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Title 7—AGRICULTURE

Subtitle A—Office of the Secretary of Agriculture

[Amdt. 5]

PART 7—AGRICULTURAL STABILIZATION AND CONSERVATION COMMITTEES

Subpart—Selection and Functions of Agricultural Stabilization and Conservation County and Community Committees

LEAVE

By virtue of the authority vested in the Secretary of Agriculture by the Soil Conservation and Domestic Allotment Act of 1936, as amended, the regulations in this subpart published in the FEDERAL REGISTER of November 2, 1956 (21 F.R. 8385), May 8, 1957 (22 F.R. 3222), November 1, 1957 (22 F.R. 8802), November 13, 1958 (23 F.R. 8775) and December 10, 1958 (23 F.R. 9534) are amended as follows:

In § 7.31, paragraph (a) is amended by deleting the words "15 days" at the end of the second sentence and substituting therefor the words "30 days."

This amendment is effective January 15, 1960.

(Sec. 4, 49 Stat. 164, as amended; 16 U.S.C. 590d, 590h)

Done at Washington, D.C., this 28th day of December 1959.

TRUE D. MORSE,
Acting Secretary.

[F.R. Doc. 59-11077; Filed, Dec. 28, 1959; 8:52 a.m.]

Chapter III—Agricultural Research Service, Department of Agriculture

Chapter III of Title 7, Code of Federal Regulations, is republished to read as set forth below. Since its original codification, there have been numerous amendments and additions to the chapter. To facilitate the use of this material the various amendments and additions are brought together in their entirety.

This republication is made solely for editorial and codification purposes, and no substantive change is made in the text of the regulations.

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

M. R. CLARKSON,
Acting Administrator,
Agricultural Research Service.

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AUTHORITY: §§ 301.38 to 301.81–10 issued under secs. 103, 106, 71 Stat. 32, 33, sec. 9, 37 Stat. 318; 7 U.S.C. 150bb, 150ee, 162. Interpret or apply sec. 8, 37 Stat. 318, as amended; 7 U.S.C. 161.

Subpart—Black Stem Rust

QUARANTINE

§ 301.38 Notice of quarantine.

(a) Under the authority conferred by section 8 of the Plant Quarantine Act of August 20, 1912, as amended (7 U.S.C. 161), and having held the public hearing required thereunder, the Secretary of Agriculture quarantines each and every State of the continental United States and the District of Columbia, to prevent the establishment of continuous local sources of infection of the destructive disease of small grains known as the black stem rust (Puccinia graminis) in grain-growing areas. Hereafter, plants of Berberis, Mahonia, or Mahoberberis, or parts thereof capable of propagation, shall not be transported by any person, firm, or corporation, from any State of the United States or the District of Columbia into any other State of the United States or the District of Columbia in manner or method or under conditions other than those prescribed in §§ 301.38–1 to 301.38–11: *Provided*, That whenever the Director of the Plant Pest Control Division shall find that facts exist as to the pest risk involved in the movement of one or more of the species of plants to which the regulations in §§ 301.38–1 to 301.38–11 apply, making it safe to modify, by making less stringent, the restrictions contained in such supplemental regulations, he shall set forth and publish such findings in administrative instructions, specifying the manner in which the applicable regulations should be made less stringent, whereupon such modification shall become effective for such period and for such plants or parts thereof capable of propagation as shall be specified in said administrative instructions, and every reasonable effort shall be made to give publicity to such administrative instructions throughout the affected States.

(b) Regulations governing the movement of the organisms causing said disease are contained in Part 330 of this chapter. Applications for permits for the movement of said organisms may be made to the Director, Plant Pest Control Division, Agricultural Research Service, U.S. Department of Agriculture, Washington 25, D.C., in accordance with said part.

REGULATIONS

§ 301.38–1 Definitions.

For the purposes of the regulations in this subpart the following words, names, and terms shall have the meanings hereby assigned:

(a) *Black stem rust.* The disease commonly known as the black stem rust of grains (Puccinia graminis) in any stage of development.

(b) *Barberry, Mahonia, and Mahoberberis plants.* Plants growing on their own roots or parts of such plants capable of propagation, other than seeds and fruits, of any species, horticultural variety, or hybrid within the genera Berberis, Mahonia, and Mahoberberis.

(c) *Barberry, Mahonia, and Mahoberberis seeds and fruits.* Seeds and fruits of any species, horticultural variety, or hybrid within the genera Berberis, Mahonia, and Mahoberberis.

(d) *Rust-resistant plants.* The species or horticultural varieties within the genera Berberis, Mahonia, and Mahoberberis that have been designated by the Director of the Plant Pest Control Division in administrative instructions as being resistant to the black stem rust.

(e) *Eradication States.* Those States in which Barberry, Mahonia, and Mahoberberis plants susceptible to the black stem rust are being eradicated through cooperative effort, and which are designated as eradication States in § 301.38–3.

(f) *Inspector.* An inspector of the United States Department of Agriculture authorized to enforce Federal plant quarantines.

(g) *Inspection.* Inspection by an inspector of the United States Department of Agriculture.

(h) *Director of the Division.* Director of the Plant Pest Control Division.

(i) *Moved (move, movement).* Shipped, carried, transported, moved, allowed to be moved, or received for transportation or transported by a common carrier, from one State of the United

States or the District of Columbia into or through any other State or the District of Columbia. "Move" and "movement" shall be construed accordingly.

(j) *Permit.* An official document for attachment to the outside of a container of seeds or fruits of Barberry, Mahonia, or Mahoberberis, authorizing the interstate movement of such articles.

(k) *Certificate of inspection.* An official document certifying to the eligibility for interstate movement of regulated products from a nursery inspected in accordance with the provisions of §301.38–7.

§ 301.38–2 Regulated area.

The entire United States, including the District of Columbia, is hereby designated as the regulated area.

§ 301.38–3 Eradication States.

The following States in which Barberry, Mahonia, and Mahoberberis plants susceptible to black stem rust are being eradicated through cooperative effort are designated as eradication States: Colorado, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Montana, Nebraska, North Dakota, Ohio, Pennsylvania, South Dakota, Virginia, Washington, West Virginia, Wisconsin, and Wyoming.

§ 301.38–4 Regulated products.

Plants, seeds, fruits, and other parts of plants capable of propagation of all species, horticultural varieties, and hybrids of Barberry, Mahonia, and Mahoberberis, exclusive of Mahonia cuttings for decorative purposes, are designated as regulated products.

§ 301.38–5 Designation of rust-resistant plants.

The Director of the Division is authorized and directed to designate, in administrative instructions supplemental to the regulations in this subpart, the species or horticultural varieties within the genera Berberis, Mahonia, and Mahoberberis that, on the basis of evidence satisfactory to him, are determined to be resistant to black stem rust.

§ 301.38–5a Administrative instructions designating rust-resistant barberry, mahoberberis, and mahonia plants.

(a) The Director of the Division, upon the basis of evidence satisfactory to him, has determined that the following species and horticultural varieties of barberry, mahoberberis, and mahonia are resistant to black stem rust, and such species and varieties are hereby designated as rust-resistant:

Scientific Name

Berberis arido-calida.
B. beaniana.
B. buxifolia.
B. buxifolia nana.
B. calliantha.
B. candidula.
B. cavallieri.
B. chenaulti.
B. circumserrata.
B. concinna.
B. coxii.
B. darwini.
B. dubia.
B. formosana.
B. franchetiana.
B. gagnepaini.
B. gilgiana.
B. gladwynensis.
B. horvathi.
B. hybrido-gagnepaini.
B. insignis.
B. julianae.
B. koreana.
B. lempergiana.
B. lepidifolia.
B. linearifolia.
B. linearifolia var. Orange King.
B. lologensis.
B. manipurana.
B. mentorensis.
B. pallens.
B. potanini.
B. Renton.
B. replicata.
B. sanguinea.
B. sargentiana.
B. stenophylla.
B. stenophylla diversifolia.
B. stenophylla gracilis.
B. stenophylla irwini.
B. stenophylla nana compacta.
B. taliensis.
B. telomaica artisepala.
B. thunbergi.
B. thunbergi argenteo marginata.
B. thunbergi atropurpurea.
B. thunbergi atropurpurea erecta.
B. thunbergi atropurpurea nana.
B. thunbergi atropurpurea "Redbird".
B. thunbergi aurea.
B. thunbergi erecta.
B. thunbergi "globe".
B. thunbergi "golden".
B. thunbergi maximowiczi.
B. thunbergi minor.
B. thunbergi pluriflora.
B. thunbergi "thornless".
B. thunbergi "variegata".
B. thunbergi xanthocarpa.
B. triacanthophora.
B. verruculosa.
B. virgatorum.
B. wokingensis.
B. xanthoxylon.
Mahoberberis aqui-candidula.
M. aqui-sargentiae.
M. miethkeana.
Mahonia aquifolium.
M. bealei.
M. compacta.
M. dictyota.
M. fortunei.
M. lomarifolia.
M. nervosa.
M. pinnata.
M. repens.

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

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

§ 301.38–6 Conditions of movement.

(a) *Barberry, Mahonia, and Mahoberberis plants.* (1) Movement is prohibited of Barberry, Mahonia, and Mahoberberis plants, other than those designated as rust-resistant, except that parts of Mahonia plants without roots intended for decorative purposes are hereby exempt from the requirements of the regulations in this subpart. Movement is also prohibited of rust-resistant Barberry and Mahoberberis plants of less than two seasons' growth, except that such movement is authorized in any case where a nurseryman holding a valid certificate of inspection, upon application to the Director of the Division, is granted authority in writing to receive rust-resistant plants of less than two seasons' growth from another nurseryman holding a valid certificate of inspection, provided the receiving nurseryman shall agree that such plants (i) will be retained for at least two growing seasons and kept separate from plants eligible for movement, (ii) will be available for examination by an inspector prior to their movement to determine their trueness to species and variety, and (iii) will be immediately destroyed by the nurseryman if determined untrue as to species and variety.

(2) Nurseries to which certificates of inspection have been issued are authorized to move rust-resistant plants in compliance with the regulations in this subpart.

(3) Dealers who agree to handle for sale or distribution only rust-resistant plants obtained from nurseries which, at the time the plants are delivered to them, possess valid certificates of inspection may be authorized in writing to move such plants in compliance with the regulations in this subpart. Such dealers may also be authorized to move such plants when secured from other authorized dealers.

(b) *Barberry, Mahonia, and Mahoberberis seeds and fruits.* (1) Movement of seeds and fruits of Barberry, Mahonia, and Mahoberberis plants into the eradication States is prohibited from any point outside thereof, except that such movement of Mahonia seeds is authorized in any case where a nurseryman possessing a valid certificate of inspection, upon application to the Director of the Division, is granted authority in writing to obtain such seeds from sources outside the eradication States under the following conditions:

(i) The receiving nurseryman shall state the location of the plants from which the seeds will be obtained.

(ii) The receiving nurseryman shall agree (*a*) that he will obtain such seeds only from a nurseryman possessing a valid certificate of inspection, (*b*) that such seeds will be used solely for growing commercial stock in his nursery, (*c*) that plants grown from such seeds will be retained for at least one growing season, (*d*) that such plants will be kept separate from plants eligible for movement, (*e*) that such plants will be available for examination by an inspector prior to their movement to determine their trueness as to species and variety, and (*f*) that such plants will be immediately destroyed by the nurseryman if determined untrue as to species and variety.

(2) Seeds and fruits of Barberry, Mahonia, and Mahoberberis plants may be moved between the eradication States, provided they are obtained from rust-resistant plants for which a current, valid certificate of inspection has been issued and provided they are accompanied by permits issued in compliance with the regulations in this part. The movement of Barberry, Mahonia, and Mahoberberis seeds and fruits from the eradication States to points outside thereof is no longer regulated.

(3) Seeds and fruits of Barberry, Mahonia, and Mahoberberis plants may be moved between States other than the eradication States without regulation. Plants produced from such seeds may be moved only in compliance with the regulations in this subpart, and growers should recognize this in selecting seed sources.

§ 301.38–7 Conditions governing the issuance of permits.

(a) *Barberry, Mahonia, and Mahoberberis plants.* Permits will be issued to nurserymen for movement of rust-resistant plants and parts thereof capable of propagation (other than seeds and fruits) after determination by an inspector that no plants other than those which are rust-resistant are growing in the nursery or in the environs thereof. If Barberry, Mahonia, or Mahoberberis plants not designated as rust-resistant are found in the nursery or in the environs thereof, certificates of inspection will be withheld until such plants have been eliminated to the satisfaction of the inspector, except that certificates of inspection may be issued to nurseries having in the nursery or environs thereof varieties of Barberry, Mahonia, or Mahoberberis plants being held by nurserymen under agreement with the Plant Pest Control Division pending determination by that Division that such plants are rust-resistant.

(b) *Barberry, Mahonia, and Mahoberberis seeds and fruits.* Certificates of inspection covering plants to be used as sources of seeds or fruits for movement between the eradication States and permits to accompany shipments of seeds and fruits from such sources, may be issued after an inspector has made an inspection of such plants and determined that they are rust-resistant and are growing in nurseries or locations which with their environs are free of plants which are not rust-resistant.

(c) *Applications for inspection and permits.* (1) Applications for nursery and seed-source inspection and permits should be made to the Plant Pest Control Division, Washington 25, D.C., before May 15 annually, to permit time for inspection during the current growing season.

(2) Except under the special conditions contained in paragraph (a) of this section, a nurseryman who applies for inspection shall agree that, if issued a certificate of inspection, any Barberry, Mahonia, or Mahoberberis plants he may bring into or maintain in his nursery, or distribute will be rust-resistant plants.

(3) Dealers who apply for authorization to move rust-resistant plants shall agree that they will move only such Barberry, Mahonia, or Mahoberberis plants as are designated by the Director of the Plant Pest Control Division as rust-resistant and are obtained from authorized dealers or from nurserymen having currently valid certificates of inspection. Such dealers shall maintain for two shipping seasons complete records of purchases and sales of such plants, and such records shall be available for examination by an inspector at any reasonable time.

(4) Applicants for inspection of plants to be used as sources of seeds and fruits to be moved between the eradication States and for permits to accompany such shipments shall agree that they will obtain their seeds and fruits only from rust-resistant plants growing within the eradication States in locations determined by the inspector as free of plants which are not rust-resistant. The applicant shall state the locations of sources from which such seeds or fruits are to be obtained.

(d) *Identification of species.* Applicants for certificates of inspection, permits, and authorizations for movement of regulated products shall furnish the inspector with such specimens or other evidence as he may require, and the inspector may make such inspections as he shall deem necessary in order to identify the species, horticultural varieties, or hybrids of Barberry, Mahonia, or Mahoberberis grown or moved.

§ 301.38–8 Suspension and cancellation of certificates of inspection, permits, and authorizations to move regulated products.

The use of certificates of inspection, permits, and authorizations to move regulated products under the regulations in this subpart may be suspended for a period not to exceed 10 days, upon written notice by the inspector, either for any failure of compliance with the provisions of the regulations in this subpart or violations of them. Coincident with issuing notice of suspension the inspector shall inform the authorized dealer or holder of permits or certificate of inspection of the reason for suspending use and shall advise him what action he may take to achieve compliance. If, during the 10-day period, such dealer or holder has achieved compliance, the suspension will be revoked. If, after a period of 10 days, the dealer or holder has not taken action satisfactory to the inspector to achieve compliance, further use of such authorization, permits, or certificate may be cancelled upon written notice by the inspector.

§ 301.38–9 Labeling shipments and use of permits.

Each shipment of plants, seeds, or fruits, the movement of which is regulated by the regulations in this subpart, shall be plainly marked with the name and address of the consignor, and each package, bundle, or other unit of plants, seeds, or fruits contained in such shipment shall be plainly labeled as to the species or horticultural variety thereof. In addition, each shipment of seeds or fruits for which a permit is required by the regulations in this subpart shall bear, securely attached to the outside thereof, a valid permit issued in compliance with the regulations in this subpart.

§ 301.38–10 Inspection of regulated products in transit.

Any car or other vehicle, box, or other container moved interstate or received for interstate movement by a common carrier which contains or which the inspector has probable cause to believe contains products the movement of which is prohibited or regulated by the regulations in this subpart shall be subject to inspection at any time or place.

§ 301.38–11 Shipments for experimental and scientific purposes.

Plants, seeds, and fruits subject to the regulations in this subpart may be moved interstate for experimental or scientific purposes on such conditions and under such safeguards as may be prescribed by the Director of the Division. The articles so moved shall bear, securely attached to the outside thereof, a permit issued for the purpose.

Subpart—Gypsy Moth and Brown-Tail Moth

QUARANTINE

§ 301.45 Notice of quarantine.

(a) Pursuant to section 8 of the Plant Quarantine Act of August 20, 1912, as amended (7 U.S.C. 161), and after public hearing, it has been determined that it is necessary to quarantine the States of Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont to prevent the further spread of the gypsy moth (Porthetria dispar L.) and the brown-tail moth (Nygmia phaeorrhoea Donov.), dangerous insects injurious to forest and shade trees and not heretofore widely prevalent or distributed within and throughout the United States, and said States have been and hereby are continued to be quarantined because of said insects, and under the authority of said Act supplemental regulations are prescribed in this subpart governing the movement of carriers of said insects. Hereafter (1) timber and timber products; (2) plants having persistent woody stems (including deciduous trees and shrubs and Christmas trees), and parts thereof; (3) stone and quarry products; and (4) any aircraft, trucks, wagons, railway cars, boats, and other means of conveyance, containers and products and articles of any character whatsoever which by reason of infestation or exposure constitute a hazard of spreading the gypsy moth or the brown-tail moth as determined in accordance with the supplemental regulations

(§§ 301.45–1 to 301.45–12), shall not be shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved, or allowed to be moved from any of said quarantined States into or through any other State, Territory, or District of the United States, in manner or method or under conditions other than those prescribed in the supplemental regulations, as from time to time amended: *Provided*, That the requirements of this quarantine and of the supplemental regulations, except as otherwise provided in the regulations, are hereby limited to the areas in any quarantined State which may be designated as within the gypsy moth regulated area or the brown-tail moth regulated area as provided in the regulations, as long as, in the judgment of the Administrator of the Agricultural Research Service, the enforcement of the regulations as to such regulated areas will be adequate to prevent the spread of the gypsy and brown-tail moths, except that such limitation is further conditioned upon the affected State's providing for and enforcing control of the movement within such State of the regulated articles under the same conditions as those which apply to their interstate movement under the provisions of currently existing Federal quarantine regulations, and upon the State's enforcing such control and sanitation measures with respect to such areas or portions thereof as, in the judgment of said Administrator, shall be deemed adequate to prevent the spread therefrom within such State of the infestations of said insects: *Provided, further*, That whenever the Director of the Plant Pest Control Division shall find that facts exist as to the pest risk involved in the movement of one or more of the articles to which the supplemental regulations apply, making it safe to modify, by making less stringent, the requirements contained in the regulations, he shall set forth and publish such findings in administrative instructions, specifying the manner in which the applicable regulations should be made less stringent, whereupon such modifications shall become effective, for such period and for such regulated area or portion thereof and for such article or articles as shall be specified in said administrative instructions, and every reasonable effort shall be made to give publicity to such administrative instructions throughout the affected areas.

(b) Regulations governing the movement of live gypsy moths and brown-tail moths are contained in Part 330 of this chapter. Applications for permits for movement of said pests may be made to the Director, Plant Pest Control Division, Agricultural Research Service, U.S. Department of Agriculture, Washington 25, D.C. in accordance with said part.

(c) As used in this subpart, unless the context otherwise requires, the term "State, Territory, or District of the United States" means State, the District of Columbia, Alaska, Guam, Hawaii, Puerto Rico, or the Virgin Islands of the United States.

§ 301.45a Administrative instructions exempting certain articles from requirements of regulations.

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

(1) *Timber products.* (i) Manufactured wood products such as box shooks, shingles, laths, flooring, furniture, containers, crates, handles, dowels, staves, and new industrial shoring and blocking, if they have not been exposed to infestation.

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

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

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

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

Clubmoss ("ground pine") (Lycopodium spp.).
Partridgeberry (Mitchella repens).
Trailing arbutus (Epigaea repens).
Wintergreen (Gaultheria procumbens, Pyrola spp.).

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

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

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

(v) Seeds, fruits, and cones.

(vi) Cuttings:

Acacia (Acacia spp.).
Boxwood (Buxus sempervirens).
California pepper tree (Schinus molle).
Eucalyptus (Eucalyptus globulus).
Evergreen smilax (Smilax lanceolata).
Galax (Galax aphylla).
Heather (Erica spp., Calluna spp.).
Mistletoe (Phoradendron flavescens, Viscum album, etc.).
Western red cedar (Thuja plicata).
Oregon holly (Ilex aquifolium).
Oregon huckleberry (Vaccinium ovatum).
Salal (known to the trade as lemon cuttings) (Gaultheria shallon).

(vii) Scions.

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

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

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

(4) *Pulpwood.* Pulpwood moving from a regulated area to a nearby pulp mill in a contiguous nonregulated area, or from a generally infested area to a nearby pulp mill in a contiguous suppressive area, if such mill has entered into a written agreement with the Plant Pest Control Division to apply such treatments and to maintain such sanitation safeguards as will, in the judgment of the inspector, prevent the establishment of gypsy moth infestation on or surrounding the mill premises; and if such mill has been approved by the Director of the Plant Pest Control Division to receive such pulpwood.

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

REGULATIONS

§ 301.45–1 Definitions.

For the purpose of the regulations in this subpart the following terms shall be construed, respectively, to mean:

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

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

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

(d) *Regulated area.* The counties, cities, townships, towns, plantations, villages, and other minor civil divisions, or parts thereof, in any quarantined

State, designated in administrative instructions under § 301.45–2 as coming within the area regulated because of the gypsy moth or within the area regulated because of the brown-tail moth.

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

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

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

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

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

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

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

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

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

(n) *Dealer-carrier agreement.* A document constituting an agreement to comply with stipulated quarantine conditions, executed by persons or firms engaged in purchasing, handling, processing, utilizing, or moving regulated articles.

§ 301.45–2 Designation of regulated areas.

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

§ 301.45–2a Administrative instructions designating regulated areas under the gypsy moth and brown-tail moth quarantine and regulations.

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

(a) *Gypsy moth regulated area:*

Connecticut. All counties in the State.

Maine. Counties of Androscoggin, Cumberland, Kennebec, Knox, Lincoln, Sagadahoc, Waldo, and York; towns of Avon, Berlin, Carthage, Chesterville, Crockertown, Dallas Plantation, Farmington, Freeman, Greenvale, Industry, Jay, Jerusalem, Kingfield, Madrid, Mount Abraham, New Sharon, New Vineyard, Perkins, Phillips, Rangeley Plantation, Redington, Salem, Sandy River Plantation, Strong, Temple, Washington, Weld, and Wilton, and Townships D and E, in Franklin County; all of Hancock County except Plantations 3, 4, 35, and 41; all that part of Oxford County south and southeast of, and including, the towns of Magalloway and Richardsontown; towns of Alton, Argyle, Bradford, Bradley, Carmel, Charleston, Clifton, Corinna, Corinth, Dexter, Dixmont, Eddington, Edinburgh, Enfield, Etna, Exeter, Garland, Glenburn, Grand Falls Plantation, Greenbush, Greenfield, Hampden, Hermon, Holden, Howland, Hudson, Kenduskeag, LaGrange, Levant, Lincoln, Lowell, Mattamiscontis, Maxfield, Milford, Newburgh, Newport, Orono, Orrington, Passadumkeag, Plymouth, Stetson, Summit, and Veazie, and cities of Bangor, Brewer, and Old Town, in Penobscot County; towns of Abbott Atkinson, Dover-Foxcroft, Guilford, Kingsbury Plantation, Medford, Milo, Orneville, Parkman, Sangerville, Sebec, and Wellington, in Piscataquis County; all that part of Somerset County south and southeast of, and including, Highland and Pleasant Ridge Plantations, town of Moscow, and Mayfield Plantation; towns of Beddington, Cherryfield, Columbia, Deblois, Harrington, Millbridge, and Steuben, and Plantations 16 and 24, in Washington County.

Massachusetts. All counties in the State.

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

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

Rhode Island. All counties in the State.

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

(b) *Gypsy moth suppressive area:*

Counties of Delaware, Nassau, Orange, Putnam, Rockland, Suffolk, Sullivan, and Westchester; the towns of Beekman, East Fishkill, Fishkill, Pawling, Poughkeepsie and Wappinger in Dutchess County; the towns of Gardiner, Marlboro, Plattekill, Rochester, Shawangunk, and Wawarsing in Ulster County; in New York.

(c) *Gypsy moth generally infested area.* All gypsy moth regulated area not included in the gypsy moth suppressive area constitutes the gypsy moth generally infested area.

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

§ 301.45–3 Regulated articles.

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

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

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

(iii) Stone and quarry products;

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

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

(2) *Brown-tail moth regulated area.* (i) Deciduous trees and shrubs, and branches and other parts thereof, with leaves attached;

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

§ 301.45–4 Conditions governing the movement of regulated articles.

(a) *Movement from either regulated area.* Except as exempted by administrative instructions of the Director of Plant Pest Control Division, or as provided in § 301.45–12, regulated articles designated in § 301.45–3 shall not be moved from the respective regulated area into or through any point outside thereof unless accompanied by a certificate or limited permit.

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

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

§ 301.45–5 Certificates, limited permits and certificates of exemption.

(a) *Certification of regulated articles.* Certificates may be issued for the movement of the regulated articles designated in § 301.45–3 under any one of the following conditions:

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

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

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

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

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

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

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

§ 301.45–6 Marking.

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

§ 301.45–7 Relieving restrictions of regulations.

(a) In relieving restrictions of the regulations in this subpart pursuant to the second proviso in § 301.45(a) the Director of the Plant Pest Control Division may, in administrative instructions, provide for the issuance of certificates of exemption covering premises in the regulated areas which have been inspected or treated in accordance with procedures approved by said Director as adequate to assure that the movement of regulated articles from such premises will not disseminate infestation and permit the movement of regulated articles designated in paragraph (a) (1) (i) through (iii) or (2) (i) of § 301.45–3 directly from such premises without restriction under §§ 301.45–4, 301.45–6, and 301.45–8.

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

§ 301.45–8 Assembly of regulated articles.

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

§ 301.45–9 Inspection and disposition.

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

§ 301.45–10 Treatment of means of conveyance and containers.

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

§ 301.45–11 Nonliability of Department.

The United States Department of Agriculture disclaims liability for any cost incident to inspection or treatment required under the regulations in this

subpart, other than for the services of the inspector.

§ 301.45–12 Shipments for experimental or other scientific purposes.

Articles subject to the requirements of the regulations in this subpart may be moved under this subpart for experimental or other scientific purposes on such conditions and under such safeguards as may be prescribed by the Director of the Plant Pest Control Division to carry out the purposes of this subpart. The container or, if there is none, the article itself shall bear, securely attached to the outside thereof, an identifying tag from the Plant Pest Control Division.

Subpart—Japanese Beetle

QUARANTINE

§ 301.48 Notice of quarantine.

Pursuant to section 8 of the Plant Quarantine Act of August 20, 1912, as amended (7 U.S.C. 161) and after public hearing, it has been determined that it is necessary to quarantine the States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia, and the District of Columbia, to prevent the spread of the Japanese beetle, a dangerous insect injurious to cultivated crops and not heretofore widely prevalent or distributed within and throughout the United States, and said States and District have been and hereby are continued to be quarantined because of said insect, and under the authority of said act supplemental regulations are prescribed in this subpart governing the movement of carriers of said insect. Hereafter, the following shall not be moved from the quarantined States into or through any other State, Territory, or District of the United States in manner or method or under conditions other than those prescribed in the regulations, as from time to time amended: (1) Soil, humus, compost, and decomposed manure; (2) forest, field, nursery, or greenhouse-grown woody or herbaceous plants with roots; (3) grass sod; (4) plant crowns or roots for propagation; (5) true bulbs, corms, tubers, and rhizomes of ornamental plants, when freshly harvested or uncured; and (6) other farm products and trucks, wagons, railway cars, aircraft, boats, and other means of conveyance, and unlimited by the foregoing, any other products and articles of any character whatsoever, not covered by subparagraphs (1) to (5) of this paragraph, when it is determined in accordance with the regulations that they present a hazard of spread of Japanese beetles. Moreover, movement of products, articles, and means of conveyance designated above from a quarantined State or portion thereof into or through another quarantined State or portion thereof may be restricted or prohibited under the regulations. The requirements of this quarantine and the supplemental regulations with respect to such products, articles, and means of conveyance are hereby limited to the areas in any quarantined State which may be designated as regulated areas as provided in the regulations, as long as in the judgment of the Administrator of the Agricultural Research Service, the enforcement of the quarantine and regulations as to such regulated areas will be adequate to prevent the spread of Japanese beetles, except that such limitation is further conditioned upon the affected State's providing regulations for and enforcing control of the movement within such State of Japanese beetles and other regulated articles under the same conditions as those which apply to their interstate movement under the provisions of the currently existing Federal quarantine regulations, and upon the State's providing regulations for and enforcing such sanitation measures with respect to such areas or portions thereof as, in the judgment of said Administrator, are adequate to prevent the spread of Japanese beetles within such State. Moreover, whenever the Director of the Plant Pest Control Division shall find that facts exist as to the pest risk involved in the movement of one or more of the products, articles, and means of conveyance to which the regulations in this subpart apply, making it safe to modify by making less stringent the requirements contained in the regulations, he shall set forth and publish such finding in administrative instructions, specifying the manner in which the regulations should be made less stringent, whereupon such modification shall become effective for such period and for such regulated areas or portions thereof and for such products, articles, and means of conveyance, as shall be specified in said administrative instructions, and every reasonable effort shall be made to give publicity to such administrative instructions throughout the affected areas.

(b) Regulations governing the movement of live Japanese beetles are contained in Part 330 of this chapter. Applications for permits for movement of said pests may be made to the Director, Plant Pest Control Division, Agricultural Research Service, U. S. Department of Agriculture, Washington 25, D. C., in accordance with said part.

(c) As used in this subpart, unless the context otherwise requires, the term "State, Territory, or District of the United States" means State, the District of Columbia, Alaska, Guam, Hawaii, Puerto Rico, or the Virgin Islands of the United States.

§ 301.48a Administrative instructions exempting certain articles from specified requirements.

It has been found that facts exist as to the pest risk involved in the movement of the following regulated articles under the regulations in this subpart which make it safe to make less stringent the requirements of the regulations with respect to the movement of such articles from any regulated area, as hereinafter provided. The following articles are hereby exempted from the requirements of § 301.48–3 (a) under the conditions set forth hereinafter:

(a) Humus, compost, and decomposed manure, when dehydrated, ground, pulverized, or compressed.

(b) True bulbs, corms, and tubers (other than dahlia tubers), when dormant, except for storage growth, and when free from soil.

(c) Single dahlia tubers or small dahlia root-divisions when free from stems, cavities, and soil. (Dahlia tubers, other than single tubers or small root-divisions meeting these conditions, are not exempted and must comply with § 301.48–3 (a).)

(d) Plants when growing exclusively in Osmunda fiber or chipped or shredded bark.

(e) Trailing arbutus or Mayflower (Epigaea repens), when free from soil.

(f) Moss, clubmoss, and ground-pine or running-pine, when free from soil.

(g) Soil-free aquatic plants.

(h) Soil-free sweetpotato draws.

(i) Soil-free rooted cuttings, which, at the time of shipment, have not developed a root system sufficient to conceal larvae of the Japanese beetle.

REGULATIONS

§ 301.48–1 Definitions.

For the purposes of the provisions in this subpart, except where the context otherwise requires, the following terms shall be construed respectively to mean:

(a) *Japanese beetle.* The insect known as the Japanese beetle (Popillia japonica Newm.), in any living stage of development.

(b) *Infestation.* The presence of the Japanese beetle.

(c) *Regulated area.* Any quarantined State or District, or any county, other minor civil division, or part thereof, in such a State or District, designated in administrative instructions under § 301.48–2 as a regulated area.

(d) *Suppressive area.* That part of a regulated area in which suppressive measures are cooperatively carried out with the objective of eradicating infestations, as designated in administrative instructions under § 301.48–2.

(e) *Generally infested area.* All of a regulated area, exclusive of the suppressive area, as designated in administrative instructions under § 301.48–2.

(f) *Regulated articles.* Means of conveyance, and other products and articles of any character whatsoever, the movement of which is regulated by the Japanese beetle quarantine and the regulations in this subpart.

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

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

(i) *Certificate.* A document evidencing compliance with the requirements of this subpart.

(j) *Limited permit.* A document authorizing the movement of regulated articles to a restricted destination for limited handling, utilization, or processing, or for treatment.

(k) *Dealer-carrier agreement.* An agreement to comply with stipulated conditions, executed by persons engaged in purchasing, assembling, exchanging,

handling, processing, utilizing, treating, of moving regulated articles.

(l) *Administrative instructions.* Published documents relating to the enforcement of the provisions in this subpart issued under authority of such provisions by the Director of the Plant Pest Control Division, Agricultural Research Service.

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

§ 301.48–2 Designation of regulated areas.

The Director of the Plant Pest Control Division shall, from time to time, in administrative instructions promulgated by him, list the quarantined States, or counties, and other minor civil divisions or parts thereof, in the quarantined States, in which infestation has been determined to exist, or in which it has been determined infestation is likely to exist, or which it is deemed necessary to regulate because of their proximity to infestation or their inseparability for quarantine enforcement purposes from infested localities, and shall designate such States or civil divisions, and parts thereof, as regulated areas. Any area so designated shall continue in a regulated status until the Director of the Plant Pest Control Division shall have determined that adequate eradication measures, if necessary, have been practiced for a sufficient length of time to eradicate the Japanese beetle therein and that regulation of such area is not otherwise necessary under this section, and shall have issued administrative instructions revoking the designation of such area as a regulated area. The Director of the Plant Pest Control Division may, in said administrative instructions, divide any regulated area into a suppressive area and a generally infested area.

§ 301.48–2a Administrative instructions designating regulated areas under the Japanese beetle quarantine.

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

Connecticut. The entire State.

Delaware. The entire State.

District of Columbia. The entire District.

Maine. County of York; towns of Auburn and Lewiston, in Androscoggin County; towns of Cape Elizabeth, Gorham, Gray, New Gloucester, Raymond, Scarboro, and Standish, and cities of Portland, South Portland, Westbrook, and Windham, in Cumberland County; city of Waterville, in Kennebec County; and city of Brewer, in Penobscot County.

Maryland. The entire State.

Massachusetts. The entire State.

New Hampshire. Counties of Belknap, Cheshire, Hillsboro, Merrimack, Rockingham, Strafford, and Sullivan; towns of Brookfield, Eaton, Effingham, Freedom, Madison, Moultonboro, Ossipee, Sandwich, Tamworth, Tuftonboro, Wakefield, and Wolfeboro, in Carroll County; towns of Alexandria, Ashland, Bridgewater, Bristol, Canaan, Dorchester, Enfield, Grafton, Groton, Hanover, Hebron, Holderness, Lebanon, Lyme, Orange, and Plymouth, in Grafton County.

New Jersey. The entire State.

New York. Counties of Albany, Bronx, Broome, Cayuga, Chemung, Chenango, Columbia, Cortland, Delaware, Dutchess, Fulton, Greene, Kings, Madison, Monroe, Montgomery, Nassau, New York, Oneida, Onondaga, Orange, Otsego, Putnam, Queens, Rensselaer, Richmond, Rockland, Saratoga, Schenectady, Schoharie, Schuyler, Seneca, Suffolk, Sullivan, Tioga, Tompkins, Ulster, Warren, Washington, and Westchester; towns of Red House and Salamanca, and cities of Olean and Salamanca, in Cattaraugus County; towns of Amherst, Cheektowaga, and Tonowanda, and cities of Buffalo and Lackawanna, in Erie County; towns of Columbia, Danube, Fairfield, Frankfort, German Flats, Herkimer, Litchfield, Little Falls, Manheim, Newport, Salisbury, Schuyler, Stark, Warren, and Winfield, and city of Little Falls, in Herkimer County; town of Watertown and city of Watertown in Jefferson County; town of Mount Morris, and village of Mount Morris, in Livingston County; town of Manchester, in Ontario County; towns of Granby, Hannibal, Mexico, Minetto, New Haven, Oswego, Palermo, Schroeppel, Scriba, and Volney, and cities of Fulton and Oswego, in Oswego County; towns of Caton, Corning, Erwin, Hornby, and Hornellsville, and cities of Corning and Hornell, in Steuben County.

North Carolina. Counties of Alamance, Beaufort, Bertie, Buncombe, Cabarrus, Caldwell, Camden, Carteret, Caswell, Chowan, Craven, Cumberland, Currituck, Dare, Davidson, Duplin, Durham, Edgecombe, Forsyth, Franklin, Gates, Granville, Greene, Guilford, Halifax, Harnett, Henderson, Hertford, Hyde, Johnston, Jones, Lenoir, Martin, McDowell, Mecklenburg, Nash, New Hanover, Northampton, Onslow, Orange, Pamlico, Pasquotank, Pender, Perquimans, Person, Pitt, Polk, Randolph, Rockingham, Rowan, Sampson, Transylvania, Tyrrell, Vance, Wake, Warren, Washington, Watauga, Wayne, and Wilson; township of Beaver Dam and city of Canton, in Haywood County.

Ohio. Counties of Ashtabula, Athens, Belmont, Carroll, Columbiana, Coshocton, Cuyahoga, Gallia, Geauga, Guernsey, Harrison, Holmes, Jefferson, Lake, Lawrence, Mahoning, Medina, Meigs, Monroe, Morgan, Muskingum, Noble, Portage, Stark, Summit, Trumbull, Tuscarawas, Washington, and Wayne; township of Marion, city of Columbus and villages of Bexley, Grandview, Grandview Heights, Hanford, Marble Cliff, Upper Arlington, and Whitehall, in Franklin County; townships of Bowling Green, Eden, Fallsburg, Franklin, Granville, Hanover, Hopewell, Licking, Madison, Mary Ann, Newark, Newton, Perry and Washington, and cities of Granville and Newark, in Licking County; townships of Amherst, Avon, Avon Lake, Black River, Columbia, Elyria, Sheffield, and Ridgeville and city of Elyria, in Lorain County; townships of Adams, Springfield, Sylvania, and Washington and cities of Sylvania and Toledo, in Lucas County; township of Madison and city of Mansfield, in Richland County.

Pennsylvania. The entire State.

Rhode Island. The entire State.

Vermont. Counties of Addison, Bennington, Chittenden, Orange, Rutland, Windham, and Windsor.

Virginia. Counties of Accomack, Albemarle, Alleghany, Amelia, Amherst, Appomattox, Arlington, Augusta, Bath, Bedford, Botetourt, Brunswick, Buckingham, Campbell, Caroline, Carroll, Charles City, Charlotte, Chesterfield, Clarke, Craig, Culpeper, Cumberland, Dinwiddie, Elizabeth City, Essex, Fairfax, Fauquier, Floyd, Fluvanna, Franklin, Frederick, Giles, Gloucester, Goochland, Grayson, Greene, Greensville, Hanover, Halifax, Henrico, Henry, Highland, Isle of Wight, James City, King and Queen, King George, King William, Lancaster, Loudoun, Louisa, Lunenburg, Madison, Mathews, Mecklenburg, Middlesex, Montgomery, Nansemond, Nelson, New Kent, Norfolk, Northampton, Northumberland, Nottoway, Orange, Page, Patrick, Pittsylvania, Powatan, Prince Edward, Prince George, Prince William, Princess Anne, Pulaski, Rappahannock, Richmond, Roanoke, Rockbridge, Rockingham, Shenandoah, Smyth, Southampton, Spotsylvania, Stafford, Surry, Sussex, Warren, Warwick, Westmoreland, Wythe, and York; magisterial districts of Glade Springs and Holston, in Washington County; and cities of Alexandria, Buena Vista, Charlottesville, Clifton Forge, Colonial Heights, Covington, Danville, Falls Church, Fredericksburg, Galax, Hampton, Harrisonburg, Hopewell, Lynchburg, Martinsville, Newport News, Norfolk, Petersburg, Portsmouth, Radford, Richmond, Roanoke, South Norfolk, Staunton, Suffolk, Virginia Beach, Warwick, Waynesboro, Williamsburg, and Winchester.

West Virginia. Counties of Barbour, Berkeley, Braxton, Brooke, Calhoun, Clay, Doddridge, Gilmer, Grant, Greenbrier, Hampshire, Hancock, Hardy, Harrison, Jackson, Jefferson, Kanawha, Lewis, Marion, Marshall, Mason, McDowell, Mercer, Mineral, Monongalia, Monroe, Morgan, Ohio, Pendleton, Pleasants, Pocahontas, Preston, Randolph, Ritchie, Roane, Summers, Taylor, Tucker, Tyler, Upshur, Webster, Wetzel, Wirt, and Wood; city of Huntington, in Cabell County; city of Montgomery, in Fayette County; city of Logan, in Logan County; city of Williamson, in Mingo County; city of Beckley, in Raleigh County; town of Ceredo and city of Kenova, in Wayne County; and city of Pineville, in Wyoming County.

§ 301.48–3 Regulated articles; conditions of movement.

