption shall require nine concurring votes.

(c) The members of the Board and their alternates shall serve without compensation, but members and alternates acting as members shall be allowed their necessary expenses: *Provided,* That the Board may request the attendance of one or more alternates not acting as members at any meeting of the Board, and such alternates may be allowed their necessary expenses.

§ 997.38 Powers.

The Board shall have the following powers:

(a) To administer the provisions of this subpart in accordance with its terms;

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

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

(d) To recommend to the Secretary amendments to this subpart.

§ 997.39 Duties.

The Board shall have among others the following duties: (a) to select from among its members such officers and adopt rules or bylaws for the conduct of its meetings as it deems advisable;

(b) To act as intermediary between the Secretary and any handler or grower;

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

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

(e) To appoint such employees as it deems necessary and determine the salaries, define the duties and fix the bonds of such employees;

(f) To cause the books of the Board to be audited by one or more competent public accountants at least once for each fiscal year and at such other times as the Board deems necessary or as the Secretary may request, and to file with the Secretary three copies of the reports of all audits made;

(g) To investigate the growing, shipping and marketing conditions with respect to filberts, and assemble data in connection therewith;

(h) To give the Secretary the same notice of the meetings of the Board as is given to its members; and

(i) To furnish to the Secretary a verbatim report of the proceedings of each meeting of the Board held for the purpose of making marketing policy recommendations.

MARKETING POLICY

§ 997.40 Board's estimates and recommendations.

(a) Each fiscal year, prior to the time the new crop filberts are available for handling, the Board shall hold a meeting for the purpose of recommending to the Secretary a marketing policy for such year. Such recommendation shall include the following:

(1) *Inshell allocation.* (i) The Board's estimate of the quantity of merchantable filberts to be produced during such year;

(ii) The Board's estimate of the inshell handler carryover of filberts on August 1 of such year, segregated as to the quantity subject to regulation and not subject to regulation;

(iii) The Board's recommendation for inshell handler carryover of filberts on July 31 of such year which may be available for handling as inshell filberts thereafter;

(iv) The Board's estimate of the inshell trade demand for filberts for such year, taking into consideration trade carryover at the beginning and end of the year, imports, prices, prospective shelled filbert market conditions and other factors affecting inshell trade demand during such year; and

(v) The board's recommendation as to the free and restricted percentages to be established for such year.

(2) *Grade and size regulations.* The Board shall review the grade and size regulations in effect and may recommend modifications thereof.

(b) *Revisions.* At any time prior to February 15 of each fiscal year the Board, or two or more handlers who during the preceding fiscal year handled at least 10 percent of all filberts handled, may recommend to the Secretary revisions in the marketing policy for such year.

§ 997.41 Free and restricted percentages.

Whenever the Secretary finds, on the basis of the Board's recommendation or other information, that limiting the quantity of merchantable filberts which may be handled during a fiscal year would tend to effectuate the declared policy of the act, he shall establish a free percentage to prescribe the portion of such filberts which may be handled as inshell filberts and a restricted percentage to prescribe the portion that must be withheld from such handling. In establishing such percentages the Secretary shall consider the ratio of (a) the sum of estimated inshell trade demand and the inshell handler carryover at the end of the year, less that portion of the inshell handler carryover at the beginning of the year not subject to regulation, to (b) the estimated supply of merchantable filberts subject to regulation and other relevant factors. In the same manner the free percentage may be increased and the restricted percentage may be decreased by the Secretary, and such revised percentages shall remain in effect until superseded. Until free and restricted percentages are established by the Secretary for a fiscal year, the percentages in effect at the end of the previous year shall be applicable.

GRADE AND SIZE REGULATION

§ 997.45 Establishment of grade and size regulations.

(a) *Minimum standards.* No handler shall handle any inshell or shelled filberts unless such inshell filberts meet requirements of Oregon No. 1 grade and medium size (as defined in the Oregon Grades and Standards for Walnuts and Filberts), and such shelled filberts meet such requirements as are established by the Secretary on the basis of a recommendation of the Board, except as may be otherwise provided in § 997.57. These

minimum standards may be modified by the Secretary on the basis of a recommendation of the Board or other information whenever he finds that such modification would tend to effectuate the declared policy of the act. Such minimum standards and the provisions of this part relating to the administration thereof shall continue in effect irrespective of whether the season average price of filberts is above the parity level specified in section 2(1) of the act.

(b) *Additional grade and size regulations.* When the season average price of filberts is not determined to be above parity, the Secretary may establish additional grade and size regulations for inshell filberts in the form of a more restrictive minimum standard than that specified in paragraph (a) of this section, or pack specifications as to grades and sizes that may be handled, if he finds, on the basis of a recommendation of the Board or other information, that such regulations would tend to effectuate the declared policy of the act.

§ 997.46 Inspection and certification.

(a) Before or upon handling any filberts, or before any inshell filberts are credited (pursuant to § 997.50 or § 997.51) in satisfaction of a restricted obligation, each handler shall, at his own expense, cause such filberts to be inspected and certified by the Federal-State Inspection Service as meeting the then effective grade and size regulations or, if inshell filberts are withheld pursuant to § 997.51, the requirements specified therein. The handler obtaining such inspection of filberts shall cause a copy of the certificate issued by such inspection service applicable to such filberts to be furnished to the Board.

(b) All filberts so inspected and certified shall be identified by seals, stamps, tags or other identification prescribed by the Board. Such identification shall be affixed to the filbert containers by the handler under direction and supervision of the Board or the Federal-State Inspection Service, and shall not be removed or altered by any person except as directed by the Board.

(c) Whenever the Board determines that the length of time in storage and conditions of storage of any lot of certified merchantable filberts have been or are such as to normally cause deterioration, it may require that such lot of filberts be reinspected at the handler's expense prior to handling.

CONTROL OF DISTRIBUTION

§ 997.50 Restricted obligation.

(a) No handler shall handle inshell filberts unless prior to or upon shipment thereof, he (1) has withheld from handling a quantity, by weight, of certified merchantable filberts determined by dividing the quantity handled or to be handled by the free percentage and multiplying the quotient by the restricted percentage or (2) has withheld from handling an equivalent quantity of creditable ungraded inshell filberts pursuant to § 997.51: *Provided*, That such withholding may be temporarily deferred pursuant to the bonding provisions in § 997.54. The quantity of filberts so required to be withheld shall be the restricted obligation. Certified merchantable filberts handled in accordance with the provisions of this subpart shall be deemed to be such handler's quota fixed by the Secretary within the meaning of section 8a(5) of the act.

(b) Inshell filberts withheld by a handler in satisfaction of his restricted obligation shall not be handled and shall be held by him subject to examination by, and accounting control of, the Board until disposed of pursuant to this part.

(c) A handler having certified merchantable filberts which have not been handled at the end of a fiscal year may elect to have such filberts bear the restricted and assessment obligations of such year or of the fiscal year in which handled. The Board shall establish such procedures as are necessary to facilitate the administration of this option among handlers.

(d) Whenever the restricted percentage for a fiscal year is reduced, each handler's restricted obligation shall be reduced to conform with the new restricted percentage. Any handler who, upon such reduction, is withholding restricted filberts in excess of his new restricted obligation may have the excess freed from withholding by complying with such procedures as the Board may require to insure identification of the remaining filberts withheld.

§ 997.51 Restricted credit for ungraded filberts.

A handler may withhold ungraded filberts in lieu of certified merchantable filberts in satisfaction of his restricted obligation, and the weight on which credit may be received shall be the total weight less the cumulative total percentage, by weight, of (a) all internal defects, (b) all external defects in excess of 10 percent and (c) all small-sized filberts in excess of five percent (as defined in the Oregon Grades and Standards for Walnuts and Filberts); *Provided*, That any lot of ungraded filberts having a creditable weight of less than 50 percent of its total weight, or not meeting the moisture requirements for certified merchantable filberts shall not be eligible for credit. All such determination as to defects and small-sized filberts shall be made by the Federal-State Inspection Service at the handler's expense. Filberts so withheld shall be subject to the applicable requirements of § 997.50. The provisions of this section may be modified by the Secretary on the basis of a recommendation of the Board or other information.

§ 997.52 Disposition of restricted filberts.

Filberts withheld from handling as inshell filberts pursuant to §§ 997.50 and 997.51 may be disposed of as follows:

(a) *Shelling.* Any handler may dispose of such filberts by shelling them under the direction or supervision of the Board or by delivering them to an authorized sheller. Any person who desires to become an authorized sheller in any fiscal year may submit a written application during such year to the Board. Such application shall be granted only upon condition that the applicant agrees:

(1) To use such restricted filberts as he may receive for no purpose other than shelling;

(2) To dispose of or deliver such restricted filberts, as inshell filberts, to no one other than another authorized sheller;

(3) To comply fully with all laws and regulations applicable to the shelling of filberts; and

(4) To make such reports, certified to the Board and to the Secretary as to their correctness, as the Board may require.

(b) *Export.* Sales of certified merchantable restricted filberts for shipment or export to destinations outside the Continental United States shall be made only by the Board. Any handler desiring to export any part or all of his certified merchantable restricted filberts shall deliver to the Board the certified merchantable restricted filberts to be exported, but the Board shall be obligated to sell in export only such quantities for which it may be able to find satisfactory export outlets. Any filberts so delivered for export which the Board is unable to export shall be returned to the handler delivering them. Sales for export shall be made by the Board only on execution of an agreement to prevent reimportation into the Continental United States. A handler may be permitted to act as agent of the Board, upon such terms and conditions as the Board may specify, in negotiating export sales, and when so acting shall be entitled to receive a selling commission of five percent of the export sales price, f.o.b. area of production. The proceeds of all export sales, after deducting all expenses actually and necessarily incurred, shall be paid to the handler whose certified merchantable restricted filberts are so sold by the Board.

(c) *Other outlets.* In addition to the dispositions authorized in paragraphs (a) and (b) of this section, the Board may designate such other outlets into which such filberts may be disposed, which it determines are noncompetitive with normal market outlets for inshell filberts. Such dispositions shall be made under the direction or supervision of the Board.

§ 997.53 Substandard filberts.

The Board shall, with the approval of the Secretary, establish such reporting and disposition procedures as it deems necessary to insure that filberts which do not meet the effective inshell or shelled filbert minimum standards do not enter normal market outlets for certified filberts.

§ 997.54 Deferment of restricted obligation.

(a) *Bonding.* Compliance by any handler with the requirements of § 997.50 as to the time when restricted filberts shall be withheld shall be temporarily deferred to any date desired by the handler, but not later than January 31 of the fiscal year, upon the voluntary execution and delivery by such handler to the Board, before he handles any mer-

chantable filberts of such fiscal year, of a written undertaking, secured by a bond or bonds with a surety or sureties acceptable to the Board, that on or prior to such date he will have fully satisfied his restricted obligation required by § 997.50.

(b) *Bonding requirement.* Such bond or bonds shall, at all times during their effective period, be in such amounts that the aggregate thereof shall be no less than the total bonding value of the handler's deferred restricted obligation. The bonding value shall be the deferred restricted obligation poundage bearing the lowest bonding rate or rates, which could have been selected from the packs handled or certified for handling, multiplied by the applicable bonding rate. The cost of such bond or bonds shall be borne by the handler filing same.

(c) *Bonding rate.* Said bonding rate for each pack shall be an amount per pound representing the season's domestic price for such pack net to handler f.o.b. shipping point which shall be computed at the opening price for such pack announced by the handler or handlers who during the preceding fiscal year handled more than 50 percent of the merchantable filberts handled by all handlers. Such handler or handlers shall be selected in order of volume handled in the preceding fiscal year, using the minimum number of handlers to represent a volume of more than 50 percent of the total volume handled. If such opening prices involve different prices announced by two or more handlers for respective packs, the prices so announced shall be averaged on the basis of the quantity of such packs handled during the preceding fiscal year by each such handler.

(d) *Filbert purchases.* Any sums collected through default of a handler on his bond shall be used by the Board to purchase from handlers, as provided in this paragraph, a quantity of certified merchantable filberts on which the restricted obligation has been met, not to exceed the total quantity represented by the sums collected. The Board shall at all times purchase the lowest priced packs offered, and the purchases shall be made from the various handlers as nearly as practicable in proportion to the quantity of their respective offerings of the pack or packs to be purchased.

(e) *Unexpended sums.* Any unexpended sums, which have been collected by the Board through default of a handler on his bond, remaining in the possession of the Board at the end of a fiscal year shall be used to reimburse the Board for its expenses, including administrative and other costs incurred in the collection of such sums, and in the purchase of filberts as provided in paragraph (d) of this section. Any balance remaining after reimbursement of such expenses shall be distributed among all handlers in proportion to the quantity of certified merchantable filberts handled by them during the fiscal year in which the default occurred.

(f) *Transfer of filbert purchases.* Filberts purchased as provided in this section shall be turned over to those handlers who have defaulted on their bonds, for disposal by them as restricted filberts. The quantity delivered to each handler shall be that quantity represented by the sums collected through default, and the different grades, if any, shall be apportioned among the various handlers on the basis of the ratio of the quantity of filberts to be delivered to each handler to the total quantity purchased by the Board with bonding funds.