(a) *Designated articles.* Unless exempted by administrative instructions, the following may be moved from any regulated area into or through any point outside of the regulated areas, or from any generally infested area into or through any suppressive area, only if accompanied by a valid certificate or limited permit issued in compliance with § 301.48–6 and if the applicable requirements of §§ 301.48–4 and 301.48–5 are also met: Soil, humus, compost, and decomposed manure; forest, field, nursery, or greenhouse-grown woody or herbaceous plants with roots; grass sod; plant crowns or roots for propagation; true bulbs, corms, tubers, and rhizomes of ornamental plants, when freshly harvested or uncured. However, regulated articles of kinds within this paragraph which originate outside of the regulated areas and are moving through or are being reshipped from a regulated area may be moved from such regulated area into or through any point outside of the regulated areas, or from any generally infested area into or through any suppressive area, without further restriction under this subpart when their point of origin is clearly indicated, when their identity has been maintained and when they have been safeguarded against infestation while in the regulated areas in

a manner satisfactory to an inspector and do not present a hazard of spread of the Japanese beetle. Otherwise such regulated articles shall be subject to all applicable requirements under this subpart for articles originating in the regulated areas.

(b) *Articles determined to present hazards.* When it has been determined by an inspector that, due to contamination with Japanese beetles, a hazard of spread of the beetle is presented by any farm products, trucks, wagons, railway cars, aircraft, boats, other means of conveyance, or, unlimited by the foregoing, any other products or articles of any character whatsoever, not covered by paragraph (a) of this section, notice of such fact shall be given to the person having custody thereof. Thereafter, such contaminated articles may be moved from any regulated area into or through any point outside of the regulated areas, or from any generally infested area into or through any suppressive area, only after they have been cleaned, treated, or otherwise disinfested to the satisfaction of the inspector, in accordance with administratively authorized procedures known to be effective under the conditions in which applied, or when they are moved under limited permit, or both, as required by the inspector to prevent the spread of infestation.

§ 301.48–4 Use of certificates or limited permits with shipments.

Every container of regulated articles, or if there is none the article itself, required to have a certificate or limited permit under § 301.48–3 shall have such certificate or permit securely attached to the outside thereof when offered for movement under said section, except that where the regulated articles are adequately described on a certificate or limited permit attached to the waybill, the attachment of a certificate or limited permit to each container of the articles, or to the article itself, will not be required.

§ 301.48–5 Protecting certified articles.

Subsequent to certification as provided in § 301.48–6, regulated articles must be loaded, handled, and shipped, under such protection and safeguards against infestation as are required by the inspector to prevent the spread of infestation.

§ 301.48–6 Conditions governing the issuance of certificates and limited permits.

(a) *Certificates.* Certificates may be issued by the inspector for the movement of the regulated articles designated in § 301.48–3(a) under any of the following conditions:

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

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

(3) When they have been treated to destroy infestation under the observation of the inspector and in accordance with administratively authorized procedures known to be effective under the conditions in which applied;

(4) When grown, produced, manufactured, stored, or handled in such manner that, in the judgment of the inspector, no infestation would be transmitted thereby.

(b) *Limited permits.* Limited permits may be issued by the inspector for the movement of noncertified regulated articles under § 301.48–3 to specified destinations for limited handling, utilization, or processing, or for treatment.

(c) *Dealer-carrier agreement.* As a condition of issuance of certificates or limited permits for the movement of regulated articles, any person engaged in purchasing, assembling, exchanging, handling, processing, utilizing, treating, or moving such articles may be required to sign a dealer-carrier agreement stipulating that he will maintain such safeguards against the establishment and spread of infestation and comply with such conditions as to the maintenance of identity, handling, and subsequent movement of such articles and the cleaning and treatment of means of conveyance and containers used in the transportation of such articles as may be required by the inspector to prevent the spread of infestation.

§ 301.48–7 Assembly of articles for inspection.

Persons intending to move any of the regulated articles under § 301.48–3 shall make application to an inspector for inspection as far in advance as possible, shall so handle such articles as to safeguard them from infestation, and shall assemble them at such points and in such manner as the inspector shall designate to facilitate inspection.

§ 301.48–8 Cancellation of certificates or limited permits.

Certificates or limited permits for any regulated articles issued under the regulations in this subpart may be withdrawn or cancelled and further certificates or permits for such articles may be refused by the inspector whenever he determines that the further use of such certificates or permits might result in the spread of the Japanese beetle.

§ 301.48–9 Inspection and disposal.

Any properly identified inspector is authorized to stop and inspect, without a warrant, any person or means of conveyance moving from any State, Territory, or District of the United States into or through any other such State, Territory, or District and any plant pest and any product and article of any character whatsoever carried thereby, upon probable cause to believe that such means of conveyance, product, or article is infested or infected by or contains any plant pest or is moving subject to any regulations under the Federal Plant Pest Act or that such person or means of conveyance is carrying any plant pest subject to that act, and to stop and inspect, without a warrant, any means of conveyance so moving, upon probable cause to believe it is carrying any product or article prohibited or restricted movement under the Plant Quarantine Act or any quarantine or order thereunder. Such inspector is authorized to seize, destroy, or otherwise dispose of, or require disposal of, products, articles, means of conveyance, and plant pests in accordance with section 105 of the Federal Plant Pest Act and section 10 of the Plant Quarantine Act.

§ 301.48–10 Nonliability of Department.

The United States Department of Agriculture disclaims liability for any cost incident to inspection or treatment required under the provisions in this subpart, other than for the services of the inspector.

Subpart—Pink Bollworm

QUARANTINE

§ 301.52 Notice of quarantine.

Pursuant to section 8 of the Plant Quarantine Act of August 20, 1912, as amended (7 U.S.C. 161), and after public hearing, it has been determined that it is necessary to quarantine the States of Arizona, Arkansas, Louisiana, New Mexico, Oklahoma, and Texas to prevent the spread of the pink bollworm, a dangerous insect injurious to cotton, okra, and kenaf, and not heretofore widely prevalent or distributed within and throughout the United States, and said States have been and hereby are continued to be quarantined because of said insect, and under the authority of said Act supplemental regulations are prescribed in this subpart governing the movement of carriers of said insect. Hereafter the following shall not be moved from the quarantined States into or through any other State, Territory, or District of the United States in manner or method or under conditions other than those prescribed in the regulations as from time to time amended: (1) Okra and kenaf, including all parts of the plants; (2) cotton and wild cotton, including all parts of both cotton and wild cotton plants; (3) seed cotton; (4) cotton lint; (5) cotton linters; (6) cotton waste produced at cotton gins, cottonseed oil mills, or textile mills; (7) gin trash; (8) cottonseed; (9) cottonseed hulls; (10) cottonseed cake; (11) cottonseed meal; (12) used bagging and other used wrappers for cotton; (13) used cotton harvesting equipment; and (14) other farm products, other farm equipment, farm household goods, ginning and oil mill equipment, other cotton processing machinery, and means of conveyance, and, unlimited by the foregoing, any other products and articles of any character whatsoever, not within subparagraph (1) through (13) of this paragraph, when it is determined in accordance with the regulations (§§ 301.52–1 to 301.52–10) that they present a hazard of spread of the pink bollworm. Moreover, movement of products, articles, and means of conveyance designated above from a quarantined State or portion thereof into or through another quarantined State or portion thereof may be restricted or prohibited under the regulations. The requirements of this quarantine and the regulations in this subpart with respect to the products, articles, and means of conveyance designated above, are hereby limited to the areas in any quarantined State which

may be designated as within the regulated area as provided in the regulations, as long as in the judgment of the Administrator of the Agricultural Research Service, the enforcement of the regulations as to such regulated area will be adequate to prevent the spread of the pink bollworm, except that such limitation is further conditioned upon the affected State's providing regulations for and enforcing control of the movement within such State of live pink bollworms and the other regulated articles under the same conditions as those which apply to their interstate movement under the provisions of the currently existing Federal quarantine regulations and upon the State's providing regulations for and enforcing such sanitation measures with respect to such area or portions thereof as, in the judgment of said Administrator, are adequate to prevent the spread of the pink bollworm within such State. Moreover, whenever the Director of the Plant Pest Control Division shall find that facts exist as to the pest risk involved in the movement of one or more of the products, articles or means of conveyance to which the regulations apply, making it safe to modify, by making less stringent, the requirements contained in the regulations, he shall set forth and publish such finding in administrative instructions, specifying the manner in which the regulations should be made less stringent, whereupon such modification shall become effective for such period and for all or such portion of the regulated area and for such products, articles, and means of conveyance as shall be specified in said administrative instructions, and every reasonable effort shall be made to give publicity to such administrative instructions throughout the affected area.

(b) Regulations governing the movement of live pink bollworms are contained in Part 330 of this chapter. Applications for permits for movement of said pests may be made to the Director, Plant Pest Control Division, Agricultural Research Service, U. S. Department of Agriculture, Washington 25, D. C. in accordance with said part.

(c) As used in this subpart, unless the context otherwise requires, the term "State, Territory, or District of the United States" means State, the District of Columbia, Alaska, Guam, Hawaii, Puerto Rico, or the Virgin Islands of the United States.

§ 301.52a Administrative instructions exempting certain articles from specified requirements.

It has been found that facts exist as to the pest risk involved in the movement of the following regulated articles under the regulations in this subpart which make it safe to make less stringent the requirements of § 301.52–3(a) with respect to the movement of such articles from any point in the regulated area into or through any point outside of the regulated area or from the generally infested area into or through the eradication area, as hereinafter provided. The following articles are hereby exempted from the requirements of § 301.52–3(a) under the conditions set forth below:

(a) Compressed baled cotton lint, linters, and lint cleaner waste when such products have been given standard or equivalent compression.

(b) Baled cotton lint moving from the generally infested area into the eradication area when the lint is from seed cotton produced in the eradication area and moved to the generally infested area for ginning.

(c) Samples of cotton lint and cotton linters of the usual trade size.

(d) Cottonseed cake.

(e) Cottonseed meal.

(f) Kenaf and edible okra produced in the eradication area (Arizona, Arkansas, Louisiana) or in Oklahoma or New Mexico.

(g) Edible okra produced in Texas during the period December 1 to April 30, inclusive.

(h) Edible okra produced in Texas during the period May 1 to November 30, inclusive, moving to the District of Columbia or to the following States or parts of States for immediate processing or consumption therein, when the containers are marked as noncertified Texas okra by a stamp as required by the inspector: Colorado, Connecticut, Delaware, Idaho, Indiana, Iowa, Kansas, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nebraska, New Hampshire, New Jersey, New York, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Dakota, Utah, Vermont, Washington, West Virginia, Wisconsin, and Wyoming, and that part of Virginia, Missouri, Illinois, and Kentucky north of the 38th parallel.

REGULATIONS

§ 301.52–1 Definitions.

For the purposes of the provisions in this subpart, except where the context otherwise requires, the following terms shall be construed respectively to mean:

(a) *Pink bollworm.* The live insect known as the pink bollworm of cotton (Pectinophora gossypiella Saund.), in any stage of development.

(b) *Infestation.* The presence of the pink bollworm.

(c) *Regulated area.* The counties, parishes, and other minor civil divisions, or parts thereof, designated in administrative instructions under § 301.52–2 as regulated area.

(d) *Eradication area.* That part of the regulated area where eradication may be undertaken as an objective, as designated in administrative instructions under § 301.52–2.

(e) *Generally infested area.* All of the regulated area, exclusive of the eradication area, as designated in administrative instructions under § 301.52–2.

(f) *Regulated articles.* Pink bollworms, means of conveyance, and other products and articles of any character whatsoever, the movement of which is regulated by the pink bollworm quarantine (§ 301.52) and regulations in §§ 301.52–1 through 301.52–10.

(g) *Cotton.* All parts of cotton and wild cotton plants of the genera Gossypium and Thurberia, except cotton products.

(h) *Cotton products.* Seed cotton, cotton lint, cotton linters, cotton waste, gin trash, cottonseed, cottonseed hulls, cottonseed cake, and cottonseed meal.

(i) *Seed cotton.* All forms of cotton lint from which the seed has not been separated.

(j) *Cotton lint.* All forms of raw ginned cotton not including cotton linters and cotton waste.

(k) *Cotton linters.* All forms of unmanufactured cotton fiber separated from cottonseed after the cotton lint has been removed, other than cotton waste.

(l) *Cotton waste.* All waste produced from the processing of cotton at gins, cottonseed oil mills, or textile mills in any form or under any trade designation. Gin trash is not within the definition of waste.

(m) *Gin trash.* All of the material produced during the cleaning and ginning of seed cotton, bollies, or snapped cotton except the cotton lint, cottonseed, and cotton waste.

(n) *Okra (Hibiscus esculentus L.).* All parts of okra plants, including seeds and edible and dry pods.

(o) *Kenaf (Hibiscus cannabinus L.).* All parts of kenaf plants, including seeds and pods.

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

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

(r) *Certificate.* A document evidencing compliance with the requirements of this subpart.

(s) *Limited permit.* A document authorizing the movement of regulated articles to a restricted destination for limited handling, utilization or processing, or for treatment.

(t) *Dealer-carrier agreement.* An agreement to comply with stipulated conditions, executed by persons engaged in purchasing, assembling, exchanging, handling, processing, utilizing, treating, or moving regulated articles.

(u) *Administrative instructions.* Documents relating to the enforcement of the provisions in this subpart issued under authority of such provisions by the Director of the Plant Pest Control Division, Agricultural Research Service.

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

§ 301.52–2 Designation of regulated area.

The Director of the Plant Pest Control Division shall, from time to time, in administrative instructions promulgated by him, list the counties, parishes, other minor civil divisions, and premises, or parts thereof, in the quarantined States, in which infestation has been determined to exist, or in which it has been determined infestation is likely to exist, or which it is deemed necessary to regulate because of their proximity to infes-

tation or their inseparability for quarantine enforcement purposes from infested localities, and shall designate such civil divisions and premises, and parts thereof, as constituting the regulated area. Any civil division or premises, or part thereof, so designated shall continue in a regulated status until the Director of the Plant Pest Control Division shall have determined that adequate eradication measures have been practiced for a sufficient length of time to eradicate the pink bollworm therein and that regulation of such civil division, premises, or part thereof is not otherwise necessary under this section, and shall have issued administrative instructions revoking the designation of such civil division, premises, or part thereof, as regulated area. The Director of the Plant Pest Control Division may, in said administrative instructions, divide the regulated area into an eradication area and a generally infested area.

§ 301.52–2a Administrative instructions designating regulated area, eradication area, and generally infested area under the pink bollworm quarantine.

(a) Infestations of the pink bollworm have been determined to exist, in the quarantined States, in the civil divisions and premises or parts thereof, listed below, or it has been determined that such infestation is likely to exist therein, or it is deemed necessary to regulate such localities because of their proximity to infestation or their inseparability for quarantine enforcement purposes from infested localities. Accordingly, the localities listed are hereby designated as the pink bollworm regulated area within the meaning of the provisions in this subpart:

Arizona. Counties of Cochise, Graham, Greenlee, Maricopa, Pima, Pinal, Santa Cruz, and Yavapai.

Arkansas. All counties or parts of counties lying west of a line beginning in Ashley County at a point on the Arkansas-Louisiana boundary, 2½ miles west of the intersection of the Missouri Pacific Railway and the Arkansas-Louisiana state line, the intersection lying southwest of Wilmot, said line extending north along the east line of R. 6 W. to the intersection of the southern boundary of Lincoln County, thence due west along the southern boundary of Lincoln County and a westward prolongation of said boundary into Cleveland County to a point where it intersects State Highway 15, thence north along Highway 15 to the southern city limits of Pine Bluff, thence along the eastern city limits to their intersection with the Arkansas River, thence northwest along the Arkansas River to the city limits of Little Rock, thence along the east corporate limits of Little Rock to their intersection with the Missouri Pacific Railway, thence northeast along said railroad to the city of Bald Knob, thence north along State Highway 11 to the southern boundary of Independence County, thence west and north along the Independence County line to its intersection with the White River, thence northwest along the White River to the Missouri state line.

That portion of the State bounded by a line beginning at the northeast corner of Clay County and extending south along the Arkansas-Missouri state line to the intersection of that line with the northern boundary of Craighead County, thence east along the Arkansas-Missouri state line to the intersection with Little River, thence south along the east side of the Big Lake National Wildlife Refuge and along the right hand chute of the Little River Floodway to the southeast corner of Craighead County, thence west along the southern boundary of Craighead County to its intersection with the St. Francis River, thence north along the St. Francis River to State Highway 18, thence west along State Highway 18 to its intersection with State Highway 135, thence north along State Highway 135 to its intersection with U.S. Highway 62, thence west along U.S. Highway 62 to Black River, thence northeast along Black River to the Arkansas-Missouri state line, thence east along the Arkansas-Missouri state line to the point of beginning. All incorporated towns and cities or unincorporated towns or villages located on any highway used as a boundary line shall be within the regulated area.

Louisiana. Parishes of Allen, Beauregard, Bienville, Bossier, Caddo, Calcasieu, Cameron, Claiborne, De Soto, Grant, Iberia, Jefferson Davis, Lafayette, Lincoln, Natchitoches, Rapides, Red River, Sabine, Saint Martin, Union, Vermilion, Vernon, Webster, and that portion of Ouachita lying west of the Ouachita River.

New Mexico. All counties in the State.

Oklahoma. All counties in the State.

Texas. All counties in the State.

(b) *Eradication area.* All regulated area within the States of Arizona, Arkansas, and Louisiana is hereby designated as eradication area.

(c) *Generally infested area.* All regulated area within the States of New Mexico, Oklahoma, and Texas is hereby designated as generally infested area.

§ 301.52–3 Regulated articles: Conditions of movement.

(a) *Designated articles.* Unless exempted by administrative instructions, the following may be moved from the regulated area into or through any point outside thereof, or from the generally infested area into or through the eradication area, only if accompanied by a valid certificate or limited permit issued in compliance with § 301.52–6 and if the applicable requirements of §§ 301.52–4 and 301.52–5 are also met: Cotton, cotton products, okra, kenaf, used bagging and other used wrappers for cotton, and used cotton harvesting equipment. However, regulated articles of kinds within this paragraph which originate outside of the regulated area, and are moving through or are being reshipped from the regulated area, may be moved from the regulated area and from the generally infested area into or through the eradication area, without further restriction under this subpart when their point of origin is clearly indicated, when their identity has been maintained, and when they have been safeguarded against infestation while in the regulated area in a manner satisfactory to an inspector and do not present a hazard of spread of the pink bollworm. Otherwise such regulated articles shall be subject to all applicable requirements under this subpart for articles originating in the regulated area.

(b) *Articles determined to present hazards.* When it has been determined by an inspector that, due to contamination with pink bollworms or untreated cottonseed or cottonseed hulls or any other reason, a hazard of spread of pink bollworm is presented by any farm products, farm equipment, farm household goods, ginning or oil mill equipment, other cotton processing machinery, or means of conveyance, or unlimited by the foregoing, any other products or articles of any character whatsoever, not covered by paragraph (a) of this section, notice of such fact shall be given to the person having custody thereof. Thereafter, such contaminated articles may be moved from the regulated area into or through any point outside thereof, or from the generally infested area into or through the eradication area, only after they have been cleaned, treated, or otherwise disinfested to the satisfaction of the inspector or when they are moving under limited permit as required by the inspector.

§ 301.52–4 Use of certificates or limited permits with shipments.

Every container of regulated articles, or if there is none the article itself, required to have a certificate or limited permit under § 301.52–3 shall have such certificate or permit securely attached to the outside thereof when offered for movement under said section, except that where the regulated articles are adequately described on a certificate or limited permit attached to the waybill, the attachment of a certificate or limited permit to each container of the articles, or to the article itself, will not be required.

§ 301.52–5 Protecting certified articles.

Subsequent to certification as provided in § 301.52–6, regulated articles must be loaded, handled, and shipped, only under such protection and safeguards against infestation as are required by the inspector.

§ 301.52–6 Conditions governing the issuance of certificates and limited permits.

(a) *Certificates.* Certificates may be issued by the inspector for the movement of the regulated articles designated in § 301.52–3(a) under any one of the following conditions:

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

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

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

(b) *Limited permits.* Limited permits may be issued by the inspector for the movement of noncertified regulated articles under § 301.52–3 to specified destinations for limited handling, utilization, or processing, or for treatment.

(c) *Dealer-carrier agreement.* As a condition of issuance of certificates or limited permits for the movement of regulated articles, any person engaged in purchasing, assembling, exchanging, handling, processing, utilizing, treating, or moving such articles may be required to sign a dealer-carrier agreement stipulating that he will maintain such safeguards against the establishment and spread of infestation and comply with such conditions as to the maintenance of

identity, handling, and subsequent movement of such articles and the cleaning and treatment of means of conveyance and containers used in transportation of such articles as may be required by the inspector.

§ 301.52–7 Assembly of articles for inspection.

Persons intending to move any of the regulated articles under § 301.52–3 shall make application for inspection as far in advance as possible, shall so handle such articles as to safeguard them from infestation, and shall assemble them at such points and in such manner as the inspector shall designate to facilitate inspection.

§ 301.52–8 Cancellation of certificates or limited permits.

Certificates or limited permits for any regulated articles issued under the regulations in this subpart may be withdrawn or cancelled and further certificates or permits for such articles may be refused by the inspector whenever he determines that the further use of such certificates or permits might result in the spread of the pink bollworm.

§ 301.52–9 Inspection and disposal.

Any properly identified inspector is authorized to stop and inspect, without a warrant, any person or means of conveyance moving from any State, Territory, or District of the United States into or through any other such State, Territory, or District and any plant pest and any product and article of any character whatsoever carried thereby, upon probable cause to believe that such means of conveyance, product, or article is infested or infected by or contains any plant pest or is moving subject to this subpart or any other regulations under the Federal Plant Pest Act or that such person or means of conveyance is carrying any plant pest subject to that act, and to stop and inspect, without a warrant, any means of conveyance so moving, upon probable cause to believe it is carrying any product or article prohibited or restricted movement under the Plant Quarantine Act or any quarantine or order thereunder. Such inspector is authorized to seize, destroy, or otherwise dispose of, or require disposal of, products, articles, means of conveyance, and plant pests in accordance with section 105 of the Federal Plant Pest Act and section 10 of the Plant Quarantine Act.

§ 301.52–10 Nonliability of Department.

The United States Department of Agriculture disclaims liability for any cost incident to inspection or treatment required under the provisions in this subpart, other than for the services of the inspector.

Subpart—White-Pine Blister Rust

QUARANTINE

§ 301.63 Notice of quarantine.

(a) The Secretary of Agriculture having given the public hearing required by law, quarantines each and every State of the continental United States and the District of Columbia, in order to prevent the further spread of the white-pine blister rust, a destructive disease of five-leaved pines caused by Cronartium ribicola Fischer, and for this purpose regulates the interstate movement of host plants of this disease, namely, five-leaved pines, gooseberries and currants. Hereafter no five-leaved pines (Pinus) or currants or gooseberries (Ribes or Grossularia), either wild or cultivated, shall be moved or allowed to be moved interstate from any State or from the District of Columbia into any other State, or from any State into the District of Columbia, except under conditions prescribed in regulations supplemental hereto, in amendments thereof, or in administrative instructions of the Director of the Plant Pest Control Division as hereinafter provided: *Provided*, That as a condition to the regulation, under this quarantine, of the interstate movement into the noninfected portion of a partially infected State of five-leaved pines which are not visibly infected with white-pine blister rust, or of the interstate movement of gooseberries or currants (other than European black currants), into any entire State, or portion thereof, which may be designated as a control-area, such State shall be required to provide for the control of the intrastate movement of the regulated articles under conditions comparable to those which apply to their interstate movement under provisions of the Federal quarantine regulations currently existing and to enforce such other control and sanitation measures with respect to such areas or portions thereof as, in the judgment of the Secretary of Agriculture, shall be deemed adequate for local control of the disease: *Provided further*, That whenever the Director of the Plant Pest Control Division shall find that existing conditions as to the pest risk involved in the movement of the regulated articles to which the regulations supplemental hereto apply, make it safe to modify by making less stringent the restrictions contained in any such regulations, he shall set forth and publish such findings in administrative instructions, specifying the manner in which the applicable regulations shall be made less stringent, whereupon such modifications shall become effective for such period and for such quarantined or protected area, or portions thereof as shall be specified in said administrative instructions, and every reasonable effort shall be made to give publicity to such administrative instructions throughout the affected areas.

(b) Regulations governing the movement of the organisms causing said disease are contained in Part 330 of this chapter. Applications for permits for the movement of said organisms may be made to the Director, Plant Pest Control Division, Agricultural Research Service, U.S. Department of Agriculture, Washington 25, D.C., in accordance with said part.

RULES AND REGULATIONS

§ 301.63–1 Definitions.

For the purpose of this subpart the following words, names, and terms shall be construed, respectively, to mean:

(a) *White-pine blister rust, or blister rust.* The fungus disease caused by Cronartium ribicola Fischer.

(b) *Five-leaved pines.* Plants of the following species belonging to the genus Pinus:

American species:
- Ayacahuite pine (P. Ayacahuite Ehrenb.).
- Bristlecone pine (P. aristata Engelm.).
- Foxtail pine (P. balfouriana Murr.).
- Limber pine (P. flexilis James.).
- Mexican white pine (P. strobiformis Engelm.).
- Sugar pine (P. lambertiana Dougl.).
- Western white or silver pine (P. monticola Dougl.).
- Whitebark pine (P. abicaulis Engelm.).
- Eastern white pine (P. strobus L.).

Foreign species:
- Balkan pine (P. peuce Griseb.).
- Chinese white pine (P. armandi Franch.).
- Himalayan or Bhotan pine (P. excelsa Wall.).
- Japanese white pine (P. parviflora Sieb. and Zucc.).
- Korean pine (P. koraiensis Sieb. and Zucc.).
- Swiss stone pine (P. cembra L.).

(c) *Gooseberry and currant plants.* Plants, cuttings, and seeds belonging to the genera Ribes and Grossularia, either wild or cultivated.

(d) *Control area-permit.* An official form permitting the interstate movement of gooseberry and currant plants for planting in approved locations in control areas, issued by a State officer authorized and designated by the United States Department of Agriculture.

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

(f) *Administrative instructions.* Documents issued, under the provisions of this quarantine and regulations supplemental thereto, by the Director of the Plant Pest Control Division.

(g) *Continental United States.* The States of the United States and the District of Columbia.

(h) *Moved interstate, interstate movement.* Shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or otherwise transported, moved, or allowed to be moved from any State or the District of Columbia into any other State or from any State into the District of Columbia.

(i) *White-pine certificate.* An official form issued by the Plant Pest Control Division authorizing the interstate movement of five-leaved pines for reforestation purposes into noninfected States from nurseries in States outside thereof which are certified by the Plant Pest Control Division as being adequately protected from blister rust infection to provide noninfected planting stock.

§ 301.63–2 Quarantined area.

The quarantined area comprises the entire continental United States.

§ 301.63–3 Control areas.

Control areas shall comprise those States, or parts thereof, into which the movement of gooseberry and currant plants, other than European black currants, is regulated, as designated by the Director of the Plant Pest Control Division in duly publicized admin-

istrative instructions issued pursuant to this quarantine, and modified when, in his judgment, the status or needs for control make such modifications necessary. The conditions and requirements of such administrative instructions shall carry full force and effect of this quarantine.

§ 301.63–3a Administrative instructions designating control areas.

The States of Connecticut, Delaware, Georgia, Idaho, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oregon, Pennsylvania, Rhode Island, Tennessee, Vermont, Virginia, Washington, West Virginia, and Wisconsin are hereby designated in part or in their entirety as control areas, and the interstate movement to such control areas of gooseberry and currant plants, cuttings, and seeds is prohibited or regulated as provided in this section for each such State or part thereof.

Connecticut. European black currant plants may not be moved interstate to any destination in Connecticut.

Gooseberry and currant plants, other than European black currants, may not be moved interstate to any destination in Connecticut unless accompanied by control-area permits secured from the State Entomologist, Box 1106, New Haven 4, Conn. Control-area permits will not be issued for planting within infective distances of protected pine.

Delaware. European black currant plants may not be moved interstate to any destination in Delaware.

Gooseberry and currant plants, other than European black currants, may not be moved interstate to any destination in Delaware unless accompanied by control-area permits secured from the Plant Pathologist, State Board of Agriculture, Newark, Del. Control-area permits will not be issued for planting within infective distances of protected pine.

Georgia. European black currant plants may not be moved interstate to any destination in Georgia.

Gooseberry and currant plants other than European black currants may be moved interstate without restriction into Georgia, except that their interstate movement is prohibited to the following shipping points:

SHIPPING POINTS IN GEORGIA TO WHICH MOVEMENT OF ALL GOOSEBERRY AND CURRANT PLANTS IS PROHIBITED

Aska.
Ayersville.
Baxter.
Blairsville.
Blue Ridge.
Cartecay.
Chatsworth.
Cherrylog.
Cisco.
Clarkesville.
Clayton.
Cleveland.
Cornelia.
Crandall.
Dahlonega.
Dawsonville.
Demorest.
Dial.
Diamond.
Dillard.
East Ellijay.
Ellijay.
Emma.
Eton.
Gaddistown.
Habersham.
Harvest.
Helen.
Hemp.
Hiawassee.
Higdons Store.
Hollywood.
Hurst.
Jasper.
Juno.
Lakemont.
Leaf.
Lewner.
Loving.
Marblehill.
Margret.
Marion.
Morganton.
Mountain City.
Nacoochee.
Newport.
Oak Hill.
Pike.
Pisgah.
Presley.
Quill.
Rabun Gap.
Robertstown.
Rolston.
Roy.
Sarah.
Satolah.
Sautee.
Suches.
Talking Rock.
Tallulah Falls.
Tallulah Lodge.
Talona.
Tennga.
Tiger.
Titus.
Toccoa.
Toccoa Falls.
Tournapull (rural station Toccoa).
Tugalo.
Turnerville.
Whitestone.
Wiley.
Youngcane.
Young Harris.

Idaho. European black currant plants may not be moved interstate to any destination in Idaho.

Gooseberry and currant plants, other than European black currants, may be moved interstate without restriction into Idaho, except that their interstate movement is prohibited to the following shipping points:

SHIPPING POINTS IN IDAHO TO WHICH MOVEMENT OF ALL GOOSEBERRY AND CURRANT PLANTS IS PROHIBITED

Avery.
Bovill.
Calder.
Clark Fork.
Clarkia.
Coeur d'Alene.
Coolin.
Deary.
Dent.
Elk River.
Elmira.
Emerald.[1]
Emida.
Enaville.
Fernwood.
Grangemont.
Greer.
Harvard.
Hayden Lake.
Headquarters.
Helmer.[1]
Hope.
Jaype.[1]
Kellogg.
Kingston.
Linfor.[1]
MacArthur.[1]
Mullan.
Murray.
Naples.
Neva.[1]
Nordman.
Orofino.
Pierce.
Prichard.[1]
Priest River.
Purdue.[1]
Rathdrum.
Saint Joe.[1]
Saint Maries.
Samuels.
Sandpoint.
Santa.
Spirit Lake.
Twin Lakes.[1]
Wallace.
Weippe.

Maine. European black currant plants may not be moved interstate to any destination in Maine.

Gooseberry and currant plants, other than European black currants, may be moved interstate without restriction to the shipping points listed below. Interstate movement to all other shipping points in the State is prohibited.

SHIPPING POINTS IN MAINE TO WHICH GOOSEBERRY AND CURRANT PLANTS, OTHER THAN EUROPEAN BLACK CURRANTS, MAY BE MOVED WITHOUT RESTRICTION

Addison.
Air Force Base (sta. Houlton).
Ashland.
Ayers.
Bancroft.
Baring.
Beals.
Benedicta.
Blaine.
Blanchard.
Bowerbank.
Bridgewater.
Brookton.
Bucks Harbor.
Calais.
Capens.[1]
Caribou.
Carroll.
Centerville.
Cherryfield.
Chesuncook.
Clayton Lake.
Columbia Falls.
Cooper.[1]
Crawford.
Crouseville.
Cutler.
Danforth.
Deblois.
Dennysville.
Eagle Lake.
East Machias.
East Millinocket.
Easton.
Eastport.
Eaton.
Flagstaff.
Forest City.
Forest Station.
Fort Fairfield.
Fort Kent.
Fort Kent Mills.
Frenchville.
Grand Isle.
Grand Lake Stream.
Greenville.
Greenville Junction
Grindstone.
Grove.
Harrington.
Haynesville.
Hodgdon.
Holeb.
Houlton.
Howland.
Island Falls.
Jackman.
Jackman Station.
Jacksonville.
Jonesboro.
Jonesport.
Keegan.
Kingman.
Kingsbury.
Kokadjo.
La Grange.
Lambert Lake.
Larrabee.
Lille.
Limestone.
Linneus.
Long Pond.
Lubec.
Ludlow.[1]
Machias.
Machiasport.
Madawaska.
Mapleton.
Mars Hill.
Masardis.
Meddybemps.
Medway.
Millbridge.
Millinocket.
Milltown (Ind. sta. Calais).
Monarda.
Monson.
Monticello.
Moose River.
New Limerick.
New Sweden.
North Amity.
North Bancroft.
North East Carry.
North Lubec.
Oakfield.
Ogontz.
Onawa.
Orient.
Oxbow.
Patten.
Pembroke.
Perham.
Perry.
Phair.[1]
Plaisted.
Portage.
Prentiss.
Presque Isle.
Princeton.
Quimby.
Quoddy (sta. Eastport).
Red Beach.
Robbinston.
Robinsons.
Rockwood.
Roque Bluffs.
Saint Agatha.
Saint David.
Saint Francis.
Sebec Lake.
Seboeis.
Selden.
Sheridan.
Sherman.
Sherman Mills.
Sherman Station.
Shin Pond.
Shirley Mills.
Sinclair.
Smyrna Mills.
Soldier Pond.
South Bancroft.
Spencer.[1]
Stacyville.
Starboard.
Steuben.
Stockholm.
Tarratine.
The Birches.[1]
Topsfield.
Upper Frenchville.
Van Buren.
Vanceboro.
Waite.
Washburn.
Wesley.
Westfield.
West Jonesport.
West Lubec.
Weston.
West Outlet.[1]
West Pembroke.
West Seboois.
Whiting.
Whitneyville.
Winterville.
Woodland.
Wytopitlock.

[1] No post office.

Maryland. European black currant plants may not be moved interstate to any destination in Maryland.

Gooseberry and currant plants, other than European black currants, may not be moved interstate to any destination in Maryland unless accompanied by control-area permits secured from the State Plant Pathologist, University of Maryland, College Park, Maryland. Control-area permits will not be issued for planting within infective distances of protected pine.

Massachusetts. European black currant plants may not be moved interstate to any destination in Massachusetts. Gooseberry and currant plants, other than European black currants, may not be moved interstate to any destination in Massachusetts, unless accompanied by control-area permits secured from the Director, Division of Plant Pest Control and Fairs, 41 Tremont St., Boston 8, Mass. Control-area permits will not be issued for planting within infective distances of protected pine.

Michigan. European black currant plants may not be moved interstate to any destination in Michigan.

Gooseberry and current plants, other than European black currants, may be moved interstate without restriction into Michigan, except that they may be moved interstate to shipping points in the counties listed below only when accompanied by control-area permits secured from the Director, Bureau of Plant Industry, State Department of Agriculture, Lansing 13, Mich. Control-area permits will not be issued for planting within infective distances of protected pine.

COUNTIES IN MICHIGAN FOR WHICH CONTROL-AREA PERMITS ARE REQUIRED

Alcona.
Alger.
Allegan.
Alpena.
Antrim.
Baraga.
Benzie.
Charlevoix.
Cheboygan.
Chippewa.
Crawford.
Delta.
Dickinson.
Emmet.
Gogebic.
Grand Traverse.
Houghton.
Iosco.
Iron.
Kalkaska.
Kent.
Keweenaw.
Lake.
Leelanau.
Luce.
Mackinac.
Manistee.
Marquette.
Mason.
Mecosta.
Menominee.
Missaukee.
Montcalm.
Montmorency.
Muskegon.
Newaygo.
Oceana.
Ogemaw.
Ontonagon.
Oscoda.
Otsego.
Ottawa.
Presque Isle.
Roscommon.
Schoolcraft.
Wexford.

Minnesota. European black currant plants may not be moved interstate to any destination in Minnesota.

Gooseberry and currant plants, other than European black currants, may be moved interstate without restriction into Minnesota, except that they may be moved interstate to shipping points in the counties listed below only when accompanied by control-area permits secured from the Commissioner of Conservation, State Office Building, St. Paul, Minn. Control-area permits will not be issued for planting within infective distances of protected pine.

COUNTIES IN MINNESOTA FOR WHICH CONTROL-AREA PERMITS ARE REQUIRED

Aitkin.
Becker.
Beltrami.
Carlton.
Cass.
Chisago.
Clearwater.
Cook.
Crow Wing.
Hubbard.
Isanti.
Itasca.
Kanabec.
Koochiching.
Lake.
Mahnomen.
Pine.
St. Louis.

Montana. European black currant plants may not be moved interstate to any destination in Montana.

Gooseberry and currant plants, other than European black currants, may be moved interstate without restriction into Montana, except that their interstate movement is prohibited to the following shipping points.

SHIPPING POINTS IN MONTANA TO WHICH MOVEMENT OF ALL GOOSEBERRY AND CURRANT PLANTS IS PROHIBITED

Belton.
Deborgia.
Haugan.
Heron.
Noxon.
Saltese.[1]
Snead.[1]
Taft.[1]
Troy.
Warland.

New Hampshire. European black currant plants may not be moved interstate to any destination in New Hampshire.

Gooseberry and currant plants, other than European black currants, may be moved interstate without restriction to the shipping points listed below. Interstate movement to all other shipping points in the State is prohibited.

SHIPPING POINTS IN NEW HAMPSHIRE TO WHICH GOOSEBERRY AND CURRANT PLANTS, OTHER THAN EUROPEAN BLACK CURRANTS, MAY BE MOVED WITHOUT RESTRICTION

Colebrook.
Dixville Notch.
Errol.
North Stratford.
Pittsburg.
Stratford.
Wentworth Location.
West Stewartstown.

[1] No post office.

New Jersey. European black currant plants may not be moved interstate to any destination in New Jersey.

Gooseberry and currant plants, other than European black currants, may be moved interstate without restriction into New Jersey, except that their interstate movement is prohibited to the following shipping points:

SHIPPING POINTS IN NEW JERSEY TO WHICH MOVEMENT OF ALL GOOSEBERRY AND CURRANT PLANTS IS PROHIBITED

Bevans.
East Balles.[1]
Flatbrookville.
Glenwood.
Green Pond.
Haskell.
Hewitt.
Lake Hopatcong.
Lake Lookover.[1]
Layton.
McAfee.
Mount Arlington.
Newfoundland.
Oak Ridge.
Ringwood.
Vernon.
Wallpack Center.
Wanaque.
West Milford.

New York. European black currant plants may not be moved interstate to any destination in New York.