(g) *Collection upon bonds.* Collection upon any defaulted bond shall be deemed a satisfaction of the restricted obligation represented by the collection.

§ 997.55 Exchange of certified merchantable filberts withheld.

Any handler who has withheld from handling certified merchantable filberts pursuant to the requirements of § 997.50 may exchange therefor an equal quantity, by weight, of other certified merchantable filberts. Any such exchange shall be made under the direction or supervision of the Board.

§ 997.56 Interhandler transfers.

Within the area of production, interhandler transfers of filberts may be made as follows:

(a) Uncertified inshell filberts may be sold or delivered by one handler to another for packing or shelling, and the receiving handler shall be responsible for compliance with the regulations effective pursuant to this part with respect to such filberts.

(b) Restricted filberts withheld by a handler may be sold or delivered to another handler for shelling, export, or other authorized outlet subject to the disposition requirements set forth in § 997.52.

(c) Certified filberts other than restricted filberts may be sold or delivered by one handler to another and the transferring handler shall be responsible for compliance with the requirements effective pursuant to this part, unless specified and agreed upon in writing by both handlers that the receiving handler shall be responsible for such compliance and a copy of such agreement is furnished to the Board.

(d) The Board, with the approval of the Secretary, shall establish procedures, including necessary reports, for such transfers.

§ 997.57 Exemptions.

The Board, with the approval of the Secretary, may exempt from any or all requirements pursuant to this part such quantities of filberts or types of shipment as do not interfere with the volume and quality control objectives of this part, and shall require such reports, certifications or other conditions as are necessary to ensure that such filberts are handled or used only as authorized.

Expenses and Assessments

§ 997.60 Expenses.

The Board is authorized to incur such expenses including maintenance of an operating reserve fund as the Secretary may find are reasonable and likely to be incurred by it during each fiscal year, for the maintenance and functioning of the Board and for such purposes as the Secretary may, pursuant to the provisions of this subpart, determine to be appropriate. The recommendation of the Board as to the expenses and size of the operating reserve for each such fiscal year, together with all data supporting such recommendations, shall be submitted to the Secretary at the beginning of the fiscal year in connection with which such recommendation is made. The funds to cover such expenses shall be acquired by levying assessments as provided in § 997.61.

§ 997.61 Assessments.

For each fiscal year, the Secretary shall fix an assessment rate per pound of filberts handled and withheld, including the creditable weight of ungraded restricted filberts withheld pursuant to § 997.51 and, when subject to regulation pursuant to § 997.45, the inshell equivalent of shelled filberts certified which are produced from other than restricted filberts, that will provide sufficient funds to meet the authorized expenses and reserve requirements of the Board. At any time during or after a fiscal year when he determines, on the basis of a Board recommendation or other information, that a different rate is necessary, the Secretary may modify the assessment rate and the new rate shall be applicable to all such filberts. Each handler shall pay to the Board on demand, assessments on all such assessable filberts at the rate fixed by the Secretary.

§ 997.62 Accounting.

(a) *Operating reserve.* The Board, with the approval of the Secretary, may establish and maintain during one or more fiscal years an operating monetary reserve in an amount not to exceed 50 percent of the average fiscal year Board expenses for the most recent five preceding fiscal years, except that when recomputation of 50 percent of such average fiscal year Board expenses results in a figure lower than the amount then in the reserve, the reserve need not thereupon be reduced to conform with the new average. Funds in such reserve shall be available for use by the Board for expenses authorized pursuant to § 997.60.

(b) *Refunds.* At the end of a fiscal year, funds in excess of the fiscal year's expenses and reserve requirements shall be refunded to handlers from whom collected and each handler's share of such excess funds shall be the amount of assessments he has paid in excess of his pro rata share of expenses of the Board. However, excess funds may be used by the Board for a period of 4 months subsequent to the fiscal year; but within 5 months from the beginning of the subsequent fiscal year the Board shall refund to each handler upon request, or credit to his account with the Board, his share of such excess.

(c) *Termination.* Upon termination of this subpart any money remaining unexpended in possession of the Board shall be distributed in such manner as the Secretary may direct; *Provided*, That to the extent practical, such funds shall be returned pro rata to the persons from whom such funds were collected.

RECORDS AND REPORTS

§ 997.65 Carryover reports.

On or before January 15 and August 5 of each year each handler shall report to the Board his inventory of inshell and shelled filberts as of January 1 and August 1 respectively of such year. Such reports shall be certified to the Board and the Secretary as to their accuracy and completeness and shall show, among other items, the following: (a) Certified merchantable filberts on which the restricted obligation has been met; (b) merchantable filberts on which the restricted obligation has not been met; (c) the merchantable equivalent of any filberts intended for handling as inshell filberts; and (d) restricted filberts withheld.

§ 997.66 Shipment reports.

Each handler shall report to the Board the respective quantities of inshell and shelled filberts handled by him during such periods and in such manner as are prescribed by the Board with the approval of the Secretary.

§ 997.67 Reports of disposition of restricted filberts.

(a) Each handler, before he disposes of any quantity of restricted filberts held by him, shall file with the Board a report of his intention to dispose of such quantity of restricted filberts. This report shall be filed not less than five days prior to the date on which the restricted filberts are disposed of, unless the five-day period is expressly waived by the Board.

(b) Each handler, within 15 days after the disposition of any quantity of restricted filberts, shall file with the Board a report of the actual disposition of such quantity of restricted filberts. Such reports shall be certified to the Board and to the Secretary as to their correctness and accuracy.

(c) All reports required by this section shall show the quantity, pack, and location of the filberts covered by such reports; the applicable handler's storage lot and inspection certificate numbers; and the disposition of the restricted filberts which is intended or which has been accomplished.

§ 997.68 Other reports.

Each handler shall furnish to the Board such other reports as the Board, with the approval of the Secretary, may require to enable it to exercise its powers and to perform its duties.

§ 997.69 Verification of reports.

For the purpose of checking and verifying reports submitted by handlers, the Board, through its duly authorized agents, shall have access to each handler's premises at any time during reasonable business hours, and shall be permitted to inspect any filberts held by such handler and all records of the handler with respect to filberts held or disposed of by such handler. Each handler shall furnish all labor necessary to facilitate such inspections as the Board may make of such handler's holdings of any filberts. Each handler shall store filberts in such manner as to facilitate inspection, and shall maintain adequate storage records which will permit accurate identification of all such filberts held.

§ 997.70 Confidential information.

All reports and records furnished or submitted by handlers to the Board, which include data or information constituting a trade secret or disclosing of the trade position, financial condition, or business operations of the particular handler from whom received, shall be kept in the custody and under the control of one or more employees of the Board, and shall be disclosed to no person except the Secretary.

§ 997.71 Records.

Each handler shall maintain such records of filberts received, held and disposed of by him as may be prescribed by the Board in order to perform its functions under this part. Such records shall be retained and be available for examination by authorized representatives of the Board or the Secretary for a period of two years after the end of the fiscal year in which the transactions occurred.

MISCELLANEOUS PROVISIONS

§ 997.80 Right of the Secretary.

The members of the Board (including successors, alternates, or other persons selected by the Secretary), and any agent or employee appointed or employed by the Board, shall be subject to removal or suspension by the Secretary, in his discretion, at any time. Each and every order, regulation, decision, determination, or other act of the Board shall be subject to the continuing right of the Secretary to disapprove of the same at any time, and, upon such disapproval, shall be deemed null and void except as to acts done in reliance thereon or in compliance therewith.

§ 997.81 Personal liability.

No member or alternate member of the Board, or any employee or agent thereof, shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any handler or any other person for errors in judgment, mistakes, or other acts either of commission or omission, as such member, alternate member, agent or employee, except for acts of dishonesty.

§ 997.82 Separability.

If any provision of this subpart is declared invalid, or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder of this subpart or the applicability thereof to any other person, circumstance, or thing shall not be affected thereby.

§ 997.83 Derogation.

Nothing contained in this subpart is, or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States to exercise any powers granted by the act or otherwise, or, in accordance with such powers, to act in the premises whenever such action is deemed advisable.

§ 997.84 Duration of immunities.

The benefits, privileges, and immunities conferred upon any person by virtue of this subpart shall cease upon the termination of this subpart, except with respect to acts done under and during the existence of this subpart.

§ 997.85 Agents.

The Secretary may, by a designation in writing, name any person, including any officer or employee of the United States Department of Agriculture, to act as his agent or representative in connection with any of the provisions of this subpart.

§ 997.86 Effective time, termination or suspension.

(a) *Effective time.* The provisions of this subpart, as well as any amendments to this subpart, shall become effective at such time as the Secretary may declare, and shall continue in force until terminated or suspended in one of the ways specified in this section.

(b) *Suspension or termination.* (1) The Secretary may, at any time, terminate the provisions of this subpart by giving at least one day's notice by means of a press release or in any other manner which he may determine.

(2) The Secretary shall terminate or suspend the operation of any or all of the provisions of this subpart whenever he finds that such provisions do not tend to effectuate the declared policy of the act.

(3) The Secretary shall terminate the provisions of this subpart at the end of any fiscal year whenever he finds that such termination is favored by a majority of the producers of filberts who during the preceding fiscal year have been engaged in the production for market of filberts in the States of Oregon and Washington: *Provided*, That such majority have during such period produced for market more than 50 percent of the volume of such filberts produced for market within said States; but such termination shall be effected only if announced on or before July 1 of the then current fiscal year.

(4) The provisions of this subpart shall, in any event, terminate whenever the provisions of the act authorizing them cease to be in effect.

(c) *Proceedings after termination.* (1) Upon the termination of the provisions of this subpart, the members of the Board then functioning shall continue as joint trustees, for the purpose of liquidating the affairs of the Board, of all funds and property then in the possession or under the control of the Board, including claims for any funds unpaid or property not delivered at the time of such termination. Action by said trusteeship shall require the concurrence of a majority of the said trustees.

(2) Said trustees shall continue in such capacity until discharged by the Secretary; shall, from time to time, account for all receipts and disbursements and deliver all property on hand, together with all books and records of the Board and the joint trustees, to such person as the Secretary may direct; and shall, upon the request of the Secretary,

execute such assignments or other instruments necessary or appropriate to vest in such person full title and right to all of the funds, property, and claims vested in the Board or the joint trustees pursuant to this subpart.

(3) Any person to whom funds, property, or claims have been transferred or delivered by the Board or its members, pursuant to this section, shall be subject to the same obligations imposed upon the members of the said Board and upon said joint trustees.

§ 997.87 Effect of termination or amendment.

(a) Unless otherwise expressly provided by the Secretary, the termination of this subpart or of any regualtion issued pursuant to this subpart, or the issuance of any amendment to either thereof, shall not (1) affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provision of this subpart or any regulation issued under this subpart, or (2) release or extinguish any violation of this subpart or of any regulation issued under this subpart, or (3) affect or impair any right or remedies of the Secretary or of any other person, with respect to any such violation.

(b) All rules and regulations in this part which are in effect immediately prior to this amendment of this subpart and not inconsistent with such amendment shall continue in effect until otherwise prescribed pursuant to this subpart.

§ 997.88 Amendments.

Amendments to this subpart may be proposed, from time to time, by any person or by the Board.

Order Directing That a Referendum Be Conducted; Designation of Agents To Conduct Referendum; and Determination of Representative Period

Pursuant to the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), it is hereby directed that a referendum be conducted among producers who, during the period August 1, 1958, through June 30, 1959 (which period is hereby determined to be the representative period for the purpose of such referendum) were engaged in Oregon and Washington, in the production of filberts for market, to determine whether such producers approve or favor the issuance of an amended order regulating the handling of filberts grown in these States, which amended order is annexed to the decision of the Secretary of Agriculture filed simultaneously herewith. Said referendum shall be conducted as soon as is reasonably practicable after July 1, 1959.

The procedure applicable to this referendum shall be "Procedure for the Conduct of Referenda Among Producers in Connection with Marketing Orders (Except those Applicable to Milk and its Products) to Become Effective Pursuant to the Agricultural Marketing Agreement Act of 1937, as Amended" (15 F.R. 5176) except that subparagraph (5) of paragraph (c) is hereby modified for the purpose of this referendum by inserting after the fourth word therein the following: "entitled to vote in the referendum."

Robert H. Eaton, Allan E. Henry, Robin G. Henning, and Dehard B. Johnson of the Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, are hereby designated as agents of the Secretary of Agriculture to conduct said referendum jointly or severally.

Copies of the text of the aforesaid annexed order, Order No. 97, as amended, of the foregoing referendum procedure, and of this order may be examined in: The Office of the Hearing Clerk, Room 112A, Administration Building, United States Department of Agriculture, Washington 25, D.C., and the Western Marketing Field Office, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, 1218 SW. Washington Street, Portland 5, Oregon.

Ballots to be cast in the referendum and other necessary forms and instructions may be obtained at the aforementioned field office.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: June 25, 1959.

[F.R. Doc. 59–5431; Filed, June 29, 1959; 8:50 a.m.]

Agricultural Research Service

[9 CFR Part 77]

TUBERCULOSIS IN CATTLE

Restrictions on Interstate Movement

Pursuant to section 4 of the Administrative Procedure Act (5 U.S.C. 1003), notice is hereby given that the Agricultural Research Service is considering amendments of the regulations in 9 CFR, Part 77, as amended, restricting the interstate movement of cattle because of tuberculosis, under sections 1 and 2 of the Act of February 2, 1903, as amended, and sections 4 and 5 of the Act of May 29, 1884, as amended (21 U.S.C. 111–113, 120, 121).

It is proposed to delete § 77.3 and Footnote 3 relating thereto, and to substitute for said section the following:

§ 77.3 What constitutes a modified accredited area.

A modified accredited area is a State or portion thereof, as listed in § 77.3a by the Director of the Animal Disease Eradication Division, ARS, in which said Director has determined that the percentage of cattle affected with tuberculosis does not exceed one-half of one percent and that such area maintains the status of a modified accredited area in accordance with provisions of the Uniform Methods and Rules for the Establishment and Maintenance of Tuberculosis-Free Accredited Herds of Cattle and Modified Accredited Areas, which are approved by said Animal Disease Eradication Division: *Provided*, That until July 1, 1960, any State or portion thereof which has qualified under such Methods and Rules as a modified accredited area shall not be deemed for purposes of this part to lose such status by failure to obtain reaccreditation when due under such Methods and Rules, if officials of such State or portion thereof are taking action satisfactory to the Director of Division to achieve such reaccreditation. Copies of such Uniform Methods and Rules may be obtained from the Animal Disease Eradication Division, Agricultural Research Service, United States Department of Agriculture, Washington 25, D.C., or from the Federal Inspectors or State Inspectors performing functions under the provisions of this part.

It is also proposed to issue a new § 77.3a to designate each State as a modified accredited area, except for certain areas within the States which are found not to qualify as modified accredited areas under the criteria of the proposed § 77.3. Current information as to the areas which would not so qualify may be obtained from the Animal Disease Eradication Division office in Washington, D.C., or from a Federal or State inspector.

The primary purpose of these proposed amendments is to bring the regulations governing the interstate movement of cattle because of tuberculosis into conformity with the Uniform Methods and Rules for the Establishment and Maintenance of Tuberculosis-Free Accredited Herds of Cattle and Modified Accredited Areas.

Any interested person who wishes to submit written data, views, or arguments on the proposed amendments may do so by filing them with the Director of the Animal Disease Eradication Division, Agricultural Research Service, United States Department of Agriculture, Washington 25, D.C., not later than July 30, 1959.

Done at Washington, D.C., this 25th day of June 1959.

M. R. CLARKSON,
Acting Administrator,
Agricultural Research Service.

[F.R. Doc. 59–5432; Filed, June 29, 1959; 8:50 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 51]

CANNED VEGETABLES; DEFINITIONS AND STANDARDS OF IDENTITY; QUALITY; AND FILL OF CONTAINER

Canned Peppers; Notice of Proposal To Amend Standard of Identity To Provide for Adding Calcium Salts

Notice is hereby given that a petition has been filed by H. P. Cannon and Son, Inc., Bridgeville, Delaware, proposing that the standards of identity for canned vegetables other than those specifically regulated (21 CFR 51.990) be amended to provide for the addition of certain calcium salts to green and red sweet peppers.

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1045, 1055 as

amended 70 Stat. 919; 21 U.S.C. 341, 371) and in accordance with 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), all interested persons are hereby invited to present their views in writing regarding the proposals published below. Such 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.

The petitioner proposes that § 51.990 *Canned vegetables other than those specifically regulated; identity; label statement of optional ingredients* be amended as follows:

1. By designating the present text of paragraph (c) (3) as subdivision (i) and inserting in paragraph (c) (3) new text designated as subdivision (ii) to provide for the addition of certain calcium salts to red and green sweet peppers.

2. By amending paragraph (f) (2) to provide for the label declaration of the aforementioned optional ingredients.

As amended, paragraphs (c) (3) and (f) (2) would read as follows:

(c) * * *

* * * * *

(3) (i) In the case of potatoes, purified calcium chloride, calcium sulfate, calcium citrate, monocalcium phosphate, or any mixture of two or more such calcium salts, in a quantity reasonably necessary to firm the potatoes, but in no case in a quantity such that the calcium contained in any such calcium salt or mixture is more than 0.051 percent of the weight of the finished food.

(ii) In the case of green sweet peppers or red sweet peppers, purified calcium chloride, calcium sulfate, calcium citrate, monocalcium phosphate, or any mixture of two or more such calcium salts, in a quantity reasonably necessary to firm the peppers, but in no case in a quantity such that the calcium contained in such calcium salt or mixture is more than 0.026 percent of the weight of the finished food.

* * * * *

(f) (1) * * *

(2) If any of the optional ingredients specified in paragraph (c) (3) (i) and (ii) of this section are present, the label shall bear the statement "Trace of _____ added" or "With added trace of _____," the blank being filled in with the words "calcium salt" or "calcium salts," as the case may be, or with the name or names of the particular calcium salt or salts added.

Dated: June 23, 1959.

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

[F.R. Doc. 59-5402; Filed, June 29, 1959; 8:48 a.m.]

FEDERAL POWER COMMISSION

[18 CFR Part 201]

[Docket No. R-174]

UNIFORM SYSTEM OF ACCOUNTS FOR NATURAL GAS COMPANIES

Notice of Proposed Rulemaking

JUNE 23, 1959.

Notice is hereby given that the notice of proposed rulemaking heretofore issued in the above matter on April 8, 1959, and published in the FEDERAL REGISTER on May 30, 1959 (24 F.R. 4391), is hereby amended in the following respects:

1. Paragraph 2 of the notice is amended to provide that the proposed effective date of the revised uniform system of accounts shall be January 1, 1961, instead of January 1, 1960, as set forth in the original notice.

2. The time to file data, views, and comments provided for in paragraph 10 of the notice is extended from July 1, 1959, to September 30, 1959.

3. On the indicated pages of the original notice as published in the FEDERAL REGISTER on May 30, 1959, the following corrections are made:

a. Page 4402, Account 111.1, *Accumulated provision for amortization and depletion of producing natural gas land and land rights:*

Delete paragraph "C", change present paragraph "B" to paragraph "C", add as paragraph B the following text inadvertently omitted in the notice of rulemaking:

B. This account shall also be credited with such amounts as are necessary to reflect, as of the effective date of this system of accounts, the portion of the cost of land and land rights which have been exhausted through the extraction of natural gas. To the extent that provision has not been made for amortization and depletion of such land and land rights, amounts credited to this reserve shall be concurrently debited to account 435, *Miscellaneous debits to surplus.*

b. Pages 4434, Accounts 808 and 809: Fifth line of paragraph A; change reference to account 108 to account 117, *Gas stored underground—Noncurrent.*

c. Page 4436, Account 823: Fourth line from top of page; change reference to account 108 to account 117, *Gas stored underground—Noncurrent.*

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59-5415; Filed, June 29, 1959; 8:49 a.m.]

NOTICES

DEPARTMENT OF AGRICULTURE

Commodity Stabilization Service and Commodity Credit Corporation

AGREEMENT WITH AMERICAN SHEEP PRODUCERS COUNCIL, INC.

Notice of Referendum Among Producers and Procedure for Conduct of Such Referendum

The following procedure will be applicable to the producers' referendum held for the purpose of determining whether producers approve the Secretary of Agriculture executing an agreement with the American Sheep Producers Council, Inc., for the advertising and sales promotion of lamb and wool pursuant to section 708 of the National Wool Act of 1954, as amended (68 Stat. 912, 7 U.S.C. 1787).

1. *Definitions.* For the purpose of this notice, the following terms shall have the following meaning:

(a) *ASC County Committee.* The group of persons elected within a county as the County Committee pursuant to the regulations governing the election and functioning of the County Agricultural Stabilization and Conservation Committees.

(b) *ASC State Committee.* The group of persons designated within any State to act as the State Agricultural Stabilization and Conservation Committee.

(c) *Cooperative association.* An incorporated group of producers which (1) is operated for the mutual benefit of its members as producers; (2) markets the members' sheep or wool; (3) does not deal in sheep and wool for non-members to an amount greater in value than the amount representing the value of sheep and wool handled by the association for members, and (4) permits every member to have only one vote irrespective of the amount of stock or membership capital he may own in the association.

(d) *Deputy Administrator.* The Deputy or Acting Deputy Administrator, Production Adjustment, Commodity Stabilization Service, United States Department of Agriculture.

(e) *Eligible voter.* A producer who owned sheep or lambs, 6 months of age or older, located in the United States, its territories, or possessions, for any one period of at least 30 days between January 1, 1959, and the date his ballot is cast. Two or more producers who are required by § 472.1044 of the wool payment program regulation (24 F.R. 655) to apply jointly for a payment constitute an eligible voter and only one ballot may be cast for all. A producer in either category who casts a ballot in this referendum is referred to hereinafter as an

"individual voter". A cooperative association may cast one vote for eligible producers who on the date the vote is cast are members of, stockholders in, or are under contract to sell their wool or lambs through the association in the 1959 marketing year (April 1, 1959, through March 31, 1960).

(f) *Individual voter.* See paragraph (e).

(g) *Producer.* An individual, partnership, corporation, association, business trust, any organized unincorporated group of persons, or a State or any subdivision thereof, having an interest as owner or part owner of sheep or who, by agreement with such owner, furnishes labor in connection with caretaking, lamb production, or feeding and is entitled either to a share of the wool or lamb production or the sales proceeds thereof.

(h) *Secretary of Agriculture.* The Secretary or Acting Secretary of Agriculture of the United States, or any officer or employee of the United States Department of Agriculture to whom authority has been delegated, or to whom authority may hereafter be delegated, to act in his stead.

2. *Agreement considered in this referendum.* The agreement being considered in this referendum would be between the Secretary of Agriculture and the American Sheep Producers Council, Inc., a non-profit membership corporation organized under the laws of the State of Illinois, for the purpose of developing and conducting an advertising and sales promotion program for wool, sheep, and products thereof, subject to the determination by the Secretary that the agreement has the approval of the producers as provided in section 708 of the National Wool Act of 1954, as amended (68 Stat. 912, 7 U.S.C. 1787). The text of the agreement follows:

AGREEMENT

By agreement made as of March 17, 1955, between the United States Secretary of Agriculture (hereinafter referred to as "Secretary") and the American Sheep Producers Council, Inc. (hereinafter referred to as "Council"), a non-profit membership corporation, organized under the laws of the State of Illinois, provision was made for the conduct of sales and promotion programs pursuant to section 708 of the National Wool Act of 1954, financed by deductions from producer wool payments made under the Act for the marketing years commencing April 1, 1955 and ending March 31, 1959. The following agreement made as of the _____ day of _____, 1959, between the Secretary and the Council, provides, upon approval by producers in a referendum, for a continuation of advertising and sales promotion programs pursuant to that Act, as amended, financed by deductions from payments for the marketing years through March 31, 1962, being three additional years following the period during which deducations were made under the prior agreement. This agreement

Witnesseth:

Whereas, the Secretary, pursuant to the National Wool Act of 1954 (Title VII of the Agricultural Act of 1954, 68 Stat. 897, as amended 72 Stat. 994), hereinafter referred to as the "Act", has announced a price support program for wool marketed during the marketing year April 1, 1959 to March 31, 1960, by means of payments to be made by the Commodity Credit Corporation to the producers of such wool as soon as practicable after the close of such marketing year;

Whereas, it is anticipated that similar programs will be instituted for subsequent marketing years under the Act;

Whereas, section 708 of the Act authorizes the Secretary to enter into agreements with marketing cooperatives, trade associations or other organizations engaged or whose members are engaged in the handling of wool, sheep, and the products thereof for the purpose of developing and conducting on a National, State, or a regional basis advertising and sales promotion programs for wool, sheep, and the products thereof;

Whereas, it is desirable that there be continued an advertising and sales promotion program or programs beneficial on a National basis, for wool, sheep, and products thereof to be financed by pro rata deductions from such price support payment to wool producers; and

Whereas, the Council is qualified to conduct such a program, being so organized, having the necessary powers under its charter and by-laws, having for its members marketing cooperatives and other associations who are engaged in or whose members are engaged in handling wool, sheep, and products thereof, and who are represented at meetings of the Council's membership by wool and sheep producers selected on a basis affording nationwide representation, and having a Board of Directors who also are producers of wool and sheep selected to afford nationwide representation;

Now, therefore, the parties hereto agree as follows:

1. This agreement shall become effective only upon determination by the Secretary that this agreement has approval of the producers as provided in section 708 of the Act. The Secretary will notify the Council in writing as to whether the producers have approved this agreement and as of what day the agreement shall become effective, such effective date to be not later than the 20th day after the date of the notification.