Gooseberry and currant plants, other than European black currants, may be moved interstate without restriction into New York, except that their interstate movement is prohibited to the following shipping points:

SHIPPING POINTS IN NEW YORK TO WHICH MOVEMENT OF ALL GOOSEBERRY AND CURRANT PLANTS IS PROHIBITED

Accord.
Acuny (branch Plattsburg).
Adirondack.
Alder Creek.
Allaben.
Alligerville.
Altona.
Argyle.
Ashokan.
Athol.
Atwell.
Ausable Chasm.
Au Sable Forks.
Ava.
Bakers Mills.
Ballston Lake.
Ballston Spa.
Bangor.
Barnes Corners.
Barneveld.
Barryville.
Bearsville.
Beaver Falls.
Beaver River.
Big Indian.
Big Moose.
Binnewater.
Bloomingburg.
Bloomingdale.
Bloomington.
Blossvale.
Blue Mountain Lake.
Blue Ridge.
Boiceville.
Bolton.
Bolton Landing.
Bombay.
Boonville.
Brainardsville.
Brandreth.
Brantingham.
Brant Lake
Brasher Falls.
Broadalbin.
Brushton.
Burke.
Burlingham.
Burnt Hills.
Cadyville.
Cambridge.
Camden.
Canada Lake.
Caroga Lake.
Castorland.
Champlain.
Chateaugay.
Chazy.
Chestertown.
Chichester.
Childwold.
Chilson.
Churubusco.
Clayburg.
Clemons.
Cleverdale.
Cliff Haven.[1]
Clintonville.
Cochecton.
Cochecton Center.
Cold Brook.
Colton.
Comstock.
Conifer.
Conklingville.[1]
Constable.
Constableville.
Copenhagen
Coreys.
Corinth.
Cossayuna.
Cottekill.
Cragsmoor.
Cranberry Lake.
Craterclub.
Creek Locks.
Croghan.
Crown Point.
Crown Point Center.
Cuddebackville.
Dairyland.[1]
Dannemora.
Darts.
Deerland.
Deer River.
Degrasse.
Denmark.
Diamond Point.
Dickinson Center.
Dolgeville.
Dresden Station.
Duane.
Eagle Bay.
Eagle Nest.
East Greenwich.
Eddyville.
Edinburg.
Edwards.
Eldred.
Elizabethtown.
Ellenburg.
Ellenburg Center.
Ellenburg Depot.
Ellenville.
Elnora.
Essex.
Faust.
Fine.
Florence.
Forest.
Forestport.
Fort Ann.
Fort Covington.
Fort Edward.
Fort Jackson.
Fort Miller.
Fort Ticonderoga.
Fosterdale.
Gabriels.
Galway.
Gansevoort (Saratoga County).
Garnet Lake.
Glasco.
Glenburnie.
Glenfield.
Glenford.
Glen Island.
Glen Lake.[1]
Glens Falls.
Glen Spey.
Gloversville.
Godeffroy.
Grant.
Granville.
Gravesville.
Greenfield Center.
Greenfield Park.
Greenwich.
Greig.
Hadley.
Hague.
Hampton.
Hannawa Falls.
Harrisville.
Hartford.
Hartwood.
Hawkeye.
Helena.
Higgins Bay
High Falls.
Highland Lake.
Highmount (Grand Hotel).
Highview.
Hinckley.
Hoffmeister.
Hogansburg.
Holland Patent.
Hopkinton.
Hotel Champlain.
Hudson Falls.
Huguenot.
Huletts Landing.
Hunter Lake.
Hurley.
Indian Lake.
Inlet.
Inman.[1]
Irona.
Jay.
Johnsburg.
Johnstown.
Jonesville.
Katskill Bay.
Keene.
Keene Valley.
Keeseville.
Kerhonkson.
Krumville.
Kyserike.
Lackawack.
Lake Clear.
Lake Clear Junction.
Lake George.
Lake Hill.
Lake Huntington.
Lake Katrine.
Lake Kushaqua.
Lake Luzerne.
Lake Placid.
Lake Placid Club.
Lake Pleasant.
Lawrenceville.
Lee Center.
Lewis.
Long Lake.
Loon Lake.
Lowville.
Lyon Mountain.
Lyons Falls.
McKeever.
Malden-on-Hudson.
Malone.
Martinsburg.
Mayfield.
Mechanicville.
Merriewold.
Merrill.
Middle Falls.
Middle Granville.
Middle Grove.
Minerva.
Mineville.
Moffitsville.[1]
Mohonk Lake.
Moira.
Montela.[1]
Moody.
Mooers.
Mooers Forks.
Moriah.
Moriah Center.
Morrisonville.
Mountain View.
Mount Arab.[1]
Mount McGregor.
Mount Marion.
Mount Pleasant.
Mount Tremper (The Corners).
Napanoch.
Narrowsburg.
Nehasane.
New Bremen.
Newcomb.
New Russia.
Newton Falls.
Nicholville.
Norfolk.
North Bangor.
North Creek.
North Granville.
North Hudson.
North Lawrence.
North River.
North Stockholm.
Northville.
North Western.
Ohio.
Old Forge.
Olivebridge.
Olmstedville.
Onchiota.
Osceola.
Oswegatchie.
Otter Lake.
Owls Head.
Palmer.
Paradox.
Parishville.
Paul Smiths.
Peasleeville.
Peru.
Phillipsport.
Phoenicia.
Piercefield.
Pilot Knob.
Pine Hill.
Piseco.
Plattsburg.
Poland.
Pond Eddy.
Porter Corners.
Port Henry.
Port Jervis.
Port Kent.
Port Leyden.
Pottersville.
Prospect.
Putnam Station.
Rainbow Lake.
Raquette Lake.
Ray Brook.
Raymondville.

Redford.
Remsen.
Rexford.
Rio.
Riparius.
Riverview.
Rock City Falls.
Rosa Gap.
Rosendale.
Round Lake.
Rouses Point.
Ruby.
Russell.
Sabael.
Sabattis.
Sabbath Day Point.
Sacandaga.
Saint Huberts.
Saint Josephs.
Saint Regis Falls.
Salem.
Salisbury.
Salisbury Center.
Samsonville.
Santa Clara.
Saranac.
Saranac Inn.
Saranac Lake.
Saratoga Springs.
Saugerties.
Schroon Lake.
Schuyler Falls.
Schuylerville.
Severance.
Shady.
Shandaken.
Shokan.
Shushan.
Silver Bay.
Smiths Basin.
South Colton.
South Hartford.
South Schroon.
Sparrow Bush.
Speculator.
Spring Glen.
Standish.
Starlake.
Stillwater.
Stone Ridge.
Stony Creek.
Stratford.
Summitville.
Sunmount.
Swastika.
Taberg.
Tahawus.
Ten Mile River.
The Glen.
Thendara.
Thomson.
Thurman.
Ticonderoga.
Tillson.
Trudeau.
Truthville.
Tupper Lake.
Turin.
Tusten.
Upper Jay.
Upper Saint Regis.
Ushers.
Valcour.
Vermontville.
Victory Mills.
Wadhams.
Wanakena.
Warrensburg.
Waterford.
Wawarsing.
Wells.
West Bangor.
West Branch.
Westbrookville.
West Camp.
West Chazy
Westdale.
Westernville.
West Granville Corners.
West Hurley.
West Leyden.
Westport.
West Shokan.
West Stockholm.
Wevertown.
Whallonsburg.
Whippleville.
White Creek.
Whiteface.
Whitehall.
Willow.
Willsboro.
Wilmington.
Wilton.
Winterton.
Winthrop.
Witherbee.
Wittenberg.
Woodgate.
Woodland.
Woodstock.
Wurtsboro.
Yulan.

North Carolina. European black currant plants may not be moved interstate to any destination in North Carolina.

Gooseberry and currant plants, other than European black currants, may be moved interstate without restriction into North Carolina, except that they may be moved interstate to shipping points in the counties listed below only when accompanied by control-area permits secured from the State Entomologist, Department of Agriculture, Raleigh, N. C. Control-area permits will not be issued for planting within infective distances of protected pine.

COUNTIES IN NORTH CAROLINA FOR WHICH CONTROL-AREA PERMITS ARE REQUIRED

Alexander.
Alleghany.
Ashe.
Avery.
Buncombe.
Burke.
Caldwell.
Cherokee.
Clay.
Cleveland.
Graham.
Haywood.
Henderson.
Jackson.
McDowell.
Macon.
Madison.
Mitchell.
Polk.
Rutherford.
Surry.
Swain.
Transylvania.
Watauga.
Wilkes.
Yadkin.
Yancey.

Ohio. European black currant plants may not be moved interstate to any destination in Ohio.

Gooseberry and currant plants, other than European black currants, may be moved interstate without restriction into Ohio, except that they may be moved interstate to the shipping points listed below only when accompanied by control-area permits secured from the Chief, Division of Plant Industry, Department of Agriculture, Columbus 15, Ohio. Control-area permits will not be issued for planting within infective distances of protected pine.

SHIPPING POINTS IN OHIO FOR WHICH CONTROL-AREA PERMITS ARE REQUIRED

Adelphi.
Athens.
Brecksville.
Bremen.
Burton.
Carbondale.
Chagrin Falls.
Chardon.
Chillicothe.
Clark.
Danville.
Dellroy.
Fredericktown.
Fresno.
Gambier.
Gates Mills.
Germano.
Glenmont.
Greer.[1]
Keene.
Kent.
Lancaster.
Logan.
Loudonville.
Marietta.
Nashville.
Newark.
New Marshfield.
Perrysville.
Rockbridge.
Sherrodsville.
Stone Creek.
West Austintown.[1]
Winona.
Zaleski.
Zanesfield.

Oregon. European black currant plants may not be moved interstate to any destination in Oregon.

Gooseberry and currant plants, other than European black currants, may be moved interstate without restriction into Oregon, except that they may be moved interstate to the shipping points listed below only when accompanied by control-area permits secured from the Chief, Division of Plant Industry, Agricultural Building, Salem, Oregon. Control-area permits will not be issued for planting within infective distances of protected pine.

SHIPPING POINTS IN OREGON FOR WHICH CONTROL-AREA PERMITS ARE REQUIRED

Cave Junction.
Colestin.[1]
Dryden.
Galice.[1]
Grants Pass.
Holland.
Kerby.
Murphy.
Oregon Caves.
Prospect.
Selma.
Tiller.
Union Creek.[1]
Waters Creek.[1]
Wilderville.
Wonder.

Pennsylvania. European black currant plants may not be moved interstate to any destination in Pennsylvania.

Gooseberry and currant plants, other than European black currants, may be moved interstate without restriction into Pennsylvania, except that they may be moved interstate to shipping points in the counties listed below only when accompanied by control-area permits secured from the Chief, Division of Forest Protection, Pennsylvania Department of Forests and Waters, 410 Educational Building, Harrisburg, Pa. Control-area permits will not be issued for planting within infective distances of protected pine.

COUNTIES IN PENNSYLVANIA FOR WHICH CONTROL-AREA PERMITS ARE REQUIRED

Bradford.
Cameron.
Centre.
Clarion.
Clearfield.
Clinton.
Elk.
Forest.
Fulton.
Huntingdon.
Jefferson.
Luzerne.
Lycoming.
Monroe.
Pike.
Potter.
Susquehanna.
Tioga.
Warren.
Wayne.

Rhode Island. European black currant plants may not be moved interstate to any destination in Rhode Island.

[1] No post office.

Gooseberry and currant plants, other than European black currants, may not be moved interstate to any destination in Rhode Island unless accompanied by control-area permits secured from the Administrator, Division of Entomology and Plant Industry, State House, Providence 2, R. I. Control-area permits will not be issued for planting within infective distances of protected pine.

Tennessee. European black currant plants may not be moved interstate to any destination in Tennessee.

Gooseberry and currant plants, other than European black currants, may be moved interstate without restriction into Tennessee, except that their interstate movement is prohibited to the following shipping points:

SHIPPING POINTS IN TENNESSEE TO WHICH MOVEMENT OF ALL GOOSEBERRY AND CURRANT PLANTS IS PROHIBITED

Allardt.
Archville.
Armathwaite.
Bakewell.
Banner Springs.
Belltown.
Ben Stockton.
Benton.
Big Lick.
Bluff City.
Bridgeport.
Bristol.
Burrville.
Butler.[1]
Cades Cove.[1]
Calderwood.
Carderview.
Catoosa.[1]
Cedar Creek (rural station Greeneville).
Chilhowee.
Clarkrange.
Coalfield.
Cokercreek.
Coleman.[1]
Conasauga.
Cosby.
Crab Orchard.
Crossville.
Dayton.
Dean.
Deer Lodge.
Delano.
Del Rio.
Doeville.
Ducktown.
East Jamestown.
Elgin.
Elizabethton.
Elkmont (rural station Sevierville).
Embreeville.
Emory Gap.
Epperson.
Erwin.
Evensville.
Farner.
Flag Pond.
Flattop.[1]
Frankfort.[1]
French Broad.
Gatlinburg.
Gennett.[1]
Glenmary.
Grandview.
Graysville.
Grimsley.
Hampton.
Harriman.
Hartford.
Hebbertsburg.[1]
Helenwood.
Hendon.
Holston Valley.
Huntsville.
Ironsburg.[1]
Isabella.
Jamestown.
Kinzel Springs.[1]
Lancing.
Laurel Bloomery.
Linary.
Litton.
Milligan College.
Milo.
Mountain City.
Neva.
New River.
Nicks Creek.
Norma.
Oakdale.
Ocoee.
Oldfort.
Oneida.
Ozone.
Peavine.
Petros.
Pigeon Forge (rural station Sevierville).
Pikeville.
Piney Flats.
Pittman Center (rural station Sevierville).
Rasar.
Reliance.
Roan Mountain.
Robbins.
Rock Creek.[1]
Rockwood.
Roslin.
Rugby.
Sale Creek.
Servilla.
Sevierville.
Shady Valley.
Shell Creek.
Shirley.
Shouns.
Smoky Junction.
South Holston Dam (rural station Bristol).
Spring City.
Sunbright.
Tallassee.
Tellico Plains.
Townsend.
Trade.
Unicoi.
Walland.
Wartburg.
Watauga.
Westel.
Wetmore.[1]
Winesap.
Winfield.
Winona.
Wolf Creek.

Vermont. European black currant plants may not be moved interstate to any destination in Vermont.

Gooseberry and currant plants, other than European black currants, may not be moved interstate to any destination in Vermont unless accompanied by control-area permits secured from the State Forester, Department of Natural Resources, Forest Service, Montpelier, Vt. Control-area permits will not be issued for planting within infective distances of protected pine.

Virginia. European black currant plants may not be moved interstate to any destination in Virginia.

Gooseberry and currant plants, other than European black currants, may be moved interstate without restriction into Virginia, except that they may be moved interstate to shipping points in the counties listed below only when accompanied by control-area permits secured from the State Entomologist, 1112 State Office Building, Richmond 19, Va. Control-area permits will not be issued for planting within infective distances of protected pine.

COUNTIES IN VIRGINIA FOR WHICH CONTROL-AREA PERMITS ARE REQUIRED

Albemarle.
Alleghany.
Amherst.
Augusta.
Bath.
Bedford.
Bland.
Botetourt.
Carroll.
Craig.
Floyd.
Franklin.
Frederick.
Giles.
Grayson.
Greene.
Henry.
Highland.
Madison.
Montgomery.
Nelson.
Page.
Patrick.
Pulaski.
Rappahannock.
Roanoke.
Rockbridge.
Rockingham.
Shenandoah.
Smyth.
Warren.
Washington.
Wythe.

Washington. European black currant plants may not be moved interstate to any destination in Washington.

Gooseberry and currant plants, other than European black currants, may be moved interstate without restriction into Washington, except that they may be moved interstate to the shipping points listed below only when accompanied by control-area permits secured from the Supervisor of Horticulture, Department of Agriculture, Olympia, Wash. Control-area permits will not be issued for planting within infective distances of protected pine.

SHIPPING POINTS IN WASHINGTON FOR WHICH CONTROL-AREA PERMITS ARE REQUIRED

Blueside.[1]
Colbert.
Cusick.
Ione.
Lost Creek.[1]
Mead.
Metaline Falls.
Ruby.[1]
Tiger.
Usk.

West Virginia. European black currant plants may not be moved interstate to any destination in West Virginia.

Gooseberry and currant plants, other than European black currants, may be moved interstate without restriction into West Virginia, except that their interstate movement is prohibited to the following shipping points:

SHIPPING POINTS IN WEST VIRGINIA TO WHICH MOVEMENT OF ALL GOOSEBERRY AND CURRANT PLANTS IS PROHIBITED

Abraham.
Alvon.
Anthony.
Arborvale.
Assurance.[1]
Athens.
Auto.
Avis.[1]
Baker.
Ballard.
Ballenges.
Bartow.
Bass.[1]
Beard.
Beaver.
Beckley.
Beeson.
Bellepoint.
Berkeley Springs.
Bloomery.
Blue Jay.
Boyer.
Bozoo.
Brandywine.
Brushy Run.
Buckeye.
Caldwell.
Camp Alleghany.
Camp Creek.
Capon Bridge.
Capon Springs.
Cashmere.
Cass.
Cave.
Cherry Creek.
Cherry Run.
Clover Lick.
Cool Ridge.
Crab Orchard.
Cranberry.
Crow.
Crumps Bottom.
Daniels.
Deer Run.
Denmar.
Droop.
Dunmore.
Dunns.
East Beckley.
Eccles.
Egeria.
Elgood.
Ellison.
Fabius.
Fame.
Forest Hill.
Fort Run.
Fort Seybert.
Frankford.
Franklin.
Frost.
Gap Mills.
Ghent.
Glace.
Glengary.
Glen Morgan.
Glen White.
Grandview.
Green Bank.
Greenville.
Hambleton.
Harper.
Hedgesville.
Hendricks.
High View.
Hillsboro.
Hinton.
Hollywood.
Hooks Mills.
Huntersville.
Indian Mills.
Inkerman.
Intermont.
Jones Springs.
Jumping Branch.
Keenan.
Kegley.
Kirby.
Kline.
Lanark.
Lashmeet.
Lead Mine.
Lehew.
Lerona.
Lewisburg.
Lick Creek.
Lindside.
Lost City.
Lost River.
Lovern.
McCreery.[1]
Mabscott.
MacArthur.
Mandeville.[1]
Marie.
Marlinton.
Mathias.
Maxwelton.
Milam.
Mill Point.
Minnehaha Springs.
Moorefield.
Mountview.
Moyers.
Mozer.
Needmore.
Neola.
New.
North Caldwell.[1]
North Mountain.
Norvell.[1]
Oakland.
Oakvale.
Old Fields.
Omps.
Orchard.
Organ Cave.
Oswald.
Parsons.
Pemberton.
Perry.
Peterstown.
Pettry.
Pickaway.
Piney View.
Pinoak.
Pipestem.
Pluto.
Price Hill.
Princeton.
Prosperity.
Raleigh.
Red Sulphur Springs.
Renick.
Ridge.
Rio.
Rock Camp.
Rockoak.
Ronceverte.
Roxalia.[1]
Ruddle.
Saint George.
Secondcreek.
Seebert.
Shady Spring.
Skelton.
Sleepy Creek.
Smoke Hole.
Spanishburg.
Speedway.
Sprague.
Spring Creek.
Stanaford.
Stotlers Cross Roads.
Streeter.
Sugar Grove.
Surveyor.
Sweetsprings.
True.
Ungers Store.
Union.
Upper Tract.
Vago.
Waiteville.
Wardensville.
Warford.[1]
Watoga.
Wayside.
White Sulphur Springs.
Wickham.[1]
Wikel.
Willow Bend.
Yellow Spring.
Zenith.

Wisconsin. European black currant plants may not be moved interstate to any destination in Wisconsin.

Gooseberry and currant plants, other than European black currants, may be moved interstate without restriction into Wisconsin, except that they may be moved interstate to shipping points in the counties listed below only when accompanied by control-area permits secured from the State Entomologist, State Capitol, Madison 2, Wis. Control-area permits will not be issued for planting within infective distance of protected pine.

COUNTIES IN WISCONSIN FOR WHICH CONTROL-AREA PERMITS ARE REQUIRED

Adams.
Ashland.
Barron.
Bayfield.
Burnett.
Chippewa.
Clark.
Door.
Douglas.
Dunn.
Eau Claire.
Florence.
Forest.
Iron.
Jackson.
Juneau.
Langlade.
Lincoln.
Marathon.
Marinette.
Monroe.
Oconto.
Oneida.
Polk.
Portage.
Price.
Rusk.
Saint Croix.
Sawyer.
Shawano.
Taylor.
Vilas.
Washburn.
Waupaca.
Waushara.
Wood.

(a) *Movement of five-leaved pines.* (1) As provided in § 301.63–5 (a), five-leaved pines may be moved interstate without restriction between the noninfected States of Arizona, Colorado, Nevada, New Mexico, Utah, and the noninfected part of California comprised of the counties of Contra Costa, Mariposa, Mono, San Francisco, San Joaquin, Stanislaus, and all those south thereof. Five-leaved pines may not be moved interstate into these areas from any other part of the United States except when intended for reforestation purposes, when they have been grown in a nursery protected from blister rust infection, and when accompanied by a white-pine certificate issued for such movement by the Plant Pest Control Division.

(2) There are no restrictions on the interstate movement of five-leaved pines and parts thereof into or within that part of the continental United States outside of the areas described in the above paragraph, except that five-leaved pines and parts thereof when visibly infected with blister rust may not be moved interstate anywhere within the continental United States except in accordance with § 301.63–9.

(b) *Movement of European black currants.* As provided in § 301.63–5 (b), European black currant plants may be moved interstate without restriction into or between the States of Alabama, Arkansas, Florida, Kansas, Louisiana, Mississippi, Missouri, Nebraska, North Dakota, Oklahoma, South Dakota, and Texas. Interstate movement of such plants into or between any other States or the District of Columbia is prohibited except in accordance with § 301.63–9.

§ 301.63–4 Regulated articles.

Regulated articles shall comprise gooseberry and currant plants, cuttings and seeds, and five-leaved pines and, if visibly infected with white-pine blister rust, portions of five-leaved pines.

§ 301.63–5 Conditions governing interstate movement of regulated articles.

(a) *Five-leaved pines.* (1) Five-leaved pines may be moved interstate without restriction between the follow-

[1] No post office.

ing noninfected States or parts thereof when they have originated therein, namely: Arizona, Colorado, Nevada, New Mexico, Utah, and the noninfected part of California comprising the counties of Contra Costa, Mariposa, Mono, San Francisco, San Joaquin, Stanislaus, and all of those south thereof. Five-leaved pines may not be moved interstate into the above-described areas from any other part of the United States, except when intended for reforestation purposes, when they have been grown in a nursery protected from blister rust infection, and when accompanied by a white-pine certificate issued for such movement by the Plant Pest Control Division.

(2) There are no restrictions on the interstate movement of five-leaved pines and parts thereof into or within that part of the continental United States outside of the areas described in subparagraph (1) of this paragraph: *Provided,* That the interstate movement anywhere within the continental United States of five-leaved pines and parts thereof when visibly infected with blister rust is prohibited except when intended for scientific or educational purposes and when authorized, safeguarded, and labeled in accordance with § 301.63–9.

(b) *European black currants.* European black currant plants (Ribes nigrum L.) may be moved interstate without restriction into and between the States of Alabama, Arkansas, Florida, Kansas, Louisiana, Mississippi, Missouri, Nebraska, North Dakota, Oklahoma, South Dakota, and Texas. The interstate movement of such plants into any other State or the District of Columbia is prohibited except when intended for scientific or educational purposes and when authorized, safeguarded, and labeled in accordance with § 301.63–9.

(c) *Gooseberries and currants, other than European black currants.* Gooseberry and currant plants other than European black currants, may be moved interstate without restriction, except into control-area States or parts thereof designated in administrative instructions by the Director of the Plant Pest Control Division as hereinbefore provided. The conditions governing the movement into control areas will be prescribed in such administrative instructions.

§ 301.63–6 Conditions governing the issuance and use of white-pine certificates and control-area permits.

(a) *White-pine certificates.* Certificates authorizing the interstate movement of white pine into the noninfected areas as designated in § 301.63–5(a)(1) from points outside thereof may be issued for such pine when it is intended for reforestation purposes and when it has been grown in nurseries adequately protected from white-pine blister rust infection to provide noninfected planting stock as determined by the Plant Pest Control Division. Application for white-pine certificates shall be made to the Plant Pest Control Division, Agricultural Research Service, Washington 25, D.C.

(b) *Control-area permits.* Control-area permits may be issued for the interstate movement of gooseberry and currant plants, except for European black currants, into control areas as designated in administrative instructions of the Director of the Plant Pest Control Division when the planting locations are not within infective distance of protected pine and movement thereto of such plants is not prohibited. Applications for control-area permits shall be made to the Federal representative in the State of destination as designated in the administrative instructions, giving names and addresses of consignee and consignor and kind and number of plants to be shipped.

(c) *Use of certificates and permits.* White-pine certificates or control-area permits, when required as a condition of interstate movement of regulated articles, must be securely attached to the outside of each container of regulated articles, except that for carload and other bulk shipments by rail, the certificate or permit shall accompany the waybill and for shipment by truck or other road vehicle the certificate or permit shall accompany the vehicle and be surrendered to the consignee on delivery of the shipment.

§ 301.63–7 Cancellation of white-pine certificates and control-area permits.

White-pine certificates and control-area permits issued under the provisions of these regulations may be withdrawn or cancelled by the Plant Pest Control Division for failure of compliance with the conditions of these regulations, or whenever the further use of such certificates or permits might result in the spread of the white-pine blister rust.

§ 301.63–8 Inspection and disposition.

Any car or other conveyance, and any package or other container moving or having been moved interstate, which contains or which the inspector has probable cause to believe contains articles the movement of which is prohibited or regulated may be examined by an inspector at any time or place. When articles are found to be moving interstate in violation of this subpart the inspector may take such action as is authorized by the Plant Quarantine Act to the extent deemed necessary to eliminate the danger of spread of the disease.

§ 301.63–9 Shipments for scientific or educational purposes.

Regulated articles may be moved interstate for scientific or educational purposes under such conditions and safeguards as may be prescribed by the Director of the Plant Pest Control Division. The container of articles so moved shall bear securely attached to the outside thereof a special permit, issued for such movement by the Plant Pest Control Division.

Subpart—Mexican Fruit Fly

QUARANTINE

§ 301.64 Notice of quarantine.

(a) Pursuant to section 8 of the Plant Quarantine Act of August 20, 1912, as amended (7 U.S.C. 161), and after public hearing, it has been determined that it is necessary to quarantine the State of Texas to prevent the spread of the Mexican fruit fly, a dangerous insect injurious to fruits and not heretofore widely prevalent or distributed within and throughout the United States, and said State has been and hereby is continued to be quarantined because of said insect and under the authority of said Act supplemental regulations are prescribed in this subpart governing the movement of carriers of said insect. Hereafter the following shall not be moved from the quarantined State into or through any other State, Territory or District of the United States in manner or method or under conditions other than those prescribed in the regulations as from time to time amended: (1) Fruits that are hosts of the Mexican fruit fly; and (2) fruit-picking equipment; trucks, wagons, railway cars, aircraft, boats, and other means of conveyance and containers which have been or are being used in conveying host fruits; other products and articles which have been associated with the production of, or commerce in, host fruits; and, unlimited by the foregoing, any other products and articles of any character whatsoever, not within subparagraph (1) of this paragraph; when it is determined in accordance with the regulations that the products, articles, or means of conveyance within subparagraph (2) of this paragraph present a hazard of spread of Mexican fruit flies. However, the requirements of this quarantine and the regulations in this subpart with respect to such products, articles, and means of conveyance are hereby limited to the area in the quarantined State which may be designated as regulated area as provided in the regulations, as long as in the judgment of the Administrator of the Agricultural Research Service, the enforcement of the regulations as to such regulated area will be adequate to prevent the spread of Mexican fruit flies, except that such limitation is further conditioned upon the affected State's providing regulations for and enforcing control of the movement within such State of live Mexican fruit flies and the other regulated articles under the same conditions as those which apply to their interstate movement under the provisions of the currently existing Federal quarantine regulations and upon the State's providing regulations for and enforcing such sanitation measures with respect to such area or portions thereof as, in the judgment of said Administrator, are adequate to prevent the spread of Mexican fruit flies within such State. Moreover, whenever the Director of the Plant Pest Control Division shall find that facts exist as to the pest risk involved in the movement of one or more of the products, articles, and means of conveyance to which the regulations apply, making it safe to modify, by making less stringent, the requirements contained in the regulations, he shall set forth and publish such finding in administrative instructions, specifying the manner in which the regulations should be made less stringent, whereupon such modification shall become effective for such period and for such regulated area or portions thereof and for such products, articles, and means of conveyance, as shall be specified in said administra-

tive instructions, and every reasonable effort shall be made to give publicity to such administrative instructions throughout the affected area.

(b) Regulations governing the movement of live Mexican fruit flies are contained in Part 330 of this chapter. Applications for permits for movement of said pests may be made to the Director, Plant Pest Control Division, Agricultural Research Service, U.S. Department of Agriculture, Washington 25, D.C., in accordance with said part.

(c) As used in this subpart, unless the context otherwise requires, the term "State, Territory, or District of the United States" means State, the District of Columbia, Alaska, Guam, Hawaii, Puerto Rico, or the Virgin Islands of the United States.

§ 301.64a Administrative instructions exempting certain fruits from specified requirements.

It has been found that facts exist as to the pest risk involved in the movement of the following regulated articles under the regulations in this subpart which make it safe to make less stringent the requirements of the regulations with respect to the movement of such articles from the regulated area, as hereinafter provided.

(a) The following fruits are hereby exempted from the certification and related requirements of § 301.64–3(a) and from the treatment requirements of § 301.64–6(a)(2), under the conditions hereinafter set forth:

(1) Oranges, tangerines, and avocados which are shipped to points outside of and are not diverted in transit to the States of Arizona, California, and Florida.

(2) Host fruits (other than oranges, tangerines, and avocadoes) which are shipped to points in or north of the States of Oregon, Nevada, Utah, Colorado, Kansas, Missouri, Tennessee, and North Carolina: *Provided*, That such fruits shall not be diverted in transit to the States of Arizona, California, or Florida, and shall not be diverted in transit to the States of Alabama, Arkansas, Georgia, Louisiana, Mississippi, New Mexico, Oklahoma, or South Carolina unless shipment direct to such States would be authorized under subparagraph (3) of this paragraph.

(3) Host fruits (other than oranges, tangerines, and avocadoes) which are shipped, after the beginning of the harvesting season but prior to March 1, to the States of Alabama, Arkansas, Georgia, Louisiana, Mississippi, New Mexico, Oklahoma, and South Carolina: *Provided*, That if a larval infestation of the Mexican fruit fly is detected prior to March 1 in the groves or other premises where the fruits are produced or within a mile radius of such premises, the fruits shall not thereafter be so exempted: *And provided further*, That the fruits shall not be diverted in transit to Arizona, California, or Florida.

(b) The following fruits are hereby exempted from the treatment requirements of § 301.64–6(a)(2) but not from the certification and related requirements of § 301.64–3(a), under the conditions hereinafter set forth:

(1) Regulated citrus fruits and other host fruits which are shipped to the States of Arizona, California, and Florida, if they are shipped after the beginning of the harvesting season but prior to December 1, and if no Mexican fruit fly larvae have been found, and no adult Mexican fruit flies have been caught in traps, in the groves or other premises where such fruits were produced, or within a mile radius thereof during said period.

REGULATIONS

§ 301.64–1 Definitions.

For the purposes of the provisions in this subpart, except where the context otherwise requires, the following terms shall be construed respectively to mean:

(a) *Mexican fruit fly.* The insect known as the Mexican fruit fly (Anastrepha ludens (Loew)) in any stage of development.

(b) *Infestation.* The presence of the Mexican fruit fly.

(c) *Host fruits.* Fruits susceptible to infestation by the Mexican fruit fly, namely, mangoes; sapotas (including sapodillas and the fruit of all members of the family Sapotaceae and of the genus Casimiroa and all other fruits commonly called sapotas or sapotes); peaches; guavas; apples; pears; plums; quinces; apricots; mameys; ciruelas; fruits of species of the genus Sargentia; avocados; all citrus fruits except lemons and sour limes; and any other fruits which are susceptible to infestation.

(d) *Regulated area.* The counties and other minor civil divisions, or parts thereof, designated in administrative instructions under § 301.64–2 as regulated area.

(e) *Regulated articles.* Mexican fruit flies, means of conveyance, and other products and articles of any character whatsoever, the movement of which is regulated by the Mexican fruit fly quarantine (§ 301.64) and the regulations in §§ 301.64–1 through 301.64–10.

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

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

(h) *Certificate.* A document evidencing compliance with the requirments of this subpart.

(i) *Limited permit.* A document authorizing the movement of regulated articles to a restricted destination for limited handling, utilization, or processing.

(j) *Dealer-carrier agreement.* An agreement to comply with stipulated conditions, executed by persons engaged in purchasing, assembling, exchanging, handling, processing, utilizing, treating, or moving regulated articles.

(k) *Administrative instructions.* Documents relating to the enforcement of the provisions in this subpart issued under authority of such provisions by the Director of the Plant Pest Control Division, Agricultural Research Service.

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

§ 301.64–2 Designation of regulated area.

The Director of the Plant Pest Control Division shall, from time to time, in administrative instructions promulgated by him, list the counties and other minor civil divisions, or parts thereof, in the quarantined State, in which infestation has been determined to exist, or in which it has been determined infestation is likely to exist, or which it is deemed necessary to regulate because of their proximity to infestation or their inseparability for quarantine enforcement purposes from infested localities, and shall designate such civil divisions and parts thereof, as constituting the regulated area. Any civil division, or part thereof, so designated shall continue in a regulated status until the Director of the Plant Pest Control Division shall have determined that adequate eradication measures have been practiced for a sufficient length of time to eradicate the Mexican fruit fly therein and that regulation of such area is not otherwise necessary under this section, and shall have issued administrative instructions revoking the designation of such civil division, or part thereof, as a regulated area.

§ 301.64–2a Administrative instructions designating regulated area under the Mexican fruit fly quarantine.

Infestations of the Mexican fruit fly have been determined to exist, in the quarantined State, in the civil divisions or parts thereof listed below, or it has been determined that such infestation is likely to exist therein, or it is deemed necessary to regulate such localities because of their proximity to infestation or their inseparability for quarantine enforcement purposes from infested localities. Accordingly, the localities listed are hereby designated as the Mexican fruit fly regulated area within the meaning of the provisions in this subpart:

Texas. Counties of Brooks, Cameron, Dimmit, Hidalgo, La Salle, Webb, and Willacy, and that portion of Jim Wells county lying south of Highway 141 and a line projected due west to the Jim Wells-Duval county line from the point where Highways 141 and 66 intersect.

§ 301.64–3 Regulated articles; conditions of movement.

(a) *Designated articles.* Unless exempted by administrative instructions, host fruits may be moved from the regulated area into or through any point outside thereof only if accompanied by a valid certificate or limited permit issued in compliance with § 301.64–6 and if the applicable requirements of §§ 301.64–4 and 301.64–5 are also met. However, host fruits which originate outside of the regulated area and are moving through or are being reshipped from the regulated area, may be moved from the regulated area into or through any point outside thereof without further restriction under this subpart when their point of origin is clearly indicated, when their identity has been maintained, and when

they have been safeguarded against infestation while in the regulated area in a manner satisfactory to an inspector and do not present a hazard of spread of the Mexican fruit fly. Otherwise such host fruits shall be subject to all applicable requirements under this subpart for articles originating in the regulated area.

(b) *Articles determined to present hazards.* When it has been determined by an inspector that, due to contamination with the Mexican fruit fly or any other reason, a hazard of spread of the fly is presented by any fruit-picking equipment; any trucks, wagons, railway cars, aircraft, boats, other means of conveyance or containers which have been or are being used in conveying host fruits; any other products or articles which have been associated with the production of, or commerce in, host fruits; or, unlimited by the foregoing, any other products or articles of any character whatsoever, not covered by paragraph (a) of this section, notice of such fact shall be given to the person having custody thereof. Thereafter, such contaminated articles may be moved from the regulated area into or through any point outside thereof only after they have been cleaned, treated, or otherwise disinfested to the satisfaction of the inspector or when they are moving under limited permit as required by the inspector.

§ 301.64–4 Use of certificates or limited permits with shipments.

Every container of regulated articles, or if there is none the article itself, required to have a certificate or limited permit under § 301.64–3 shall have such certificate or permit securely attached to the outside thereof, when offered for movement under said section, except that where the regulated articles are adequately described on a certificate or limited permit attached to the waybill, the attachment of a certificate or limited permit to each container of the articles, or to the article itself, will not be required.

§ 301.64–5 Protecting certified articles.

Subsequent to certification as provided in § 301.64–6, regulated articles must be loaded, handled, and shipped, only under such protection and safeguards against infestation as are required by the inspector.

§ 301.64–6 Conditions governing the issuance of certificates and limited permits.

(a) *Certificates.* (1) Certificates may be issued by the inspector for the movement of the regulated articles designated in § 301.64–3(a) under any one of the following conditions except as provided in subparagraph (2) of this paragraph:

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

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

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

(2) Certificates may not be issued for the movement into the citrus-producing States of Arizona, California, or Florida, or into the States of Alabama, Arkansas, Georgia, Louisiana, Mississippi, New Mexico, Oklahoma, and South Carolina, of regulated citrus fruits or other host fruits, except upon the basis of treatment under subparagraph (1) (iii) of this paragraph, unless exemption from such treatment is provided in administrative instructions.

(b) *Limited permits.* Limited permits may be issued by the inspector for the movement of noncertified regulated articles under § 301.64–3 to specified destinations for limited handling, utilization, or processing.

(c) *Dealer-carrier agreement.* As a condition of issuance of certificates or limited permits for the movement of regulated articles, any person engaged in purchasing, assembling, exchanging, handling, processing, utilizing, treating, or moving such articles may be required to sign a dealer-carrier agreement stipulating that he will maintain such safeguards against the establishment and spread of infestation and comply with such conditions as to the maintenance of identity, handling, and subsequent movement of such articles and the cleaning and treatment of means of conveyance and containers used in the transportation of such articles as may be required by the inspector.

§ 301.64–7 Assembly of articles for inspection.

Persons intending to move any of the regulated articles under § 301.64–3 shall make application for inspection as far in advance as possible, shall so handle such articles as to safeguard them from infestation, and shall assemble them at such points and in such manner as the inspector shall designate to facilitate inspection.

§ 301.64–8 Cancellation or denial of certificates or limited permits.

Certificates or limited permits for any regulated articles issued under the regulations in this subpart may be withdrawn or cancelled and certificates or permits for such articles may be denied by the inspector whenever he determines that the use of such certificates or permits might result in the spread of the Mexican fruit fly.

§ 301.64–9 Inspection and disposal.

Any properly identified inspector is authorized to stop and inspect, without a warrant, any person or means of conveyance moving from any State, Territory, or District of the United States into or through any other such State, Territory, or District and any plant pest and any product and article of any character whatsoever carried thereby, upon probable cause to believe that such means of conveyance, product, or article is infested or infected by or contains any plant pest or is moving subject to this subpart or any other regulations under the Federal Plant Pest Act or that such person or means of conveyance is carrying any plant pest subject to that act, and to stop and inspect, without a warrant, any means of conveyance so moving, upon probable cause to believe it is carrying any product or article prohibited or restricted movement under the Plant Quarantine Act or any quarantine or order thereunder. Such inspector is authorized to seize, destroy, or otherwise dispose of, or require disposal of, products, articles, means of conveyance, and plant pests in accordance with section 105 of the Federal Plant Pest Act and section 10 of the Plant Quarantine Act.

§ 301.64–10 Nonliability of Department.

The United States Department of Agriculture disclaims liability for any cost incident to inspection or treatment required under the provisions in this subpart, other than for the services of the inspector.

Subpart—White Fringed Beetle

QUARANTINE

§ 301.72 Notice of quarantine.

(a) Pursuant to section 8 of the Plant Quarantine Act of August 20, 1912, as amended (7 U.S.C. 161), and after public hearing, it has been determined that it is necessary to quarantine the States of Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee to prevent the spread of introduced species of the genus graphognathus, commonly known as white-fringed beetles, dangerous insects injurious to cultivated crops and not heretofore widely prevalent or distributed within and throughout the United States, and said States have been and hereby are continued to be quarantined because of said insects, and under the authority of said Act supplemental regulations are prescribed in this subpart governing the movement of carriers of said insects. Hereafter (1) forest, field, nursery, or greenhouse-grown woody or herbaceous plants with roots; (2) soil, compost, manure, peat, muck, clay, sand, or gravel, independent of or in connection with nursery stock, plants, plant products, or other products or articles; (3) grass sod; plant crowns or roots for propagation; true bulbs, corms, tubers, and rhizomes of ornamental plants, when freshly harvested or uncured; potatoes (Irish) when freshly harvested; peanuts in shells, peanut shells and peanut hay; (4) uncleaned grass, grain and legume seed; hay (other than peanut hay), straw, seed cotton and cottonseed; (5) scrap metal and junk; brick, tile, stone; concrete slabs, pipes, and building blocks; and cinders; (6) forest products, such as cordwood, stump wood, logs, lumber, timbers, posts, poles, and cross ties; (7) railway cars, trucks, and other means of conveyance; construction and maintenance equipment; containers; and other articles of any character whatsoever which by reason of infestation or exposure constitute a hazard of spreading white-fringed beetles as determined in accordance with the supplemental regulations §§ 301.72–1 to 301.72–11, shall not be shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported,

moved, or allowed to be moved from any of said quarantined States into or through any other State, Territory, or District of the United States, in manner or method or under conditions other than those prescribed in the supplemental regulations, as from time to time amended: *Provided*, That the requirements of this quarantine and of the supplemental regulations, except as otherwise provided in the regulations, are hereby limited to the areas in any quarantined State which may be designated as regulated areas as provided in the regulations, as long as, in the judgment of the Administrator of the Agricultural Research Service, the enforcement of the regulations as to such regulated areas will be adequate to prevent the spread of white-fringed beetles, except that such limitation is further conditioned upon the affected State's providing for and enforcing control of the movement within such State of the regulated articles under the same conditions as those which apply to their interstate movement under the provisions of currently existing Federal quarantine regulations, and upon the State's enforcing such control and sanitation measures with respect to such areas or portions thereof as, in the judgment of said Administrator, shall be deemed adequate to prevent the spread therefrom within such State of the infestations of said insects: *Provided, further*, That whenever the Director of the Plant Pest Control Division shall find that facts exist as to the pest risk involved in the movement of one or more of the articles to which the supplemental regulations apply, making it safe to modify, by making less stringent, the requirements contained in the regulations, he shall set forth and publish such finding in administrative instructions, specifying the manner in which the applicable regulations should be made less stringent, whereupon such modification shall become effective, for such period and for such regulated area or portion thereof and for such article or articles as shall be specified in said administrative instructions, and every reasonable effort shall be made to give publicity to such administrative instructions throughout the affected areas.

(b) Regulations governing the movement of live white-fringed beetles are contained in Part 330 of this chapter. Applications for permits for movement of said pests may be made to the Director, Plant Pest Control Division, Agricultural Research Service, U.S. Department of Agriculture, Washington 25, D.C., in accordance with said part.

(c) As used in this subpart, unless the context otherwise requires, the term "State, Territory, or District of the United States" means State, the District of Columbia, Alaska, Guam, Hawaii, Puerto Rico, or the Virgin Islands of the United States.

§ 301.72a Administrative instructions exempting certain articles from requirements of regulations.

The Director of the Plant Pest Control Division has found that facts exist as to the pest risk involved in the movement of the following regulated articles making it safe to modify, by making less stringent, the requirements of the regulations supplemental to the white-fringed beetle quarantine as follows:

(a) The movement of the following articles, when they are free of soil, or when they have not been exposed to infestation, or when sanitation practices are maintained as prescribed by or to the satisfaction of the inspector, is hereby exempted from the certification and permit requirements of §§ 301.72–4 and 301.72–5 of the regulations supplemental to the white-fringed beetle quarantine:

(1) Hay and straw, except that peanut hay is not exempt.

(2) Uncleaned grass, grain, and legume seed.

(3) Seed cotton and cottonseed.

(4) Potatoes (Irish) when freshly harvested, grown in the regulated areas in Baldwin or Escambia Counties, Alabama; or Escambia County, Florida.

(b) The movement of the following articles, when they meet the requirements of paragraph (a) of this section or when the storage yards or premises and environs thereof have been surface treated with an insecticide, at dosages administratively approved and at intervals prescribed by the inspector, is hereby exempted from the certification and permit requirements of §§ 301.72–4 and 301.72–5 of the regulations supplemental to the white-fringed beetle quarantine:

(1) Forest products, such as cordwood, stump wood, logs, lumber, timbers, posts, poles, and cross ties.

(2) Brick, tile, stone; concrete slabs, pipe, building blocks; and cinders.

REGULATIONS

§ 301.72–1 Definitions.

For the purpose of the regulations in this subpart the following terms shall be construed, respectively, to mean:

(a) *White-fringed beetle.* Species of the genus Graphognathus, in any stage of development.

(b) *Infestation.* The presence of white-fringed beetles.

(c) *Regulated areas.* The counties, parishes, cities, sections, townships, militia districts, and other minor civil divisions, or parts thereof, designated in administrative instructions under § 301.72–2 as regulated areas.

(d) *Nursery stock.* Forest, field, nursery, or greenhouse-grown woody or herbaceous plants with roots.

(e) *Regulated articles.* Products or articles of any character whatsoever, the movement of which is regulated by this quarantine (§ 301.72) and regulations supplemental thereto (§§ 301.72–1 to 301.72–11).

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

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

(h) *Certificate.* A document evidencing compliance with the requirements of this subpart.

(i) *Master certificate.* A document, indicating the quantity and nature of the articles covered thereby, issued by an inspector for use with bulk or lot shipments of regulated articles by rail, boat, or road vehicle, authorizing their movement.

(j) *Limited permit.* A document authorizing the movement of regulated articles to a restricted destination for limited handling, utilization, or processing.

(k) *Dealer-carrier agreement.* A document, constituting an agreement to comply with stipulated quarantine conditions, executed by persons engaged in purchasing, handling, processing, utilizing, or moving regulated articles.

(l) *Administrative instructions.* Documents relating to the enforcement of the provisions in this subpart issued under authority of the provisions thereof by the Director of the Plant Pest Control Division, Agricultural Research Service.

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

§ 301.72–2 Designation of regulated areas.

The Director of the Plant Pest Control Division, shall, from time to time, in administrative instructions promulgated by him, list the counties, parishes, cities, sections, townships, militia districts, and other minor civil divisions, or parts thereof, in the quarantined States, in which infestation of the white-fringed beetle has been determined to exist, or in which it has been determined such infestation is likely to exist, or which it is deemed necessary to regulate because of their proximity to infestation or their inseparability for quarantine enforcement purposes from infested localities, and shall designate such counties, parishes, cities, sections, townships, militia districts, and other civil divisions, or parts thereof, as constituting the regulated areas. Any civil division, or part thereof, so designated shall continue in a regulated status until the Director of the Plant Pest Control Division shall have determined that adequate eradication measures have been practiced for a sufficient length of time to eradicate the white-fringed beetle therein and that regulation of such area is not otherwise necessary under this section, and shall have issued administrative instructions revoking the designation of such civil division, or part thereof, as a regulated area.

§ 301.72–2a Administrative instructions designating regulated areas under the white-fringed beetle quarantine and regulations.

Infestations of white-fringed beetles have been determined to exist, in the quarantined States, in the respective counties, parishes, cities, sections, townships, militia districts, and other civil divisions, and parts thereof, listed below, or it has been determined that such infestation is likely to exist therein, or it is deemed necessary to regulate such civil divisions and parts thereof because of their proximity to infestation or their inseparability for quarantine purposes from infested localities. Accordingly, such civil divisions and

parts thereof are hereby designated as white-fringed beetle regulated areas within the meaning of the provisions in this subpart:

ALABAMA

Baldwin County. S½ T. 3 S., Rs. 3 and 4 E.; SE¼ T. 3 S., R. 2 E.; Tps. 4 and 5 S., Rs. 3 and 4 E.; E½ Tps. 4 and 5 S., R. 2 E.; Tps. 6 and 7 S., R. 4 E.; E⅓ T. 7 S., R. 3 E.; E⅓ and secs. 3, 4, 5, 6, 7, 8, 9, and 10, T. 6 S., R. 3 E.; secs. 1, 2, 3, 10, 11, and 12, T. 6 S., R. 2 E.; secs. 1, 2, 11, and 12, T. 8 S., R. 3 E.; secs. 6 and 7, T. 8 S., R. 4 E.; S⅔ T. 7 S., R. 5 E.; and T. 7 S., R. 6 E.

Clarke County. N⅓ T. 8 N., R. 3 E., and S⅓ T. 9 N., R. 3 E., including all of the town of Grove Hill; and all that area lying within the corporate limits of the town of Jackson.

Coffee County. That part of the county lying south of the South line of T. 6 N.

Conecuh County. T. 5 N., Rs. 9, 10, 11, 12, 13, and 14 E.; T. 6 N., Rs. 10, 11, 12, and 13 E.; and those parts of T. 4 N., R. 7 E., T. 5 N., Rs. 7 and 8 E., T. 6 N., Rs. 8 and 9 E., Tps. 7 and 8 N., R. 9 E., and Tps. 7, 8, and 9 N., R. 10 E., lying in Conecuh County.

Covington County. All of Covington County.

Crenshaw County. Secs. 27, 28, 29, 30, 31, 32, 33, and 34, T. 9 N., R. 18 E., and secs. 3, 4, 5, and 6, T. 8 N., R. 18 E., including all of the town of Luverne.

Dale County. Secs. 25 and 36, T. 4 N., R. 25 E.; secs. 28, 29, and 30, T. 4 N., R. 26 E.

Dallas County. Tps. 13, 14, 15, 16, and 17 N., Rs. 10 and 11 E.; N½ of T. 15 N., Rs. 6, 7, 8, and 9 E.; T. 16 N., Rs. 7, 8, and 9 E.

Escambia County. Tps. 1, 2, and 3 N., Rs. 6, 7, and 8 E.; secs. 33, 34, 35, and 36, T. 1 N., R. 10 E., and all area south thereof to the Alabama State line.

Geneva County. All of Geneva County.

Houston County. All of Houston County west of west line of R. 28 E.

Jefferson County. Secs. 17, 18, 19, and 20, T. 18 S., R. 3 W., and that area included within the corporate limits of the city of Birmingham.

Lowndes County. All of T. 14 N., R. 12 E.

Marengo County. Secs. 28, 29, 30, 31, 32, and 33, T. 16 N., R. 3 E.; and secs. 4, 5, 6, 7, 8, and 9, T. 15 N., R. 3 E.

Mobile County. All of Mobile County.

Monroe County. All of Monroe County.

Montgomery County. Tps. 16 and 17 N., Rs. 17, 18, and 19 E.; and that part of T. 18 N., R. 18 E., lying in Montgomery County.

Washington County. All of Washington County.

Wilcox County. N½ T. 10 N., Rs. 6, 7, 8, 9, 10, and 11 E.; T. 11 N., Rs. 8, 9, 10, and 11 E.; T. 12 N., Rs. 9 and 10 E.; that part of T. 12 N., R. 8 E., lying south of the Alabama River; and those portions of T. 13 N., Rs. 8 and 9 E., lying east of the Alabama River and south of Pine Barren Creek.

FLORIDA

Escambia County. All of Escambia County.

Holmes County. S⅔ T. 6 N., R. 15 W., except secs. 18, 19, 30, and 31; NE¼ and secs. 22, 23, and 24, T. 5 N., R. 15 W., including all of the town of Smyrna; secs. 5, 6, 7, 8, 17, 18, 19, and 20, T. 5 N., R. 14 W.; secs. 29, 30, 31, and 32, T. 6 N., R. 14 W.; and E½ of Tps. 4, 5, 6, and 7 N., R. 18 W.

Jackson County. All of Jackson County east of Cowarts Creek and the Chipola River.

Okaloosa County. That part of the county lying north of the south line of T. 2 N.

Santa Rosa County. All of Santa Rosa County.

Walton County. That part of the county lying north of the south line of T. 3 N.

GEORGIA

Baldwin County. That area included within the corporate limits of the city of Milledgeville, and an area one mile wide beginning at the north corporate limits of Milledgeville extending northerly along U. S. Highway No. 441 with said highway as a center line for a distance of one mile.

Ben Hill County. That area included within a circle having a 2-mile radius and center at the Ben Hill County Courthouse in Fitzgerald, including all of the city of Fitzgerald.

Berrien County. That area included within the corporate limits of the city of Nashville.

Bibb County. That area included within the Georgia Militia Districts of East Macon, Godfrey, Vineville, Hazzard, and Howard; and that portion of the Georgia Militia District of Rutland lying east of a line beginning at the point where U. S. Highway No. 41 crosses the north boundary of said militia district (Tobesofkee Creek) and running southward along said highway to its junction with Hartley Bridge Road and thence southwestward along said road to the west boundary line of said militia district.

Bleckley County. That area included within the corporate limits of the city of Cochran; and that portion of the Georgia Militia District of Manning included within a boundary beginning at the intersection of Georgia State Highway 112 and the Bleckley-Twiggs County line, thence northeast along said county line to the intersection of the Bleckley, Twiggs, Wilkinson, and Laurens County lines, thence southeast for a distance of 1 mile along the Bleckley-Laurens County line, and thence northwest to the point of beginning.

Bulloch County. That area included within a circle having a 2-mile radius and center at the Bulloch County Courthouse in Statesboro, including all of the city of Statesboro; and that area included within a circle having a 1-mile radius and center at the Georgia and Florida Railroad depot in Portal, including all of the town of Portal.

Burke County. That area, comprising parts of Georgia Militia Districts numbers 60 and 62, bounded on the east by Fitz Branch, on the south by a line beginning at the intersection of Georgia State Highway 56 and the Hephzibah Road and extending due east to its intersection with Fitz Branch, on the west by Hephzibah Road, and on the north by Brier Creek, including all of the city of Waynesboro.

Candler County. That area included within a circle having a 1¼-mile radius and center at the intersection in Metter of Georgia State Highways 23 and 46, including all of the city of Metter.

Coffee County. That area included within the corporate limits of the city of Douglas; an area 2 miles wide beginning at the north corporate limits of the city of Douglas and extending northward along U. S. Highway No. 441 with said highway as a centerline to and bounded on the north by Seventeen Mile Creek; that area included within a circle having a 2-mile radius and center at the Atlanta, Birmingham and Coast Railroad depot in Ambrose, including all of the town of Ambrose; and an area 3 miles wide beginning at a line projected due east and due west from a point on the Georgia and Florida Railroad 1 mile northwest of the railroad depot in Broxton, and extending northwesterly with said railroad as a centerline to and bounded on the north by Georgia State Highway 107.

Crawford County. That area included within a circle having a 1½-mile radius and center at the intersection in Roberta of U. S. Highway No. 80 and Georgia State Highway 7, including all of the city of Roberta and the town of Knoxville.

Crisp County. That area included within the corporate limits of the city of Cordele.

Dodge County. That area included within land lots numbers 6, 7, 8, 9, 10, 11, 12, 13, 18, 19, 20, 21, 22, 23, 24, 25, 36, 37, 38, 39, 40, 41, and 42 in the Fifteenth Land District, and land lots numbers 278, 279, 280, 281, 282, 289, 290, 291, 292, 293, 294, 295, 306, 307, 308, 309, 310, 311, and 312 in the Sixteenth Land District, including all of the city of Eastman.

Emanuel County. That area included within a circle having a 1½-mile radius and center at the Union Grove Methodist Church in Georgia Militia District No. 49.

Fulton County. That area included within the corporate limits of the city of East Point.

Greene County. That area included within the corporate limits of the city of Greensboro.

Houston County. That area included within the lower Fifth Georgia Militia District, including all of the city of Warner Robins and all of Robins Air Force Base; an area 2 miles wide beginning north of Perry and bounded on the north by Mossy Creek and extending southward along U. S. Highway No. 41 with said highway as a centerline to and bounded on the south by Georgia State Highway 26, including all of the city of Perry; and an area 2 miles wide beginning north of Clinchfield and bounded on the north by Big Indian Creek and extending southwesterly along the Southern Railway with said railway as a centerline to and bounded on the south by Burnham Branch southwest of Grovania, including all of the communities of Clinchfield and Grovania.

Irwin County. That area included within a circle having a ½-mile radius and center at the intersection in Irwinville of Georgia State Highway 32 and the Jefferson Davis Memorial State Park Road; that area included within a circle having a 2-mile radius and center at the Irwin County Courthouse at Ocilla, including all of the city of Ocilla; an area 1 mile wide bounded on the south and east by the Irwin-Coffee County line and extending northwesterly along the Atlanta, Birmingham and Coast Railroad with said railroad as a centerline for a distance of 1¼ miles beyond the Atlanta, Birmingham and Coast Railroad depot in Wray; and an area 2 miles wide beginning at the Atlanta, Birmingham and Coast Railroad in Georgia Militia Distict No. 1661 and extending southeasterly along Georgia State Highway 32 with said highway as a centerline to the east boundary of said militia district.

Jasper County. That area included within Georgia Militia Districts numbers 262, 289, and 295; and that portion of Georgia Militia Districts numbers 288 and 291 lying south of Whiteoak and Murder Creeks.

Jefferson County. That area included within the corporate limits of the city of Louisville; and that area included within a circle having a 1-mile radius and center at the Central of Georgia Railway depot in Bartow, including all of the town of Bartow.

Johnson County. That area included within the corporate limits of the city of Wrightsville; and an area 1 mile wide beginning at the west corporate limits of Wrightsville and extending southwesterly along Georgia State Highway 15 with said highway as a centerline to the Ohoopee River.

Laurens County. Those portions of the Georgia Militia Districts of Dublin, Dudley, and Harvard included within an area 2 miles wide beginning at the west corporate limits of Dublin and extending northwesterly along the Macon, Dublin and Savannah Railroad with said railroad as a centerline to the Laurens-Wilkinson and Laurens-Bleckley County lines, including all of the towns of Dudley and Montrose and that portion of Allentown lying in Laurens County; that area included within the corporate limits of the city of Dublin; an area 2 miles wide beginning at the north corporate limits of Dublin and extending northward along Georgia State Highway 29 with said highway as a centerline for a distance of 3 miles; and that portion of the Georgia Militia District of Smith lying north of the Macon, Dublin and Savannah Railroad and east of Shaddock Creek.

Macon County. That area lying east of Flint River including the cities of Marshallville and Montezuma; and that area included within the corporate limits of Oglethorpe.

Monroe County. That area included within the corporate limits of the city of Forsyth.

Montgomery County. That area bounded on the east by the Montgomery-Toombs County line, on the south by Rocky Creek, on the west by Georgia State Highway 29, and on the north by Swift Creek; and those areas included within the corporate limits of the city of Mount Vernon and the town of Ailey.

Newton County. That area included within a circle having a 1-mile radius and center at the Porterdale High School, including all of the town of Porterdale.

Peach County. That area included within the Georgia Militia District of Fort Valley, including all of the city of Fort Valley; and that area included within the corporate limits of the town of Byron.

Putnam County. That area included within the Georgia Militia District of Ashbank.

Richmond County. That portion of the Georgia Militia District of Forest Hills bounded on the south by Raes Creek and Lake Olmsted and on the west by the Berkman Road and a line extended due north from the point of intersection of the Berkman and Washington Roads.

Screven County. That area included within a circle having a 2-mile radius and center at the Screven County Courthouse in Sylvania, including all of the city of Sylvania.

Sumter County. That area included within the corporate limits of the city of Americus; and an area 1 mile wide beginning at the east corporate limits of Americus and extending along U. S. Highway No. 280 with said highway as a centerline to Mill Creek.

Taylor County. That area included in the Georgia Militia District of Reynolds, including all of the town of Reynolds; and that area included within a circle having a 2½-mile radius and center at Taylor County Courthouse in Butler, including all of the town of Butler.

Toombs County. That area bounded on the east by the east boundaries of the Georgia Militia Districts of Vidalia and Center, on the south by Rocky Creek, on the west by the Toombs-Montgomery County line, and on the north by Swift Creek, including all of the city of Vidalia.

Treutlen County. That area included within the corporate limits of the city of Soperton; and an area 1 mile wide beginning at the south corporate limits of Soperton and extending southeasterly along Georgia State Highway 29 with said highway as a centerline to the Treutlen-Montgomery County line.

Turner County. That area bounded on the east by a line parallel to and ½ mile east of the Sycamore town limits, on the south by a line parallel to and ½ mile south of the Sycamore town limits, on the west by a line parallel to and ½ mile west of the Sycamore town limits, on the north by a line parallel to and ½ mile north of the Sycamore town limits, and the projections of such lines to their intersections, including all of the town of Sycamore; and that part of the Georgia Militia District of Clements included within a circle having a ¾-mile radius and center at the Bethel School.

Twiggs County. That portion of the Georgia Militia District of Higgsville bounded on the east by the Twiggs-Wilkinson County line, on the south by the Twiggs-Bleckley County line, on the north by a line parallel to and 3½ miles north of the Twiggs-Bleckley County line, on the west by a line parallel to and 1 mile west of the Twiggs-Wilkinson County line, and the projections of such lines to their intersections, including all of those portions of the towns of Allentown and Danville lying in Twiggs County.

Washington County. That area included within a circle having a 5-mile radius and center at the Washington County Courthouse in Sandersville, including all of the city of Sandersville and the city of Tennille.

Wheeler County. That area included within land lots numbers 40, 41, 42, 43, 48, 49, 50, 51, 70, 71, 72, 73, 78, 79, 80, 81, 100, 101, 102, and 103, in the Eleventh Land District, including all of the town of Alamo.

Wilkinson County. That portion of the Georgia Militia District of Turkey Creek bounded on the west by the Wilkinson-Twiggs County line, on the south by the Wilkinson-Laurens County line, on the east by a line parallel to and 1¾ miles east of the Wilkinson-Twiggs County line, on the north by a line parallel to and 3½ miles north of the Wilkinson-Laurens County line, and the projections of such lines to their intersections, including all of those portions of the towns of Allentown and Danville lying in Wilkinson County.

LOUISIANA

East Baton Rouge Parish. T. 7 S., Rs. 1 and 2 E.

Jefferson Parish. That part lying north of the township line between Tps. 14 and 15 S.

Orleans Parish. All of Orleans Parish, including the city of New Orleans.

Plaquemines Parish. That part lying north of the township line between Tps. 15 and 16 S.

Saint Bernard Parish. All of Saint Bernard Parish.

Saint Tammany Parish. Secs. 38, 39, and 40, T. 7 S., R. 11 E.; secs. 40 and 41, T. 8 S., R. 11 E.; and that area lying south of the north line of T. 10 N.; secs. 33 and 43, T. 4 S., R. 10 E.; secs. 3 and 4, T. 5 S., R. 10 E.; secs. 26, 27, 28, 33, 34, 35, 38, and 39, T. 7 S., R. 14 E.

Tangipahoa Parish. Secs. 26, 27, 28, 33, 34, and 35, T. 5 S., R. 7 E.; secs. 2, 3, 4, 9, 10, 11, 12, 13, 14, 15, 16, 21, 22, 23, 24, 25, 26, 35, and 36, T. 6 S., R. 7 E.; secs. 19, 22, 23, 24, 26, 27, 30, 31, 39, 40, and 41, T. 6 S., R. 8 E., including all of the town of Hammond; secs. 32, 33, and 50, T. 3 S., R. 7 E.; and secs. 4, 5, 8, 9, 10, 50, and 54, T. 4 S., R. 7 E., including all of the town of Amite.

Washington Parish. All of Tps. 1, 2, 3, and 4 S., R. 14 E.; E⅔ Tps. 3 and 4 S., R. 13 E.; E½ Tps. 1 and 2 S., R. 13 E.; secs. 23, 24, 25, 34, 36, 44, 45, 46, 47, 48, 51, 52, 53, and 54, T. 2 S., R. 10 E.; secs. 3, 8, 9, 10, 14, 15, 16, 17, 20, 21, 39, 40, 41, 42, 43, 46, 48, 49, 50, and 51, T. 3 S., R. 10 E.; secs. 19, 20, 29, 30, 31, 32, 38, and 39, T. 2 S., R. 11 E.; secs. 5, 6, 7, 8, 17, 18, 19, 20, 29, 37, 38, 39, 40, 41, 43, 49, and 50, T. 3 S., R. 11 E., and that portion of the Parish lying between the M. & O. Railroad and Bogue Chitta River, south of the northern boundary of sec. 44, T. 3 S., R. 11 E., and along the Franklinton-Enon-Sun Highway to the east boundary of T. 4 S., R. 12 E., and the Parish line.

MISSISSIPPI

Attala County. Secs. 7, 8, 9, 10, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, and 36, T. 14 N., R. 7 E.; secs. 19, 30, and 31, T. 14 N., R. 8 E.; sec. 6 T. 13 N., R. 8 E.; secs. 1 and 2, T. 13 N., R. 7 E.

Clarke County. Secs. 4, 5, 6, 7, 8, and 9, T. 2 N., R. 14 E.; secs. 4, 5, 8, and 9, T. 4 N., R. 15 E.; secs. 6, 7, and 18, T. 2 N., R. 16 E.; sec. 31, T. 3 N., R. 16 E.; secs. 34, 35, and 36, T. 3 N., R. 15 E.; secs. 1, 2, 3, 10, 11, 12, 13, 14, and 15, T. 2 N., R. 15 E.; W½ T. 1 N., R. 14 E.; and W½ T. 10 N., R. 9 W.

Copiah County. Secs. 31, 32, 34, 35, and 36, T. 1 N., R. 2 W.; N½ T. 10 N., R. 8 E.; and N½ T. 1 N., R. 1 E., lying west of Pearl River.

Covington County. All of Covington County.

Forrest County. All of Forrest County.

George County. Secs. 27, 28, 29, 32, 33, 34, 35, and 36, T. 1 S., R. 6 W., including all of the town of Lucedale; N½ T. 2 S., R. 6 W., except secs. 6, 7, and 18; secs. 5, 6, 7, 8, 17, and 18, T. 2 S., R. 5 W.; and that part of secs. 31 and 32, T. 1 S., R. 5 W., lying south of Mississippi State Highway No. 15; and W½ of T. 3 S., R. 5 W.

Greene County. Secs. 16, 17, 18, 19, 20, 21, 28, 29, 30, 31, 32, and 33, T. 2 N., R. 8 W.; and secs. 1, 2, 11, and 12, T. 2 N., R. 6 W., including all of the City of Leaksville.

Hancock County. All of Hancock County.

Harrison County. All of Harrison County.

Hinds County. Secs. 2, 3, 4, 9, 10, and 11, T. 7 N., R. 1 W.; E⅝ T. 6 N., R. 3 W.; W⅛ T. 6 N., R. 2 W.; and that area within the corporate limits of Jackson.

Jackson County. All of Jackson County.

Jasper County. T. 3 N., R. 10 E.; W⅔ T. 2 N., R. 10 E.; secs. 3, 4, 5, 6, 32, 33, and 34, T. 1 N., R. 10 E.; secs. 1, 2, and 3, T. 10 N., R. 13 W.; T. 1 N., R. 13 E.; that portion of T. 10 N., R. 9 W., and E⅔ T. 10 N., R. 10 W., lying in Jasper County.

Jefferson Davis County. All of Jefferson Davis County.

Jones County. All of Jones County.

Kemper County. SW¼ T. 10 N., R. 18 E.; secs. 4, 5, and 6, T. 9 N., R. 18 E.

Lamar County. All of Lamar County.

Lauderdale County. Tps. 5 and 6 N., Rs. 15 and 16 E.; S½, T. 7 N., Rs. 15 and 16 E.; secs. 31 and 32, T. 8 N., R. 17 E.; and secs. 5 and 6, T. 7 N., R. 17 E.

Lawrence County. That part lying east of Pearl River and that portion of T. 8 N., R. 21 W., lying west of Pearl River.

Leake County. Secs. 31 and 32, T. 11 N., R. 8 E.; secs. 34, 35, and 36, T. 11 N., R. 7 E.; W⅓ T. 10 N., R. 8 E.; E½ T. 10 N., R. 7 E.; and T. 9 N., R. 8 E.

Lincoln County. T. 7 N., R. 8 E.; and E½ T. 7 N., R. 7 E.

Marion County. All of Marion County.

Neshoba County. Secs. 15, 16, 17, 20, 21, 22, 27, 28, and 29, T. 9 N., R. 13 E.

Newton County. Secs. 13, 14, 15, 16, 21, 22, 23, 24, 25, 26, 27, 28, 33, 34, 35, and 36, T. 5 N., R. 11 E.

Pearl River County. All of Pearl River County.

Perry County. All of Perry County.

Pike County. Secs. 31, 32, and 33, T. 4 N., R. 8 E.; secs. 34, 35, and 36, T. 4 N., R. 7 E.; secs. 1, 2, 3, 10, 11, 12, 13, 14, 15, 22, 23, and 24, T. 3 N., R. 7 E.; secs. 4, 5, 6, 7, 8, 9, 16, 17, 18, 19, 20, and 21, T. 3 N., R. 8 E.

Rankin County. T. 3 N., Rs. 2 and 3 E.; T. 4 N., Rs. 1 and 2 E.; and Tps. 5 and 6 N., Rs. 1 and 2 E.

Scott County. W⅔ T. 8 N., R. 8 E.; and secs. 3, 4, 5, and 6, T. 7 N., R. 8 E.

Simpson County. All of Simpson County.

Smith County. W½ of T. 10 N., R. 14 W., and secs. 3, 4, 9, 10, 15, and 16, T. 1 N., R. 8 E.

Stone County. All of Stone County.

Walthall County. All of Tps. 1 and 2 N., Rs. 9, 10, 11, 12, and 13 E.

Warren County. All that area lying within the corporate limits of the city of Vicksburg, and that area included within a boundary beginning at a point where Halls Ferry Road intersects the corporate limits of the city of Vicksburg, thence southeast along said road to the point of its intersection with the range line between Rs. 3 and 4 E., thence south along the range line to the SE. corner sec. 42, T. 15 N., R. 3 E., thence west along the section line to the Mississippi River, thence north along the east bank of the Mississippi River to said corporate limits, and thence along the south corporate limits to the point of beginning.

Wayne County. Secs. 19, 20, 29, 30, 31, and 32, T. 7 N., R. 5 W.; secs. 24, 25, and 36, T. 7 N., R. 6 W.; secs. 6, 7, and 18, T. 8 N., R. 6 W.; secs. 1, 2, 11, 12, 13, and 14, T. 8 N., R. 7 W.

NORTH CAROLINA

Anson County. An area 2 miles wide beginning at the Anson-Union County line and extending easterly along the Seaboard Air Line Railroad with said railroad as a center line to a due north-south line projected through the point of intersection of said railroad with the east corporate limits of Polkton, including all of the towns of Peachland and Polkton.

Brunswick County. All of Eagles Island.

Cumberland County. That area included within a circle having a 4½-mile radius and center at the Atlantic Coast Line Railroad depot in Hope Mills, including all of the town of Hope Mills and all of the communities of Cumberland and Roslin.

Duplin County. That area included within the corporate limits of the town of Warsaw; and an area 2 miles wide beginning at a line projected northeast and southwest along and beyond the north corporate limits of Warsaw and extending northwesterly along U. S. Highway No. 117 with said highway as a center line for a distance of 3 miles.

Edgecombe County. That portion of the city of Rocky Mount lying in Edgecombe County.

Harnett County. An area 4 miles wide bounded on the north by the Harnett-Wake County line and extending along U. S. Highway No. 15–A with said highway as a center line for a distance of 5 miles.

Jones County. An area 2 miles wide beginning at a line projected due east and due west at the Atlantic Coast Line siding at Ravenswood, approximately 1½ miles south of the Atlantic Coast Line Railroad depot in Pollicksville, and extending southerly with said railroad as a center line for a distance of 8 miles.

Nash County. That portion of the city of Rocky Mount lying in Nash County.

New Hanover County. That area included within the corporate limits of the city of Wilmington; all of Cape Fear Township; all that part of Harnett Township lying west of the Wrightsboro-Winter Park Road, including all of the town of Winter Park; and all that part of Masonboro Township lying north of the Sunset Park-Winter Park Road.

Onslow County. That area 3½ miles wide extending along U. S. Highway 17 with said highway as a center line from Southwest Creek on the south to Starky Creek on the north, including all of the city of Jacksonville; and all of that portion of Onslow County included within the boundaries of the Camp Lejeune Marine Base.

Pender County. All of that portion of Pender County lying west of a line parallel to and 8 miles west of the Pender-Onslow County line.

Union County. An area 2 miles wide beginning at a line projected due north and due south from a point where the west corporate limits of Marshville intersect the Seaboard Air Line Railroad and extending easterly with said railroad as a center line to the Union-Anson County line, including all of the town of Marshville.

Wake County. An area 4 miles wide bounded on the east by a line projected due north and due south for 2 miles on each side of the point of intersection of U. S. Highway No. 15–A and the Norfolk Southern Railway, approximately 1½ miles east of the Norfolk Southern Railway depot in Fuquay Springs, and extending westerly and southwesterly along U. S. Highway No. 15–A with said highway as a center line to the Wake-Harnett County line, including all of the town of Fuquay Springs.

Wayne County. All of Goldsboro Township, including all of the city of Goldsboro; an area 2 miles wide beginning at the west boundary of Goldsboro Township and extending northwesterly along U. S. Highway No. 70 with said highway as a center-line to the Wayne-Johnston County line; an area 2 miles wide beginning at the north boundary of Goldsboro Township and extending northerly along the Atlantic Coast Line Railroad with said railroad as a center line to the Wayne-Wilson County line, including all of the towns of Pikeville and Fremont; and an area bounded on the north by the Atlantic and East Carolina Railway, on the west by Stony Creek, on the south by the Neuse River, and on the east by a line beginning at the junction of U. S. Highway No. 70 and North Carolina State Highway 111 and extended due north and due south to its intersections with the north and south boundaries, including all of Seymour Johnson Field.

SOUTH CAROLINA

Beaufort County. That area bounded on the east by Wimbee Creek and Bull River, on the south by Whale Branch and the Coosaw River, on the west by Haulover Creek, and on the north by a line parallel to and one-half mile north of the Seaboard Air Line Railroad between Wimbee and Haulover Creeks.

TENNESSEE

Hamilton County. That area included within a circle having a ½-mile radius and center at the office of the Shell Oil Corporation bulk plant located on Jersey Pike Road.

Hardeman County. That area included within a circle having a 3-mile radius and center at the courthouse in Bolivar.

Shelby County. All of Shelby County.

Tipton County. That area within a circle having a ½-mile radius and center at the E. L. Reed homeplace, excluding any area not in Tipton County and including that area within the corporate limits of the town of Mason.

§ 301.72–3 Regulated articles.

(a) Unless exempted by administrative instructions issued by the Director of the Plant Pest Control Division, the movement from any regulated area of any of the following is permitted only under the conditions provided in the regulations in this subpart:

(1) Forest, field, nursery, or greenhouse-grown woody or herbaceous plants with roots.

(2) Soil, compost, manure, peat, muck, clay, sand, or gravel, independent of or in connection with nursery stock, plants, plant products, or other products or articles, except that the movement of processed sand and gravel is not regulated.

(3) Grass sod; plant crowns or roots for propagation; true bulbs, corms, tubers, and rhizomes of ornamental plants, when freshly harvested or uncured; potatoes (Irish) when freshly harvested; peanuts in shells, peanut shells and peanut hay.

(4) Uncleaned grass, grain and legume seed; hay (other than peanut hay), straw, seed cotton and cottonseed.

(5) Scrap metal and junk; brick, tile, stone; concrete slabs, pipes, and building blocks; and cinders.

(6) Forest products, such as cordwood, stump wood, logs, lumber, timbers, posts, poles, and cross ties.

(7) Other articles of any character whatsoever that might present a hazard of spread of white-fringed beetles.

§ 301.72–4 Conditions governing interstate movement of certain regulated articles.

(a) *Certificate or limited permit required.* Except as exempted by administrative instructions of the Director of the Plant Pest Control Division, or as provided in § 301.72–10, regulated articles designated in § 301.72–3 shall not be moved from any regulated area into or through any point outside thereof unless accompanied by a valid certificate or limited permit issued under § 301.72–5. In issuing such administrative instructions, the Director of the Plant Pest Control Division will designate the regulated articles to be exempt from the requirements of the regulations supplemental to the quarantine and set forth any special conditions which qualify certain articles for such exemption.

(b) *Use of certificates on shipments.* Unless exempted by administrative instructions, and except as provided in paragraph (b) of § 301.72–5 for movement of noncertified shipments under limited permits to designated destinations for processing, every container of regulated articles moved from any regulated area shall have securely attached to the outside thereof a certificate issued in compliance with the regulations in this subpart. However, in the case of carload or less-than-carload shipments by freight, express, or truck, either in containers or in bulk, a single master certificate shall be attached to the waybill or invoice. In the case of less-than-carload shipments by freight or express, an additional certificate shall be attached to one of the containers.

(c) *Articles originating outside the regulated areas.* No certificates or limited permits are required for the movement of regulated articles designated in § 301.72–3 which originate outside any regulated area and are moved through or reshipped from any regulated area, when the point of origin is clearly indicated, when the identity has been maintained, and when the articles have been protected while in the regulated area, in a manner satisfactory to the inspector.

(d) *Protecting certified articles.* Subsequent to certification as provided in § 301.72–3, regulated articles must be loaded, handled, and shipped only under such protection and safeguards against infestation as are required by the inspector.

§ 301.72–5 Conditions governing the issuance of certificates and limited permits.

(a) *Certificates.* Certificates may be issued for the movement from a regulated area of the regulated articles designated in §301.72–3 under any one of the following conditions:

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

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

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

(4) When grown, produced, manufactured, stored, or handled in such manner that, in the judgment of the inspector, no infestation would be transmitted thereby.

(b) *Limited permits.* Limited permits may be issued by the inspector for

the movement from a regulated area of noncertified regulated articles designated in § 301.72–3 to such destinations and consignees as may be authorized and designated by the Plant Pest Control Division for processing or other safe handling. As conditions of such authorization and designations, persons shipping, transporting, or receiving such articles may be required by the inspector to enter into written agreements with the Plant Pest Control Division to maintain such safeguards against the establishment and spread of infestation and to comply with such conditions as to maintenance of identity, handling, or subsequent movement of such articles, and to the cleaning or treatment of railway cars, trucks, and other means of conveyance, and containers used in the transportation of such articles, as may be required by the inspector.

(c) *Dealer-carrier agreement.* As a condition of issuance of certificates or limited permits for the movement of regulated articles, any person or firm engaged in producing, purchasing, assembling, exchanging, processing, or transporting such regulated articles originating or stored in regulated areas, may be required to sign a dealer-carrier agreement stipulating that he will carry out any and all conditions, treatments, precautions, and sanitary measures which are deemed necessary by the inspector, including segregation and maintenance of identity, under supervision of the inspector, of all regulated articles.

§ 301.72–6 Assembly of articles for inspection.

Persons intending to move any of the regulated articles designated in § 301.72–3 shall make application for inspection as far in advance as possible, shall so handle such articles as to safeguard them from infestation, and shall assemble them at such points and in such manner as the inspector shall designate to facilitate inspection. All costs, including storage, transportation, and labor incident to inspection, other than the services of the inspector, shall be paid by the shipper.

§ 301.72–7 Cancellation of certificates or limited permits.

Certificates or limited permits for any regulated articles issued under the regulations in this subpart may be withdrawn or canceled and further certificates or permits for such articles refused by the inspector whenever he determines the further use of such certificates or permits might result in the dissemination of white-fringed beetles.

§ 301.72–8 Inspection of shipments en route.

Any vehicle, boat, ship, vessel, receptacle, or any other means of transportation, moving interstate which an inspector has probable cause to believe carries or contains any white-fringed beetles, the transportation of which is illegal, or any other regulated article controlled by § 301.72 and the regulations in this subpart shall be subject to inspection by the inspector.

§ 301.72–9 Disinfesting vehicles, machinery, and other articles.

When in the judgment of the inspector a hazard of spread of white-fringed beetles is involved, thorough cleaning, disinfesting, or other sanitary treatments of railway cars, trucks, other vehicles, machinery, implements, and other articles, will be required by the inspector before they may be moved to points outside the regulated areas.

§ 301.72–10 Shipments for experimental or other scientific purposes.

Articles subject to the requirements of the regulations in this subpart may be moved under this subpart for experimental or other scientific purposes on such conditions and under such safeguards as may be prescribed by the Director of the Plant Pest Control Division to carry out the purposes of this subpart. The container or, if there is none, the article itself shall bear, securely attached to the outside thereof, an identifying tag from the Plant Pest Control Division.

§ 301.72–11 Nonliability of Department.

The United States Department of Agriculture disclaims liability for any cost incident to inspection or treatment required under the regulations in this subpart, or for the chemical or mechanical injury of any commodity treated under the regulations in this subpart, other than for the services of the inspector.

Subpart—Khapra Beetle

QUARANTINE

§ 301.76 Notice of quarantine.

(a) Pursuant to section 8 of the Plant Quarantine Act of August 20, 1912, as amended (7 U.S.C. 161), and after public hearing, it has been determined that it is necessary to quarantine the States of Arizona, California, New Mexico, and Texas, to prevent the spread of the khapra beetle, a dangerous insect injurious to stored grain and not heretofore widely prevalent or distributed within and throughout the United States, and said States have been and hereby are continued to be quarantined because of said insect, and under the authority of said Act supplemental regulations are prescribed in this subpart governing the movement of carriers of said insect. Hereafter (1) all grains and grain products (including, but not limited to, barley, corn, oats, rye, and wheat) whether moved as such or in connection with other articles; (2) dried seeds and seed products of field and vegetable crops (including, but not limited to, alfalfa seed, cottonseed, cottonseed meal and cake, flax seed, sorghum seed, soybean meal, pinto beans, and black-eyed peas); (3) bags and bagging (including, but not limited to, those made of burlap or cotton); (4) dried milk, dried blood, fish meal, and meat scraps; and (5) any other article which by reason of infestation or exposure constitutes a hazard of spreading the khapra beetle as determined in accordance with the regulations supplemental hereto (§§ 301.76–1 to 301.76–11), shall not be shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved, or allowed to be moved from any of said quarantined States into or through any other State, Territory, or District of the United States in manner or method or under conditions other than those prescribed in §§ 301.76–1 to 301.76–11 and amendments thereto: *Provided,* That the requirements of this quarantine and of the regulations supplemental hereto, except as otherwise provided in such regulations, are hereby limited to the areas in any quarantined State which may be designated as regulated areas as provided in such regulations, as long as, in the judgment of the Administrator of the Agricultural Research Service, the enforcement of said regulations as to such regulated areas will be adequate to prevent the spread of the khapra beetle, except that such limitation is further conditioned upon the affected States providing for and enforcing control of the movement within such States of the regulated articles under the same conditions as those which apply to their interstate movement under the provisions of currently existing Federal quarantine regulations, and upon their enforcing such control and sanitation measures with respect to such areas or portions thereof as, in the judgment of said Administrator, shall be deemed adequate to prevent the spread therefrom within such State of the said insect infestation: *Provided further,* That whenever the Director of the Plant Pest Control Division shall find that facts exist as to the pest risk involved in the movement of one or more of the articles to which the regulations supplemental hereto (§§ 301.76–1 to 301.76–11) apply, making it safe to modify, by making less stringent, the requirements contained in such supplemental regulations, he shall set forth and publish such finding in administrative instructions, specifying the manner in which the applicable regulations should be made less stringent, whereupon such modification shall become effective, for such period and for such regulated area or portion thereof and for such article or articles as shall be specified in said administrative instructions, and every reasonable effort shall be made to give publicity to such administrative instructions throughout the affected areas.

(b) Regulations governing the movement of live khapra beetles are contained in Part 330 of this chapter. Applications for permits for movement of said pests may be made to the Director, Plant Pest Control Division, Agricultural Research Service, U. S. Department of Agriculture, Washington 25, D. C. in accordance with said part.

(c) As used in this subpart, unless the context otherwise requires, the term "State, Territory, or District of the United States," means State, the District of Columbia, Alaska, Guam, Hawaii, Puerto Rico, or the Virgin Islands of the United States.

REGULATIONS

§ 301.76–1 Definitions.

For the purpose of the regulations in this subpart the following terms shall be construed, respectively, to mean:

(a) *Khapra beetle.* The insect known as the khapra beetle (Trogoderma granarium Everts), in any stage of development.

(b) *Infestation.* The presence of the khapra beetle.

(c) *Regulated area.* Any warehouse, mill, or other premises and any surrounding environs designated as a regulated area in administrative instructions under § 301.76–2.