2. The Council shall, from time to time, develop and submit to the Secretary for approval advertising and sales promotion programs and supporting budgets for wool and lambs and the products thereof and such amendments thereto as may be needed. Each such submission shall describe, among other things, the plan of operation and the benefits to be derived on a National basis by producers, commodities to be promoted, the proposed media and methods which the Council intends to use in advertising and otherwise promoting (including related educational and developmental activities) the sale of wool and lambs and the products thereof. After such program and budget have been approved by the Secretary, and in accordance therewith, the Council will enter into such agreements with advertising and promotional agencies, radio and television stations and others, will employ such personnel and will take such other action as the Council deems appropriate or necessary to effectuate such program.

3. When price support payments are made to producers pursuant to the Act, the Secretary will make a pro rata deduction from such payments and pay the amount so deducted to the Council in order to provide the funds necessary to defray the expenses of the Council incurred pursuant to this agreement: *Provided, however,* That deductions will only be made from payments, if any, which are made to producers for marketings during the marketing years beginning April 1, 1959, and ending March 31, 1962. The deductions from payments for marketings during the marketing year April 1, 1959-March 31, 1960, shall be at the rate of 1 cent per pound of shorn wool marketed, and shall be made at a comparable rate as determined by the Secretary on unshorn lambs and yearlings (pulled wool) marketed; thereafter the deductions shall be at such rates as the Secretary and Council may agree upon, but in no event shall be in excess of a rate of 1 cent per pound in the case of shorn wool marketed and a comparable rate in the case of unshorn lambs and yearlings marketed, as determined by the Secretary.

4. The charter and by-laws of the Council having been approved by the Secretary, any amendments or additions to the charter or by-laws shall be subject to his approval.

5. The Council shall submit annually for the approval of the Secretary proposed budgets for the administration of the advertising and sales promotion programs and, from time to time, any amendments thereto that it may determine to be necessary.

6. The Council shall furnish the Secretary with a report of its activities semi-annually beginning with the period in which the Council either receives any funds from the Secretary under this agreement or undertakes obligations as part of its advertising and sales promotion program, whichever event is the earlier. Such reports shall be furnished within 15 days following the close of each such period. On or before September 15, 1960, and each September 15th thereafter during the life of this agreement, the Council shall furnish a statement of assets and liabilities to the Secretary as of the preceding June 30th. The Council shall also furnish the Secretary with such other reports and with such information as he may from time to time request. The Council shall keep accurate records of all its transactions, and these records shall be subject to inspection and audit by representatives of the Secretary at all times during regular business hours after the date of this agreement and for 3 years after the Council has completed performance of all contracts made and obligations incurred.

7. This agreement shall terminate June 30, 1965, unless extended by agreement of the parties hereto. Prior to such date, either party may terminate this agreement by delivering, or mailing by registered mail, a written notice of such termination effective on the date to be specified therein, but not earlier than 30 days after giving of such notice. If the Secretary, on or after April 1, 1960, upon petition or referendum of the wool producers, or otherwise, determines that this agreement is no longer favored by the requisite number of producers, he shall so declare and no deductions from payments to producers shall thereafter be made to defray expenses of the Council, under this agreement, except deductions from such payments as are being made in connection with marketings of a prior year.

8. Funds obtained by the Council pursuant to the agreement of March 17, 1955, and unobligated on the date when this agreement becomes effective shall become subject to the terms and conditions of this agreement and be available to finance either separately or in combination with other funds made available under this agreement, sales promotion and advertising programs established pursuant to this agreement.

9. Upon termination of this agreement, if all the funds of the Council were derived from deductions from wool payments, all such funds remaining unobligated in the hands of the Council shall be returned to the Secretary of Agriculture, together with a statement explaining the various items which entered into the amount returned to the Secretary; if the Council received funds for advertising and promotion purposes, and general administrative purposes from other sources than the Secretary acting pursuant to this agreement, the Council shall return to the Secretary the same proportion of the unobligated funds as the funds contributed by the Secretary bore to all funds received by the Council for these advertising and sales promotion programs and general administrative purposes. A statement of the assets and liabilities of the Council shall be fur-

nished to the Secretary within 60 days after such termination becomes effective. The provision with respect to the return of unobligated funds shall also apply in case of dissolution or liquidation of the affairs of the Council.

10. The authority reserved to the Secretary under the provisions of this agreement may be exercised by an official or officials of the Department of Agriculture designated by him for such purpose.

3. *Agencies conducting referendum.* The Deputy Administrator shall be in charge of conducting this referendum. Each ASC State Committee shall be in charge of conducting the referendum in its State and each ASC county committee shall be in charge of conducting the referendum in its county.

4. *Period of referendum.* The period of this referendum will be from September 1, 1959, to September 30, 1959, both dates inclusive.

5. *Notice of referendum.* The ASC State and County Offices will provide full and accurate public notice, without incurring advertising expense, of the time and place of balloting in the referendum and the rules governing the eligibility to vote, by means of newspapers, radio, etc., or any other method they deem desirable.

6. *Voting*—(a) *Mailing of ballot to eligible voters.* Each ASC County Office will mail ballots to all producers, of whom the committee has knowledge, having ranch or farm headquarters located in its county. Such ballots will be mailed as promptly as possible but not later than August 20, 1959. The mailing of a ballot is not a determination of eligibility to vote and if a producer has not received a ballot, he can obtain one in the ASC State and County office upon request. The Livestock and Dairy Division, Commodity Stabilization Service, will mail ballots to all cooperative associations which qualify to vote on behalf of their members and others in accordance with paragraph (c) hereof.

(b) *Place and manner of voting by individuals.* The ASC county office serving the county in which the producer's farm or ranch headquarters is located shall be his polling place. A ballot may be cast on Form CCC Wool 60 by personal delivery to the polling place on or before the close of business September 30, 1959, or mailing it to the polling place on or before September 30, 1959. The date of the postmark will be considered the date of mailing.

(c) *Place and manner of voting by cooperative associations.* A cooperative association may cast only one vote. The vote shall be cast for all eligible producers who on the date the vote is cast are members of, stockholders in, or are under contract to sell their wool or lambs through the association in the 1959 marketing year. A cooperative association must qualify for voting by filing with the Director of the Livestock and Dairy Division, CSS, Washington 25, D.C., not later than August 28, 1959, each of the following: (1) A certified copy of the Articles of Incorporation of the Association and by-laws of the association and, (2) a certified copy of the resolution adopted by the association's Board of Directors authorizing such vote. The Livestock and Dairy Division will distribute a ballot to each cooperative association that establishes eligibility to vote. The cooperative association shall return the marked ballot to the Director of the Livestock and Dairy Division so that it will reach that office not later than September 15, 1959. Each ballot cast by a cooperative association shall be accompanied by the original and two copies of a listing showing the names and addresses of all producers, otherwise eligible to vote, who on the date the vote is cast are members of, stockholders in, or under contract to sell their wool or lambs through the association in the 1959 marketing year. The producers' names shall be arranged alphabetically, on separate sheets for each county. The listing for each county shall be headed by the name and address of the cooperative association and show whether voting "yes" or "no" in the referendum. In preparing the listings, the cooperative association shall show for each producer the number of sheep and lambs, 6 months of age or older, located in the United States, its territories or possessions, which the producer owned for any one period of at least 30 days from January 1, 1959, through the date of voting. After checking the ballots and lists received from cooperative associations for completeness, the lists of producers for whom cooperative associations have voted will be forwarded by the Livestock and Dairy Division to the ASC state offices concerned for distribution to the respective ASC county offices.

7. *Determining volume of production represented.* The volume of production represented by each producer voting will be determined by the number of sheep, 6 months of age or older, which he owned for any one period of at least 30 days from January 1, 1959, through the date his ballot is cast.

8. *Challenge of ballots.* A ballot may be challenged on the basis of the knowledge of any ASC state, county, or community committeeman; employee of an ASC state or county office; or any other person. Before a challenged ballot is either counted or declared invalid, a determination shall be made by the ASC county committee in connection with such challenged ballot. The determination shall cover all questions as to the eligibility of the individual voter or any producer for whom a cooperative association has cast a ballot and the accuracy of the number of sheep represented. If two or more cooperative associations cast ballots for the same producer, and the ballots take the same position with reference to the agreement which is the subject of the referendum, the producer's vote will be counted only once. If they take different positions, his vote will not be counted.

9. *Canvass of ballots.* The ASC county committees will make a count of the eligible voting producers, determining (a) the number of eligible voting producers favoring the agreement and the number of sheep represented by them, (b) the number of eligible voting producers disapproving the agreement and the number of sheep represented by them, and (c) the number of voting producers found to be ineligible. All ballots shall be treated as confidential and the contents of the ballots shall not be divulged, except as provided herein or as the Secretary may direct.

10. *Reporting results of referendum.* Each ASC county office will transmit a written summary of the results of the referendum in its county to its ASC state office. Each ASC state office will transmit a written summary of the referendum results received from the ASC county offices within its State to the Director of the Livestock and Dairy Division, CSS, Washington, D.C., and maintain one copy of the summary in the ASC state office where it shall be available for public inspection for a period of 5 years following the end of the referendum period. The Director of the Livestock and Dairy Division, Commodity Stabilization Service, shall prepare and submit to the Secretary a report as to the results of the referendum.

11. *Additional instructions and forms.* The Deputy Administrator is hereby authorized to prescribe additional instructions and forms not inconsistent with the provisions hereof to govern the procedure to be followed in the conduct of this referendum.

(Sec. 708, 68 Stat. 912; 7 U.S.C. 1787)

Done at Washington, D.C., this 24th day of June 1959.

MARVIN L. MCLAIN,
Acting Secretary of Agriculture.

[F.R. Doc. 59-5433; Filed, June 29, 1959; 8:51 a.m.]

COTTON; LENDING AGENCY AGREEMENT

Increase in Interest Rate

CCC, by Federal Register notices published in 23 F.R. 4007, 23 F.R. 7330 and 24 F.R. 2963, announced that the per annum rate of interest included in the compensation provided in Lending Agency Agreement—Cotton (CCC Cotton Form D) in effect for the 1958 and subsequent Cotton Loan Programs would be 1¾ percent through and including September 17, 1958, 2½ percent from September 18, 1958, through and including April 30, 1959, and 2¾ percent thereafter.

Pursuant to section IV, paragraph 4, of the Lending Agency Agreement—Cotton (CCC Cotton Form D) CCC hereby announces that such per annum rate of interest for 1959 and subsequent Cotton Loan Programs is increased to 3¼ percent effective on and after July 1, 1959, and that the rates of interest, specified in paragraphs 1b and 3 of such section IV, in effect for 1959 and subsequent Cotton Loan Programs shall be 2¾ percent through and including June 30, 1959, and 3¼ percent thereafter.

Issued this 26th day of June 1959.

WALTER C. BERGER,
Executive Vice President,
Commodity Credit Corporation.

[F.R. Doc. 59-5465; Filed, June 29, 1959; 8:52 a.m.]

DEPARTMENT OF COMMERCE

Federal Maritime Board

HAWAIIAN MARINE FREIGHTWAYS, INC.

Notice of Agreement Filed for Approval

Notice is hereby given that the following described agreement has been filed with the Board for approval pursuant to section 15 of the Shipping Act, 1916 (39 Stat. 733, 46 U.S.C. 814):

Agreement No. 8389, between Hawaiian Marine Freightways, Inc., and Young Brothers Division of Oahu Railway and Land Company, covers the transportation of cargo under through bills of lading between U.S. West Coast ports and Hawaiian Island ports with transhipment at Honolulu, Hawaii.

Interested parties may inspect this agreement 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 the agreement and their position as to approval, disapproval, or modification, together with request for hearing should such hearing be desired.

Dated: June 24, 1959.

By order of the Federal Maritime Board.

[SEAL] JAMES L. PIMPER, *Secretary.*

[F.R. Doc. 59-5383; Filed, June 29, 1959; 8:45 a.m.]

Maritime Administration

[Docket No. S-95]

MOORE-McCORMACK LINES, INC.

Notice of Application and of Hearing

Notice is hereby given of the application of Moore-McCormack Lines, Inc., for written permission of the Maritime Administrator, under section 805(a) of the Merchant Marine Act, 1936, as amended, 46 U.S.C. 1223, for its owned vessel, the "SS Mormacguide", which is under time charter to States Marine Lines to engage in one intercoastal voyage commencing at United States Pacific ports or on about July 22, 1959, to load a full cargo of lumber for discharge at United States North Atlantic ports. This application may be inspected by interested parties in the Office of Government Aid, Maritime Administration.

A hearing on the application has been set before the Maritime Administrator for July 15, 1959, at 9:30 a.m., e.d.t., in Room 4519, General Accounting Office Building, 441 G Street NW., Washington 25, D.C. Any person, firm, or corporation having any interest (within the meaning of section 805(a)) in such application and desiring to be heard on issues pertinent to section 805(a) must, before the close of business on July 14, 1959, notify the Secretary, Maritime Administration in writing, in triplicate, and file petition for leave to intervene which shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief. Notwithstanding anything in Rule 5(n) of the Rules of Practice and Procedure, Maritime Administration, petitions for leave to intervene received after the close of business on July 14, 1959, will not be granted in this proceeding.