(d) *Regulated articles.* Products or other articles of any character whatsoever, the movement of which is regulated by this quarantine (§ 301.76) and regulations supplemental thereto (§§ 301.76–1 to 301.76–11).

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

(f) *Person.* Any individual, partnership, corporation, company, society, association, or other form of organization.

(g) *"Moved" ("movement," "move").* Shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved, or allowed to be moved. "Movement" and "move" shall be construed accordingly.

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

(i) *Certificate.* A master document issued by an inspector indicating the quantity and nature of the regulated articles covered thereby, for use with bulk or lot shipments of regulated articles by any means of transportation whatsoever, or other form of document issued by an inspector for specific regulated articles, authorizing their interstate movement from a regulated area to any destination.

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

(k) *Administrative instructions.* Published documents relating to the enforcement of the provisions in this subpart issued under authority of the provisions thereof by the Director of the Plant Pest Control Division, Agricultural Research Service.

§ 301.76–2 Designation of regulated areas.

The Director of the Plant Pest Control Division shall, from time to time, publish in administrative instructions a list of warehouses, mills, and other premises in which infestation of the khapra beetle has been determined to exist and any surrounding environs in which it has been determined such infestation is likely to exist, and shall designate such premises and environs as regulated areas. Premises and environs so designated shall continue in a regulated status until the Director of the Plant Pest Control Division shall determine that adequate sanitation measures have been practiced for a sufficient length of time to eradicate the khapra beetle in and upon such premises and environs, and shall have issued administrative instructions revoking the designation of such premises and environs as regulated areas.

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

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

(a)

ARIZONA

The Allgood Ranch, Route 1, Box 1046, Scottsdale.

Boker Dairy, Route 1, Box 735, Scottsdale.

Mila Booth Farm, located 2¾ miles south and ¾ mile east of Colorado River Indian Agency, P.O. Box 1993, Parker.

Don Calder Dairy, 915 South Horne Lane, Mesa.

Tom Drennen Farm, located ½ mile north and 2 miles east of LOFO No. 1, % Colorado River Trading Co., Parker.

Mrs. J. C. Lincoln Goat Dairy, East McDonald Road and Saguaro Road, Scottsdale.

MCP Ranch Headquarters, Route 1, Box 10 M, located ½ mile south of 16th Street and 3/10 mile east of Avenue B, Somerton.

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

ARIZONA

Advance Seed & Grain Co. (Grain Division), 310 South 24th Avenue, Phoenix.

Hi-Jolly Date Farm, 4500 East Main Street, Mesa.

NEW MEXICO

Jim Akers Dairy Farm, Highway 85, located 2 miles south of Hatch, P.O. Box 12, Hatch.

Frank Erdell (dairy), located 2 miles west and 1 mile north of the junction of Highways 70–80 and 85, Route 2, Box 85, Las Cruces.

TEXAS

Clint Grocery Store, Clint.

A. H. Dean property, 8211 Carpenter Drive, El Paso.

El Paso Union Stock Yards, 1800 East 11th Street, El Paso.

Emmett's Poultry and Egg Company, 150 North Piedras Street, El Paso.

Furr's Super Market, 7690 North Loop Road, El Paso.

H&M Grocery Store, Fort Hancock.

Held Brothers Feed and Seed Store, 1705 Texas Avenue, El Paso.

L. M. Hamilton property, 4036 Emery Way, El Paso.

The Penn Dairy Farm, Mesa Road, El Paso.

§ 301.76–3 Regulated articles.

(a) The interstate movement of the following articles from any regulated area is subject to the regulations in this subpart:

(1) All grains and grain products (including, but not limited to, barley, corn, oats, rye, and wheat) whether moved as such or in connection with other articles.

(2) Dried seeds and seed products of field and vegetable crops (including, but not limited to, alfalfa seed, cottonseed, cottonseed meal and cake, flax seed, sorghum seed, soybean meal, pinto beans, and black-eyed peas).

(3) Bags and bagging (including, but not limited to, those made of burlap or cotton).

(4) Dried milk, dried blood, fish meal, and meat scraps.

(5) Any other article which by reason of infestation or exposure is determined by an inspector to constitute a hazard of spreading the khapra beetle.

§ 301.76–4 Conditions governing interstate movement of certain regulated articles.

(a) *Certificate or limited permit required.* Regulated articles designated in § 301.76–3 shall not be moved interstate from any regulated area into or through any point outside thereof unless accompanied by a valid certificate or limited permit issued under § 301.76–5, except as otherwise provided in this subpart.

(b) *Articles originating outside of the regulated area.* No certificates or limited permits are required for the interstate movement of regulated articles designated in § 301.76–3 originating outside of the regulated areas and moving through or from a regulated area on a through bill of lading, when the point of origin is clearly indicated, when their identity has been maintained, and when the articles have been protected, while in the regulated area, in a manner satisfactory to the inspector.

§ 301.76–5 Conditions governing the issuance of certificates and limited permits.

(a) *Certification of regulated articles.* Certificates may be issued for the interstate movement from a regulated area of the regulated articles designated in § 301.76–3 under any one of the following conditions:

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

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

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

(b) *Limited permits.* Limited permits may be issued for the interstate movement from a regulated area of noncertified regulated articles designated in § 301.76–3 to such destinations and consignees as may be authorized and designated by the Director of the Plant Pest Control Division for processing or other safe handling.

(c) *Dealer-carrier agreement.* As a condition of issuance of certificates or limited permits for the interstate movement of regulated articles, any person engaged in purchasing, assembling, exchanging, processing or transporting such regulated articles may be required to execute a dealer-carrier agreement stipulating that he will, under the supervision of the inspector, carry out any and all conditions, treatments, precautions and sanitary measures which are deemed necessary by the inspector, including requirements as to the maintenance of identity handling and subsequent movement of all such regulated articles and cleaning of vehicles used in the transportation of such articles.

§ 301.76–6 Request for certification; assembly of articles.

Any person intending to move interstate from any regulated area any regulated articles, the certification of which is required under the regulations in this subpart, shall request certification as far as possible in advance of the probable date of such movement, and he may be required to prepare and assemble the articles to be inspected so that they may be readily examined by the inspector.

§ 301.76–7 Cancellation of certificates or limited permits.

Certificates or limited permits for any regulated articles issued under the regulations in this part may be withdrawn or canceled and further certificates or permits for such articles refused by the inspector whenever he determines the further use of such certificates or permits might result in the dissemination of the khapra beetle.

§ 301.76–8 Inspection of shipments en route.

Any means of conveyance or container moving interstate which an inspector has probable cause to believe carries or contains any khapra beetles the transportation of which is illegal or any other articles the movement of which is controlled by § 301.76 and the regulations in this subpart shall be subject to inspection by the inspector at any time or place.

§ 301.76–9 Disinfesting vehicles, machinery, and other articles.

When an inspector determines that any railway car, truck, other vehicle, machinery, implement, or other article moving or to be moved interstate from a regulated area, by reason of infestation or exposure, constitutes a hazard of spreading the khapra beetle, such article shall be required as a condition of further interstate movement to any point outside the regulated area to be thoroughly cleaned, disinfested, or otherwise treated under the observation of an inspector and in accordance with methods selected by him from administratively authorized procedures known to be effective under the conditions in which applied, or such article will be prohibited such movement except under limited permit.

§ 301.76–10 Shipments for experimental or other scientific purposes.

Articles subject to the requirements of the regulations in this subpart may be moved under this subpart for experimental or other scientific purposes on such conditions and under such safeguards as may be prescribed by the Director of the Plant Pest Control Division to carry out the purposes of this subpart. The container or, if there is none, the article itself shall bear, securely attached to the outside thereof, an identifying tag from the Plant Pest Control Division.

§ 301.76–11 Nonliability of Department.

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

Subpart—European Chafer

QUARANTINE

§ 301.77 Notice of quarantine.

(a) Pursuant to section 8 of the Plant Quarantine Act of August 20, 1912, as amended (7 U.S.C. 161), and after public hearing, it has been determined that it is necessary to quarantine the States of Connecticut, New York, and West Virginia to prevent the spread of the European chafer, a dangerous insect injurious to pastures, lawns, and certain cultivated crops and not heretofore widely prevalent or distributed within and throughout the United States, and said States have been and hereby are continued to be quarantined because of said insect, and under the authority of said Act supplemental regulations are prescribed in this subpart governing the movement of carriers of said insect. Hereafter (1) forest, field, nursery, or greenhouse-grown woody or herbaceous plants or parts thereof for planting purposes; (2) sand, soil, gravel, humus, compost, and decomposed manure, moved independently or in connection with nursery stock or other products or articles; and (3) trucks, wagons, railway cars, aircraft, boats, and other means of conveyance and containers and other products and articles of any character whatsoever that might present a hazard of spread of the European chafer as determined in accordance with the regulations supplemental hereto (§§ 301.77–1 to 301.77–10), shall not be shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved, or allowed to be moved from any of said quarantined States into or through any other State, Territory, or District of the United States in manner or method or under conditions other than those prescribed in §§ 301.77–1 to 301.77–10 and amendments thereto: *Provided*, That the requirements of this quarantine and of the regulations supplemental hereto, except as otherwise provided in such regulations, are hereby limited to the areas in any quarantined State which may be designated as regulated areas as provided in such regulations, as long as, in the judgment of the Administrator of the Agricultural Research Service, the enforcement of said regulations as to such regulated areas will be adequate to prevent the spread of the European chafer, except that such limitation is further conditioned upon the affected States providing for and enforcing control of the movement within such States of the regulated articles under the same conditions as those which apply to their interstate movement under the provisions of currently existing Federal quarantine regulations, and upon their enforcing such control and sanitation measures with respect to such areas or portions thereof as, in the judgment of said Administrator, shall be deemed adequate to prevent the spread therefrom within such State of the said insect infestation: *Provided further*, That whenever the Director of the Plant Pest Control Division shall find that facts exist as to the pest risk involved in the movement of one or more of the articles to which the regulations supplemental hereto (§§ 301.77–1 to 301.77–10) apply, making it safe to modify, by making less stringent, the requirements contained in such supplemental regulations, he shall set forth and publish such finding in administrative instructions, specifying the manner in which the applicable regulations should be made less stringent, whereupon such modification shall become effective, for such period and for such regulated area or portion thereof and for such article or articles as shall be specified in said administrative instructions, and every reasonable effort shall be made to give publicity to such administrative instructions throughout the affected areas.

(b) Regulations governing the movement of live European chafers are contained in Part 330 of this chapter. Applications for permits for movement of said pests may be made to the Director, Plant Pest Control Division, Agricultural Research Service, U.S. Department of Agriculture, Washington 25, D.C., in accordance with said part.

(c) As used in this subpart, unless the context otherwise requires, the term "State, Territory, or District of the United States" means State, the District of Columbia, Alaska, Guam, Hawaii, Puerto Rico, or the Virgin Islands of the United States.

§ 301.77a Administrative instructions exempting certain articles from specified requirements.

It has been found that facts exist as to the pest risk involved in the movement of the following regulated articles under the regulations in this subpart which make it safe to make less stringent the requirements of the regulations with respect to the movement of such articles from any regulated area, as hereinafter provided. The following articles are hereby exempt from the requirements of §§ 301.77–4 and 301.77–5 when they have not been exposed to infestation:

(a) Seeds and cones.

(b) True bulbs, corms, and tubers, when dormant, except for storage growth, and when free from soil.

(c) Single dahlia tubers or small dahlia root-divisions when free from stems, cavities, and soil. (Dahlia tubers, other than single tubers or small root-divisions meeting these conditions, require certification.)

(d) Plants when growing exclusively in Osmunda fiber.

(e) Trailing arbutus or Mayflower (epigaea repens) plants or parts thereof, when free from soil.

(f) Moss, clubmoss, and ground-pine or running pine plants or parts thereof, when free from soil.

(g) Soil-free aquatic plants.

(h) Soil-free plant cuttings without roots.

(i) Soil-free rooted cuttings, which, at the time of shipment, have not developed a root system sufficient to conceal larvae of the European chafer.

REGULATIONS

§ 301.77–1 Definitions.

For the purpose of the regulations in this subpart the following terms shall be construed, respectively, to mean:

(a) *European chafer.* The insect known as the European chafer (Amphimallon majalis (Razoumowsky)), in any stage of development.

(b) *Infestation.* The presence of the European chafer.

(c) *Regulated areas.* The States, counties, cities, townships, towns, districts, villages, and other minor civil divisions, or parts thereof, designated in administrative instructions under § 301.77–2 as regulated areas.

(d) *Nursery stock.* Forest, field, nursery, or greenhouse-grown woody or herbaceous plants or parts thereof for planting purposes.

(e) *Regulated articles.* European chafers and products and articles regulated under this subpart.

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

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

(h) *Certificate.* A document evidencing compliance with the requirements of this subpart.

(i) *Limited permit.* A document authorizing the movement of regulated articles to a restricted destination for limited handling, utilization, or processing.

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

§ 301.77–2 Designation of regulated areas.

The Director of the Plant Pest Control Division shall, from time to time, in administrative instructions promulgated by him, list the counties, cities, townships, towns, districts, villages, and other minor civil divisions, or parts thereof, in the quarantined States in which infestation of the European chafer has been determined to exist, or in which it has been determined such infestation is likely to exist, or which it is deemed necessary to regulate because of their proximity to infestation or their inseparability for quarantine enforcement purposes from infested localities, and shall designate such counties, cities, and other civil divisions, or parts thereof, as constituting the regulated areas. Any civil division, or part thereof, so designated shall continue in a regulated status until the Director of the Plant Pest Control Division shall have determined that adequate eradication measures have been practiced for a sufficient length of time to eradicate the European chafer therein and that regulation of such area is not otherwise necessary under this section, and shall have issued administrative instructions revoking the designation of such civil division, or part thereof, as a regulated area.

§ 301.77–2a Administrative instructions designating regulated areas under the European chafer quarantine and regulations.

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

CONNECTICUT

New Haven County. That area, comprising part of the town of Meriden, included within a circle having a 1-mile radius and center at the intersection of Wilber Cross Parkway (Connecticut Route 15) and U. S. Highway 5.

NEW YORK

Chemung County. That area, comprising part of the city of Elmira, bounded by a line beginning at the intersection of Bonview Street and Ogden Avenue, proceeding south on Ogden Avenue to Roe Avenue, thence east on Roe Avenue to Bridgman Street, thence south on Bridgman Street to Washington Avenue, thence west on Washington Avenue to Hoffman Street and continuing west of Hoffman Street approximately 2,400 feet, thence northerly approximately 2,300 feet, thence easterly approximately 1,600 feet and continuing east on Bonview Street to the point of beginning.

Erie County. That area, comprising part of the city of Buffalo, bounded by a line beginning at the intersection of Delaware Avenue and Humboldt Parkway, proceeding southeast on Humboldt Parkway to East Delavan Avenue, thence west on East and West Delavan Avenues to Delaware Avenue, and thence northerly on Delaware Avenue to the point of beginning.

Monroe County. The entire county.

Niagara County. That area, comprising part of the city of Niagara Falls, included within a circle having a ½-mile radius and center at the intersection of College and Highland Avenues.

Onondaga County. Towns of Cicero, Clay, De Witt, Geddes, and Salina, and the city of Syracuse.

Ontario County. Towns of Canandaigua, Farmington, Geneva, Gorham, Hopewell, Manchester, Phelps, Seneca, and Victor, and the cities of Canandaigua and Geneva.

Oswego County. Town of Minetto.

Seneca County. Towns of Junius and Tyre.

Wayne County. The entire county.

WEST VIRGINIA

Hampshire County. District of Bloomery and town of Capon Bridge.

§ 301.77–3 Regulated articles.

Unless exempted by administrative instructions issued by the Director of the Plant Pest Control Division, the movement from any regulated area of any of the following is permitted only under the conditions provided in this subpart: Nursery stock; sand, soil, gravel, humus, compost, or decomposed manure, moved independently or in connection with any nursery stock or other products or articles; or any truck, wagon, railway car, aircraft, boat, or other means of conveyance, or container, or other product or article of any character whatsoever, which in the judgment of an inspector presents a hazard of the spread of the European chafer, by reason of infestation or exposure.

§ 301.77–4 Conditions governing movement of certain regulated articles.

(a) *Nursery stock; sand, soil, etc.* (1) Nursery stock; and sand, soil, gravel, humus, compost, and decomposed manure, moved independently of or in connection with nursery stock or other products or articles, which originate in a regulated area, may be moved from any regulated area to or through any point outside thereof if a certificate or limited permit has been issued therefor in compliance with § 301.77–5 and if the requirements of subparagraphs (2) and (3) of this paragraph are also met.

(2) Every container of regulated articles designated in subparagraph (1) of this paragraph shall be plainly marked with the name and address of the consignor and the name and address of the consignee, when offered for shipment, and shall have securely attached to the outside thereof a valid certificate or limited permit as required by said paragraph, except that in the case of less-than-carload freight shipments a certificate attached to one of the containers and another certificate attached to the waybill will be sufficient, and carlot freight or express shipments, either in containers or in bulk, require only a certificate attached to the waybill.

(3) Subsequent to certification as provided in § 301.77–5, regulated articles designated in subparagraph (1) of this paragraph must be loaded, handled, and shipped only under such protection and safeguards against infestation as are required by the inspector.

(4) No certificates are required for the movement of regulated articles of kinds designated in subparagraph (1) of this paragraph, which originate outside any regulated area and are moving through or reshipped from any regulated area, when the point of origin is clearly indicated, when the identity has been maintained, and when the articles are safeguarded against infestation while in the regulated area. Otherwise such regulated articles shall be subject to all

of the requirements of subparagraphs (1), (2), and (3) of this paragraph.

(b) *Means of conveyance, containers, other products and articles, when hazards.* Trucks, wagons, railway cars, aircraft, boats, and other means of conveyance, containers, and other products and articles of any character whatsoever, which in the judgment of an inspector present a hazard of the spread of the European chafer, by reason of infestation or exposure, may be moved from any regulated area to or through any point outside thereof after they have been thoroughly cleaned, disinfested, or otherwise treated under the observation of an inspector and in accordance with methods selected by him from administratively authorized procedures known to be effective under the conditions in which applied. Otherwise they are prohibited such movement except under limited permit. Notice of the application of such requirements to particular means of conveyance, containers, and other products and articles under this paragraph shall be given to the person in charge thereof.

§ 301.77–5 Conditions governing the issuance of certificates and limited permits.

(a) *Certificates.* Certificates may be issued for the interstate movement from a regulated area of the regulated articles designated in § 301.77–4(a) under any one of the following conditions:

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

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

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

(b) *Limited permits.* Limited permits may be issued by the inspector for the movement from a regulated area of noncertified regulated articles designated in § 301.77–4 (a) or (b) to specified destinations for limited handling, utilization, or processing. Persons shipping, transporting, or receiving such articles may be required by the inspector to enter into written agreements with the Plant Pest Control Division to maintain such safeguards against the establishment and spread of infestation and to comply with such conditions as to the maintenance of identity, handling, or subsequent movement of such articles and to the cleaning or treatment of trucks, wagons, railway cars, aircraft, boats, and other means of conveyance and containers used in the transportation of such articles as may be required by the inspector.

§ 301.77–6 Assembly of articles for inspection.

Persons intending to move any of the regulated articles designated in § 301.77–4(a) shall make application for inspection as far in advance as possible, shall so handle such articles as to safeguard them from infestation and shall assemble them at such points and in such manner as the inspector shall designate to facilitate inspection. All costs, including storage, transportation, and labor incident to inspection, other than the services of the inspector, shall be paid by the shipper.

§ 301.77–7 Cancellation of certificates or limited permits.

Certificates or limited permits for any regulated articles issued under the regulations in this subpart may be withdrawn or canceled and further certificates or permits for such articles refused by the inspector whenever he determines the further use of such certificates or permits might result in the dissemination of the European chafer.

§ 301.77–8 Inspection of shipments en route.

Any vehicle, boat, ship, vessel, or receptacle, moving interstate which an inspector has probable cause to believe carries or contains any European chafer the transportation of which is illegal or any other regulated article controlled by § 301.77 and the regulations in this subpart shall be subject to inspection by the inspector.

§ 301.77–9 Shipments for experimental or other scientific purposes.

Articles subject to the requirements of the regulations in this subpart may be moved under this subpart for experimental or other scientific purposes on such conditions and under such safeguards as may be prescribed by the Director of the Plant Pest Control Division to carry out the purposes of this subpart. The container or, if there is none, the article itself shall bear, securely attached to the outside thereof, an identifying tag from the Plant Pest Control Division.

§ 301.77–10 Nonliability of Department.

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

Subpart—Mediterranean Fruit Fly

QUARANTINE

§ 301.78 Notice of quarantine.

(a) Pursuant to section 8 of the Plant Quarantine Act of August 20, 1912, as amended (7 U. S. C. 161), and after public hearing, it has been determined that it is necessary to quarantine the State of Florida to prevent the spread of the Mediterranean fruit fly, a dangerous insect injurious to fruits and vegetables and not heretofore widely prevalent or distributed within and throughout the United States, and said State has been and hereby is continued to be quarantined because of said insect, and under the authority of said Act supplemental regulations are prescribed in this subpart governing the movement of carriers of said insect. Hereafter the following shall not be shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved, or allowed to be moved from said quarantined State into or through any other State, Territory, or District of the United States in manner or method or under conditions other than those prescribed in the regulations supplemental hereto, as from time to time amended: (1) fruits and vegetables, and other garden and orchard products of all kinds; (2) sand, soil, earth, peat, compost, and manure; and (3) fruit-picking equipment; trucks, wagons, cars, aircraft, boats, and other means of conveyance and containers which have been or are being used in conveying fruits or vegetables; other products and articles, including nursery stock, which have been associated with the production of, or commerce in, fruits and vegetables, or have been or are contaminated with sand, soil, earth, peat, compost, or manure; and, unlimited by the foregoing, any other products and articles of any character whatsoever; when it is determined in accordance with the regulations supplemental hereto that they present a hazard of spread of the Mediterranean fruit fly. However, the requirements of this quarantine and of the regulations supplemental hereto, except as otherwise provided in such regulations, are hereby limited to the areas in the quarantined State which may be designated as regulated areas as provided in such regulations, as long as, in the judgment of the Administrator of the Agricultural Research Service, the enforcement of said regulations as to such regulated areas will be adequate to prevent the spread of the Mediterranean fruit fly, except that such limitation is further conditioned upon the State's providing for and enforcing control of the movement within such State of the regulated articles under the same conditions as those which apply to their interstate movement under the provisions of currently existing Federal quarantine regulations, and upon its enforcing such control and sanitation measures with respect to such areas or portions thereof as, in the judgment of said Administrator, shall be deemed adequate to prevent the spread therefrom within such State of the said insect infestation. Moreover, whenever the Director of the Plant Pest Control Division shall find that facts exist as to the pest risk involved in the movement of one or more of the products or articles to which the regulations supplemental hereto apply, making it safe to modify, by making less stringent, the requirements contained in such supplemental regulations, he shall set forth and publish such finding in administrative instructions, specifying the manner in which the applicable regulations should be made less stringent, whereupon such modification shall become effective for such period and for such regulated area or portion thereof and for such products or articles as shall be specified in said administrative instructions, and every reasonable effort shall be made to give publicity to such administrative instructions throughout the affected areas.

(b) Regulations governing the movement of live Mediterranean fruit flies are contained in Part 330 of this chapter. Applications for permits for movement of said pests may be made to the Director, Plant Pest Control Division, Agricultural

Research Service, U. S. Department of Agriculture, Washington 25, D. C. in accordance with said part.

(c) As used in this subpart, unless the context otherwise requires, the term "State, Territory, or District of the United States" means State, the District of Columbia, Alaska, Guam, Hawaii, Puerto Rico, or the Virgin Islands of the United States.

§ 301.78a Administrative instructions exempting certain articles from specified requirements; interpretation regarding nursery stock, cut flowers, bulbs, etc.

It has been found that facts exist as to the pest risk involved in the movement of the following regulated articles under the regulations in this subpart which make it safe to make less stringent the requirements of the regulations with respect to the movement of such articles from the regulated area, as hereinafter provided. The following articles are hereby exempted from the requirements of § 301.78–3, and §§ 301.78–4 and 301.78–5:

(a) *Fruits.* (1) Coconuts.

(2) Lemons, when picked green and commercially packed.

(3) Sour limes, when picked green and commercially packed.

(4) Strawberries, blackberries, and dewberries.

(b) *Vegetables produced under approved conditions.* The following vegetables when grown in any part of the regulated area under approved conditions that include spray schedules where required, and when handled under sanitary conditions satisfactory to an inspector:

(1) Bell peppers.

(2) Cantaloupes.

(3) Eggplant.

(4) Tomatoes, pink and red ripe.

(c) *Other vegetables.* All other vegetables produced in any part of the regulated area, including other kinds of peppers and tomatoes, not listed in paragraph (b) of this section.

(d) *Interpretation.* Nursery stock, without fruit or berries and free of soil; bulbs, corms, tubers, and rhizomes, other than vegetables, when free of soil; and cut flowers; are not considered as being regulated articles within the meaning of the regulations in this subpart.

REGULATIONS

§ 301.78–1 Definitions.

For the purpose of the regulations in this subpart the following terms shall be construed, respectively, to mean:

(a) *Mediterranean fruit fly.* The insect known as the Mediterranean fruit fly (Ceratitis capitata Wied.), in any stage of development.

(b) *Infestation.* The presence of the Mediterranean fruit fly.

(c) *Regulated areas.* The counties, precincts, cities, and other minor civil divisions, or parts thereof, designated in administrative instructions under § 301.78–2 as regulated areas.

(d) *Regulated articles.* Mediterranean fruit flies and other products and articles regulated under this subpart.

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

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

(g) *Certificate.* A valid document evidencing compliance with the requirements of this subpart.

(h) *Limited permit.* A valid document authorizing the movement of regulated articles to a restricted destination for limited handling, utilization, or processing.

(i) *Dealer-carrier agreement.* A document constituting an agreement to comply with stipulated quarantine conditions, executed by persons or firms engaged in purchasing, handling, processing, utilizing, or moving regulated articles.

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

(k) *Administrative instructions.* Published documents, relating to the enforcement of the provisions in this subpart, issued under authority of such provisions by the Director of the Plant Pest Control Division, Agricultural Research Service.

§ 301.78–2 Designation of regulated areas.

The Director of the Plant Pest Control Division shall, from time to time, in administrative instructions promulgated by him, list the counties, cities, precincts, and other minor civil divisions, or parts thereof, in the quarantined State, in which infestation of the Mediterranean fruit fly has been determined to exist, or in which it has been determined such infestation is likely to exist, or which it is deemed necessary to regulate because of their proximity to infestation or their inseparability for quarantine enforcement purposes from infested localities, and shall designate such counties, precincts, and other civil divisions, or parts thereof, as constituting the regulated areas. Any civil division, or part thereof, so designated shall continue in a regulated status until the Director of the Plant Pest Control Division shall have determined that adequate eradication measures have been practiced for a sufficient length of time to eradicate the Mediterranean fruit fly therein and that regulation of such area is not otherwise necessary under this section, and shall have issued administrative instructions revoking the designation of such civil division, or part thereof, as a regulated area.

§ 301.78–3 Regulated articles.

Unless exempted by administrative instructions issued by the Director of the Plant Pest Control Division, the movement from any regulated area of any of the following is permitted only under the conditions provided in the regulations in this subpart: Fruits and vegetables, and other garden and orchard products of all kinds; sand, soil, earth, peat, compost, and manure; and products and articles determined by an inspector to present a hazard of spread of the Mediterranean fruit fly under paragraph (b) of § 301.78–4.

§ 301.78–4 Conditions governing movement of regulated articles.

(a) *Garden and orchard products; sand, soil, etc.* (1) Fruits and vegetables, and other garden and orchard products of all kinds; and sand, soil, earth, peat, compost, and manure; which originate in a regulated area, may be moved from any regulated area into or through any point outside thereof if a certificate or limited permit has been issued therefor in compliance with § 301.78–5 and if the applicable requirements of subparagraphs (2) and (3) of this paragraph are also met.

(2) Every container of regulated articles designated in subparagraph (1) of this paragraph, or, if there is no container, the articles themselves, shall be plainly marked with the name and address of the consignor and the name and address of the consignee, when offered for shipment under said subparagraph, and shall have securely attached to the outside thereof the certificate or limited permit covering the shipment, except that in the case of less-than-carlot freight or express shipments a certificate or limited permit attached to one of the containers and another certificate or limited permit attached to the waybill will be sufficient; in the case of carlot freight or express shipments, either in containers or in bulk, a certificate or limited permit attached to the waybill will be sufficient; and in the case of shipments by road vehicle, the certificate or limited permit shall accompany the shipment and shall be surrendered to the consignee upon delivery of the shipment.

(3) Subsequent to certification as provided in § 301.78–5, regulated articles designated in subparagraph (1) of this paragraph must be loaded, handled, and shipped only under such protection and safeguards against infestation as are required by the inspector.

(4) Regulated articles of kinds designated in subparagraph (1) of this paragraph, which originate outside any regulated area and are moving through or are being reshipped from any regulated area, may be moved from any regulated area without compliance with the provisions of subparagraphs (1), (2), or (3) of this paragraph when the point of origin is clearly indicated, when the identity has been maintained, and when the articles have been safeguarded against infestation while in the regulated area in a manner satisfactory to an inspector. Otherwise such regulated articles shall be subject to all of the requirements of subparagraphs (1), (2), and (3) of this paragraph.

(b) *Products and articles determined to present hazards.* When it is determined by an inspector that a hazard of spread of the Mediterranean fruit fly is presented by any fruit-picking equipment; any trucks, wagons, cars, aircraft, boats, other means of conveyance or containers which have been or are being used in conveying fruits or vegetables; other products or articles, including nursery stock, which have been associated with the production of, or commerce in, fruits or vegetables, or have

been or are contaminated with sand, soil, earth, peat, compost, or manure; or, unlimited by the foregoing, any other products or articles of any character whatsoever, such equipment, means of conveyance, containers, products or articles may be moved from any regulated area into or through any point outside thereof after they have been thoroughly cleaned, disinfested, or otherwise treated under the observation of an inspector and in accordance with methods selected by him from administratively authorized procedures known to be effective under the conditions in which applied, or they may be so moved under limited permit. Notice of the application of such requirements to particular means of conveyance, containers, and other products and articles under this paragraph shall be given to the person in charge thereof.

§ 301.78–5 Conditions governing the issuance of certificates and limited permits.

(a) *Certificates.* Certificates may be issued for the movement from a regulated area of the regulated articles designated in paragraph (a) of § 301.78–4 under any one of the following conditions:

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

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

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

(b) *Limited permits.* Limited permits may be issued by the inspector for the movement from a regulated area of noncertified regulated articles designated in paragraphs (a) or (b) of § 301.78–4 to specified destinations for limited handling, utilization, or processing. Persons shipping, transporting, or receiving such articles may be required by the inspector to enter into written agreements with the Plant Pest Control Division to maintain such safeguards against the establishment and spread of infestation and to comply with such conditions as to the maintenance of identity, handling, or subsequent movement of such articles and to the cleaning or treatment of trucks, wagons, cars, aircraft, boats, and other means of conveyance and containers used in transportation of such articles as may be required by the inspector.

(c) *Dealer-carrier agreement.* As a condition of issuance of certificates or permits for the movement of regulated articles, any person or firm engaged in purchasing, assembling, exchanging, processing, or carrying such regulated articles originating or stored in regulated areas, may be required to sign a dealer-carrier agreement stipulating that he will carry out any and all conditions, treatments, precautions, and sanitary measures which are deemed necessary by the inspector, including segregation and maintenance of identity, under supervision of the inspector, of all regulated articles.

§ 301.78–6 Assembly of articles for inspection.

Persons intending to move any of the regulated articles under paragraph (a) of § 301.78–4 shall make application for inspection as far in advance as possible, shall so handle such articles as to safeguard them from infestation and shall assemble them at such points and in such manner as the inspector shall designate to facilitate inspection.

§ 301.78–7 Cancellation of certificates or limited permits.

Certificates or limited permits for any regulated articles issued under the regulations in this subpart may be withdrawn or canceled and further certificates or permits for such articles may be refused by the inspector whenever he determines that the further use of such certificates or permits might result in the spread of the Mediterranean fruit fly.

§ 301.78–8 Inspection and disposition.

Any truck, wagon, car, aircraft, boat, or other means of conveyance, or container, which is moving interstate and which an inspector has probable cause to believe carries or contains any Mediterranean fruit fly or other regulated article the movement of which is prohibited or restricted by the quarantine or regulations in this subpart shall be subject to inspection by the inspector. When regulated articles are found to be moving or to have been moved in violation of the provisions in this subpart, the inspector may seize, destroy, or otherwise dispose of such articles as he deems necessary to eliminate the danger of spread of the Mediterranean fruit fly.

§ 301.78–9 Shipments for experimental or other scientific purposes.

Articles subject to the requirements of the regulations in this subpart may be moved under this subpart for experimental or other scientific purposes on such conditions and under such safeguards as may be prescribed by the Director of the Plant Pest Control Division to carry out the purposes of this subpart. The container or, if there is none, the article itself shall bear, securely attached to the outside thereof, an identifying tag from the Plant Pest Control Division.

§ 301.78–10 Nonliability of Department.

The United States Department of Agriculture disclaims liability for any cost incident to inspection or treatment required under the provisions in this subpart; other than for the services of the inspector.

Subpart—Soybean Cyst Nematode

QUARANTINE

§ 301.79 Notice of quarantine.

(a) Pursuant to section 8 of the Plant Quarantine Act of August 20, 1912, as amended, and section 106 of the Federal Plant Pest Act (7 U.S.C. 161, 150ee), and after public hearing, it has been determined that it is necessary to quarantine the States of Arkansas, Kentucky, Mississippi, Missouri, North Carolina, Tennessee, and Virginia to prevent the spread of the soybean cyst nematode (Heterodera glycines Ichinohe), which causes a dangerous disease of soybeans and certain other plants, and which has not heretofore been widely prevalent or distributed within and throughout the United States, and said States have been and hereby are continued to be quarantined because of said nematode, and under the authority of said Acts supplemental regulations are prescribed in this subpart governing the movement of carriers of said nematode. Hereafter the following shall not be shipped, deposited for transmission in the mail, offered for shipment, received for transportation, carried, otherwise transported or moved, or allowed to be moved by mail or otherwise, by any person, from any quarantined State into or through any other State, Territory, or District of the United States in any manner or method or under conditions other than those prescribed in the regulations, as from time to time amended: (1) Soil, separately or with other things; (2) nursery stock and other plants with roots attached; (3) true bulbs, corms, rhizomes, and tubers; (4) root crops; (5) soybeans; (6) small grains; (7) ear corn; (8) hay, straw, fodder and plant litter of any kind; (9) seed cotton; (10) used farm tools, implements, and harvesting machinery; (11) used construction and maintenance equipment; (12) used crates, boxes, burlap bags, and cotton picking sacks, and other used farm products containers; and (13) other farm products and farm equipment, processing machinery, trucks, wagons, railway cars, aircraft, boats, and other means of conveyance, and unlimited by the foregoing, any other products and articles of any character whatsoever, not covered by subparagraphs (1) through (12) of this paragraph, when it is determined in accordance with the regulations, that they present a hazard of spread of soybean cyst nematodes. However, the requirements of this quarantine and other regulations with respect to such products, articles, and means of conveyance are hereby limited to the areas in any quarantined State which may be designated as regulated areas as provided in the regulations, as long as in the judgment of the Administrator of the Agricultural Research Service, the enforcement of the regulations as to such regulated areas will be adequate to prevent the spread of soybean cyst nematodes, except that such limitation is further conditioned upon the affected State's providing regulations for and enforcing control of the movement within such State of soybean cyst nematodes and other regulated articles under the same conditions as those which apply to their interstate movement under the provisions of the currently existing Federal quarantine regulations, and upon the State's providing regulations for and enforcing such sanitation measures with respect to such areas or portions thereof as, in the judgment of said Administrator, are adequate to prevent the spread of soybean cyst nematodes within such State. Moreover, whenever the Director of the Plant Pest Control Division shall

find that facts exist as to the pest risk involved in the movement of one or more of the products, articles, and means of conveyance to which the regulations apply, making it safe to modify by making less stringent the requirements contained in the regulations, he shall set forth and publish such finding in administrative instructions, specifying the manner in which the regulations should be made less stringent, whereupon such modification shall become effective for such period and for such regulated areas or portions thereof and for such products, articles, and means of conveyance, as shall be specified in said administrative instructions, and every reasonable effort shall be made to give publicity to such administrative instructions throughout the affected areas.

(b) Regulations governing the movement of live soybean cyst nematodes are contained in Part 330 of this chapter. Applications for permits for movement of said pests may be made to the Director, Plant Pest Control Division, Agricultural Research Service, U.S. Department of Agriculture, Washington 25, D.C., in accordance with said part.

(c) As used in this subpart, unless the context otherwise requires, the term "State, Territory, or District of the United States" means State, the District of Columbia, Alaska, Guam, Hawaii, Puerto Rico, or the Virgin Islands of the United States.

§ 301.79a Administrative instructions exempting certain articles from specified requirements.

(a) It has been found that facts exist as to the pest risk involved in the movement of the following regulated articles under the regulations in this subpart which make it safe to make less stringent the requirements of the regulations with respect to the movement of such articles from any regulated area, as hereinafter provided. The following articles are hereby exempted from the requirements of § 301.79–3(a) under the conditions set forth in this section:

(1) Root crops, such as turnips, carrots, and sweetpotatoes, when moving to a designated processing plant, or when washed free of soil and thereafter protected from infestation to the satisfaction of the inspector;

(2) Soybeans if the beans and any containers for the beans did not come in contact with the soil during harvesting and if the beans are moving forthwith to a designated oil mill or storage facility for crushing or uses other than planting;

(3) Small grain if the grain and any containers for the grain did not come in contact with the soil during harvesting and if the grain is moving forthwith to a designated storage facility for uses other than planting;

(4) Ear corn when harvested from the stalk and placed, without coming in contact with the soil, in a wagon or truck for direct transportation to storage or other handling facility;

(5) Hay, straw, fodder and plant litter of any kind, when harvested and handled so that in the judgment of the inspector no infestation would be transmitted thereby;

(6) Seed cotton when moving to designated gins;

(7) Used farm tools and implements, when washed, steam cleaned, air cleaned, or otherwise treated, and thereafter protected from infestation, to the satisfaction of the inspector. (This exemption does not apply to mechanical cotton or corn pickers, combines, or hay balers, or to cotton picking sacks.)

(8) Trucks, wagons, railway cars, aircraft, boats, and other means of conveyance determined to present a hazard under § 301.79–3(b), when treated to the satisfaction of the inspector.

(b) Information as to designated processing plants, oil mills, storage facilities, and gins may be obtained from the inspector.

REGULATIONS

§ 301.79–1 Definitions.

For the purposes of the provisions in this subpart, except where the context otherwise requires, the following terms shall be construed respectively to mean:

(a) *Soybean cyst nematode.* The nematode known as the soybean cyst nematode (Heterodera glycines Ichinohe), in any stage of development.

(b) *Infestation.* The presence of the soybean cyst nematode.

(c) *Regulated area.* Any county, other minor civil division, farm, or other premises, or part thereof, designated in administrative instructions under § 301.79–2 as a regulated area.

(d) *Regulated articles.* Soybean cyst nematodes, means of conveyance, and other products and articles of any character whatsoever, the movement of which is regulated by the soybean cyst nematode quarantine (§ 301.79) and the regulations in §§ 301.79–1 through 301.79–10.

(e) *"Moved" ("movement," "move").* Shipped, deposited for transmission in the mail, offered for shipment, received for transportation, carried, otherwise transported or moved, or allowed to be moved, by mail or otherwise, by any person, interstate, directly or indirectly. "Movement" and "move" shall be construed accordingly.

(f) *Interstate.* From any State, Territory, or District of the United States into or through any other such State, Territory, or District.

(g) *Certificate.* A document evidencing compliance with the requirements of this subpart.

(h) *Limited permit.* A document authorizing the movement of regulated articles to a restricted destination for limited handling, utilization, or processing, or for treatment.

(i) *Dealer-carrier agreement.* An agreement to comply with stipulated conditions, executed by persons engaged in purchasing, assembling, exchanging, handling, processing, utilizing, treating, or moving regulated articles.

(j) *Administrative instructions.* Documents relating to the enforcement of the provisions in this subpart issued under authority of such provisions by the Director of the Plant Pest Control Division, Agricultural Research Service.

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

(l) *Person.* This term includes any corporation, partnership, firm, company, joint stock company, society, or association, as well as any individual.

§ 301.79–2 Designation of regulated areas.

The Director of the Plant Pest Control Division shall, from time to time, in administrative instructions promulgated by him, list the counties, other minor civil divisions, farms, or other premises, or parts thereof, in the quarantined States, in which infestation has been determined to exist, or in which it has been determined infestation is likely to exist, or which it is deemed necessary to regulate because of their proximity to infestation or their inseparability for quarantine enforcement purposes from infested localities, and shall designate such civil divisions, other premises, and parts thereof, as regulated areas. Any civil division, premises or part thereof, so designated shall continue in a regulated status until the Director of the Plant Pest Control Division shall have determined that adequate eradication measures have been practiced for a sufficient length of time to eradicate the soybean cyst nematode therein and that regulation of such area is not otherwise necessary under this section, and shall have issued administrative instructions revoking the designation of such civil division, premises, or part thereof, as a regulated area.

§ 301.79–2a Administrative instructions designating regulated areas under the soybean cyst nematode quarantine.

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

ARKANSAS

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

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

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

That area bounded on the north by the Arkansas-Missouri State line; and further bounded by a line beginning at the intersection of the Mississippi River levee and Arkansas-Missouri State line and extending southward along said levee to U.S. Highway 61, thence due north along U.S. Highway 61 to its intersection with State Highway 158, thence due west along State Highway 158 to its intersection with State Highway 181, thence due north along State Highway 181 to the western boundary line of sec. 30, T. 15 N., R. 10 E., thence continuing due north along the western boundary lines of secs. 30, 19, 18, 7, and 6, T. 15 N., R. 10 E., and secs. 31, 30, and 19, T. 16 N., R. 10 E., to the Arkansas-Missouri State line.

All of sec. 24, T. 13 N., R. 10 E.

All of the property owned by Mrs. Charles Hale in sec. 19, T. 11 N., R. 11 E.

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

That portion of secs. 20 and 21, T. 12 N., R. 11 E., lying west of the Mississippi River levee.

All of the property owned by Mrs. R. C. Bryan, and all of the property owned by C. L. Whistle in sec. 13, T. 12 N., R. 10 E.

KENTUCKY

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

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

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

The property of John E. Vaughn, consisting of 379 acres located in the S½ of sec. 7 and in the northern part of sec. 18, R. 6 W., T. 1 N.

The property of Mrs. Tom H. McMurry, consisting of 240 acres located in the SE¼ and E½ of SW¼ of sec. 22, T. 1 N., R. 4 W.

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

All of Island No. 8 in the Mississippi River.

MISSISSIPPI

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

MISSOURI

Dunklin County. The property owned and operated by Martis Overby, located in the E½ of sec. 23, T. 16 N., R. 7 E.

The property owned by H. O. Thrasher and operated by Charles Williams, being the NE¼ of the NE¼ of sec. 23, T. 16 N., R. 7 E.

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

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

Pemiscot County. That portion of the county lying east and south of a line beginning at a point where State Highway B intersects the Pemiscot-New Madrid County line, and extending southward along State Highway B to the point where it joins State Highway 84; thence west along State Highway 84 to a point where the highway joins State Highway C; thence southward along State Highway C to the point where it meets State Highway F; thence due south to the point where it intersects the Missouri-Arkansas State line.

The property owned and operated by Royal Sanders, being the N½ of sec. 24, and SW¼ of sec. 13, T. 17 N., R. 10 E.

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

NORTH CAROLINA

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

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

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

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

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

Gates County. That portion of the county bounded by a line beginning at a point where State Highway 32 crosses the North Carolina-Virginia State line, thence east along the State line to the Camden County line, thence in a southwesterly direction along the west edge of the Great Dismal Swamp to a point 1.4 miles east of Corapeake on Corapeake Highway, thence along said Highway in a westerly direction to Corapeake, thence along State Highway 32 from Corapeake to the Virginia State line, the point of beginning, excluding the corporate limits of Corapeake.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

State Highway 210 in an easterly direction to its point of beginning.

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

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

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

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

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

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

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

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

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

The property owned and operated by Paul Paskas, located approximately 1.9 miles west of Paul's Place and 0.3 mile north of State Highway 40.

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

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

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

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

TENNESSEE

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

Gibson County. Civil Districts 10 and 24.

Haywood County. The farm owned by Jack Savage Gause, also known as the Old Nail Place, consisting of 221 acres, located in Civil District 11 on the northside of the Nutbush-Durhamville Road, 2.1 miles southwest of the intersection at Nutbush of Haywood County Road 8051 and State Highway 19.

Lake County. The entire county.

Lauderdale County. Civil Districts 4, 5, 8, 9, 12, and 13; and that part of Civil District 11 consisting of a 40-acre farm, owned by Mrs. Dezzie Mae Clark, known as the Old Hunt Farm on county Highway 8045, 1.2 miles southwest of the junction of county Highway 8045 with State Highway 19.

Obion County. All Civil Districts except 1, 2, 7, and 16.

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

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

That part of Civil District 3 consisting of a 70-acre farm owned by Mrs. O. H. Blankenship, known as the Old John Yount place, located on the west side of Turkey Scratch Road, 2.3 miles southeast of R. M. Burlison's store. This store is located 2 miles west of Burlison Post Office on Highway 59.

VIRGINIA

Nansemond County. That portion of the county bounded by a line beginning at the junction of State Roads 32 and 678 and extending east on State Road 678 to the western boundary of the property owned and operated by E. Hurley Brinkley, thence north and east along the boundaries of said property and continuing east along the northern boundary of the property owned and operated by Willie C. Knight to State Road 604; thence south on State Road 604 to the northern boundary of the property owned and operated by Raymond R. Brinkley; thence east along the northern boundary of said property to the Dismal Swamp; thence south along the Dismal Swamp to the North Carolina-Virginia State line; thence west along the State line to State Road 32, thence northward to the point of beginning.

That portion of the county bounded by a line beginning at the junction of State Road 616 and the Nansemond-Isle of Wight County line; thence southeast to the junction of State Road 615; thence north along State Road 615 following the west and northern boundaries of the properties owned and operated by C. E. Daughtery and Jasper W. Daughtery; thence along the western and northern boundaries of the property owned and operated by Frank Holland and Mary L. Holland to the eastern boundary of this property; thence along the eastern boundary of the property owned and operated by Lydia and J. E. Griffin to State Road 189; thence east along State Road 189 and south along the eastern boundaries of the properties owned and operated by James E. Rawls and Washington Brown to State Road 616; thence across State Road 616 to include the entire property owned and operated by Clifford D. Holland; and thence from the junction of the northern boundary of said farm and State Road 616 northwest along State Road 616 to the property owned by Helen I. Lawrence and operated by Michael Carter; thence along the eastern and southern boundaries of said property to State Road 189; thence along State Road 189 to include all of the property owned by R. Kermit Saunders and operated by Leo Saunders on both sides of said road; thence in a northerly direction to the junction of State Roads 615 and 618; thence west along State Road 618 to the Nansemond-Isle of Wight County line; thence northeast along said county line, including that portion of the property owned by Carlton L. Cutchin and operated by Elmer Darden in Isle of Wight County to the point of beginning.

The property owned and operated by Percy L. Artic located on State Road 679, one mile southeast of the junction of State Road 189.

The property owned and operated by Hurley B. Aswell and the property owned and operated by Gurney C. Hare, located at the junction of State Roads 642 and 673, and the adjacent property owned by the M. Gay Taylor Estate and Priscilla Vann and operated by Bernard Knight on State Road 673.

The property owned by Rudolph C. Badger and operated by Arran K. Morriss, located at the junction of State Roads 642 and 674.

The property owned and operated by Shirley M. Baines, located on the east side of State Road 642 at the northern junction of State Roads 642 and 678, and the adjoining property to the east owned and operated by Pearl Brinkley.

The property owned by J. M. Brinkley and operated by Eddie A. Kelly, located on the west side of State Road 32, one-quarter mile north of the junction of State Roads 678 and 32.

The properties owned by Reginald E. Brothers, Carrie B. Knight and Willie C. Knight and operated by Willie C. Knight, located at the junction of State Roads 675 and 642.

The property owned by Robert D. Butler and operated by Moody G. Gardner, located on the east side of State Road 614 at the Nansemond-Isle of Wight County line.

The property owned and operated by W. H. Howell, located 0.5 mile southwest of the village of Ellwood.

The property owned by Elliott L. Johnson and operated by Jesse F. Johnson, located on both sides of U.S. Highway 58 at the Nansemond-Isle of Wight County line including that portion extending into Isle of Wight County and the adjoining property on the southeast owned and operated by Jasper Daughtery, Jr.

The property owned by Ruby Parker Jones and operated by Lawrence E. Holland and the property owned and operated by Lawrence F. Jones, located at the junction of State Roads 666 and 615.

The property owned by Eddie A. Kelly and operated by Willie and William Mathias, located on State Road 678 one mile west of its junction with State Road 32.

The property owned by Rachel Lassiter and operated by Vernon Lassiter, located on State Road 674, 0.5 mile east of the Atlantic Coast Line Railroad tracks.

The property owned and operated by Linwood Parker, located on State Road 604, 0.5 mile southeast of State Road 642.

The property owned by Dr. W. John Norfleet and operated by J. C. Britton, and the property owned by David L. Rawles, Jr. and operated by Augusta B. Nickols, located at the junction of State Roads 616 and 664.

The property owned by the W. Joe Smith Estate and operated by Gerald Rountree and C. C. Adams, located at the junction of State Roads 612 and 664 and lying on the southwest side of State Road 612.

The property owned by Lonnie J. Wilkins and operated by Lonnie J. Wilkins and James A. Marcum, located at the junction of State Roads 612 and 661 and lying on the west side of State Road 612.

§ 301.79–3 Regulated articles; conditions of movement.

(a) *Designated articles.* Unless exempted by administrative instructions, the following may be moved from any regulated area into or through any point outside of the regulated areas only if accompanied by a valid certificate or limited permit issued in compliance with § 301.79–6 and if the applicable requirements of §§ 301.79–4 and 301.79–5 are also met; soil, separately or with other things; nursery stock and other plants with roots attached; true bulbs, corms, rhizomes and tubers; root crops; soybeans; small grains; ear corn; hay, straw, fodder, and plant litter of any kind; seed cotton; used farm tools, implements and harvesting machinery; used construction and maintenance equipment; and used crates, boxes, burlap bags, and cotton picking sacks, and other used farm products containers. However, regulated articles of kinds within this paragraph which originate outside of the regulated areas and are moving through or are being reshipped from a regulated area

may be moved from such regulated area into or through any point outside of the regulated areas without further restriction under this subpart when their point of origin is clearly indicated, when their identity has been maintained, and when they have been safeguarded against infestation while in the regulated areas in a manner satisfactory to an inspector and do not present a hazard of spread of the soybean cyst nematode. Otherwise such regulated articles shall be subject to all applicable requirements under this subpart for articles originating in the regulated areas.

(b) *Articles determined to present hazards.* When it has been determined by an inspector that, due to contamination with the soybean cyst nematode, a hazard of spread of the nematode is presented by any farm products, farm equipment, processing machinery, trucks, wagons, railway cars, aircraft, boats, other means of conveyance, or, unlimited by the foregoing, any other products or articles of any character whatsoever, not covered by paragraph (a) of this section, notice of such fact shall be given to the person having custody thereof. Thereafter, such contaminated articles may be moved from any regulated area into or through any point outside of the regulated areas only after they have been cleaned, treated, or otherwise disinfested to the satisfaction of the inspector or when they are going under limited permit as required by the inspector.

§ 301.79–4 Use of certificates or limited permits with shipments.

Every container of regulated articles, or if there is none the article itself, required to have a certificate or limited permit under § 301.79–3 shall have such certificate or permit securely attached to the outside thereof, when offered for movement under said section, except that where the regulated articles are adequately described on a certificate or limited permit attached to the waybill, the attachment of a certificate or limited permit to each container of the articles, or to the article itself, will not be required.

§ 301.79–5 Protecting certified articles.

Subsequent to certification as provided in § 301.79–6, regulated articles must be loaded, handled, and shipped, only under such protection and safeguards against infestation as are required by the inspector.

§ 301.79–6 Conditions governing the issuance of certificates and limited permits.

(a) *Certificates.* Certificates may be issued by the inspector for the movement of the regulated articles designated in § 301.79–3(a) under any of the following conditions:

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

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

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

(4) When grown, produced, manufactured, stored, or handled in such manner that, in the judgement of the inspector, no infestation would be transmitted thereby.

(b) *Limited permits.* Limited permits may be issued by the inspector for the movement of non-certified regulated articles under § 301.79–3 to specified destinations for limited handling, utilization, or processing, or for treatment.

(c) *Dealer-carrier agreement.* As a condition of issuance of certificates or limited permits for the movement of regulated articles, any person engaged in purchasing, assembling, exchanging, handling, processing, utilizing, treating, or moving such articles may be required to sign a dealer-carrier agreement stipulating that he will maintain such safeguards against the establishment and spread of infestation and comply with such conditions as to the maintenance of identity, handling, and subsequent movement of such articles and the cleaning and treatment of means of conveyance and containers used in the transportation of such articles as may be required by the inspector.

§ 301.79–7 Assembly of articles for inspection.

Persons intending to move any of the regulated articles under § 301.79–4 shall make application for inspection as far in advance as possible, shall so handle such articles as to safeguard them from infestation, and shall assemble them at such points and in such manner as the inspector shall designate to facilitate inspection.

§ 301.79–8 Cancellation of certificates or limited permits.

Certificates or limited permits for any regulated articles issued under the regulations in this subpart may be withdrawn or cancelled and further certificates or permits for such articles may be refused by the inspector whenever he determines that the further use of such certificates or permits might result in the spread of the soybean cyst nematode.

§ 301.79–9 Inspection and disposal.

Any properly identified inspector is authorized to stop and inspect, without a warrant, any person or means of conveyance moving from any State, Territory, or District of the United States into or through any other such State, Territory, or District and any plant pest and any product and article of any character whatsoever carried thereby, upon probable cause to believe that such means of conveyance, product, or article is infested or infected by or contains any plant pest or is moving subject to this subpart or any other regulations under the Plant Pest Act or that such person or means of conveyance is carrying any plant pest subject to that act, and to stop and inspect, without a warrant, any means of conveyance so moving, upon probable cause to believe it is carrying any product or article prohibited or restricted movement under the Plant Quarantine Act or any quarantine or order thereunder. Such inspector is authorized to seize, destroy, or otherwise dispose of, or require disposal of, products, articles, means of conveyance, and plant pests in accordance with section 105 of the Federal Plant Pest Act and section 10 of the Plant Quarantine Act.

§ 301.79–10 Nonliability of Department.

The United States Department of Agriculture disclaims liability for any cost incident to inspection or treatment required under the provisions in this subpart, other than for the services of the inspector.

Subpart—Witchweed

QUARANTINE

§ 301.80 Notice of quarantine.

(a) Pursuant to section 8 of the Plant Quarantine Act of August 20, 1912, as amended, and section 106 of the Federal Plant Pest Act (7 U.S.C. 161, 150ee), and after public hearing, it has been determined that it is necessary to quarantine the States of North Carolina and South Carolina to prevent the spread of witchweed (Striga sp.), a parasitic plant which causes a dangerous disease of corn, sorghum, and other crops of the grass family, and which has not heretofore been widely prevalent or distributed within and throughout the United States, and said States have been and hereby are continued to be quarantined because of said disease, and under the authority of said Acts supplemental regulations are prescribed in this subpart governing the movement of carriers of witchweed. Hereafter the following shall not be shipped, deposited for transmission in the mail, offered for shipment, received for transportation, carried, otherwise transported or moved, or allowed to be moved by mail or otherwise, by any person, from any quarantined State into or through any other State, Territory, or District of the United States in any manner or method, or under conditions other than those prescribed in the regulations as from time to time amended: (1) Soil, separately or with other things; (2) nursery stock and other plants with roots attached; (3) true bulbs, corms, rhizomes, and tubers; (4) root crops; (5) hay, straw, fodder and plant litter of any kind; (6) seed cotton; (7) tobacco; (8) peanuts in shells; (9) ear corn; (10) soybeans; (11) small grains; (12) used farm tools, implements and harvesting machinery; (13) used construction and maintenance equipment; (14) used crates, boxes, burlap bags, and cotton picking sacks, and other used farm products containers; and (15) other farm products and farm equipment, processing machinery, trucks, wagons, railway cars, aircraft, boats, and other means of conveyance, and, unlimited by the foregoing, any other products and articles of any character whatsoever, not covered by subparagraphs (1) through (14) of this paragraph, when it is determined in accordance with the regulations that they present a hazard of spread of witchweed. However, the requirements of the quarantine and other regulations with respect to such products, articles, and means of con-

veyance, are hereby limited to the areas in any quarantined State which may be designated as regulated areas as provided in the regulations, as long as in the judgment of the Administrator of the Agricultural Research Service, the enforcement of the regulations as to such regulated areas will be adequate to prevent the spread of witchweed, except that such limitation is further conditioned upon the affected State's providing regulations for and enforcing control of the movement within such State of witchweed and other regulated articles under the same conditions as those which apply to their interstate movement under the provisions of the currently existing Federal quarantine regulations and upon the State's providing regulations for and enforcing such sanitation measures with respect to such areas or portions thereof as, in the judgment of said Administrator, are adequate to prevent the spread of witchweed within such State. Moreover, whenever the Director of the Plant Pest Control Division shall find that facts exist as to the pest risk involved in the movement of one or more of the products, articles, or means of conveyance to which the regulations apply, making it safe to modify by making less stringent the requirements contained in the regulations, he shall set forth and publish such finding in administrative instructions, specifying the manner in which the regulations should be made less stringent, whereupon such modification shall become effective for such period and for such regulated areas or portion thereof and for such products, articles, and means of conveyance, as shall be specified in said administrative instructions, and every reasonable effort shall be made to give publicity to such administrative instructions throughout the affected areas.

(b) Regulations governing the movement of live witchweed are contained in Part 330 of this chapter. Applications for permits for movement of said pests may be made to the Director, Plant Pest Control Division, Agricultural Research Service, U.S. Department of Agriculture, Washington 25, D.C., in accordance with said part.

(c) As used in this subpart, unless the context otherwise requires, the term "State, Territory, or District of the United States" means State, the District of Columbia, Alaska, Guam, Hawaii, Puerto Rico, or the Virgin Islands of the United States.

§ 301.80a Administrative instructions exempting certain articles from specified requirements.

(a) It has been found that facts exist as to the pest risk involved in the movement of the following regulated articles under the regulations in this subpart which make it safe to make less stringent the requirements of § 301.80–3(a) of the regulations with respect to the movement of such articles from any regulated area into or through any point outside of the regulated areas, as hereinafter provided. The following articles are hereby exempted from the requirements of § 301.80–3(a), under the conditions set forth below:

(1) Root crops, such as turnips, carrots, and sweet potatoes, when moving to a designated processing plant, or when washed free of soil and thereafter protected from infestation to the satisfaction of the inspector.

(2) Seed cotton when moving to a designated gin.

(3) Tobacco when moving to a designated warehouse or storage facility, provided it has been subjected to a temperature of 180° F. for 12 hours in the curing barn and subsequently protected from contamination.

(4) Soybeans if the beans and any containers for the beans did not come in contact with the soil during harvesting and if the beans are moving forthwith to a designated oil mill or storage facility for crushing or uses other than planting.

(5) Small grain if the grain and any containers for the grain did not come in contact with the soil during harvesting and if the grain is moving forthwith to a designated storage facility for uses other than planting.

(6) Ear corn when harvested from the stalk and placed, without coming in contact with the soil, in a wagon or truck for direct transportation to storage or other handling facility.

(7) Used farm tools and implements, when washed, steam cleaned or air cleaned, and thereafter protected from infestation, to the satisfaction of the inspector. (This exemption does not apply to mechanical cotton or corn pickers, combines, or hay balers or to cotton picking sacks.)

(b) Information as to designated processing plants, oil mills, warehouses, storage facilities, and gins may be obtained from the inspector.

REGULATIONS

§ 301.80–1 Definitions.

For the purposes of the provisions in this subpart, except where the context otherwise requires, the following terms shall be construed respectively to mean:

(a) *Witchweed.* Parasitic plants of the genus Striga, and any reproductive parts thereof, including seed.

(b) *Infestation.* The presence of witchweed.

(c) *Regulated area.* Any county, other minor civil division, farm, or other premises, or part thereof, designated in administrative instructions under § 301.80–2 as a regulated area.

(d) *Regulated articles.* Witchweed, means of conveyance, and other products and articles of any character whatsoever, the movement of which is regulated by the witchweed quarantine (§ 301.80) and the regulations in §§ 301.80–1 through 301.80–10.

(e) *"Moved" ("movement," "move").* Shipped, deposited for transmission in the mail, offered for shipment, received for transportation, carried, otherwise transported or moved, or allowed to be moved, by mail or otherwise, by any person, interstate, directly or indirectly. "Movement" and "move" shall be construed accordingly.

(f) *Interstate.* From any State, Territory or District of the United States into or through any other such State, Territory, or District.

(g) *Certificate.* A document evidencing compliance with the requirements of this subpart.

(h) *Limited permit.* A document authorizing the movement of regulated articles to a restricted destination for limited handling, utilization, or processing, or for treatment.

(i) *Dealer-carrier agreement.* An agreement to comply with stipulated conditions, executed by persons engaged in purchasing, assembling, exchanging, handling, processing, utilizing, treating, or moving regulated articles.

(j) *Administrative instructions.* Documents relating to the enforcement of the provisions in this subpart issued under authority of such provisions by the Director of the Plant Pest Control Division, Agricultural Research Service.

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

(l) *Person.* This term includes any corporation, partnership, firm, company, joint stock company, society, or association, as well as any individual.

§ 301.80–2 Designation of regulated areas.

The Director of the Plant Pest Control Division shall, from time to time, in administrative instructions promulgated by him, list the counties, other minor civil divisions, farms, and other premises, or parts thereof, in the quarantined States, in which infestation has been determined to exist, or in which it has been determined infestation is likely to exist, or which it is deemed necessary to regulate because of their proximity to infestation or their inseparability for quarantine enforcement purposes from infested localities, and shall designate such civil divisions and premises, and parts thereof, as regulated areas. Any civil division or premises, or part thereof, so designated shall continue in a regulated status until the Director of the Plant Pest Control Division shall have determined that adequate eradication measures have been practiced for a sufficient length of time to eradicate witchweed therein and that regulation of such area is not otherwise necessary under this section, and shall have issued administrative instructions revoking the designation of such civil division, premises, or part thereof, as a regulated area.

§ 301.80–2a Administrative instructions designating regulated areas under the witchweed quarantine.

Infestations of the witchweed have been determined to exist, in the quarantined States, in the civil divisions and premises, or parts thereof, listed below, or it has been determined that such infestation is likely to exist therein, or it is deemed necessary to regulate such localities because of their proximity to infestation or their inseparability for quarantine enforcement purposes from infested localities. Accordingly, such civil divisions and premises, and parts thereof, and all highways and roadways abutting thereon, are hereby designated as witchweed regulated areas within the meaning of the provisions in this subpart:

NORTH CAROLINA

Bladen County. That portion of the county lying north and west of a line beginning at the Bladen-Sampson County line and extending along North Carolina Highway No. 41 in a westerly direction to its junction with United States Highway No. 701, thence along said highway in a westerly and southerly direction to its junction with the Bladen-Columbus County line.

The Acme Wood Corporation Tract located on the north side of a road and 0.3 mile west of the junction of said road with a dirt road, said junction being 0.7 mile south of the intersection of said road with the Lisbon-Bluefield road, said intersection being 1.8 miles west of Lisbon.

The Mac L. Barnhill farm located on the east side of North Carolina Highway No. 210, and approximately 3.2 miles north of the junction of said highway with North Carolina Highway No. 53, said junction being 3 miles east of Kelly.

The James Beatty farm located on the west side of a dirt road and approximately 0.8 mile north of the junction of said road with North Carolina Highway No. 53, said junction being 2.3 miles northwest of Kelly.

The Lucille Beniomen farm located on the west side of a dirt road and approximately 0.8 mile north of the junction of said road with North Carolina Highway No. 53, said junction being 2.3 miles northwest of Kelly.

The Eugene Brown farm located on the east side of a dirt road and 0.9 mile south of the intersection of said road with North Carolina Highway No. 211, said intersection being 0.1 mile south of Rosendale.

The R. H. Brown farm located on the east side of North Carolina Highway No. 210, and approximately 3.2 miles north of the junction of said highway with North Carolina Highway No. 53, said junction being 3 miles east of Kelly.

The C. C. Burney farm located on the west side of a dirt road and 2.2 miles north of Emerson.

The Clarence Cain farm located on a farm road and 0.5 mile south of the junction of said road with United States Highway No. 701, said junction being 1.6 miles east of Elizabethtown.

The J. H. Collier farm located on the west side of a paved road and 1.0 mile south of the junction of said road with the old Clarkton-Elizabethtown road, said junction being 3.8 miles southeast of Elizabethtown.

The David Cromartie farm located on the east side of a farm road 0.5 mile north of the junction of said road with a dirt road, said junction being 1.2 miles west of the junction of said road with another dirt road, said junction being 0.2 mile northwest of the junction of said road with a paved road, said junction being 0.9 mile northeast of Lisbon.

The W. M. Gurganis farm located on the west side of a paved road and 0.1 mile southeast of the intersection of said road with another paved road, said intersection being 1.5 miles southeast of the junction of said road with North Carolina Highway No. 87, said junction being 4.6 miles southeast of Elizabethtown.

The M. G. Hair farm located on the south side of a paved road and 2.4 miles east of the junction of said road with North Carolina Highway No. 87, said junction being 7.9 miles southeast of Elizabethtown.

The David Hardison farm located at the end of a dirt road and 0.6 mile southeast of the junction of said dirt road with the old Clarkton-Elizabethtown road, said junction being 2.5 miles northeast of Clarkton.

The J. C. & P. W. Jessup farm located on the south side of a paved road and 2.9 miles east of the junction of said road with North Carolina Highway No. 87, said junction being 7.9 miles southeast of Elizabethtown.

The Aaron Kelly farm located on the southeast side of North Carolina Highway No. 53 and approximately 7 miles east of Kelly where said highway crosses Black River.

The Dexter McKay farm located at the end of a farm road and approximately 0.8 mile south of the junction of said road with United States Highway No. 701, said junction being 2.6 miles east of Elizabethtown.

The L. T. McKay farm located on the northeast side of the old Clarkton-Elizabethtown road and approximately 2.2 miles south of Elizabethtown.

The S. E. McKay Heirs farm located on the northeast side of the old Clarkton-Elizabethtown road and approximately 2.2 miles south of Elizabethtown.

The Cammy K. Newby farm located on the southeast side of North Carolina Highway No. 53 and approximately 7 miles east of Kelly where said highway crosses Black River.

The C. W. Peterson farm located on the east side of a farm road and 0.3 mile north of its junction with North Carolina Highway No. 53, said junction being 1.3 miles northwest of Kelly.

The Floyd Porter farm located on the south side of a dirt road and 0.3 mile northeast of its junction with North Carolina Highway No. 53, said junction being 0.8 mile northwest of Kelly.

The Robert H. Porter farm located on the east side of a dirt road and 2.2 miles west and south of the junction of said road with North Carolina Highway No. 53, said junction being 0.3 mile northwest of Kelly.

The J. R. Powell farm located on the east side of a dirt road and 0.5 mile north of the junction of said road with another dirt road, said junction being 1.7 miles west of the junction of said road with another dirt road, said junction being 0.2 mile northwest of the junction of said road with a paved road, said junction being 0.9 mile northeast of Lisbon.

The Mary Robeson farm located at the end of a farm road and approximately 0.8 mile south of the junction of said road with United States Highway No. 701, said junction being 2.6 miles east of Elizabethtown.

The Finley K. Rogers farm located on the east side of United States Highway No. 701 and approximately 0.7 mile north of the city limits of Clarkton.

The Julian Savage farm located on the northeast side of a farm road and 0.2 mile southeast of the junction of said road with a dirt road, said junction being 0.8 mile southwest of the junction of said road with North Carolina Highway No. 87, said junction being 9.4 miles southeast of Elizabethtown.

The Harry M. Smith farm located on both sides of a farm road and 0.2 mile southwest of the junction of said road with North Carolina Highway No. 53, said junction being 0.8 mile northwest of Kelly.

The Oscar Thompson farm located on the east side of United States Highway No. 701 and approximately 0.7 mile north of the city limits of Clarkton.

The R. L. Tippett farm located on the east side of a dirt road and 1.8 miles west and south of the junction of said road with North Carolina Highway No. 53, said junction being 0.3 mile northwest of Kelly.

The Oscar Wright farm located on the north side of a paved road and 0.1 mile southwest of the junction of said road with North Carolina Highway No. 87, said junction being 7.9 miles southeast of Elizabethtown.

The J. F. Yarborough farm located on the northwest side of a dirt road and 0.4 mile west of the junction of said road with another dirt road, said junction being 0.5 mile south of Bluefield.

Columbus County. The area bounded by a line beginning at a point where North Carolina Highway No. 131 crosses the Columbus-Bladen County line and extending southeast along said highway for 0.8 mile to its junction with a dirt road, thence west along said dirt road for 1.5 miles to its junction with a second dirt road, thence south for 1.1 miles along said second dirt road to its junction with a paved highway, said junction being 0.9 mile east of Mt. Olive, thence west along said paved highway for 0.6 mile to its junction with a dirt road, thence southwest along said dirt road for 1.2 miles to its junction with the Old Lumberton Highway, thence southeast along said highway to Collier's Crossroads, thence southwest along the Chadbourn-Western Prong Highway to its junction with the Peacocks Highway, thence south along said highway to its junction with United States Highway No. 76, thence west along said highway to its junction with a dirt road, said junction being 2.7 miles west of Cerro Gordo, thence south along said dirt road to Hinsons Crossroads, thence east along Rough and Ready Road to its junction with the Cerro Gordo-Cherry Grove Highway, thence south along said highway to Cherry Grove, thence south along North Carolina Highway No. 904 for 0.8 mile to its junction with a paved highway, thence south along said paved highway to its intersection with the North Carolina-South Carolina State line, thence northwest along said State line to its intersection with the Lumber River, thence following said river northeast to its junction with the Bladen-Columbus County line, thence east along said county line to the point of beginning, including the areas within the corporate limits of the towns of Chadbourn and Cerro Gordo.

The Arthur Baldwin Estate farm located on the north side of United States Highway No. 76 at the intersection of said highway with the Baldwin Woods Road.

The Johnnie Batton farm located on the west side of the White Marsh Highway and approximately 5.8 miles north of the junction of said highway with United States Highway No. 76.

The Beatrice B. Burney farm located on the west side of the White Marsh Highway and approximately 5.8 miles north of the junction of said highway with United States Highway No. 76.

The James W. Campbell farm located on a road and 0.4 mile north of its junction with a dirt road, said junction being 1.0 mile west of the junction of said dirt road with Northeast Road, said junction being 2.7 miles southwest of the intersection of said road with the Columbus-Bladen County line.

The Leslie Dowles farm located on a dirt road and approximately 0.7 mile west of its junction with the White Marsh Highway, said junction being 5.8 miles north of the junction of said highway with United States Highway No. 76.

The George W. Elkins farm located at the end of a dirt road and 1.0 mile south of its junction with United States Highway No. 701, said junction being 3.4 miles northeast of the junction of said highway with North Carolina Highway No. 131.

The Tillman Fairfax farm located on a dirt road and 0.2 mile northeast of its junction with a second dirt road, said junction being 0.3 mile south of the junction of said second dirt road with the Rough and Ready Road, said junction being 1.3 miles east of Wards.

The Christine W. Green farm located on a dirt road and 0.3 mile west of its junction with the Honey Hill Road, said junction being 2.2 miles south of the junction of said road with United States Highway No. 76.

The E. S. Hayes farm located on the west side of a dirt road and 0.4 mile south of its junction with the Rough and Ready Road, said junction being 2.9 miles west of Wards.

The Wiley B. Jacobs farm located on the west side of Northeast Road and 2.7 miles southwest of the intersection of said road with the Columbus-Bladen County line.

The Ben Jones farm located on the south side of a dirt road and 0.8 mile southeast of the junction of said road with Chauncey Road, said junction being 2.25 miles north of Lake Waccamaw.

The Leroy McKee farm located on a dirt road and approximately 0.7 mile west of its junction with the White Marsh Highway, said junction being 5.8 miles north of the junction of said highway with United States Highway No. 76.

The Acy Nobles farm located on the east side of a dirt road and 0.6 mile south of its junction with the Rough and Ready Road, said junction being 2.3 miles west of Wards.

The Will Nobles farm located on the north side of the Jackson and Daniel Road and 0.2 mile east of Wards.

The Graham Patterson farm located on a dirt road and approximately 0.3 mile north of its junction with a second dirt road, said junction being 0.8 mile east of the junction of said second dirt road with the Peacocks-Sidney Highway, said junction being 4.5 miles south of Peacocks.

The I. A. Singletary farm located on the east side of United States Highway No. 701 and 5.9 miles northeast of the junction of said highway with North Carolina Highway No. 131.

The Minnie D. Tedder farm located on a dirt road and approximately 0.3 mile north of its junction with a second dirt road, said junction being 0.8 mile east of the junction of said second dirt road with the Peacocks-Sidney Highway, said junction being 4.5 miles south of Peacocks.

The A. W. Williamson farm located on the north side of the Cerro Gordo-Wards Highway and 2.1 miles southeast of Cerro Gordo.

Cumberland County. The southeast portion of the county bounded by a line beginning at a point where United States Highway No. 301 crosses the Cumberland-Robeson County line and extending northeast along said highway to its junction with North Carolina Highway No. 102, thence in a northeast direction along said highway to its junction with the Cumberland-Sampson County line, thence southeast along said county line to its junction with the Cumberland-Bladen County line, thence west along said county line to its junction with the Cumberland-Robeson County line, thence northwest along said county line to the point of beginning, excluding the area within the corporate limits of the City of Fayetteville.

The G. L. Adcox farm located on the west side of the Hope Mills-Parkton Road and 1.0 mile south of Hope Mills.

The Joseph Black farm located on the south side of the Camden Road and 1.1 miles northeast of the Cumberland-Hoke County line.

The D. A. Calhoun farm located on both sides of the Hope Mills-Parkton Road and 2.0 miles southwest of Hope Mills.

The Mrs. D. D. Capps farm located on the south side of Hope Mills-Rockfish Road and approximately 1.5 miles west of Hope Mills.

The Mrs. Hattie Dixon farm located on the south side of Hope Mills-Rockfish Road and approximately 1.5 miles west of Hope Mills.

The D. M. Gaddy farm located on the west side of a dirt road and 1.2 miles northwest of the junction of said dirt road with North Carolina Highway No. 102, said junction being 2.6 miles east of the junction of North Carolina Highway No. 102 and United States Highway No. 301.

The Rufus Gerald farm located on the east side of a dirt road and 0.7 mile northwest of the junction of said dirt road with North Carolina Highway No. 102, said junction being 2.6 miles east of the junction of North Carolina Highway No. 102 and United States Highway No. 301.

The J. B. Ingram farm located on the north side of a dirt road and 1.0 mile west of the junction of said dirt road with the Hope Mills-Parkton Road, said junction being 0.8 mile northeast of the Cumberland-Robeson County line.

The Albert Johnson farm located on the south side of Hope Mills-Rockfish Road and approximately 1.5 miles west of Hope Mills.

The George T. Johnson farm located on the east side of the Atlantic Coast Line Railroad and approximately 2 miles northeast of Hope Mills.

The W. C. Johnson farm located on both sides of Camden Road and 1.8 miles northeast of the Cumberland-Hoke County line.

The Mrs. Flossie Jones farm located on the south side of Hope Mills-Rockfish Road and approximately 1.5 miles west of Hope Mills.

The James Mason farm located on both sides of the Camden Road and 2.0 miles northeast of the Cumberland-Hoke County line.

The Calvin Matthews farm located on the east side of a dirt road and 0.9 mile northwest of the junction of said dirt road with North Carolina Highway No. 102, said junction being 2.6 miles east of the junction of North Carolina Highway No. 102 and United States Highway No. 301.

The T. E. McDonald farm located on both sides of a paved road and 1.0 mile northwest of the junction of said paved road with United States Highway No. 301, said junction being 0.2 mile south of Roslin.

The Lizzie McDougal farm located on the north side of Camden Road and 1.3 miles northeast of the Cumberland-Hoke County line.

The Mrs. Addie McKinnon farm located on the west side of a dirt road and 0.2 mile south of the junction of said dirt road with Camden Road, said junction being 1.9 miles northeast of the Cumberland-Hoke County line.

The Howard Perry farm located on the east side of the Atlantic Coast Line Railroad and approximately 2 miles northeast of Hope Mills.

The J. T. Piner farm located on the west side of United States Highway No. 401 and 0.9 mile north of Tokay.

The Wesley Small farm located on the west side of Black's Bridge Road and 2.0 miles southwest of Hope Mills.

The Mrs. Dora Smith farm located on the south side of Hope Mills-Rockfish Road and approximately 1.5 miles west of Hope Mills.

The J. F. Strickland farm located on the east side of the Atlantic Coast Line Railroad and approximately 2 miles northeast of Hope Mills.

The Neal A. West farm located on the south side of Rockfish-Cumberland Road and 2.0 miles southwest of Cumberland.

Duplin County. That area bounded by a line beginning at a point where North Carolina Highway No. 403 intersects United States Highway No. 117 and North Carolina Highway No. 50 at Faison, thence northeast along North Carolina Highway No. 403 to its intersection with the Mount Olive-Summerlin Highway, thence southeast along the Summerlin-Mount Olive Highway to Summerlin, thence south along a paved road to its junction with North Carolina Highway No. 11, thence southwest along North Carolina Highway No. 11 to its junction with North Carolina Highway No. 50, thence northwest along North Carolina Highway No. 50 to the point of beginning, excluding the corporate limits of Warsaw, Faison, and Bowden.

The Paisly Bonham farm located on the north side of a dirt road and 1.0 mile west of Pin Hook.

The Mike Cavenough farm located on the south side of a dirt road and 2.5 miles southwest of Bowden.

The C. C. Ivey, Sr., farm located on the east side of a dirt road and 0.5 mile north of the junction of said dirt road and a paved road, said junction being 2.0 miles west of Summerlin.

Harnett County. The area bounded by a line beginning at a point where McLeod Creek crosses the Overhills-Lillington dirt road, thence northeast along this road 3.3 miles to its intersection with a stone surface road, thence southeast along this road to its intersection with North Carolina State Highway No. 210, thence southwest along this highway to the Harnett-Cumberland County line, thence west along county line to McLeod Creek, thence north along said creek to the point of beginning.

The A. J. Coleman farm located on the east side of North Carolina Highway No. 87 and 0.9 mile south of Olivia.

The David Ferrell farm located on the west side of a dirt road and approximately 0.8 mile northwest of Johnsonville.

The Howard McGregor farm located on the east side of North Carolina Highway No. 210 and 1.1 miles northeast of the Harnett-Cumberland County line.

The Hillman Grove Baptist Church located on the west side of a paved road and 0.8 mile southwest of Johnsonville.

The C. T. Jackson farm located on the west side of a dirt road and approximately 0.8 mile northwest of Johnsonville.

The Ray Thomas farm located on the east side of a paved road and 1.4 miles southwest of Johnsonville.

The M. J. Yarborough farm located on the west side of a dirt road and approximately 0.8 mile northwest of Johnsonville.

Hoke County. The southern portion of the county bounded by a line beginning at a point where the Laurinburg and Southern Railroad crosses the Hoke-Scotland County line and extending northeast along said railroad to its junction with the city limits of Raeford, thence eastward along the city limits of Raeford to North Carolina Highway No. 20, thence in a southeast direction along said highway to its junction with the Hoke-Robeson County line, thence southwest and west along said county line to the Lumber River, thence north along said river to the point of beginning.

The John Baldwin farm located on the north side of North Carolina Highway No. 20 and 2.2 miles southeast of Dundarrach.

The Chester Beasley farm located on the south side of a paved road and 0.3 mile northwest of Sandy Grove.

The W. W. Cameron farm located on both sides of a paved road and 0.4 mile southwest of Montrose.

The William Clark farm located on the west side of a dirt road and 0.5 mile north of the junction of said dirt road with Edinburg Road, said junction being 0.8 mile east of Edinburg.

The Dr. George D. Creed farm located on the west side of a paved road and 0.9 mile north of the junction of said paved road with United States Highway No. 401, said junction being 1.1 miles northeast of the Hoke-Scotland County line.

The J. C. Currie farm located on the west side of a paved road and approximately 3 miles south of Buffalo Springs.

The Marvin Gainey Estate farm located on the west side of a paved road and approximately 3 miles south of Buffalo Springs.

The Marvin Gainey farm (No. 1) located on both sides of a paved road and 1 mile south of Buffalo Springs.

The Marvin Gainey farm (No. 2) located on the east side of a paved road and 1.2 miles south of Buffalo Springs.

The Marvin Gainey farm (No. 3) located on the west side of a paved road and approximately 3 miles south of Buffalo Springs.

The Marvin Gainey farm (No. 4) located on the west side of a paved road and approximately 3 miles south of Buffalo Springs.

The Homer Lesane farm located on the north side of a paved road and 0.2 mile northwest of Sandy Grove.

The Lessie Little farm located on the east side of a dirt road and 0.3 mile north of the junction of said dirt road with North Carolina Highway No. 211, said junction being 1.5 miles west of Raeford.

The Willford Locklear farm located on the northeast side of a paved road and 2 miles southeast of the junction of said paved road with Rockfish-Dundarrach Road, said junction being 3 miles southwest of Rockfish.

The Elica Love farm located on the east side of a paved road and 2.1 miles southeast of Buffalo Springs.

The Mrs. Lena Marley farm located on the west side of a paved road and 1 mile southeast of the junction of said paved road with the Dundarrach-Sandy Grove Road, said junction being 2.4 miles northeast of Dundarrach.