Dated: June 26, 1959.

[SEAL] GEO. A. VIEHMANN, *Assistant Secretary.*

[F.R. Doc. 59-5467; Filed, June 29, 1959; 8:58 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 8748]

AMERICAN SHIPPERS, INC.

Notice of Hearing on Enforcement Proceeding

In the matter of American Shippers, Inc. Enforcement proceeding.

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, that a hearing in the above-entitled proceeding is assigned to be held on July 21, 1959, at 10:00 a.m., e.d.s.t., in Room 911, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before Examiner Ralph L. Wiser.

Dated at Washington, D.C., June 25, 1959.

[SEAL] FRANCIS W. BROWN, *Chief Examiner.*

[F.R. Doc. 59-5422; Filed, June 29, 1959; 8:49 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 12879; FCC 59M-808]

FREDERIC C. DOUGHTY

Order Scheduling Prehearing Conference

In the matter of Frederic C. Doughty, Springfield, Pennsylvania; Docket No. 12879, suspension of amateur radio operator license (W3PHL).

The Hearing Examiner having under consideration a "Request" filed June 11, 1959, by the Chief, Safety and Special Radio Services Bureau, Federal Communications Commission, requesting that a prehearing conference in the above-entitled matter be scheduled for July 1, 1959; and

It appearing that the respondent has interposed no timely objection to the granting of the above-described request, and that a prehearing conference in this matter would be conducive to an expeditious conduct of the hearing;

Accordingly: *It is ordered*, This 23d day of June 1959, that the subject "Request" is granted, and that the parties, or their counsel, are directed to appear at a prehearing conference to be held on Wednesday, July 1, 1959, at 11:30 a.m., in the offices of the Commission, Washington, D.C.

Released: June 24, 1959.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] MARY JANE MORRIS, *Secretary.*

[F.R. Doc. 59-5423; Filed, June 29, 1959; 8:49 a.m.]

[Docket No. 12904; FCC 59M-811]

WMAX, INC. (WMAX)

Order Scheduling Prehearing Conference

In re application of WMAX, Inc. (WMAX), Grand Rapids, Michigan; Docket No. 12904, File No. BP-11744; for construction permit for standard broadcast station.

The Hearing Examiner having under consideration the above-entitled proceeding;

It is ordered, This 24th day of June 1959, that all parties, or their attorneys, who desire to participate in the proceeding, are directed to appear for a prehearing conference pursuant to the provisions of § 1.111 of the Commission's rules, at the Commission's offices in Washington, D.C., at 10:00 a.m., July 22, 1959.

Released: June 24, 1959.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] MARY JANE MORRIS, *Secretary.*

[F.R. Doc. 59-5424; Filed, June 29, 1959; 8:49 a.m.]

[Docket Nos. 12909; 12910; FCC 59M-809]

KSOO TV, INC. (KSOO-TV)

Notice of Prehearing Conference

In re applications of: KSOO TV, Inc. (KSOO-TV) Sioux Falls, South Dakota; Docket No. 12909, File No. BMPCT-5168; for modification of construction permit. KSOO TV, Inc. (KSOO-TV), Sioux Falls, South Dakota; Docket No. 12910, File No. BMPCT-5185; for extension of construction permit.

A prehearing conference will be held Tuesday, July 14, 1959, at 10 a.m., in the offices of the Commission, Washington, D.C.

Dated: June 23, 1959.

Released: June 24, 1959.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] MARY JANE MORRIS, *Secretary.*

[F.R. Doc. 59-5425; Filed, June 29, 1959; 8:50 a.m.]

ROLLINS BROADCASTING, INC.

Order Continuing Hearing

In re application of Rollins Broadcasting, Inc., St. Louis, Missouri; Docket No. 12827, File No. BMP-8310; for additional time to construct changed nighttime facilities for Radio Station KATZ, St. Louis, Missouri.

The Hearing Examiner having under consideration oral request of Rollins Broadcasting, Inc., for continuance of the hearing herein;

It appearing that counsel for all other parties have consented to immediate consideration and grant of the request;

It is ordered, This 24th day of June 1959, that the above request is granted; and the hearing now scheduled for June 30, 1959 is continued until July 8, 1959.

Released: June 24, 1959.

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

[F.R. Doc. 59-5426; Filed, June 29, 1959; 8:50 a.m.]

FEDERAL POWER COMMISSION

[Docket No. G-18190]

ARKANSAS LOUISIANA GAS CO.

Notice of Application and Date of Hearing

JUNE 24, 1959.

Take notice that on March 30, 1959, supplemented on April 16 and May 25, 1959, Arkansas Louisiana Gas Company (Applicant), filed in Docket No. G-18190, an application for a certificate of public convenience and necessity, pursuant to section 7 (c) of the Natural Gas Act, authorizing Applicant to construct and operate approximately 5.4 miles of 8⅝-inch O.D. pipeline extending from Applicant's main line S to the Benton Field in Bossier Parish, Louisiana and approximately 6.4 miles of 6⅝-inch O.D. pipeline from Applicant's Line S to the South Sarepta Field in Webster Parish, Louisiana, all as more fully represented in the application which is on file with the Commission and open for public inspection.

The estimated total capital cost of the proposed facilities is $310,346, which will be financed from funds on hand.

By means of the proposed facilities and its existing facilities, Applicant proposes to transport up to 65,000 Mcf of gas per day for Reynolds Metals Company (Reynolds) from two points in the Benton and South Sarepta Fields, where the gas will be delivered to the Applicant by Reynolds, to one or more of three points of industrial consumption in the State of Arkansas where Reynolds utilizes natural gas in Reynolds' industrial operations.

The proposed arrangement is to replace in part Applicant's sale of gas to Reynolds now being made at Reynolds' Hurricane Creek and Jones Mills plants in Arkansas and at the Lake Catharine power plant of Arkansas Power and Light Company where gas is used for generating electricity for the Jones Mills plant.

Total deliveries to the plants will remain at about 100,000 Mcf per day including both the transportation gas and the gas sold by Applicant to Reynolds.

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 July 22, 1959, at 9:30 a.m., e.d.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a noncontested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before July 17, 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.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59-5416; Filed, June 29, 1959; 8:49 a.m.]

[Docket No. G-18497]

CITIES SERVICE GAS CO.

Notice of Application and Date of Hearing

JUNE 24, 1959.

Take notice that on May 8, 1959, Cities Service Gas Company (Applicant), a Delaware corporation with a principal office in Oklahoma City, Oklahoma, filed in Docket No. G-18497, an application for a certificate of public convenience and necessity authorizing it to tap its existing 26-inch pipeline in Lyon County, Kansas, at which point it will construct and operate metering and regulating equipment and sell natural gas to the City of Americus, Kansas, for resale to the inhabitants of Americus, subject to the jurisdiction of the Commission, all as more fully described in the application on file with the Commission and open to public inspection.

The application recites (1) the City will build 9,290 feet of 2-inch transmission line from Applicant's proposed tap to a distribution system to be built and operated by the City and (2) the estimated peak day and annual gas requirements of the proposed service area are as follows:

Year	Requirements in Mcf	
	Peak day	Annual
1	228	21,201
2	286	25,908
3	302	27,063

Applicant states the estimated cost of its proposed facilities is $5,435 to be paid out of its treasury cash, and will be reimbursed by the City of Americus with money received through the sale of bonds. The estimated cost of all the City's facilities including overheads and contingencies is $55,288.70, for which the City of Americus has voted $55,000 municipal gas system bonds and has entered into an agreement with a bonding company for sale of the bonds to finance the construction of its 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 July 28, 1959, at 9:30 a.m., e.d.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such application: *Provided, however,* that the Commission may after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before July 17, 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.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59-5417; Filed, June 29, 1959; 8:49 a.m.]

[Docket No. G-14175 etc.]

CITIES SERVICE OIL CO. ET AL.

Notice of Applications and Date of Hearing

JUNE 24, 1959.

In the matters of Cities Service Oil Company,[1] Docket No. G-14175; Delbert Goff et al., d/b/a Hardman-McDonald Oil & Gas Company,[2] Docket No. G-

See footnotes at end of document.

14176; A. G. Galt and Roy A. Lamb, d/b/a Pan American Engineering Company,[3] Docket No. G-14198; Pan American Petroleum Corporation, Docket No. G-14201; Columbian Fuel Corporation,[4] Docket No. G-14211; Robert Mosbacher, Operator, et al.,[5] Docket No. G-14213; Phillips Petroleum Company,[6] Docket No. G-14214; Pubco Petroleum Corporation,[7] Docket No. G-14220; H. F. Sears,[8] Docket No. G-14221; Magnolia Petroleum Company, Docket No. G-14223; Pan American Petroleum Corporation, Docket No. G-14224; Magnolia Petroleum Company, Docket No. G-14225; Branch T. Archer, Jr., et al.,[9] Docket No. G-14231; Fred Larue, Operator, et al.,[10] Docket No. G-16528.

Take notice that each of the above-designated parties hereinafter referred to as Applicants, has filed an application for a certificate of public convenience and necessity, pursuant to section 7 of the Natural Gas Act, authorizing the respective Applicants to render service as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in their respective applications which are on file with the Commission and open to public inspection.

Applicants produce and propose to sell natural gas for transportation in interstate commerce for resale as indicated below:

Docket No., Field and Location, and Purchaser

G-14175; Tubbs and Blinebry Pools, Lea County, New Mexico; Permian Basin Pipeline Company.

G-14176; Sherman District, Calhoun County, West Virginia; Hope Natural Gas Company.

G-14198; North La Rosa Field, Refugio County, Texas; United Gas Pipe Line Company.

G-14201; Elm Grove Field, Logan County, Colorado; Kansas-Nebraska Natural Gas Company, Inc.

G-14211; Acreage in Edwards County, Kansas; Northern Natural Gas Company.

G-14213; Columbus Field, Colorado County, Texas; Tennessee Gas Transmission Company.

G-14214; Jack Herbert Pennsylvanian Field, Upton County, Texas; El Paso Natural Gas Company and Hunt Oil Company.

G-14220; Blanco (Pictured Cliff) Field, Rio Arriva and Sandoval Counties, New Mexico; El Paso Natural Gas Company.

G-14221; West Panhandle Field, Carson and Moore Counties, Texas; Panhandle Eastern Pipe Line Company.

G-14223; Keyes Field, Cimarron County, Oklahoma; Colorado Interstate Gas Company.

G-14224; Northeast Rhodes and McGuire-Goemann Field, Barber County, Kansas; Cities Service Gas Company.

G-14225; Thornwell Field, Jefferson Davis Parish, Louisiana; United Fuel Gas Company.

G-14231; Camrick Southeast Field (Blackmore Area), Texas County, Oklahoma; Natural Gas Pipeline Company of America.

G-16528; Pistol Ridge Field, Pearl River and Forrest Counties, Mississippi; United Gas Pipe Line Company.

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 July 29, 1959, at 9:30 a.m., e.d.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and issues presented by such applications: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before July 17, 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.

JOSEPH H. GUTRIDE,
Secretary.

APPENDIX

[1] Application covers two amendatory agreements dated October 16, 1957 and December 4, 1957, which add additional acreage (Tubbs and Blinebry Pools, respectively, beneath the same surface acreage) to a basic gas sales contract dated March 11, 1952, as amended.

[2] Hardman-McDonald Oil & Gas Company, Applicant, is a partnership composed of Delbert Goff, Leonard Cain, Francis Cain, Mrs. Margaret Goff, Dale F. Fitzwater, John S. and William Grove, Mrs. Mary Justice, Earl F. Dickinson, Pete Cilone, Leonard J. Sabatelli, O. E. Shirley, Odis Burris, Roger L. Glaze, Constantno Potesta, Virginia M. Dorward, et vir., Pauline M. Dorward, et vir., James E. Pendleton, et ux., William S. Wollett, et ux., John W. E. Bowen, August J. Sorensen, et ux., John C. Young, Fred M. Campbell and Charles E. Smith. Applicant is filing through Delbert Goff, Partner and Attorney-in-Fact, and all partners are signatory seller parties to the subject gas sales contract through the signatures of Delbert Goff, who has signed the contract individually and as Attorney-in-Fact for the remaining partners.

[3] Both A. G. Galt and Roy A. Lamb are signatory seller parties to the subject gas sales contract.

[4] Application covers a ratification agreement dated June 11, 1957, of a basic gas sales contract dated August 17, 1956, between Skelly Oil Company, seller, and Northern, buyer. Both Applicants and Northern are signatory parties to the subject ratification agreement.

[5] Robert Mosbacher, Operator, is filing for himself and on behalf of the following non-operators: David B. Remick and John Mayo. All are signatory seller parties to the subject gas sales contract.

[6] Application covers a basic gas sales contract dated April 9, 1957 (dedicates casinghead gas) and an amendatory agreement dedicating low pressure flash gas well gas thereto dated April 9, 1957. Hunt Oil Company became a signatory purchaser party to the subject basic contract and amendatory agreement through an assignment from El Paso dated May 1, 1957.