The Margaret McDiamond Estate located on the south side of United States Highway No. 401A and 0.3 mile east of Raeford.

The N. A. McKiethan farm located on the south side of a paved road and 1.7 miles southeast of the junction of said paved road with the Rockfish-Dundarrach Road, said junction being 3 miles southwest of Rockfish.

The Z. V. Pate, Inc. (Edwin Pate, Jr.) farm located on the south side of the Dundarrach-Sandy Grove Road and 1.5 miles east of Dundarrach.

The Mary Powers farm located on the north side of a paved road and 0.5 mile west of Edinburg.

The James Stephens farm located on the east side of a paved road and 1.7 miles north of the junction of said paved road with United States Highway No. 401, said junction being 1.1 miles northeast of the Hoke-Scotland County line.

The Aggie Stubbs farm located on the southeast side of United States Highway No. 401 and 2 miles northeast of the Hoke-Scotland County line.

The J. B. Thomas farm located on the west side of a paved road and 0.7 mile northwest of Silver City.

The B. H. Thornburg farm located on the east side of a paved road and 1.3 miles southwest of Montrose.

The F. L. Tolar farm located on the northwest side of a paved road and 1.4 miles northeast of the junction of said paved road with North Carolina Highway No. 20, said junction being 1.7 miles southeast of Dundarrach.

The F. L. Tolar farm (formerly the Charles V. Baldwin farm) located on the northwest side of a paved road and 0.8 mile northeast of the junction of said paved road with North Carolina Highway No. 20, said junction being 1.7 miles southeast of Dundarrach.

The Mrs. B. M. Townsend farm located on the north side of a paved road and 0.3 mile northeast of the junction of said paved road with the road connecting United States Highway No. 401 and Rockfish, said junction being 1.5 miles north of Rockfish.

The W. F. Townsend farm located on the north side of a paved road and 0.1 mile northeast of the junction of said paved road with the road connecting United States Highway No. 401 and Rockfish, said junction being 0.4 mile northeast of Rockfish.

Pender County. The H. S. Black farm located on both sides of a dirt road and 0.1 mile northeast of Point Caswell.

The Alex Calvin farm located on the north side of Currie-Malpass Corner Highway and approximately 1.5 miles southwest of Malpass Corner.

The F. R. Keith farm located at the end of a farm road and 1 mile south of the junction of said farm road with North Carolina Highway No. 210, said junction being 0.5 mile east of the intersection of North Carolina Highway No. 210 and the Bladen-Pender County line.

The Maggie Larkins farm located on the northeast side of a dirt road and 2.6 miles northwest of the junction of said dirt road with North Carolina Highway No. 210, said junction being 3 miles east of the intersection of North Carolina Highway No. 210 and the Bladen-Pender County line.

The Hannah Malloy farm located on the north side of North Carolina Highway No. 210, and 1.7 miles east of the intersection of said highway with United States Highway No. 117.

The Hannah Malloy farm located on the south side of North Carolina Highway No. 210 and approximately 0.8 mile east of the intersection of said highway with United States Highway No. 117.

The Lawrence Malloy farm located on the south side of North Carolina Highway No. 210 and approximately 0.8 mile east of the intersection of said highway with United States Highway No. 117.

The W. H. Malloy farm located on the south side of North Carolina Highway No. 210 and approximately 0.8 mile east of the intersection of said highway with United States Highway No. 117.

The Mrs. W. H. Malloy & Heirs farm located on the south side of North Carolina Highway No. 210 and approximately 0.8 mile east of the intersection of said highway with United States Highway No. 117.

The Jack Murphy farm located at the end of a farm road and 0.5 mile northwest of the junction of said farm road with the Currie-Malpass Corner Highway, said junction being 1.4 miles southwest of Malpass Corner.

The Standberry Scott farm located on the south side of North Carolina Highway No. 210 and approximately 0.8 mile east of the intersection of said highway with United States Highway No. 117.

The D. F. Rowe farm located on the north side of the Currie-Malpass Corner Highway and approximately 1.5 miles southwest of Malpass Corner.

The Katy Shaw farm located on the east side of Holly Shelter Road and 3.6 miles north of the junction of said road and North Carolina Highway No. 210, said junction being 1.1 miles northeast of the point where North Carolina Highway No. 210 crosses the northeast Cape Fear River.

The John Williams and Heirs farm located on the east side of the Holly Shelter Road and 2.7 miles north of the junction of said road and North Carolina Highway No. 210, said junction being 1.1 miles northeast of the point where North Carolina Highway No. 210 crosses the northeast Cape Fear River.

Richmond County. The A. M. Wadell farm located on the northeast side of a dirt road and 1 mile east of the intersection of said dirt road with United States Highway No. 1, said intersection being 1.2 miles southwest of Diggs.

Robeson County. All of Robeson County.

Sampson County. That area bounded by a line beginning at a point where United States Highway No. 701 crosses the Bladen-Sampson County line, thence northwest along said county line to its intersection with the Clement-Beamons Cross Roads Highway, thence east along said highway to its intersection with United States Highway No. 421 at Beamons Cross Roads, thence southeast along said highway to Delway, thence west along a paved road to its junction with the Ingold-Tomahawk Highway, said junction being 2.9 miles southeast of Ingold, thence south along the Ingold-Tomahawk Highway to its junction with North Carolina Highway No. 411, thence west along North Carolina Highway No. 411 to its intersection with United States Highway No. 701 at Garland, thence southwest along United States Highway No. 701 to the point of beginning, including the corporate limits of the city of Garland.

The John Autry farm located at the end of a farm road and 1 mile north of the junction of said farm road with Clements-Beamons Highway, said junction being 1.6 miles west of Clement.

The W. R. Balkcum farm located on the south side of a paved road and 3.5 miles west of Delway.

The Edward Byrd farm located on the southwest side of a paved road and 1 mile northwest of the junction of said paved road and Turkey-Ingold Highway, said junction being 6 miles southwest of Turkey.

The James Caldwell farm located on the south side of a dirt road and 1.2 miles east of the junction of said dirt road with Turkey-Ingold Highway, said junction being 4.4 miles south of Turkey.

The James Caldwell farm located on the west side of Turkey-Ingold Highway and 4.3 miles south of Turkey.

The Kenneth Chambers farm located on the west side of a dirt road and 0.2 mile south of the intersection of said dirt road and the Duplin-Sampson County line, said intersection being 3 miles due north of a point where said county line crosses North Carolina Highway No. 24.

The George P. Cooper farm located on the west side of the Atlantic Coast Line Railroad at a point 1.2 miles southeast of Garland.

The Della W. Daniels farm located on the south side of North Carolina Highway No. 102 and 3 miles east of the intersection of said highway with the Sampson-Cumberland County line.

The Albert Herring farm located on the southwest side of a dirt road and approximately 0.5 mile northwest of the intersection of said dirt road and Turkey-Ingold Highway, said intersection being 3 miles south of Turkey.

The Clayton Honeycutt farm located on the north side the Clement-Beamons Cross Roads Highway and 1.5 miles west of Halls Store.

The David Kenan farm located on the south side of a dirt road and 2.8 miles east of Clear Run.

The Roy Merrit farm located on the east side of Turkey-Ingold Highway and 4.4 miles south of Turkey.

The Regal Paper Company farm located on the west side of a dirt road and 50 yards south of the intersection of said dirt road and the Sampson-Duplin County line, said intersection being 3 miles due north of a point where said county line crosses North Carolina Highway No. 24.

The Ruth W. Smith farm located on the southwest side of a dirt road and approximately 0.5 mile northwest of the intersection of said dirt road and Turkey-Ingold Highway, said intersection being 3 miles south of Turkey.

The W. C. Smith farm located on the north side of a dirt road and 0.6 mile northwest of the intersection of said dirt road with Turkey-Ingold Highway, said intersection being 3 miles south of Turkey.

Scotland County. The portion of the county lying east of United States Highway No. 15, excluding the area within the corporate limits of the city of Laurinburg.

The Mrs. Polly McMillan farm, operated by Charlie McMillan, located on a dirt road and 1 mile north of Nashville Church, said church being 1 mile northeast of Silver Hill.

The McNair farm, operated by Clyde Davis, located on a dirt road and 0.5 mile northwest of the junction of United States Highway No. 15 and the Laurinburg and Southern Railroad, said junction being 2 miles north of Laurinburg.

The W. M. Monroe farm located on the south side of a paved road and 0.4 mile southeast of Silver Hill.

Wayne County. The Mrs. Robert Barwick farm (C. S. Pennington Estate), located on both sides of a paved road and 0.6 mile east of the junction of said paved road with a paved road, said junction being 1 mile north of Dobbersville.

The Grainger Carter farm located on the northwest side of a paved road and 0.4 mile north of the junction of said paved road and a dirt road, said junction being 0.5 mile east of the intersection of said dirt road and the Atlantic Coast Line Railroad, said intersection being 1.6 miles south of Dudley.

The Charlie Greenfield farm located on both sides of a paved road and 0.9 mile south of the junction of said paved road and a dirt

road, said junction being 4.3 miles east of Dudley.

SOUTH CAROLINA

Darlington County. The Junius Bacote farm located on the north side of South Carolina Secondary Highway No. 180 and 1.25 miles northwest of the junction of South Carolina Secondary Highway No. 180 and South Carolina Secondary Highway No. 35.

The D. M. Fountain farm located on the north side of South Carolina Primary Highway No. 34 and 0.1 mile northeast of the junction of South Carolina Primary Highway No. 34 and South Carolina Secondary Highway No. 29.

The Gurley Graham farm (formerly the J. B. Howle farm) located on a dirt road and 0.6 mile northeast of the junction of said dirt road and South Carolina Secondary Highway No. 29, said junction being 1.8 miles northwest of Mechanicsville.

The J. B. Howle farm located on a dirt road and 0.5 mile northeast of the junction of said dirt road and a second dirt road which joins South Carolina Primary Highway No. 34 at a point 2 miles southwest of Mechanicsville.

The Jael Sligh farm located on the south side of South Carolina Secondary Highway No. 180 and 1.2 miles northwest of the junction of South Carolina Secondary Highway No. 180 and South Carolina Secondary Highway No. 35.

Dillon County. All of Dillon County.

Florence County. The Leroy E. Carter farms located on a dirt road and approximately 1 mile south of the junction of said dirt road with a second dirt road at Jeffries Creek, said junction being 1.5 miles northeast of the junction of the said second dirt road and South Carolina Secondary Highway No. 57, said junction being 2 miles southeast of Claussen.

The Mary Coker farm located on the west side of South Carolina Secondary Highway No. 89 and approximately 1.5 miles north of the junction of South Carolina Secondary Highway No. 89 and United States Highway No. 301.

The Alma S. Edgerton farm located on the west side of South Carolina Secondary Highway No. 89 and approximately 1.5 miles north of the junction of South Carolina Secondary Highway No. 89 and United States Highway No. 301.

The Juanita S. Floyd farm (formerly the Julian Dusenbury farm) located on the north side of a dirt road and 0.75 mile northeast of the junction of said dirt road with South Carolina Secondary Highway No. 57, said junction being 2 miles southeast of Claussen.

The B. H. Harwell farm located on both sides of South Carolina Secondary Highway No. 24 and 0.25 mile northwest of the junction of South Carolina Secondary Highway No. 24 and South Carolina Secondary Highway No. 921.

The P. A. Kelley farm located on a dirt road and approximately 1 mile south of the junction of said dirt road with a second dirt road at Jeffries Creek, said junction being 1.5 miles northeast of the junction of the said second dirt road and South Carolina Secondary Highway No. 57, said junction being 2 miles southeast of Claussen.

The E. S. McKissick farm located on the northwest corner of the junction of United States Highway No. 301 and South Carolina Secondary Highway No. 165.

The R. Muldrow Matthews farm located on both sides of a dirt road and 0.9 mile northeast of the junction of said dirt road with South Carolina Secondary Highway No. 46, said junction being 0.6 mile southeast of Coward.

The A. B. Poston farm located on the south side of United States Highway No. 378 and approximately 1 mile west of the junction of United States Highway No. 378 and South Carolina Primary Highway No. 51.

The A. D. Poston farm located on the south side of United States Highway No. 378 and approximately 1 mile west of the junction of United States Highway No. 378 and South Carolina Primary Highway No. 51.

The W. Eldred Poston farm (operated by Phillip Poston) located on the south side of United States Highway No. 378 and approximately 1 mile west of the junction of United States Highway No. 378 and South Carolina Primary Highway No. 51.

The W. Eldred Poston farm located on a dirt road and 0.25 mile south of the junction of said dirt road with South Carolina Secondary Highway No. 24, said junction being 0.5 mile east of the junction of South Carolina Secondary Highway No. 24 and South Carolina Secondary Highway No. 64.

The W. Eldred Poston farm located on both sides of South Carolina Primary Highway No. 51 and 1 mile northwest of the junction of South Carolina Primary Highway No. 51 and United States Highway No. 378.

The C. B. Powell farm located on the north side of a dirt road and 0.75 mile northeast of the junction of said dirt road with South Carolina Primary Highway No. 51, said junction being 0.5 mile southeast of Willow Creek Church.

The Janie Scott property located at 1105 East Pine Street, Florence.

The Melvina Sellers farm located on the north side of South Carolina Primary Highway No. 327 and 1.5 miles east of the junction of South Carolina Primary Highway No. 327 and South Carolina Secondary Highways Nos. 13 and 89.

The Marvin Taylor farm located on the north side of a dirt road and 1.25 miles southeast of the junction of said dirt road with South Carolina Primary Highway No. 327, said junction being 3.5 miles east of Mars Bluff School.

Horry County. The northwestern portion of the county bounded by a line beginning at a point where the Lumber River crosses the South Carolina-North Carolina State line and extending southwest along said river to its intersection with Little Pee Dee River, thence south along said river to its intersection with Lake Swamp, thence east along said swamp to its intersection with Reedy Branch, thence northeast along said branch to its intersection with South Carolina Secondary Highway No. 266, thence north 0.1 mile to its junction with a dirt road, thence northeast 2.25 miles along said dirt road to its junction with South Carolina Secondary Highway No. 19, thence north along said highway 0.25 mile to its intersection with Cartwheel Branch, thence northwest along said branch to its junction with Cedar Creek, thence east along main run of said creek 1.75 miles to its junction with a dirt road, thence north along said dirt road to its junction with South Carolina Primary Highway No. 9 and South Carolina Secondary Highway No. 44, thence northwest along South Carolina Primary Highway No. 9, 1.25 miles to its junction with a dirt road, thence north along said dirt road to its junction with United States Highway No. 76, thence east along said highway to its intersection with Hook Branch, thence northwest along said branch to its junction with Gap Way Swamp, thence northeast along said swamp to its intersection with South Carolina-North Carolina State line, thence northwest along said state line to the point of beginning.

The central portion of the county bounded by a line beginning at a point where United States Highway No. 701 intersects Maple Swamp and extending south along said highway to its intersection with Poplar Swamp, thence east along said swamp to its junction with Maple Swamp, thence north along said swamp to its intersection with South Carolina Secondary Highway No. 97, thence 0.25 mile east along said highway to its junction with a dirt road, thence south along said dirt road to its junction with South Carolina Secondary Highway No. 65, thence east along said highway to its junction with South Carolina Secondary Highway No. 19, thence north along said highway to its junction with a dirt road 0.5 mile north of the junction of South Carolina Secondary Highway No. 19 and South Carolina Secondary Highway No. 97, thence west along said dirt road 1.5 miles to its junction with a second dirt road, thence north and west along said second dirt road to its intersection with the Atlantic Coast Line Railroad, thence south along said railroad to its intersection with Maple Swamp, thence west along said swamp to the point of beginning.

The central portion of the county bounded by a line beginning at a point where Kingston Lake Swamp intersects South Carolina Secondary Highway No. 139 and extending 0.5 mile northwest along said highway to its junction with a dirt road, thence southwest along said dirt road to its intersection with Whiteoak Swamp, thence south along said swamp to its junction with Kingston Lake Swamp, thence northeast along said Lake Swamp to the point of beginning.

The Henry Arnett and D. C. Arnett farm located on both sides of a dirt road and 2.5 miles east of its junction with South Carolina Secondary Highway No. 33, said junction being 2.5 miles north of the junction of said highway and South Carolina Primary Highway No. 410.

That portion of the A. J. Baker farm located on the west side of United States Highway No. 701 and 0.25 mile south of its intersection with South Carolina Secondary Highway No. 97.

The A. J. Baker farm located on the south side of a dirt road and 1 mile west of its junction with South Carolina Primary Highway No. 319, said junction being at Mount Arial Church.

The Kelley Barker farm located on a dirt road just east of its junction with a second dirt road, said junction being 0.5 mile south of Antioch Church.

The Roy Bell farm located on a dirt road and approximately 1 mile northwest of its junction with United States Highway No. 701, said junction being 1 mile southwest of the intersection of said highway and South Carolina Secondary Highway No. 19.

The W. C. Blackwell farm located on the north side of a dirt road and 1 mile east of its junction with United States Highway No. 701, said junction being 1 mile southwest of the junction of said highway and South Carolina Secondary Highway No. 67.

The Harry Booth farm located on the south side of South Carolina Secondary Highway No. 97 and 0.75 mile west of its junction with United States Highway No. 701.

The Wallace Booth farm located on the south side of South Carolina Secondary Highway No. 97 just west of its junction with a dirt road, said junction being 2 miles east of junction of said highway with United States Highway No. 701.

The Holliday Brothers farm (operated by Gary Huggins) located on the west side of South Carolina Secondary Highway No. 23 and approximately 1.5 mile south of the junction of said highway and South Carolina Secondary Highway No. 99.

The Canal Wood Corporation farm located on the west side of a dirt road and 0.75 mile south of its junction with South Carolina Primary Highway No. 90, said junction being 1.25 miles west of junction of said highway and South Carolina Secondary Highway No. 57.

The S. O. Carter farm located on the north side of a dirt road and 0.5 mile southwest of its junction with South Carolina Secondary Highway No. 112, said junction being 0.2 mile west of the intersection of said highway and South Carolina Secondary Highway No. 66.

The C. C. Cherry farm located on the east side of a dirt road and 1.5 miles north of its

junction with South Carolina Secondary Highway No. 65, said junction being at Savannah Free Will Baptist Church.

The L. G. Chestnut farm located on the west side of South Carolina Secondary Highway No. 139 and 1 mile north of its junction with South Carolina Secondary Highway No. 66.

The J. T. Collins farm located on the west side of a dirt road and 1 mile west of its junction with South Carolina Secondary Highway No. 19, said junction being 0.75 mile east of junction of said highway and South Carolina Secondary Highway No. 34.

The Arthur H. Davis farm located on both sides of a dirt road and 1 mile east of its junction with South Carolina Secondary Highway No. 31, said junction being 1.6 miles north of junction of said highway and South Carolina Secondary Highway No. 63.

The Joseph W. Davis farm located on the south side of a dirt road and 1 mile east of its junction with South Carolina Secondary Highway No. 31, said junction being 1.6 miles north of junction of said highway and South Carolina Secondary Highway No. 66.

The C. V. Dozier farm located on the west side of a dirt road and 0.75 mile north of its junction with South Carolina Primary Highway No. 905, said junction being 1.1 miles west of junction of South Carolina Primary Highway No. 905 and South Carolina Secondary Highway No. 31.

The Duff Edge farm located on the west side of a dirt road and 0.5 mile southwest of its junction with South Carolina Primary Highway No. 905 and South Carolina Secondary Highway No. 66.

The Annie Mae Elliott farm located on the west side of a dirt road and approximately 0.5 mile southwest of its junction with South Carolina Secondary Highway No. 31, said junction being 2 miles north of the junction of said highway and South Carolina Secondary Highway No. 66.

The Quincey Elliott farm located on the south side of South Carolina Secondary Highway No. 45 and 0.5 mile northeast of its junction with South Carolina Primary Highway No. 410.

The Walker Floyd farm located on both sides of a dirt road and 2 miles northwest of its junction with South Carolina Primary Highway No. 905 and South Carolina Secondary Highway No. 31.

The D. R. Gerald farm located on the north side of a dirt road and approximately 0.4 mile northwest of its junction with United States Highway No. 701, said junction being 1 mile southwest of the junction of said highway and South Carolina Secondary Highway No. 19.

The Doris Harrelson farm located on the west side of a dirt road and approximately 0.5 mile southwest of its junction with South Carolina Secondary Highway No. 31, said junction being 2 miles north of the junction of said highway and South Carolina Secondary Highway No. 66.

The George A. Harrelson farm located on both sides of a dirt road and 0.5 mile west of its junction with South Carolina Secondary Highway No. 31, said junction being 1.8 miles north of the junction of said highway and South Carolina Primary Highway No. 905.

The T. M. Harris farm located at the west end of a dirt road and 0.5 mile west of its junction with South Carolina Secondary Highway No. 19, said junction being 2.5 miles south of the junction of said highway and United States Highway No. 701.

The C. B. Heniford farm located on a dirt road and approximately 1 mile northwest of its junction with United States Highway No. 701, said junction being 1 mile southwest of the intersection of said highway and South Carolina Secondary Highway No. 19.

The Helen Hodge farm located on the west side of a dirt road and approximately 0.5 mile east of its junction with South Carolina Secondary Highway No. 65, said junction being 1 mile east of the junction of said highway and South Carolina Secondary Highway No. 106.

The S. F. Horton farm located on a dirt road just east of its junction with a second dirt road, said junction being 0.5 mile south of Antioch Church.

The Margaret Hucks farm located on the south side of South Carolina Secondary Highway No. 112 and approximately 0.5 mile west of its junction with South Carolina Secondary Highway No. 66.

The Hortense Hughes farm located on the south side of a dirt road and 1 mile west of its junction with South Carolina Secondary Highway No. 31, said junction being 2.5 miles north of junction of said highway and South Carolina Primary Highway No. 905.

The Jessie A. James farm located on the west side of South Carolina Secondary Highway No. 66 just southwest of its junction with a dirt road, said junction being 1.25 miles southwest of junction of South Carolina Secondary Highway No. 66 and South Carolina Secondary Highway No. 31.

The Rembert Jenerette farm located on the west side of South Carolina Secondary Highway No. 23, and approximately 1.5 miles south of the junction of said highway and South Carolina Secondary Highway No. 99.

The Rembert Jenerette farm located on the west side of South Carolina Secondary Highway No. 23 and south of its intersection with a dirt road, said intersection being 2.25 miles north of the intersection of South Carolina Secondary Highway No. 23 and South Carolina Secondary Highway No. 45.

The J. B. Jollie farm located on the west side of a dirt road and approximately 0.5 mile east of its junction with South Carolina Secondary Highway No. 65, said junction being 1 mile east of the junction of said highway and South Carolina Secondary Highway No. 106.

The H. P. Lee farm located on the east side of South Carolina Secondary Highway No. 19 and 2.5 miles north of its junction with South Carolina Primary Highway No. 905.

The Jess Lewis farm located on the west side of a dirt road and 1 mile north of its junction with South Carolina Secondary Highway No. 65, said junction being 0.25 mile northeast of Maple Church.

The W. H. Lewis farm located on both sides of a dirt road and 0.5 mile west of its junction with United States Highway No. 701, said junction being 1 mile north of the junction of said highway and South Carolina Secondary Highway No. 238.

The Eliza Long farm located on the north side of a dirt road and 1 mile west of its junction with South Carolina Secondary Highway No. 66, said junction being 1.5 miles north of the junction of said highway and South Carolina Primary Highway No. 905.

The Hamp Mishoe farm located on the north side of a dirt road and 1 mile northeast of its junction with South Carolina Secondary Highway No. 139, said junction being 1.5 miles north of New Home Church.

The J. W. Mishoe farm located on both sides of a dirt road and 0.5 mile north of its junction with South Carolina Secondary Highway No. 45, said junction being 3.5 miles west of junction of said highway and South Carolina Primary Highway No. 410.

The Clifford Prince farm located on the south side of South Carolina Secondary Highway No. 112 and approximately 0.5 mile west of its junction with South Carolina Secondary Highway No. 66.

The Troy Powell farm located at the east end of a dirt road and 0.9 mile east of its junction with a second dirt road, said junction being 1.25 miles south of the junction of said second dirt road and South Carolina Secondary Highway No. 97 at Adrian.

The Tula Rabon farm located on the west side of a dirt road and 0.5 mile south of Pleasant Union Church, said church being 0.75 mile east of the junction of said dirt road and South Carolina Secondary Highway No. 131.

The D. J. S. Sarvis farm located on the south side of South Carolina Secondary Highway No. 45 and 1 mile southwest of its junction with South Carolina Secondary Highway No. 19.

The Tolar Sarvis farm located on the south side of a dirt road and approximately 0.4 mile east of its junction with South Carolina Primary Highway No. 410, said junction being 1 mile south of the intersection of said highway and South Carolina Secondary Highway No. 45.

The L. C. Shannon, Jr. farm located on the west side of South Carolina Secondary Highway No. 139 and 1.75 miles south of Cane Branch Church.

The Netta Spivey farm located on a dirt road and approximately 1 mile northwest of its junction with United States Highway No. 701, said junction being 1 mile southwest of the intersection of said highway and South Carolina Secondary Highway No. 19.

The Cora G. Stevens farm located on the north side of a private dirt road and 0.5 mile north of its junction with South Carolina Secondary Highway No. 112, said junction being 1.25 miles east of the junction of South Carolina Secondary Highway No. 112 and South Carolina Secondary Highways Nos. 19 and 139.

The C. V. Stevens farm located on the north side of a dirt road and approximately 0.4 mile northwest of its junction with United States Highway No. 701, said junction being 1 mile southwest of the junction of said highway and South Carolina Secondary Highway No. 19.

The Dora M. Stevens farm located on both sides of a dirt road and 0.5 mile northwest of its junction with United States Highway No. 701, said junction being 1 mile southwest of the junction of said highway and South Carolina Secondary Highway No. 19.

The Helen Stevens farm located on the east side of South Carolina Secondary Highway No. 66 and approximately 1 mile north of its junction with South Carolina Secondary Highway No. 139.

The J. W. Stevens farm located on the north side of South Carolina Secondary Highway No. 112 and 1.5 miles east of its junction with South Carolina Secondary Highways Nos. 19 and 139.

The Luther Stevens farm located on the north side of a dirt road and 0.75 mile northwest of its junction with United States Highway No. 701, said junction being 1 mile southwest of the junction of said highway and South Carolina Secondary Highway No. 19.

The Bright Strickland farm located on the south side of a dirt road and approximately 1.5 miles southwest of its junction with South Carolina Secondary Highway No. 19, said junction being 0.25 mile south of Cartwheel Branch.

The Deck Strickland farm located on the south side of South Carolina Secondary Highway No. 75 and 1.25 miles southwest of its junction with South Carolina Primary Highway No. 410.

The E. M. Strickland farm located on the south side of a dirt road and 0.2 mile south of the junction of said dirt road and South Carolina Secondary Highway No. 266, said junction being 1.5 miles west of the junction of said highway with South Carolina Secondary Highway No. 19.

The Herrie Strickland farm located on the east side of South Carolina Secondary Highway No. 266 and 2.5 miles west of its junction with South Carolina Secondary Highway No. 19.

The Ida Strickland farm located on the south side of a dirt road and approximately 1.5 miles southwest of its junction with South Carolina Secondary Highway No. 19, said junction being 0.25 mile south of Cartwheel Branch.

The Maclaire B. Stroud farm located on the west side of South Carolina Secondary Highway No. 19 and 1.5 miles south of its intersection with Cedar Creek.

The J. B. Suggs farm located on the south side of a dirt road and approximately 0.4 mile east of its junction with South Carolina Primary Highway No. 410, said junction being 1 mile south of the intersection of said highway and South Carolina Secondary Highway No. 45.

The Lewis Todd farm located on the east side of South Carolina Secondary Highway No. 19 at its junction with South Carolina Secondary Highway No. 97.

The M. N. Todd farm located on the west side of South Carolina Secondary Highway No. 31 and 0.25 mile north of its junction with a dirt road at Mount Vernon Church.

The Mack C. Todd farm located on both sides of South Carolina Secondary Highway No. 19 and 1.75 miles north of its intersection with South Carolina Secondary Highway No. 97.

The R. C. Thompson farm located on the east side of South Carolina Secondary Highway No. 139 and 0.25 mile south of Cane Branch Church, said church being 1 mile south of the junction of South Carolina Secondary Highway No. 139 and South Carolina Secondary Highway No. 19.

The W. F. Tyler farm located on both sides of a dirt road and 1.25 miles north of the junction of said dirt road with South Carolina Secondary Highway No. 45, said junction being 3.5 miles west of the junction of said highway and South Carolina Primary Highway No. 410.

The W. C. Watts farm located on the east side of South Carolina Secondary Highway No. 66 and approximately 1 mile north of its junction with South Carolina Secondary Highway No. 139.

The W. J. Watts farm located on the north side of South Carolina Primary Highway No. 905 and 2.25 miles east of the junction of South Carolina Secondary Highway No. 66.

Marion County. An area in the northern portion of the county bounded by a line beginning at a point where Catfish Canal intersects the Marion-Dillon County line and extending south along said canal to its intersection with a dirt road, known as the Spring Branch road, thence east along said dirt road to its connection with South Carolina Secondary Highway No. 263, thence east along said highway to its intersection with South Carolina Secondary Highway No. 23, thence north along said highway to its intersection with a branch, known as Moody's Mill Pond Branch, thence due east 2.75 miles across Ten Mile Bay to the intersection of a creek, known as the Gully, and a dirt road, known as the Bryant's Crossing-Zion road, thence north along said dirt road to its intersection with the Marion-Dillon County line, thence west along said county line to the point of beginning.

An area in the northeast portion of the county bounded by a line beginning at a point where the Little Pee Dee River intersects South Carolina Secondary Highway No. 60 and extending southeast along said river to its intersection with United States Highway No. 76, thence northeast along United States Highway No. 76 to its intersection with Nichols city limits, thence north along the west boundary of the city limits to its northwest corner, thence east along the north boundary of the city limits to its intersection with South Carolina Secondary Highway No. 88, thence northwest along said highway 0.5 mile to its junction with a dirt road, thence west along said dirt road to its junction with South Carolina Secondary Highway No. 43, thence west on a line projected from a point beginning at the junction of said dirt road and South Carolina Secondary Highway No. 43 and extending due west to its intersection with Crutchlow Branch, thence south along Crutchlow Branch to its intersection with South Carolina Secondary Highway No. 30, thence northwest along said highway No. 30 to its junction with South Carolina Secondary Highway No. 60, thence southwest along said highway No. 60 to the point of beginning.

An area in the central portion of the county bounded by a line beginning at a point where South Carolina Secondary Highway No. 19 and South Carolina Secondary Highway No. 39 intersect and extending south and southeast along said South Carolina Secondary Highway No. 39 to its intersection with Reedy Creek, thence northeast along the main run of said creek to its head, thence on a line projected from head of said creek to the junction of South Carolina Secondary Highways Nos. 19 and 90, thence east along South Carolina Secondary Highway No. 19 to its junction with South Carolina Secondary Highway No. 367, thence southeast along said highway No. 367 to its junction with South Carolina Secondary Highway No. 91, thence southeast along said highway No. 91 to its junction with South Carolina Secondary Highway No. 203, thence north and northeast along said highway No. 203 to a junction with a dirt road, said junction being 1.2 miles northeast of the intersection of South Carolina Secondary Highways Nos. 203 and 19, thence west 0.9 mile along said dirt road, thence on a line projected from said point in a northwest direction between Big Sister Bay and Little Sister Bay to its intersection with United States Highway No. 76, thence southwest along said United States Highway No. 76 to its junction with South Carolina Secondary Highway No. 84, thence in a northern direction 1.1 miles along said highway No. 84 to its junction with a dirt road, thence southwest along said dirt road to its junction with South Carolina Secondary Highway No. 45, thence northwest 0.7 mile along said highway No. 45 to its junction with a dirt road, thence southwest along said dirt road to its junction with a second dirt road, known as old Marion road, thence southwest along old Marion road to its junction with United States Highway No. 76, thence east along said highway No. 76 to its intersection with Smith Swamp, thence southwest along said swamp to the point of beginning.

An area in the southwest portion of the county bounded by a line beginning at a point where South Carolina Secondary Highway No. 9 intersects Bull Swamp and extending southwest along said swamp to its intersection with a dirt road, known as Cross the Ferry Road, thence northeast along said dirt road to its junction with South Carolina Secondary Highway No. 9, thence northwest along said Highway No. 9 to the point of beginning.

The Mrs. B. E. Atkinson farm located on the west side of a dirt road and 0.7 mile south of the junction of said dirt road with South Carolina Secondary Highway No. 22, said junction being 2 miles northwest of the community of Zion.

The B. L. Atkinson farm located on the south side of South Carolina Secondary Highway No. 32 and on the east side of South Carolina Secondary Highway No. 389 at their junction.

The Ed Baker farm located on the east side of South Carolina Secondary Highway No. 43 and 1.6 miles north of its junction with South Carolina Secondary Highway No. 30.

The J. E. Bostick farm located on the east side of South Carolina Secondary Highway No. 9 and 0.9 mile northwest of its junction with South Carolina Secondary Highway No. 47.

The John F. Brown farm located on the west side of South Carolina Secondary Highway No. 91 and 1.5 miles north of its junction with South Carolina Secondary Highway No. 32.

The D. H. Bryant farm located on the south side of a dirt road and 1 mile northeast of its junction with South Carolina Primary Highway No. 41 Alternate, said junction being 0.1 mile north of junction of South Carolina Primary Highway No. 41 Alternate and South Carolina Secondary Highway No. 263.

The Preston Bullard farm located on the east side of a dirt road and 3.6 miles south of its junction with United States Highway No. 76, said junction being 1.5 miles east of the junction of said highway and United States Highway No. 301.

The William Burch Estate farm located on the north side of South Carolina Secondary Highway No. 46 and 0.25 mile west of its junction with South Carolina Primary Highway No. 41.

The W. P. Clark farm located on Marion Street in the town of Mullins and one block south of the Mullins Armory.

The D. L. Davis farm located on the east side of a dirt road and 1.2 miles south of its junction with South Carolina Secondary Highway No. 9 at Friendship.

The William Davis farm located on the southwest side of a dirt road and 0.75 mile northwest of its junction with South Carolina Secondary Highway No. 9, said junction being 0.5 mile northeast of the junction of said highway and South Carolina Secondary Highway No. 40.

The D. N. Faulk Estate located on both sides of South Carolina Primary Highway No. 41 Alternate and 2 miles southwest of its junction with South Carolina Secondary Highway No. 263.

The Jessie Floyd farm located on the east side of South Carolina Primary Highway No. 9 and 0.6 mile north of its intersection with the corporate limits of Nichols.

The Lissie G. Ford farm located on the east side of South Carolina Primary Highway No. 9 at its intersection with the corporate limits of Nichols.

The Gracie Graves farm located on the north side of a dirt road and 0.6 mile west of its junction with South Carolina Secondary Highway No. 9, said junction being 0.25 mile southwest of the intersection of said highway and Flat Swamp, a stream.

The R. A. Guyton farm located on the northwest side of a dirt road and 0.75 mile northeast of its junction with United States Highway No. 76, said junction being 1.5 miles east of the Marion city limits.

The M. M. Harper farm located on the north side of a dirt road and 0.75 mile east of its junction with United States Highway No. 501, said junction being 0.8 mile north of the junction of said highway and South Carolina Secondary Highway No. 475.

The N. P. Harper farm located on the south side of a dirt road and 0.5 mile east of its junction with United States Highway No. 501, said junction being 0.8 mile north of the junction of said highway and South Carolina Secondary Highway No. 475.

The William L. Harrelson farm located on the north side of South Carolina Secondary Highway No. 21 and 0.5 mile northeast of its junction with South Carolina Secondary Highway No. 29.

The Lucile Hoggard farm located on the north side of South Carolina Secondary Highway No. 22 and 0.7 mile southeast of its intersection with the Seaboard Air Line Railroad.

The B. W. Hopkins farm located on the north side of a dirt road and 0.4 mile northeast of its intersection with South Carolina Secondary Highway No. 64, said intersection being 0.5 mile northwest of the junction of said highway and South Carolina Secondary Highway No. 38.

The Charlie Ingram farm located on the east side of a dirt road and 1.5 miles south of its junction with United States Highway No. 378, said junction being 0.7 mile northwest of the Potato Bed Ferry Bridge on Little Pee Dee River.

The C. H. Johnson farm located on the north side of South Carolina Secondary High-

way No. 32 and on the east side of South Carolina Secondary Highway No. 389 at their junction.

The Julian Jones farm located on the west side of South Carolina Secondary Highway No. 60 and 0.75 mile southeast of its junction with the Marion-Dillon County line.

The Mack Larimore farm located on the south side of United States Highway No. 378 and 0.5 mile northwest of its junction with South Carolina Secondary Highway No. 86.

The Walter H. Larimore farm located on the north side of United States Highway No. 378 and 0.5 mile northwest of the Potato Bed Ferry Bridge on the Little Pee Dee River.

The Durham Lewis farm located on the east side of South Carolina Secondary Highway No. 23 and 1.2 miles southwest of the junction of said highway and South Carolina Secondary Highway No. 22.

A portion of the Marion County Public Road, approximately 1 acre, including all right-of-way, extending from the Marion-Dillon County line to a point 0.1 mile south of the Marion-Dillon County line, which point is 0.6 mile northeast of the junction of said public road with South Carolina Secondary Highway No. 22.

The Jack C. Martin farm located on the west side of a dirt road and 0.1 mile southwest of its junction with another dirt road, said junction being 0.35 mile southwest of its junction with South Carolina Secondary Highway No. 22, said junction being 0.5 mile northwest of Zion.

The J. L. Mason farm located on the southeast side of South Carolina Primary Highway No. 41 Alternate and 0.3 mile northeast of the junction of said highway and South Carolina Secondary Highway No. 475.

The Archie McRae farm located on the north side of a dirt road and 0.65 mile northwest of its junction with another dirt road, said junction being 0.35 mile west of its junction with South Carolina Secondary Highway No. 22, said junction being 0.5 mile northwest of Zion.

The F. E. Page farm located on the northwest side of a dirt road and 0.5 mile northeast of its junction with United States Highway No. 76, said junction being 1.5 miles east of the Marion city limits.

The Fred Page farm located on the southwest side of South Carolina Secondary Highway No. 309 and 0.25 mile northwest of its junction with United States Highway No. 76.

The Marvin Phillips farm located on the west side of a dirt road and 0.75 mile northeast of its intersection with South Carolina Secondary Highway No. 64, said intersection being 0.5 mile northwest of the junction of said highway and South Carolina Secondary Highway No. 38.

The Mary J. Porter farm located on the west side of a dirt road and 1.5 miles southwest of its junction with United States Highway No. 76, said junction being 1.5 miles east of junction of said highway and United States Highway No. 301.

The C. M. Rogers farm located on the north side of a dirt road and 0.75 mile southwest of its junction with South Carolina Primary Highway No. 41 Alternate, said junction being 2 miles southwest of junction of said highway and South Carolina Secondary Highway No. 263.

The Mazzie Rogers farm located on the southwest side of South Carolina Secondary Highway No. 40 and 1.25 miles southeast of its junction with South Carolina Secondary Highway No. 9.

The V. M. Rogers farm located on the north side of South Carolina Secondary Highway No. 22 and 0.5 mile west of its intersection with the Seaboard Air Line Railroad.

The Frank Salmon farm located on the northeast side of South Carolina Secondary Highway No. 64 and 0.4 mile north of its junction with South Carolina Secondary Highway No. 38.

The Fleming Sanders farm located on the southwest side of a dirt road and 0.7 mile northwest of its junction with South Carolina Secondary Highway No. 9, said junction being 0.75 mile southwest of intersection of said highway and a stream known as Flat Swamp.

The Theo Sawyer farm located on the southwest side of South Carolina Secondary Highway No. 39 and 1.1 miles south of its junction with South Carolina Secondary Highway No. 19.

The Harry Sellers farm located on the west side of United States Highway No. 301 in the town of Sellers.

The Grady Shelley farm located on the north side of South Carolina Secondary Highway No. 32 and 0.5 mile east of its junction with South Carolina Secondary Highway No. 389.

The portion of the Wade E. Smith farm located on the east side of South Carolina Secondary Highway No. 203 and 0.3 mile northeast of its intersection with South Carolina Secondary Highway No. 19.

The Irene Snipes farm located on the south side of a dirt road and 0.8 mile east of its junction with United States Highway No. 501, said junction being 0.8 mile north of the junction of said highway and South Carolina Secondary Highway No. 475.

The Southern Craft Paper Company farm, operated by Fred Holden, located on a dirt road and 1 mile south of its junction with United States Highway No. 378, said junction being 0.7 mile northwest of the Potato Bed Ferry Bridge on the Little Pee Dee River.

The M. S. Stackhouse farm located on the west side of a dirt road and 2 miles north of its junction with United States Highway No. 301, said junction being 0.5 mile east of Great Pee Dee River.

The Mrs. John Steadman farm located on the north side of United States Highway No. 378 and 0.3 mile northwest of the Potato Bed Ferry Bridge on the Little Pee Dee River.

The A. T. Turner farm located on the northeast side of South Carolina Secondary Highway No. 64 and 1.2 miles northwest of its junction with South Carolina Secondary Highway No. 38.

The Pearlie Turner farm located on the east side of South Carolina Secondary Highway No. 64 and 0.7 mile north of its junction with United States Highway No. 76.