[7] Application covers two amendatory agreements dated September 30, 1957 and May 12, 1958, which add additional acreages to a basic gas sales contract dated December 4, 1952, as amended, between Pubco Development, Inc. (predecessor in interest to Applicant), seller, and El Paso, buyer.

[8] Applicant proposes to sell natural gas from subject acreage pursuant to a gas sales contract dated October 17, 1957, between C. E. Weymouth, seller, and Panhandle Eastern Pipe Line Company, buyer. Subject acreage was acquired by Applicant from C. E. Weymouth through two instruments of assignment dated October 28, 1957 and November 22, 1957; Weymouth retained a 75 percent reversionary interest in said assigned acreage.

[9] Branch T. Archer, Jr., Carl M. Archer, Dan E. Archer and Durward G. Cluck are filing jointly for their combined 12.5 percent working interest in certain acreage and propose to sell natural gas pursuant to four ratification agreements dated July 16, July 9, July 2 and August 13, 1957, respectively, of the same basic gas sales contract dated February 21, 1955, between the The Texas Company, seller, and Natural Gas Pipeline Company of America, buyer. In each case, Applicant and Purchaser are signatory parties to the ratification agreement.

[10] Fred LaRue, Operator, is filing for himself and on behalf of the following nonoperators: Joyce B. LaRue, I. P. LaRue, Jr., Martha T. LaRue, Harry D. Owen, Ruthie L. Owen and American Liberty Oil Company. Said parties own one productive well (Southern Mineral Corporation, et al., Well No. 1) as well as certain undeveloped acreage. All are signatory seller parties to the subject gas sales contract.

[F.R. Doc. 59-5418; Filed, June 29, 1959; 8:49 a.m.]

See footnotes at end of document.

[Docket No. G-17761]

GENERAL AMERICAN OIL COMPANY OF TEXAS

Notice of Application and Date of Hearing

JUNE 23, 1959.

Take notice that on February 2, 1959, General American Oil Company of Texas (Applicant) filed in Docket No. G-17761 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon natural gas service to Warren Petroleum Corporation (Warren) from the Mertel Lease, Wheeler County, Texas, covered by a gas sales contract dated February 7, 1957, on file with the Commission as General American Oil Company of Texas FPC Gas Rate Schedule No. 25, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Authorization to render the subject service to Warren was granted to Applicant on August 8, 1957, in Docket No. G-12376.

Applicant states that the gas supply from the Mertel Lease is depleted and the well thereon is now nonproductive.

Notice of the cancellation of the subject service, filed concurrently with the application herein, is designated as Supplement No. 1 to General American Oil Company of Texas FPC Gas Rate Schedule No. 25.

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 July 28, 1959, at 9:30 a.m., e.d.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a noncontested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the Procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before July 15, 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.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59-5419; Filed, June 29, 1959; 8:49 a.m.]

[Docket No. G-10329]

PHILLIPS PETROLEUM CO.

Notice of Date of Hearing

JUNE 22, 1959.

Take notice that, pursuant to the authority 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 July 14, 1959, at 9:30 a.m., e.d.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by the application of Phillips Petroleum Company in the above-entitled proceedings: *Provided, however,* That the Commission may, after a noncontested 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. 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.

The application herein was duly noticed in consolidation with Sunray-Midcontinent Oil Company et al., Docket Nos. G-10326, et al., by publication in the FEDERAL REGISTER on February 2, 1957 (22 F.R. 853-55).

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59-5389; Filed, June 29, 1959; 8:45 a.m.]

[Docket No. G-17583]

PHILLIPS PETROLEUM CO.

Notice of Change in Hearing Date

JUNE 23, 1959.

Upon consideration of the request filed June 22, 1959, by Phillips Petroleum Company for a change in the hearing date in the above-designated matter:

The hearing in the above-designated matter heretofore scheduled to be held on July 23, 1959, is hereby rescheduled to be held on July 15, 1959, at the same hour and place.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59-5390; Filed, June 29, 1959; 8:46 a.m.]

[Docket No. G-17792]

REPUBLIC NATURAL GAS CO.

Notice of Application and Date of Hearing

JUNE 23, 1959.

Take notice that on February 6, 1959, Republic Natural Gas Company (Applicant) filed in Docket No. G-17792 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon natural gas service to Transcontinental Gas Pipe Line Corporation (Transco) from Applicant's McDaniel No. 1 Well on Applicant's Lease No. 3902 in the Odem Field, San Patricio County, Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The subject service, covered by a gas sales contract dated October 28, 1947, which is on file with the Commission as Republic Natural Gas Company FPC Gas Rate Schedule No. 3, was authorized, in addition to the sale of gas from other acreage in the field, on April 24, 1956, in Docket No. G-7636. Notice of cancellation of the portion of the aforesaid gas sales contract pertaining to the McDaniel No. 1 Well was filed concurrently with the application herein and is designated as Supplement No. 10 to Republic Natural Gas Company FPC Gas Rate Schedule No. 3.

Applicant states that (1) production from the McDaniel No. 1 Well ceased in July of 1958, (2) attempts to restore production were unsuccessful, that the gas supply from said well is depleted to the extent that continued service therefrom is unwarranted, and (3) the lease upon which the said McDaniel No. 1 Well is located has now terminated by its own terms because of cessation of production.

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 July 28, 1959, at 9:30 a.m., e.d.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before July 15, 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.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59-5391; Filed, June 29, 1959; 8:46 a.m.]

[Docket Nos. G-17958, G-18082]

TEXAS EASTERN TRANSMISSION CORP. AND BRADCO PROPERTIES, INC.

Notice of Applications and Date of Hearing

JUNE 22, 1959.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern), a Delaware corporation with a principal place of business in Shreveport, Louisiana, and Bradco Properties, Inc. (Bradco), a Texas corporation with principal place of business in Houston, Texas, filed on March 2, and March 17, 1959, respectively, separate applications pursuant to section 7 of the Natural Gas Act for certificates of public convenience and necessity authorizing sales of 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 for public inspection.

Texas Eastern and Bradco propose to sell natural gas produced in the Grand Coulee Field, Acadia Parish, Louisiana, in interstate commerce to Transcontinental Gas Pipe Line Corporation (Transco), pursuant to a gas sales contract dated February 4, 1959, executed by and between Texas Eastern and Bradco, sellers, and Transco, buyer.

These matters should be disposed of as promptly as possible under the applicable rules and regulations and to the 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 July 29, 1959, at 9:30 a.m., e.d.s.t., in a Hearing

Room of the Federal Power Commission, 441 G Street NW., Washington D.C., concerning the matters involved in and the issues presented by such applications: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before July 17, 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.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59-5392; Filed, June 29, 1959; 8:46 a.m.]

[Docket No. G-3293]

WALTER DUNCAN

Notice of Date of Hearing

JUNE 23, 1959.

Take notice that, pursuant to the authority 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 July 16, 1959, at 9:30 a.m., e.d.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by the application of Walter Duncan in the above-entitled proceedings: *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. 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.

The application herein was duly noticed by publication in the FEDERAL REGISTER on January 20, 1955 (20 F.R. 470-1).

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59-5393; Filed, June 29, 1959; 8:46 a.m.]

FEDERAL RESERVE SYSTEM

CITIZENS AND SOUTHERN NATIONAL BANK AND CITIZENS AND SOUTHERN HOLDING CO.

Notice of Tentative Decision on Applications for Prior Approval of Acquisition of Voting Shares of Bank

Notice is hereby given that, pursuant to section 3(a) of the Bank Holding Company Act of 1956, Citizens and Southern National Bank, Savannah, Georgia, and Citizens and Southern Holding Company, Savannah, Georgia ("Applicants"), have applied for the Board's prior approval of action whereby Applicants would acquire 2,500 of the outstanding voting shares of American National Bank of Brunswick, Brunswick, Georgia. Information contained in the applications and other information relied upon by the Board in making its tentative decision are summarized in the Board's Tentative Statement of this date, which is attached hereto and made a part hereof, and is on file with the Federal Register Division and available for inspection at the office of the Board's Secretary and at the Federal Reserve Banks.

The record in this proceeding to date consists of the applications, the Board's letter to the Comptroller of the Currency inviting his views and recommendations on the applications, the reply of the Comptroller of the Currency, this Notice of Tentative Decision, and the facts set forth in the Board's Tentative Statement.

For the reasons set forth in the Tentative Statement, the Board proposes to grant the applications.

Notice is further given that any interested person may, not later than fifteen (15) days after the publication of this notice in the FEDERAL REGISTER, file with the Board in writing any comments on or objections to the Board's proposed action, stating the nature of his interest, the reasons for such comments or objections, and the issues of fact or law, if any, presented by said applications which he desires to controvert. Such statement should be addressed: Secretary, Board of Governors of the Federal Reserve System, Washington 25, D.C.

Following expiration of the said 15-day period, the Board's Tentative Decision will be made final by order to that effect, unless for good cause shown other action is deemed appropriate by the Board and is so ordered.

Dated at Washington, D.C., this 23d day of June 1959.

By the Board of Governors.

[SEAL] MERRITT SHERMAN,
Secretary.

[F.R. Doc. 59-5394; Filed, June 29, 1959; 8:46 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 812-1232]

AMERICAN RESEARCH AND DEVELOPMENT CORP. AND JET-HEET, INC.

Notice of Application for Order Exempting Transactions Between Affiliates

JUNE 23, 1959.

Notice is hereby given that Jet-Heet, Inc ("Applicant"), an affiliated person of American Research and Development Corporation ("Research"), Boston, Massachusetts, a registered closed-end, non-diversified investment company, which owns more than 5 percent of applicant's voting securities, has filed an application pursuant to section 17(b) of the Investment Company Act of 1940 ("Act") requesting an order exempting the transactions summarized below from the provisions of section 17(a) of the Act.

Applicant is an engineering and licensing company providing development services for manufacturers seeking new products, largely in the field of heat transfer and thermomechanics. The following table shows, as of December 31, 1958, its outstanding securities and the amount thereof held by Research:

Security	Total outstanding	Held by research
6 percent demand notes	$20,000	$10,000
5 percent notes due 1962-67	312,500	204,700
Common stock, 10-cent par value, 100,000 shares authorized, 46,887 shares issued and outstanding	[1] 46,887	[1] 18,521

[1] Shares.

Applicant proposes a Plan of Reorganization as follows:

1. The authorized capital stock of Applicant will be increased from 100,000 shares of common stock to 500,000 shares of common stock.

2. Upon the consent in writing of the holders of at least 97 percent in principal amount of the 5 percent Notes of Applicant it will issue to each consenting noteholder, in return for the surrender of all of the Notes held by him, Ten-Year 5 percent Subordinated Income Debentures of Applicant (hereinafter called "the Debentures") and shares of common stock. For each $25 in principal amount of Notes surrendered the noteholders shall receive $4 in principal amount of such Debentures and 18.75 shares of common stock. Upon the surrender by a noteholder of the Notes held by him pursuant to this Plan, such noteholder shall cease to have any right to receive interest on such Notes, whether due at the time of such surrender or to come due thereafter. If all the Notes are surrendered, a total of $50,000 of

Debentures and 234,000 shares of common stock will be issued.

3. Applicant will issue a total of $20,000 of new Five-Year 6 percent Notes, and 46,888 shares of common stock in exchange for its presently outstanding 6 percent Demand Notes. The new notes and stock will be divided equally between the two holders of the Demand Notes presently outstanding.

Subject to the granting of the exemption applied for, the plan has been approved by the stockholders of Applicant, by the holders of the 6 percent Demand Notes and by more than 97 percent of the holders of the 5 percent Notes. On the basis of book values at December 31, 1958 the common stock reflected a deficit in the amount of $83,000 or $1.788 per share. Following effectiveness of the Plan such stock will have a pro forma book value of $210,000 or $0.449 per share. The Plan is proposed as a means by which Applicant will improve its financial position and be able to attract new capital.

The application recites that the terms of the reorganization are reasonable and fair insofar as Research is concerned in that it does not involve overreaching on the part of any person concerned and Research is receiving equal treatment with all others participating in the reorganization. It is also recited that the proposed transactions are consistent with the policy of Research as stated in its registration statement and reports filed under the Act and are consistent with the general purposes of the Act.

Generally speaking, section 17(a) of the Act prohibits an affiliated person of a registered investment company from purchasing from, or selling to, such registered investment company, any security, with certain exceptions, unless the Commission upon application pursuant to section 17(b) of the Act, grants an exemption from section 17(a) of the Act after finding that the terms of the proposed transaction, including the consideration to be paid, are reasonable and fair and do not involve overreaching on the part of any person concerned, that the proposed transaction is consistent with the policy of each registered investment company concerned, as recited in its Registration Statement and reports filed under the Act, and is consistent with the general purposes of the Act.

Because of the holding of more than 5 percent of the Common Stock of Applicant by Research, the two companies are affiliated persons of each other, as defined in the Act; hence the transactions between them are prohibited under section 17(a) unless the Commission grants the application pursuant to section 17(b) of the Act.

Notice is further given that any interested person may, not later than July 7, 1959, at 12:30 p.m., submit to the Commission in writing any facts bearing upon the desirability of a hearing on the matter and may request that a hearing be held, such request stating the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D.C. At any time after said date, the application, as amended, may be granted as provided in Rule N-5 of the rules and regulations promulgated under the Act.

By the Commission.

[SEAL] NELLYE A. THORSEN,
Assistant Secretary.

[F.R. Doc. 59-5404; Filed, June 29, 1959; 8:48 a.m.]

[File Nos. 2-5885 (22-449, 2-12596 (22-1893)]

AMERICAN TELEPHONE AND TELEGRAPH CO.

Notice of Application and Opportunity for Hearing

JUNE 23, 1959.

Notice is hereby given that American Telephone and Telegraph Company ("Company") has filed an application under Clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939 for a finding by the Commission that trusteeship of Morgan Guaranty Trust Company of New York ("Morgan Guaranty") under the three indentures hereinafter described is not so likely to involve a material conflict of interest as to make it is necessary in the public interest or for the protection of investors to disqualify Morgan Guaranty from acting as such under all three indentures.

Section 310(b) of the Act provides, in part, that if an indenture trustee under an indenture qualified under the Act has or shall acquire any conflicting interest (as defined therein) it shall within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subdivision (1) of the section provides, with certain exceptions stated therein, that a trustee is deemed to have a conflicting interest if it is acting as trustee under a qualified indenture and is trustee under another indenture of the same obligor. However, an issuer may sustain the burden of proving, on application to the Commission and after opportunity for hearing thereon, that trusteeship under a qualified indenture and such other indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under one or more of such indentures.

The company alleges that:

1. It has outstanding the following three issues of unsecured debentures:

(a) $140,000,000 principal amount of its Thirty Year 2¾ percent Debentures due December 1, 1970 issued under an Indenture dated as of December 1, 1940 (the 1940 Indenture) to Guaranty Trust Company of New York (Guaranty), a corporation organized and existing under the laws of the State of New York, as Trustee. The transaction did not involve a public offering and therefore these debentures were exempt from registration under the Securities Act of 1933 and the 1940 Indenture was exempt from qualification under the Trust Indenture Act of 1939.

(b) $160,000,000 principal amount of its Thirty Year 2¾ percent Debentures due October 1, 1975 issued under an Indenture dated October 1, 1945 (the 1945 Indenture) to J. P. Morgan & Co. Incorporated (Morgan), a corporation organized and formerly existing under the laws of the State of New York, as Trustee. These debentures were registered under the Securities Act of 1933 and the 1945 Indenture was qualified under the Trust Indenture Act of 1939.

(c) $250,000,000 principal amount of its Thirty Four Year 3⅞ percent Debentures due July 1, 1990 issued under an Indenture dated July 1, 1956 (the 1956 Indenture) to Morgan as Trustee. These debentures were registered under the Securities Act of 1933 and the 1956 Indenture was qualified under the Trust Indenture Act of 1939.

2. Morgan was duly merged into Guaranty under an Agreement of Merger on April 24, 1959, in connection with which Guaranty as the surviving corporation changed its name to Morgan Guaranty Trust Company of New York and Morgan Guaranty became the successor Trustee under the 1945 and 1956 Indentures.

3. The 1940, 1945 and 1956 Indentures are wholly unsecured. The Company is not in default under any of said Indentures.

4. Except for variations in amounts, dates, interest rates and redemption prices, and except for the fact that the 1940 Indenture does not comply with the requirements of the Trust Indenture Act of 1939, these three Indentures contain substantially the same provisions. Any difference in their provisions is unlikely to cause a conflict of interest in the trusteeships of Guaranty under said three Indentures.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application which is on file in the offices of the Commission at 425 Second Street NW., Washington, D.C.

Notice is further given that an order granting the application may be issued by the Commission on or at any time after July 9, 1959, unless prior thereto a hearing upon the application is ordered by the commission, as provided in clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939. Any interested person may, not later than July 7, 1959, in writing, submit to the Commission his views or any additional facts bearing upon this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 425 Second Street NW., Washington 25, D.C., and should state briefly the nature of the interest of the person submitting such information or requesting a hearing, the reasons for such request, and the issues of fact and law raised by the application which he desires to controvert.

By the Commission.

[SEAL] NELLYE A. THORSEN,
Assistant Secretary.

[F.R. Doc. 59-5405; Filed, June 29, 1959; 8:48 a.m.]

SMALL BUSINESS ADMINISTRATION

[Delegtion of Authority 30 (Revision 4) Amdt. 5]

REGIONAL DIRECTORS

Delegation Relating to Financial Assistance, the Investment Program, Procurement and Technical Assistance and Administrative Functions

Delegation of Authority No. 30 (Revision 4), as amended (22 F.R. 5811, 8197, 23 F.R. 557, 1768, 8435) is hereby further amended by adding new paragraphs I.B. 49 through 52 as follows:

Investment Program. 49. To disburse section 502 loans.

50. To extend the disbursement period on section 502 loan authorizations or undisbursed portions of section 502 loans.

51. To cancel wholly or in part undisbursed balances of partially disbursed section 502 loans.

52. To do and to perform all and every act and thing requisite, necessary and proper to be done for the purpose of effecting the servicing and administration of section 502 loans.

Dated: June 5, 1959.

WENDELL B. BARNES,
Administrator.

[F.R. Doc. 59-5350; Filed, June 26, 1959; 8:47 a.m.]

[Delegation of Authority 30-X-6 (Rev. 1)]

BRANCH MANAGER, NEW ORLEANS, LOUISIANA

Delegation Relating to Financial Assistance, Procurement and Technical Assistance and Administrative Functions

I. Pursuant to the authority delegated to the Regional Director by Delegation of Authority No. 30 (Revision 4), as amended, (22 F.R. 5811, 8197, 23 F.R. 557, 1768, 8435), there is hereby delegated to the Branch Manager, New Orleans Branch Office, Small Business Administration, the authority:

A. *Specific—Financial assistance.* To take the following actions in accordance with the limitations of such delegations set forth in SBA-500, Financial Assistance Manual:

1. To approve but not decline the following types of loans:

a. Direct Business Loans in an amount not exceeding $20,000.

b. Participation Business Loans in an amount not in excess of $100,000.

2. To approve or decline Disaster Loans in an amount not exceeding $50,000, but not to decline reconsiderations of applications for such loans.

3. To approve or decline Limited Loan Participation Loans.

4. To enter into Disaster Participation Agreements with banks.

5. To execute loan authorization for Washington approved loans and for loans approved under delegated authority, such execution to read as follows:

WENDELL B. BARNES,
Administrator.
By ----------
Branch Manager.

6. To modify or amend authorizations for business or disaster loans approved by Branch Manager under delegated authority, by issuance of Certificates of Modification.

7. To extend, with concurrence of Branch Counsel, the disbursement period upon request of borrower on all loan authorizations.

8. To approve when requested, upon concurrence of Branch Counsel, in advance of disbursement, conformed copies of notes and other closing documents and certify to the participating bank that such documents are in compliance with the Loan Authorization and Participation Agreement.

9. To approve, with concurrence of Branch Counsel, the extension or deferment of payments on principal falling due prior to or within 30 days after the initial disbursement on account of the loan, and provide for the coincidence of principal and interest payments.

10. To approve, with the concurrence of Branch Counsel, the compensation paid and to be paid by the borrower as attorneys fees for legal services rendered in connection with the loan.

11. To approve the compensation paid and to be paid by the borrower as fees to accountants, appraisers, architects, or engineers for services rendered in connection with the loan.

12. To approve, with recommendation of Branch Counsel, Requests for Disbursement and Notification of Checks Delivered, and transmit same directly to the Office of the Controller.

13. To cancel wholly or in part undisbursed balances of partially disbursed loans and deferred participation agreements, where the Administration has not purchased its participation.

14. Release, or consent to the release of, all collateral when loan is paid in full.

15. Approve or reject substitutions of accounts receivable and inventories as "exchangeable collateral".

16. Release, or consent to the release of insurance settlement funds covering loss or damage to property securing a loan in aggregate amount not exceeding $1,000 for any one specific loss or damage occurrence, and execute the endorsement of Small Business Administration on checks and drafts representing such funds.

17. To take the following actions to effect the servicing, administration and collection of direct business loans having an outstanding balance not in excess of $20,000; participation loans having an outstanding balance not in excess of $100,000; and disaster loans having an outstanding balance not in excess of $50,000; except those loans currently classified as "Problem or In Liquidation":

a. Waive amounts due under net earnings clause.

b. Approve request to exceed fixed assets limitations and waive violations of this limitation.

c. Approve payment of cash or stock dividends, payment of bonuses, increases in salaries, employment of new personnel, and waivers of violations of salary and bonus limitations, provided the loan is current in all respects at the time the payment is authorized, or the waiver approved, and if the payment is reasonable and will not impair borrower's cash position.

d. Waive violations of agreements to maintain working capital of a fixed amount or ratio.

e. Release dividends on life insurance policies held as collateral for loans, and approve application of same against premiums due on such policies.

f. Release, or approve the release of real or personal property securing a loan for the purpose of sale, provided the sale proceeds are applied as a principal payment on the loan in inverse order of maturity.

g. Release, or approve the release of machinery and equipment, furniture and fixtures, securing a loan for the purpose of allowing borrower to trade the property for other machinery or equipment, furniture and fixtures, useful in the operation of borrower's business, provided the newly acquired property is hypothecated to secure the loan subject only to purchase money lien, if any exists.

h. To take peaceable custody of collateral, as mortgagee in possession thereof or otherwise, whenever such action becomes necessary to protect the interests of or a loan made by SBA; to take all steps necessary for the preservation and protection of the property, pending foreclosure of the lien and sale of the collateral; and, to obligate the Administration in an amount not in excess of a total of $1,000 for any one loan, for those expenditures as may be required to accomplish these purposes.

i. Approve changes in use of loan proceeds in connection with partially disbursed loans.

18. To take the following actions in the administration of fisheries' loans:

a. Amend loan authorizations.

b. Extend the period of disbursement of loans of $50,000 or less for a period of not to exceed four months.

c. Amend the hull insurance provisions of any authorization issued prior to January 31, 1958, for a loan of $10,000 or less.

d. Cancel loan authorizations prior to disbursement upon the written request of the applicant.

e. Administer fisheries' loans within the same authority exercised with respect to SBA loans.

19. To do and to perform all and every act and thing requisite, necessary and proper to be done for the purpose of effecting the granted powers, including, but without limiting the generality of the foregoing, the execution and delivery of quit claim, bargain and sale or special warranty deeds, leases, subleases, assignments, subordinations, satisfaction pieces, affidavits, renewal of mortgages or judgments, and such other documents as may be appropriate or necessary to effectuate the foregoing, and ratifying and confirming all that said Branch

Manager shall lawfully do or cause to be done by virtue hereof.

20. To do and to perform every act and thing requisite, necessary and proper to be done for the purpose of effecting all actions in connection with any disbursed loan when the action is specifically approved by the Regional Director.

Procurement and technical assistance. To take the following actions in accordance with the limitations of such delegations as set forth in SBA–400, Agency Policy Manual, and SBA–600, Procurement and Technical Assistance Manual:

21. To develop with government procurement agencies required local procedures for implementing established inter-agency policy agreements, including but not limited to steps such as determining joint set-asides and representation at procurement centers.

Administrative. 22. To administer oaths of office.

23. To approve annual and sick leave for employees under his supervision.

24. To rent motor vehicles from the General Services Administration and to rent garage space for the storage of such vehicles when not furnished by GSA.

B. *Correspondence.* To sign all non-policy making correspondence, including Congressional correspondence, relating to the functions of the Branch Office.

II. The specific authority delegated in I.A., except paragraph I.A. 21, may not be redelegated.

The specific authority delegated in I.B. may be redelegated limiting such redelegation to routine correspondence only.

III. All authority delegated herein may be exercised by any SBA employee designated as Acting Branch Manager.

IV. All previous authority delegated by the Regional Director to the Branch Manager, New Orleans, Louisiana, is hereby rescinded without prejudice to actions taken under all such delegations of authority prior to the date hereof.

Dated: June 15, 1959.

C. W. FERGUSON,
Regional Director,
Dallas Regional Office.

[F.R. Doc. 59–5351; Filed, June 26, 1959; 8:48 a.m.]

[Delegation of Authority 30–X–8 (Revision 1)]

BRANCH MANAGER, LITTLE ROCK, ARKANSAS

Delegation Relating to Financial Assistance, Procurement and Technical Assistance and Administrative Functions

I. Pursuant to the authority delegated to the Regional Director by Delegation of Authority No. 30 (Revision 4), as amended (22 F.R. 5311, 8197, 23 F.R. 557, 1768, 8435), there is hereby delegated to the Branch Manager, Little Rock Branch Office, Small Business Administration, the authority:

A. *Specific—Financial assistance.* To take the following actions in accordance with the limitations of such delegations set forth in SBA–500, Financial Assistance Manual:

1. To approve but not decline the following types of loans:

a. Direct Business Loans in an amount not exceeding $20,000.

b. Participation Business Loans in an amount not in excess of $100,000.

2. To approve or decline Disaster Loans in an amount not exceeding $50,000, but not to decline reconsiderations of applications for such loans.

3. To approve or decline Limited Loan Participation Loans.

4. To enter into Disaster Participation Agreements with banks.

5. To execute loan authorization for Washington approved loans and for loans approved under delegated authority, such execution to read as follows:

WENDELL B. BARNES,
Administrator.
By _____
Branch Manager.

6. To modify or amend authorizations for business or disaster loans approved by Branch Manager under delegated authority, by the issuance of Certificates of Modification.

7. To extend, with concurrence of Branch Counsel, the disbursement period upon request of borrower on all loan authorizations.

8. To approve when requested, upon concurrence of Branch Counsel, in advance of disbursement, conformed copies of notes and other closing documents and to certify to the participating bank that such documents are in compliance with the Loan Authorization and Participation Agreement.

9. To approve, with concurrence of Branch Counsel, the extension or deferment of payments on principal falling due prior to or within 30 days after the initial disbursement on account of the loan, and provide for the coincidence of principal and interest payments.

10. To approve, with the concurrence of Branch Counsel, the compensation paid and to be paid by the borrower as attorney's fees for legal services rendered in connection with the loan.

11. To approve the compensation paid and to be paid by the borrower as fees to accountants, appraisers, architects, or engineers for services rendered in connection with the loan.

12. To approve, with recommendation of Branch Counsel, Requests for Disbursement and Notification of Checks Delivered, and transmit same directly to the Office of the Controller.

13. To cancel wholly or in part undisbursed balances of partially disbursed loans and deferred participation agreements, where the Administration has not purchased its participation.

14. Release, or consent to the release of all collateral when loan is paid in full.

15. Approve or reject substitutions of accounts receivable and inventories as "exchangeable collateral."

16. Release, or consent to the release of insurance settlement funds covering loss or damage to property securing a loan in aggregate amount not exceeding $1,000 for any one specific loss or damage occurrence, and execute the endorsement of Small Business Administration on checks and drafts representing such funds.

17. To take the following actions to effect the servicing, administration and collection of direct business loans having an outstandig balance not in excess of $20,000; participation loans having an outstanding balance not in excess of $100,000; and disaster loans having an outstanding balance not in excess of $50,000; except those loans currently classified as "Problem or In Liquidation";

a. Waive amounts due under net earnings clause.

b. Approve request to exceed fixed assets limitations and waive violations of this limitation.

c. Approve payment of cash or stock dividends, payment of bonuses, increases in salaries, employment of new personnel, and waivers of violations of salary and bonus limitations, provided the loan is current in all respects at the time the payment is authorized, or the waiver approved, and if the payment is reasonable and will not impair borrower's cash position.

d. Waive violations of agreements to maintain working capital of a fixed amount or ratio.

e. Release dividends on life insurance policies held as collateral for loans, and approve application of same against premiums due on such policies.

f. Release, or approve the release of real or personal property securing a loan for the purpose of sale, provided the sale proceeds are applied as a principal payment on the loan in inverse order of maturity.

g. Release, or approve the release of machinery and equipment, furniture and fixtures, securing a loan for the purpose of allowing borrower to trade the property for other machinery or equipment, furniture and fixtures, useful in the operation of borrower's business, provided the newly acquired property is hypothecated to secure the loan subject only to purchase money lien, if any exists.

h. To take peaceable custody of collateral, as mortgagee in possession thereof or otherwise, whenever such action becomes necessary to protect the interests of or a loan made by SBA; to take all steps necessary for the preservation and protection of the property, pending foreclosure of the lien and sale of the collateral; and, to obligate the Administration in an amount not in excess of a total of $1,000 for any one loan, for those expenditures as may be required to accomplish these purposes.

i. Approve changes in use of loan proceeds in connection with partially disbursed loans.

18. To do and to perform all and every act and thing requisite, necessary and proper to be done for the purpose of effecting the granted powers, including, but without limiting the generality of the foregoing, the execution and delivery of quit claim, bargain and sale or special warranty deeds, leases, subleases, assignments, subordinations, satisfaction pieces, affidavits, renewal of mortgages or judgments, and such other documents

as may be appropriate or necessary to effectuate the foregoing, and ratifying and confirming all that said Branch Manager shall lawfully do or cause to be done by virtue hereof.

19. To do and to perform every act and thing requisite, necessary and proper to be done for the purpose of effecting all actions in connection with any disbursed loan when the action is specifically approved by the Regional Director.

Procurement and technical assistance. To take the following actions in accordance with the limitations of such delegations as set forth in SBA–400, Agency Policy Manual, and SBA–600, Procurement and Technical Assistance Manual:

20. To develop with government procurement agencies required local procedures for implementing established inter-agency policy agreements, including but not limited to steps such as determining joint set-asides and representation at procurement centers.

Administrative. 21. To administer oaths of office.

22. To approve annual and sick leave for employees under his supervision.

23. To rent motor vehicles from the General Services Administration and to rent garage space for the storage of such vehicles when not furnished by GSA.

B. *Correspondence.* To sign all non-policy making correspondence, including Congressional corespondence, relating to the functions of the Branch Office.

II. The specific authority delegated in I.A., except paragraph I.A.20, may not be redelegated. The specific authority delegated in I.B. may be redelegated limiting such redelegation to routine correspondence only.

III. All authority delegated herein may be exercised by any SBA employee designated as Acting Branch Manager.

IV. All previous authority delegated by the Regional Director to the Branch Manager, Little Rock, Arkansas, is hereby rescinded without prejudice to actions taken under all such delegations of authority prior to the date hereof.

Dated: June 15, 1959.

C. W. FERGUSON,
Regional Director,
Dallas Regional Office.

[F.R. Doc. 59–5352; Filed, June 26, 1959; 8:48 a.m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

AUGUSTINIUS I. M. B. BUSCH

Amended Notice of Intention To Return Vested Property

Whereas, a Notice of Intention To Return Vested Property was published in the FEDERAL REGISTER on April 26, 1958 (23 F.R. 2826) with respect to the return of a sum of money in the Treasury of the United States to Augustinius I. M. Busch. By Determination and Return Order No. 3727, dated May 29, 1958, the claim was allowed and the sum was ordered returned to the claimant;

Whereas, prior to the delivery of the property ordered returned, information was received to the effect that Augustinius I. M. Busch had died. Based upon that information the check drawn on the Treasurer of the United States was cancelled and the funds restored to Account No. 49–80131;

Whereas G. J. M. Busch, the heir of Augustinius I. M. Busch, has been substituted as claimant in this matter in lieu of Augustinius I. M. Busch;

Whereas, the $135.02 in the Treasury of the United States, referred to under "Property and Location" in the aforesaid Notice of Intention, has been reduced to $118.27;

Now, therefore, pursuant to section 32 of the Trading With the Enemy Act, as amended, the said Notice of Intention to Return Vested Property is hereby amended by deleting under the heading "Claimant" the name and address of Augustinius I. M. Busch, and deleting under the heading "Property and Location" $135.02 in the Treasury of the United States and substituting in lieu thereof the following:

G. J. M. Busch, Singel 123, Dordrecht, The Netherlands; $118.27 in the Treasury of the United States.

Vesting Order No. 17915; Claim No. 60646.

All other provisions of the said Notice of Intention to Return Vested Property, and all actions taken by or on behalf of the Attorney General of the United States in reliance thereon, pursuant thereto, and under the authority thereof, are hereby ratified and confirmed.

Executed at Washington, D.C., on June 23, 1959.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F.R. Doc. 59–5413; Filed, June 29, 1959; 8:49 a.m.]

ALBERT P. KANTOR AND ALICE WINTER

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

Albert P. Kantor, 555 7th Avenue, Havana, Vedado, Cuba; $207.25 in the Treasury of the United States.

Mrs. Alice Winter, 48 Norland Square, London, W.11., England; $207.25 in the Treasury of the United States.

Vesting Order No. 17737; Claim No. 61681.

Executed at Washington, D.C., on June 23, 1959.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F.R. Doc. 59–5412; Filed, June 29, 1959; 8:49 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

JUNE 24, 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. 35514: *Soda ash—Michigan and Ohio points to Nashville, Tenn.* Filed by O. E. Schultz, Agent (ER No. 2500), for interested rail carriers. Rates on soda ash (other than modified soda ash), in bulk, in cars, or in bulk in bags, carloads from Detroit and Wyandotte, Mich., Barberton, Fairport Harbor, Painesville, and Perry, Ohio to Nashville, Tenn.

Grounds for relief: Market competition with Baton Rouge, La.

Tariff: Supplement 122 to Traffic Executive Association—Eastern Railroads, agent, tariff I.C.C. 4664, (Hinsch series).

FSA No. 35515: *Ferro-alloys—Houston, Tex., to Chicago, Ill.* Filed by Southwestern Freight Bureau, Agent (No. B–7573), for interested rail carriers. Rates on ferro-manganese, ferro-silicon, ferro-chrome, ferro-chrome silicon, and silico-manganese, straight or mixed carloads from Houston, Tex., to Chicago, Ill.

Grounds for relief: Barge competition from Houston, and rail market competition from Emco, Ala., and Calvert, Ky.

Tariff: Supplement 594 to Southwestern Freight Bureau, Agent, tariff I.C.C. 4139.

By the Commission.

HAROLD D. MCCOY,
Secretary.

[F.R. Doc. 59–5360; Filed, June 26, 1959; 8:49 a.m.]

[Notice 145]

MOTOR CARRIER TRANSFER PROCEEDINGS

JUNE 25, 1959.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 179), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC–FC 62171. By order of June 24, 1959, the Transfer Board approved the transfer to McCarty Truck Line, Inc., Trenton, Mo., of Certificates in Nos. MC 1263, MC 1263 Sub 1, MC 1263 Sub 5, MC 1263 Sub 6, and MC 1263 Sub 11, issued February 9, 1956, August 30, 1949, May 18, 1953, May 18, 1954, and May 7, 1959, respectively, to J. H. McCarty, doing business as J. H. McCarty Truck Line, Trenton, Mo., authorizing the transportation of: a variety of commodities of a general commodity nature between specified points in Iowa, Kansas, Missouri, Nebraska, and Illinois. Wentworth E. Griffin, 1012 Baltimore Building, Kansas City 5, Missouri, for applicants.

No. MC–FC 62183. By order of June 23, 1959, the Transfer Board approved the transfer to Earl Cassellius, Boyceville, Wis. of Certificate in No. MC 44845, issued April 9, 1951, to La Verne J. Reynolds, doing business as Reynolds Truck Service, Boyceville, Wis., authorizing the transportation of: *Agricultural commodities, flour, feed, agricultural implements, livestock,* and *general commodities,* except commodities in bulk, household goods and the other usual exceptions, between specified points in Wisconsin and Minnesota. A. R. Fowler, 2288 University Ave., St. Paul 14, Minn., for applicants.

No. MC–FC 62254. By order of June 24, 1959, the Transfer Board approved the transfer to John Beckman, doing business as Beckman Bros., Pittsburgh, Pa., of the operating rights in Certificates Nos. MC 78031, MC 78031 Sub 1, and MC 78031 Sub 3, issued September 14, 1940, October 30, 1942, and November 24, 1950, respectively, to Martin Beckman and John Beckman, a Partnership, doing business as Beckman Bros., Pittsburgh, Pa. authorizing the transportation of, household goods over irregular routes, between points in Allegheny County, Pa., on the one hand, and, on the other, points in New York, New Jersey, Ohio, and West Virginia, training pigeons, in crates, over irregular routes, from Pittsburgh, Pa., to Weirton, W. Va., and Cadiz, Ohio, and points within 5 miles of each, and live pigeons, between April 1 and October 31, inclusive, over irregular routes, from Pittsburgh, Pa., to Dennison, Coshocton, Newark, and Xenia, Ohio, Greenfield and Terre Haute, Ind., and Vandalia, Ill. Jerome Solomon, 1325 Grant Building, Pittsburgh, Pa., for applicants.

No. MC–FC 62322. By order of June 24, 1959 the Transfer Board approved the transfer to Pine Tree Cartage Co., a Corporation, 2971 Selden Avenue, Detroit, Michigan, of the operating rights in Certificate No. MC 96312, issued September 27, 1941, to Thomas W. Miller, Daniel R. Hartley, and Arthur W. Adamson, a Partnership doing business as Pine Tree Cartage Co., 2971 Selden Avenue, Detroit, Michigan, authorizing the transportation of general commodities, excluding household goods, and dangerous explosives, between points within eight miles of Detroit, Mich., including Detroit.

[SEAL] HAROLD D. McCOY,
Secretary.

[F.R. Doc. 59–5403; Filed, June 29, 1959; 8:48 a.m.]

CUMULATIVE CODIFICATION GUIDE—JUNE

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