The John Walters farm located on the southwest side of a dirt road and 0.2 mile south of its junction with United States Highway No. 76, said junction being 1.25 miles west of the intersection of United States Highway No. 76 and the Little Pee Dee River.

The Wilbur S. White farm located on the northeast side of United States Highway No. 501 and 0.5 mile southeast of its junction with South Carolina Primary Highway No. 41 Alternate.

Marlboro County. The area bounded by a line beginning at a point where South Carolina Secondary Highway No. 99 crosses the Marlboro-Dillon County line, thence southwest along said county line to Brownsville Creek, thence north along said creek to South Carolina Primary Highway No. 34, thence northeast along said highway to its junction with South Carolina Primary Highway No. 38, thence northwest along said highway to its junction with a dirt road at Lower Marlboro High School, thence northeast along said dirt road to its junction with South Carolina Secondary Highway No. 49, thence southeast along said highway to its junction with South Carolina Secondary Highway No. 32, thence southwest along said highway to its junction with South Carolina Secondary Highway No. 99, thence southeast along said highway to the point of beginning.

The area bounded by a line beginning at a point where the Little Pee Dee River crosses the Marlboro-Dillon County line, thence northwest along said river to its junction with Gun Swamp, thence north along Gun Swamp to the North Carolina-South Carolina State line, thence southeast along said State line to the Marlboro-Dillon County line, thence southwest along said county line to the point of beginning.

The D. A. Alford farm located on the south side of South Carolina Secondary Highway No. 40 and 1.5 miles southeast of the intersection of South Carolina Primary Highway No. 83 and South Carolina Secondary Highway No. 40.

The W. P. Allen farm located on both sides of a dirt road and 0.8 mile southwest of the junction of said dirt road with South Carolina Secondary Highway No. 57, said junction being 1 miles north of Marlboro.

The A. G. Buckner farm located on the south side of the junction of the Little Pee Dee River and South Carolina Primary Highway No. 83, said junction being 2.6 miles southwest of the North Carolina-South Carolina State line.

The R. K. Christopher farm located on the north side of South Carolina Secondary Highway No. 23 and 0.3 mile southeast of the junction of South Carolina Secondary Highway No. 23 and South Carolina Secondary Highway No. 202.

The Curtis Clark farm located on the west side of South Carolina Primary Highway No. 38 and 0.8 mile north of the junction of South Carolina Primary Highway No. 38 and South Carolina Secondary Highways Nos. 32 and 99.

The G. W. Cousins farm located at the southeast corner of the junction of South Carolina Secondary Highway No. 49 and South Carolina Secondary Highway No. 32, said junction being 3.3 miles east of Blenheim.

The Sadie H. Cox farm located on the north side of South Carolina Secondary Highway No. 99 and 1 mile northwest of the Marlboro-Dillon County line.

The Julia T. Drake farm located on both sides of the Seaboard Airline Railroad right-of-way and 1 mile northwest of the intersection of the Seaboard Airline Railroad and South Carolina Secondary Highway No. 59 including all railroad right-of-way abutting thereon.

The David Habern Estate farm located on the west side of a dirt road at the junction of said dirt road and Beaver Dam Creek, said junction being 1.5 miles south of the intersection of Gun Swamp and South Carolina Secondary Highway No. 27.

The C. S. Hood farm located on the north side of South Carolina Secondary Highway No. 99 and 1.5 miles southeast of the junction of South Carolina Secondary Highway No. 99 and South Carolina Secondary Highway No. 32.

The F. E. Hubbard Estate farm located on the west side of South Carolina Secondary Highway No. 40 and 0.5 mile northwest of the Marlboro-Dillon County line.

The Walter S. Hughes farm located on the west side of South Carolina Secondary Highway No. 44 and 0.5 mile southeast of the junction of the South Carolina Secondary Highway No. 44 and South Carolina Secondary Highway No. 18.

The Walter S. Hughes farm located on the west side of a dirt road and 0.8 mile south of the junction of said dirt road with South Carolina Secondary Highway No. 31, said junction being 1.4 miles southwest of Bristow.

The Alzada Ivey farm located on the west side of South Carolina Secondary Highway No. 197 and 1.5 miles west of the Marlboro-Dillon County line.

The Mrs. Mary Kersey farm located on the east side of a dirt road and 1 mile southeast of the intersection of said dirt road with South Carolina Secondary Highway No. 32, said junction being 1 mile northeast of the junction of South Carolina Secondary High-

way No. 32 and South Carolina Primary Highway No. 38.

The Mrs. Alice McDaniel farm located on the south side of South Carolina Secondary Highway No. 40 and 0.3 mile west of the junction of South Carolina Secondary Highway No. 40 and South Carolina Secondary Highway No. 22, said junction being 2 miles southeast of Tatum.

The Lula McEachern farm located 0.1 mile southwest of the North Carolina-South Carolina State line and on the west side of a dirt road which crosses the North Carolina-South Carolina State line at a point 1.5 miles southeast of the intersection of the State line and United States Highway No. 15.

The Bobby McIntyre farm located on the east side of South Carolina Secondary Highway No. 40 and 0.3 mile northwest of the Marlboro-Dillon County line.

The M. R. McLennan farm located at the end of a 0.2 mile service road which connects with a dirt road which joins South Carolina Secondary Highway No. 19 at a point 0.5 mile east of the junction of South Carolina Secondary Highway No. 19 and South Carolina Primary Highway No. 83.

The Russell Miller farm located on the north side of South Carolina Secondary Highway No. 299 and 1.1 miles east of Drake.

The J. P. Moore farm located on the north side of a dirt road and 0.6 mile southwest of the junction of said dirt road with South Carolina Secondary Highway No. 57, said junction being 1 mile north of Marlboro.

The Angus Newton farm located on the south side of South Carolina Secondary Highway No. 23 and 1 mile southeast of the junction of South Carolina Secondary Highway No. 23 and South Carolina Secondary Highway No. 202.

The Mrs. Annie Jane Quick Peele farm located on the north side of South Carolina Secondary Highway No. 509 (Tommy Quick Road) and 0.3 mile southeast of the junction of South Carolina Secondary Highway No. 509 and South Carolina Secondary Highway No. 273.

The Mrs. B. D. Rogers, Sr., farm located on the north side of the Seaboard Airline Railroad right-of-way and 0.5 mile northwest of the intersection of the Seaboard Airline Railroad and South Carolina Secondary Highway No. 59, including all railroad right-of-way abutting thereon.

The Carpenter Rogers farm located on the north side of South Carolina Secondary Highway No. 18 and 0.4 mile northeast of the junction of South Carolina Secondary Highway No. 18 and South Carolina Secondary Highway No. 44.

The Marion Rogers farm located on the west side of South Carolina Primary Highway No. 38 and 0.1 mile north of the intersection of South Carolina Primary Highway No. 38 and South Carolina Secondary Highway No. 299.

The T. J. Turner farm located on the north side of a dirt road and 1 mile northeast of the junction of said dirt road with South Carolina Secondary Highway No. 23, said junction being 0.25 mile southeast of the junction of South Carolina Secondary Highways Nos. 23 and 202.

The H. L. Watson farm located on the south side of South Carolina Secondary Highway No. 23 and 0.6 mile southeast of the junction of South Carolina Secondary Highway No. 23 and South Carolina Secondary Highway No. 202.

§ 301.80–3 Regulated articles; conditions of movement.

(a) *Designated articles.* Unless exempted by administrative instructions, the following may be moved from any regulated area into or through any point outside of the regulated areas only if accompanied by a valid certificate or limited permit issued in compliance with § 301.80–6 and if the applicable requirements of §§ 301.80–4 and 301.80–5 are also met; soil, separately or with other things; nursery stock and other plants with roots attached; true bulbs, corms, rhizomes and tubers; root crops; hay, straw, fodder, and plant litter of any kind; seed cotton; tobacco; peanuts in shells; ear corn; soybeans; small grains; used farm tools, implements and harvesting machinery; used construction and maintenance equipment; and used crates, boxes, burlap bags, and cotton picking sacks, and other used farm products containers. However, regulated articles of kinds within this paragraph which originate outside of the regulated areas and are moving through or are being reshipped from a regulated area may be moved from such regulated area into or through any point outside of the regulated areas without further restriction under this subpart when their point of origin is clearly indicated, when their identity has been maintained, and when they have been safeguarded against infestation while in the regulated areas in a manner satisfactory to an inspector and do not present a hazard of spread of witchweed. Otherwise such regulated articles shall be subject to all applicable requirements under this subpart for articles originating in the regulated areas.

(b) *Articles determined to present hazards.* When it has been determined by an inspector that, due to contamination with witchweed, a hazard of spread of witchweed is presented by any farm products, farm equipment, processing machinery, trucks, wagons, railway cars, aircraft, boats, other means of conveyance, or, unlimited by the foregoing, any other products or articles of any character whatsoever, not covered by paragraph (a) of this section, notice of such fact shall be given to the person having custody thereof. Thereafter, such contaminated articles may be moved from any regulated area into or through any point outside of the regulated areas only after they have been cleaned, treated, or otherwise disinfested to the satisfaction of the inspector or when they are moving under limited permit as required by the inspector.

§ 301.80–4 Use of certificates or limited permits with shipments.

Every container of regulated articles, or if there is none the article itself, required to have a certificate or limited permit under § 301.80–3 shall have such certificate or permit securely attached to the outside thereof, when offered for movement under said section, except that where the regulated articles are adequately described on a certificate or limited permit attached to the waybill, the attachment of a certificate or limited permit to each container of the articles, or the article itself, will not be required.

§ 301.80–5 Protecting certified articles.

Subsequent to certification as provided in § 301.80–6, regulated articles must be loaded, handled, and shipped, only under such protection and safeguards against infestation as are required by the inspector.

§ 301.80–6 Conditions governing the issuance of certificates and limited permits.

(a) *Certificates.* Certificates may be issued by the inspector for the movement of the regulated articles specified in § 301.80–3(a) under any of the following conditions:

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

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

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

(4) When grown, produced, manufactured, stored or handled in such manner that, in the judgment of the inspector, no infestation would be transmitted thereby.

(b) *Limited permits.* Limited permits may be issued by the inspector for the movement of noncertified regulated articles under § 301.80–3 to specified destinations for limited handling, utilization, or processing, or for treatment.

(c) *Dealer-carrier agreement.* As a condition of issuance of certificates or limited permits for the movement of regulated articles, any person engaged in purchasing, assembling, exchanging, handling, processing, utilizing, treating, or moving such articles may be required to sign a dealer-carrier agreement stipulating that he will maintain such safeguards against the establishment and spread of infestation and comply with such conditions as to the maintenance of identity, handling, and subsequent movement of such articles and the cleaning and treatment of means of conveyance and containers used in the transportation of such articles as may be required by the inspector.

§ 301.80–7 Assembly of articles for inspection.

Persons intending to move any of the regulated articles under § 301.80–3 shall make application for inspection as far in advance as possible, shall so handle such articles as to safeguard them from infestation, and shall assemble them at such points and in such manner as the inspector shall designate to facilitate inspection.

§ 301.80–8 Cancellation of certificates or limited permits.

Certificates or limited permits for any regulated articles issued under the regulations in this subpart may be withdrawn or cancelled and further certificates or permits for such articles may be refused by the inspector whenever he determines that the further use of such certificates or permits might result in the spread of witchweed.

§ 301.80–9 Inspection and disposal.

Any properly identified inspector is authorized to stop and inspect, without a warrant, any person or means of conveyance moving from any State, Terri-

tory, or District of the United States into or through any other such State, Territory, or District and any plant pest and any product and article of any character whatsoever carried thereby, upon probable cause to believe that such means of conveyance, product, or article is infested or infected by or contains any plant pest or is moving subject to this subpart or any other regulations under the Federal Plant Pest Act or that such person or means of conveyance is carrying any plant pest subject to that act, and to stop and inspect, without a warrant, any means of conveyance so moving, upon probable cause to believe it is carrying any product or article prohibited or restricted movement under the Plant Quarantine Act or any quarantine or order thereunder. Such inspector is authorized to seize, destroy, or otherwise dispose of, or require disposal of, products, articles, means of conveyance, and plant pests in accordance with section 105 of the Federal Plant Pest Act and section 10 of the Plant Quarantine Act.

§ 301.80–10 Nonliability of Department.

The United States Department of Agriculture disclaims liability for any cost incident to inspection or treatment required under the provisions in this subpart other than for the services of the inspector.

Subpart—Imported Fire Ant

QUARANTINE

§ 301.81 Notice of quarantine.

(a) Pursuant to section 8 of the Plant Quarantine Act of August 20, 1912, as amended (7 U.S.C. 161), and after public hearing, it has been determined that it is necessary to quarantine the States of Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, South Carolina, and Texas, to prevent the spread of the imported fire ant, a dangerous insect not heretofore widely prevalent or distributed within and throughout the United States, which is injurious to cultivated crops such as potatoes, peanuts, cabbage, egg plant, and okra; to germinating seeds such as corn seed; to grass and other plants of pasture land; and to other plants; and said States have been and hereby are continued to be quarantined because of said insect, and under the authority of said Act supplemental regulations are prescribed in this subpart governing the movement of carriers of said insect. Hereafter the following shall not be moved from the quarantined States into or through any other State, Territory, or District of the United States in manner or method or under conditions other than those prescribed in the regulations as from time to time amended: (1) Soil and unprocessed sand and gravel, separately or with other things; (2) forest, field or nursery-grown woody or herbaceous plants with soil attached; (3) plants in pots or containers; (4) grass sod; (5) unmanufactured forest products such as stump wood or timbers if soil is attached; and (6), unlimited by the foregoing, any other products or articles of any character whatsoever not within subparagraphs (1) through (5) of this paragraph when it is determined in accordance with the regulations that they present a hazard of spread of the imported fire ant. Moreover, movement of products and articles, designated above, from a quarantined State, or portion thereof, into or through another quarantined State, or portion thereof, may be restricted or prohibited under the regulations. The requirements of this quarantine and the regulations in this subpart, with respect to such products and articles shall be limited to the area in any quarantined State which may be designated as within the regulated area as provided in the regulations, as long as in the judgment of the Administrator of the Agricultural Research Service, the enforcement of the regulations as to such regulated area will be adequate to prevent the spread of the imported fire ant, except that such limitation is further conditioned upon the affected State's providing regulations for and enforcing control of the movement within such State of live imported fire ants and the other regulated articles under the same conditions as those which apply to their interstate movement under the provisions of the currently existing Federal quarantine regulations, and upon the State's providing regulations for and enforcing such sanitation measures with respect to such area or portions thereof as, in the judgment of said Administrator, are adequate to prevent the spread of imported fire ants within such State. Moreover, whenever the Director of the Plant Pest Control Division shall find that facts exist as to the pest risk involved in the movement of one or more of the products or articles to which the regulations apply, making it safe to modify, by making less stringent the requirements contained in the regulations, he shall set forth and publish such finding in administrative instructions, specifying the manner in which the regulations should be made less stringent, whereupon such modification shall become effective for such period and for all or such portion of such regulated area and for such products and articles as shall be specified in said administrative instructions, and every reasonable effort shall be made to give publicity to such administrative instructions throughout the affected area.

(b) Regulations governing the movement of live imported fire ants are contained in Part 330 of this chapter. Applications for permits for movement of said pests may be made to the Director, Plant Pest Control Division, Agricultural Research Service, U.S. Department of Agriculture, Washington 25, D.C. in accordance with said part.

(c) As used in this subpart, unless the context otherwise requires, the term "State, Territory, or District of the United States" means State, the District of Columbia, Alaska, Guam, Hawaii, Puerto Rico, or the Virgin Islands of the United States.

REGULATIONS

§ 301.81–1 Definitions.

For the purposes of the provisions in this subpart, except where the context otherwise requires, the following terms shall be construed respectively to mean:

(a) *Imported fire ant.* The insect known as the imported fire ant (Solenopsis saevissima richteri Forel) in any stage of development.

(b) *Infestation.* The presence of the imported fire ant.

(c) *Regulated area.* The counties, parishes and other minor civil divisions, or parts thereof, designated in administrative instructions under § 301.81–2 as regulated area.

(d) *Eradication area.* That part of the regulated area where eradication may be undertaken as an objective, as designated in administrative instructions under § 301.81–2.

(e) *Generally infested area.* All of the regulated area, exclusive of the eradication area, designated in administrative instructions under § 301.81–2.

(f) *Regulated articles.* Imported fire ants, soil, and other products and articles of any character whatsoever, the movement of which is regulated by the imported fire ant quarantine (§ 301.81) and the regulations in §§ 301.81–1 through 301.81–10.

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

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

(i) *Certificate.* A document evidencing compliance with the requirements of this subpart.

(j) *Limited permit.* A document authorizing the movement of regulated articles to a restricted destination for limited handling, utilization, or processing.

(k) *Dealer-carrier agreement.* An agreement to comply with stipulated conditions, executed by persons engaged in purchasing, assemblying, exchanging, handling, processing, utilizing, treating, or moving regulated articles.

(l) *Administrative instructions.* Documents relating to the enforcement of the provisions in this subpart issued under authority of such provisions by the Director of the Plant Pest Control Division, Agricultural Research Service.

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

§ 301.81–2 Designation of regulated area.

The Director of the Plant Pest Control Division, shall, from time to time, in administrative instructions promulgated by him, list the counties, parishes, and other minor civil divisions, or parts thereof, in the quarantined States, in which infestation has been determined to exist, or in which it has been determined infestation is likely to exist, or which it is deemed necessary to regulate because of their proximity to infestation or their inseparability for quarantine enforcement purposes from infested localities, and shall designate such civil divisions and parts thereof, as constituting the regulated area. Any civil division, or part thereof, so designated shall continue in a regulated status until the Di-

rector of the Plant Pest Control Division shall have determined that adequate eradication measures have been practiced for a sufficient length of time to eradicate the imported fire ant therein and that regulation of such area is not otherwise necessary under this section, and shall have issued administrative instructions revoking the designation of such civil division, or part thereof, as coming within the regulated area. The Director of the Plant Pest Control Division may, in said administrative instructions, divide the regulated area into an eradication area and a generally infested area.

§ 301.81–2a Administrative instructions designating regulated area under the imported fire ant quarantine.

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

ALABAMA

Counties of Autauga, Baldwin, Bibb, Bullock, Butler, Chilton, Choctaw, Clarke, Conecuh, Covington, Dallas, Elmore, Escambia, Geneva, Greene, Hale, Houston, Jefferson, Lee, Lowndes, Macon, Marengo, Mobile, Monroe, Montgomery, Perry, Pickens, Sumter, Shelby, Tuscaloosa, Walker, Washington, and Wilcox.

Barbour County. That portion of the county lying south of the north line of T. 9 N. and east of the west line of R. 28 E.

Calhoun County. E⅔ Tps. 15 and 16 S., R. 6 E.; W⅔ Tps. 15 and 16 S., R. 7 E.; secs. 35 and 36, T. 16 S., R. 7 E.; and secs. 31 and 32, T. 16 S., R. 8 E.

Crenshaw County. That portion of the county lying north of the south line of T. 8 N.

Dale County. T. 5 N., R. 24 E.; S½ T. 6 N., R. 24 E.; and all of the county lying south of the Choctowhatchee River.

Etowah County. N½ T. 11 S., R. 6 E.; S½ T. 11 S., Rs. 5, 6, and 7 E., and all of the county within Rs. 5, 6, and 7 E., lying south of the north line of T. 12 S.

Henry County. The entire county except for Tps. 7 and 8 N., R. 27 E.; and E⅓ Tps. 7 and 8 N., R. 26 E.

Limestone County. T. 4 S., R. 4 W.; S½ T. 3 S., R. 4 W.; NE¼ T. 4 S., R. 5 W.; SE¼ T. 3 S., R. 5 W.; and all of T. 5 S., R. 4 W., lying north of the Tennessee River.

Morgan County. T. 4 S., R. 5 W.; T. 5 S., R. 4 W.; that part of T. 5 S., R. 5 W., lying south of the Tennessee River; and the N½ T. 6 S., Rs. 4 and 5 W.

Russell County. T. 14 N., R. 28 E.; that portion of T. 13 N., R. 28 E., lying east of North Fork Cowikee Creek; and that portion of the county lying east of the west line of R. 29 E.

Talladega. All of Talladega County lying south of the south line of T. 19 S.

ARKANSAS

Union County. T. 17 S., R. 15 W.; T. 17 S., R. 16 W.; secs. 1, 2, 3, 4, 5, 6, 9, 10, 11, 12, 13, 14, 15, and 16, T. 18 S., R. 16 W.; secs. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 15, 16, 17, and 18, T. 18 S., R. 15 W.

FLORIDA

Counties of Bay, Escambia, Okaloosa, Santa Rosa, and Walton.

Calhoun County. That portion of the county bounded on the north by the Jackson-Calhoun County line; on the east by the eastern boundaries of secs. 22, 27, and 34, T. 2 N., R. 10 W. and sec. 3, T. 1 N., R. 10 W.; on the south by the southern boundaries of secs. 3, 4, 5, and 6, T. 1 N., R. 10 W. and secs. 1, 2, 3, 4, 5, and 6, T. 1 N., R. 11 W.; and on the west by the Bay-Calhoun County line.

That portion of the county bounded on the north by the northern boundaries of secs. 30, 29, 28, 27, 26, and 25, T. 1 S., R. 11 W., secs. 30, 29, 28, 27, 26, and 25, T. 1 S., R. 10 W. and secs. 30, 29, 28, 27, 26, and 25, T. 1 S., R. 9 W.; on the east by the eastern boundaries of secs. 25 and 36, T. 1 S., R. 9 W., and the eastern boundary of T. 2 S., R. 9 W.; on the south by the southern boundaries of secs. 36, 35, 34, 33, and a portion of 32, T. 2 S., R. 9 W., extending to the eastern boundary of Dead Lake, thence southward along Dead Lake to the Gulf-Calhoun County line, and thence westward on the Gulf-Calhoun County line to the Bay-Calhoun County line; and on the west by the Bay-Calhoun County line.

Duval County. That portion of the county bounded on the north by St. Johns River; on the east by Greenfield Creek, State Highway 101A and the Duval-St. Johns County line; on the south by the southern boundaries of T. 3 S., R. 28 E. extending through sec. 36, T. 3 S., R. 27 E. to State Highway 115, thence southward along State Highway 115 to its intersection with U.S. Highway 1, thence southeast along said highway to the intersection of Loretta Road, thence west along Loretta Road to St. Johns River, thence north along St. Johns River to its intersection with the northern boundary of T. 4, S., R. 27 E., thence west to Ortego River; on the west by the Ortego River to its intersection with the Atlantic Coast Line Railroad, thence northeastward on the Atlantic Coast Line Railroad to its intersection with the Georgia Southern and Florida Railroad, thence southeast along said railroad to the St. Johns River.

Gadsden County. That portion of the county bounded on the north by the line common to Decatur County, Georgia and Gadsden County, Florida; on the east by the east bounday of T. 3 N., R. 3 W.; on the south by the southern boundary of T. 3 N., R. 3 W.; and on the west by the west boundary of T. 3 N., R. 3 W., including all of secs. 24 and 25, T. 3 N. R. 4 W.

Gulf County. That portion of the county bounded on the north by the Calhoun-Gulf County line; on the east by the east shore line of Dead Lake and the Chipola River; on the south by the southern boundary of sec. 31, T. 4 S., R. 9 W. and the southern boundaries of T. 4 S., R. 10 W. and T. 4 S., R. 11 W.; and on the west by the Bay-Gulf County line.

Hillsborough County. That portion of the county bounded on the north by the Pasco-Hillsborough County line; on the east by the Polk-Hillsborough County line; on the south by U.S. Highway 92 from the Polk County line west to the Pinellas County line; and on the west by the Pinellas-Hillsborough County line.

Holmes County. That portion of the county included in secs. 22, 23, 24, 25, 26, 27, 34, 35, and 36, T. 3 N., R. 18 W.; and secs. 19, 30, and 31, T. 3 N., R. 17 W.

That portion of the county included in secs. 25, 26, 27, 34, 35, and 36, T. 5 N., R. 15 W.; secs. 26, 27, 28, 29, 30, 31, 32, 33, 34, and 35, T. 5 N., R. 14 W.; secs. 1, 2, 3, 10, 11, and 12, T. 3 N., R. 15 W.; and secs. 2, 3, 4, 5, 6, 7, 8, 9, and 10, T. 3 N., R. 14 W.

Jackson County. That portion of the county bounded on the north by the Houston County, Alabama-Jackson County, Florida line; on the east by the eastern boundary of secs. 20, 29, and 32, T. 7 N., R. 11 W. and secs. 5, 8, 17, and 20 of T. 6 N., R. 11 W.; on the south by the southern boundaries of secs. 20 and 19, T. 6 N., R. 11 W. and secs. 24, 23, 22, and 21 of T. 6 N., R. 12 W.; and on the west by the western boundaries of secs. 21, 16, 9, and 4 of T. 6 N., R. 12 W. and secs. 33, 28, and 21 of T. 7 N., R. 12 W.

That portion of the county bounded on the north by the northern boundaries of secs. 34, 35, and 36, T. 5 N., R. 12 W., secs. 31, 32, 33, 34, 35, and 36, T. 5 N., R. 11 W., secs. 31, 32, 33, 34, 35, and 36, T. 5 N., R. 10 W. and secs. 31, 32, 33, 34, and 35, T. 5 N., R. 9 W.; on the east by the eastern boundaries of sec. 35, T. 5 N., R. 9 W., secs. 2, 11, 14, 23, 26, and 35, T. 4 N., R. 9 W. and secs. 2 and 11, T. 3 N., R. 9 W. and on the south by the southern boundaries of secs. 11, 10, 9, 8, and 7, T. 3 N., R. 9 W., secs. 12, 11, 10, 9, 8, and 7 T. 3 N., R. 10 W. secs. 12, 11, 10, 9, 8, and 7, T. 3 N., R. 11 W. and secs. 12, 11, and 10, T. 3 N., R. 12 W. and on the west by the Washington-Jackson County line and the western boundary of sec. 34, T. 5 N., R. 12 W.

Nassau County. That portion of the county bounded on the north by the northern boundary of T. 2 N., R. 28 E.; on the east by the Atlantic Ocean; on the south by the Duval-Nassau County line; and on the west by the Amelia River.

Pasco County. That portion of the county included within a line beginning at the northwest corner of sec. 10, T. 25 S., R. 16 E., and extending eastward along State Highway 52 to the intersection of the corporate limits of Dade City and thence south and east along the corporate limits to the intersection of U.S. Highway 98, thence south and southeast along said highway to its intersection with the Polk County line, thence west and south along the Polk County line to the intersection of the Hillsborough County line, thence due west along the Hillsborough County line to its intersection with U.S. Highway 19, thence north on U.S. Highway 19 to its intersection with the City limits of New Port Ritchie, thence east along said city limits and continuing due east to the intersection of the eastern boundary of sec. 10, T. 26 S., R. 16 E., thence due north to the point of beginning.

Washington County. That portion of the county bounded on the north by State Highway 166, on the east by State Highway 277, on the south by State Highway 280, and on the west by Holmes Creek.

That portion of the county included within sec. 36, T. 4 N., R. 13 W., secs. 31, 32, and 33, T. 4 N., R. 12 W.

That portion of the county bounded on the north by the northern boundaries of secs. 22, 23, and 24, T. 1 N., R. 15 W., secs. 19, 20, 21, 22, and 23, T. 1 N., R. 14 W.; on the east by the eastern boundaries of secs. 23, 26, and 35, T. 1 N., R. 14 W.; on the south by the southern boundaries of secs. 35, 34, 33, 32, and 31, T. 1 N., R. 14 W. and secs. 36, 35, and 34, T. 1 N., R. 15 W.; and on the west by the western boundaries of secs. 34, 27, and 22, T. 1 N., R. 15 W.

GEORGIA

Counties of Decatur, Grady, and Muscogee.

Bleckley County. That portion of the county lying within a circle having a radius of 2 miles with center at the intersection of U.S. Highway 23 and State Highway 26, including all of the city of Cochran.

Clayton County. That portion of the county included in the Lovejoy GMD 1651, including the town of Lovejoy; Forest Park GMD 1644, including the town of Forest Park and Lake City; and the portion of Adamson GMD 1189 north of the Southern Railroad

spur, including that area within the Atlanta General Depot.

Crisp County. That portion of the county north of U.S. Highway 280, including all of the city of Cordele.

Dooly County. That portion of the county lying south of State Highway 27, excluding the city of Vienna.

Dougherty County. That portion of the county included in Albany GMD 945 lying north of State Highway 62, and a line extending due east from the intersection of State Highways Nos. 62 and 91 to the east GMD line; and that portion of East Dougherty GMD 1097 lying north of the Plummers School Road and a line extending due west from the intersection of the Plummers School Road and State Highway 133, to the west GMD line.

Harris County. That portion of the county in Waverly Hall GMD 934, including all of the town of Waverly Hall.

Meriwether County. That portion of the county lying south of State Highway 109 and west of the Central of Georgia Railroad, including all of the towns of Durand, Odessadale, Stovall and White Sulphur Springs and excluding all of the town of Greenville.

Troup County. That portion of the county included within a circle with a 4-mile radius using the intersection of the Atlanta and West Point Railroad and the Troup-Meriwether County line as a radius point, and the Community of Big Springs.

LOUISIANA

Parishes of Ascension, Beauregard, Concordia, East Baton Rouge, Iberia, Iberville, Jefferson, Lafayette, Livingston, Orleans, Ouachita, Plaquemines, Pointe Coupee, St. Bernard, St. Charles, St. John the Baptist, St. Landry, St. Martin, St. Tammany, Tangipahoa, Terrebonne, Washington, and West Baton Rouge.

Acadia Parish. That portion of Acadia Parish lying east of R. 1 W.

Assumption Parish. That portion of the parish lying west of R. 14 E.

Avoyelles Parish. That portion of the parish lying south of T. 2 N.

Caddo Parish. That portion of the parish included within a circle having a 3½-mile radius with the center at the intersection of State Highways 1 and 511.

Calcasieu Parish. That portion of the parish lying west of R. 10 W.

Evangeline Parish. That portion of the parish lying east of R. 1 W.

Lafourche Parish. Secs. 1, 2, 3, 4, 24, 25, 37, 38, 39, 40, 41, 42, and 43; T. 18 S., R. 21 E.; secs. 4, 5, 6, 7, 8, 12, and 62, T. 17 S., R. 21 E.; secs. 43, 44, 45, 46, and 104, T. 17 S., R. 20 E.; and secs. 11, 12, 13, and 14, T. 14 S., R. 18 E.

Madison Parish. That portion of the parish lying west of Tensas Bayou and north of T. 15 N.

Rapides Parish. That portion of the parish south of T. 3 N., and east of R. 2 W.

Richland Parish. Secs. 12, 13, 24, and 25, T. 17 N., R. 9 E.; secs. 30, 19, 18, and 7, T. 17 N., R. 10 E.

St. Helena Parish. That portion of the parish lying south of T. 3 S., and west of the Tickfaw River.

St. Mary Parish. That portion of the parish lying west of the Wax Lake Outlet.

Vermilion Parish. That portion of the parish lying east of the west line of R. 1 E.

West Feliciana Parish. T. 2 S., R. 3 W.; T. 3 S., R. 2 W.; T. 4 S., R. 2 W.

MISSISSIPPI

Counties of Clay, Clarke, Covington, Forrest, George, Greene, Hancock, Harrison, Jackson, Jasper, Jefferson Davis, Jones, Kemper, Lamar, Lauderdale, Lowndes, Marion, Monroe Neshoba, Newton, Noxubee, Oktibbeha, Pearl River, Perry, Stone, Walthall, and Wayne.

Amite County. Secs. 15 and 35, T. 1 N., R. 6 E.

Attala County. T. 15 N., R. 7 E.; secs. 5, 6, and 31, T. 14 N., R. 7 E.

Chickasaw County. Sec. 35, T. 14 S., R. 4 E.

Copiah County. Secs. 4, 5, 8, 9, and 36, T. 1 N., R. 1 E.; secs. 24 and 25, T. 2 N., R. 2 W.

Hinds County. That portion of the county lying east of the east line of R. 2 W.

Lawrence County. Sec. 2, T. 5 N., R. 10 E.; sec. 2, T. 4 N., R. 11 E.; and secs. 20, 21, 28, and 29, T. 7 N., R. 11 E.

Leake County. T. 9 N., R. 7 E.; T. 9 N., R. 8 E.; and the SE¼, T. 10 N., R. 6 E.

Lincoln County. E½, T. 7 N., R. 7 E.; and W½, T. 7 N., R. 8 E.

Madison County. SE¼ T. 7 N., R. 1 E.; SW¼ T. 7 N., R. 2 E.; sec. 29, T. 8 N., R. 2 E.

Pike County. Tps. 1 and 2 N., Rs. 7, 8, and 9 E.; E½ T. 3 N., R. 7 E.; T. 3 N., R. 8 E.; and sec. 29, T. 4 N., R. 8 E.

Rankin County. Tps. 5, 6, and 7 N., Rs. 1, 2, and 3 E.; sec. 3, T. 6 N., R. 4 E.; and sec. 26, T. 4 N., R. 1 E.

Sharkey County. Sec. 12, T. 12 N., R. 7 W.

Simpson County. NE¼ T. 1 N., R. 4 E.; S½ T. 2 N., R. 4 E.; and sec. 19, T. 2 N., R. 5 E.

Smith County. That portion of T. 10 N., R. 14 W., and that portion of W½ T. 10 N., R. 13 W., which lies in Smith County; E½ T. 1 N., R. 9 E.; and sec. 10, T. 2 N., R. 9 E.

Webster County. Sec. 10, T. 16 S., R. 2 E.

Wilkinson County. Sec. 35, T. 2 N., R. 2 W.

Winston County. Sec. 27, T. 15 N., R. 13 E.; sec. 7, T. 16 N., R. 14 E.

Yazoo County. Sec. 36, T. 12 N., R. 2 W.

SOUTH CAROLINA

Charleston County. That area included within a line beginning at a point where U.S. Highway 17 intersects Secondary State Highway 57, and extending northeast along Secondary State Highway 57 to its intersection with Primary State Highway 61; thence northwest along said highway to its intersection with the Charleston-Dorchester County line; thence east along said county line to its intersection with Secondary State Highway 75; thence southeast along Secondary State Highway 75 to its intersection with the Southern Railroad; thence southeast along said railroad to its intersection with Primary State Highway 7; thence southwest along said highway to its intersection with U.S. Highway 17; thence northwest along said U.S. Highway 17 to the point of beginning.

Orangeburg County. That area included within a line beginning at a point where the Atlantic Coast Line Railroad crosses the North Fork Edisto River and extending south along said river to Secondary State Highway 39; thence east along Secondary State Highway 39 to its intersection with U.S. Highway 21; thence south along U.S. Highway 21 to its intersection with Secondary State Highway 80; thence southeast along Secondary State Highway 80 to its intersection with Primary State Highway 121; thence northeast along Primary State Highway 121 to its intersection with U.S. Highway 178 at Bowman; thence northwest along U.S. Highway 178 to its intersection with Secondary State Highway 196; thence northeast along Secondary State Highway 196 to its intersection with Secondary State Highway 50; thence west along Secondary State Highway 50 to its intersection with Secondary State Highway 154; thence northwest along Secondary State Highway 154 to its intersection with Secondary State Highway 65; thence northwest along Secondary State Highway 65 to its intersection with the Atlantic Coast Line Railroad; thence southwest along the Atlantic Coast Line Railroad to the point of beginning; excluding the area within the corporate limits of the towns of Orangeburg, Rowesville, and Bowman.

TEXAS

Counties of Bexar, Hardin, Harris, Jasper, Jefferson, Newton, Orange, and Tyler.

§ 301.81–3 Regulated articles; conditions of movement.

(a) *Designated articles.* Unless exempted by administrative instructions, the following may be moved from the regulated area into or through any point outside thereof, or from the generally infested area into or through the eradication area, only if accompanied by a valid certificate or limited permit issued in compliance with § 301.81–6 and if the applicable requirements of §§ 301.81–4 and 301.81–5 are also met: Soil, sand or gravel, separately or with other things, except that the movement of processed sand and gravel is not regulated; forest, field or nursery-grown woody or herbaceous plants with soil attached; plants in pots or containers; grass sod; and unmanufactured forest products such as stump wood or timbers if soil is attached. However, regulated articles of kinds within this paragraph which originate outside of the regulated area and are moving through or are being reshipped from the regulated area, may be moved from the regulated area and from the generally infested area into or through the eradication area, without further restriction under this subpart when their point of origin is clearly indicated, when their identity has been maintained, and when they have been safeguarded against infestation while in the regulated area in a manner satisfactory to an inspector and do not present a hazard of spread of the imported fire ant. Otherwise such regulated articles shall be subject to all applicable requirements under this subpart for articles originating in the regulated area.

(b) *Articles determined to present hazards.* When it has been determined by an inspector that, due to contamination with the imported fire ant, or any other reason, a hazard of spread of the ant is presented by any products or articles of any character whatsoever, not covered by paragraph (a) of this section, notice of such fact shall be given to the person having custody thereof Thereafter, such contaminated products and articles may be moved from the regulated area into or through any point outside thereof, or from the generally infested area into or through the eradication area, only after they have been cleaned, treated or otherwise disinfected to the satisfaction of the inspector or when they are moving under limited permit as required by the inspector.

§ 301.81–4 Use of certificates or limited permits with shipments.

Every container of regulated articles, or if there is none the article itself, required to have a certificate or limited permit under § 301.81–3 shall have such certificate or permit securely attached to the outside thereof, when offered for movement under said section, except that where the regulated articles are adequately described on a certificate or limited permit attached to the waybill, the attachment of a certificate or limited permit to each container of the articles, or to the article itself, will not be required.

§ 301.81–5 Protecting certified articles.

Subsequent to certification as provided in § 301.81–6, regulated articles must be loaded, handled, and shipped, only under such protection and safeguards against infestation as are required by the inspector.

§ 301.81–6 Conditions governing the issuance of certificates and limited permits.

(a) *Certificates.* Certificates may be issued by the inspector for the movement of the regulated articles designated in § 301.81–3(a) under any one of the following conditions:

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

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

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

(4) When grown, produced, stored, or handled in such manner that, in the judgment of the inspector, no infestation would be transmitted thereby.

(b) *Limited permits.* Limited permits may be issued by the inspector for the movement of noncertified regulated articles under § 301.81–3 to specified destinations for limited handling, utilization, or processing.

(c) *Dealer-carrier agreement.* As a condition of issuance of certificates or limited permits for the movement of regulated articles, any person engaged in purchasing, assembling, exchanging, handling, processing, utilizing, treating, or moving such articles may be required to sign a dealer-carrier agreement stipulating that he will maintain such safeguards against the establishment and spread of infestation and comply with such conditions as to the maintenance of identity, handling, and subsequent movement of such articles and the cleaning and treatment of means of conveyance and containers used in the transportation of such articles as may be required by the inspector.

§ 301.81–7 Assembly of articles for inspection.

Persons intending to move any of the regulated articles under § 301.81–3 shall make application for inspection as far in advance as possible, shall so handle such articles as to safeguard them from infestation, and shall assemble them at such points and in such manner as the inspector shall designate to facilitate inspection.

§ 301.81–8 Cancellation of certificates or limited permits.

Certificates or limited permits for any regulated articles issued under the regulations in this subpart may be withdrawn or cancelled and further certificates or permits for such articles may be refused by the inspector whenever he determines that the further use of such certificates or permits might result in the spread of the imported fire ant.

§ 301.81–9 Inspection and disposal.

Any properly identified inspector is authorized to stop and inspect, without a warrant, any person or means of conveyance moving from any State, Territory, or District of the United States into or through any other such State, Territory, or District and any plant pest and any product and article of any character whatsoever carried thereby, upon probable cause to believe that such means of conveyance, product, or article is infested or infected by or contains any plant pest or is moving subject to this subpart or any other regulations under the Federal Plant Pest Act or that such person or means of conveyance is carrying any plant pest subject to that act, and to stop and inspect, without a warrant, any means of conveyance so moving, upon probable cause to believe it is carrying any product or article prohibited or restricted movement under the Plant Quarantine Act or any quarantine or order thereunder. Such inspector is authorized to seize, destroy, or otherwise dispose of, or require disposal of, products, articles, means of conveyance, and plant pests in accordance with section 105 of the Federal Plant Pest Act and section 10 of the Plant Quarantine Act.

§ 301.81–10 Nonliability of Department.

The United States Department of Agriculture disclaims liability for any cost incident to inspection or treatment required under the provisions in this subpart, other than for the services of the inspector.

PART 302—DISTRICT OF COLUMBIA; MOVEMENT OF PLANTS AND PLANT PRODUCTS

ORDER

Sec.

302.1 Movement of plants and plant products into and out of the District of Columbia.

RULES AND REGULATIONS

302.2 Definitions.
302.3 Unrestricted articles.
302.4 Requirements relating to nursery stock and other plants and plant products.
302.5 Shipments which fail to comply with regulations.
302.6 Certification of nursery stock and herbaceous perennial plants, bulbs, and roots.

AUTHORITY: §§ 302.1 to 302.6 issued under sec. 9, 37 Stat. 318; 7 U.S.C. 162. Interpret or apply sec. 15, 41 Stat. 726, as amended; 7 U.S.C. 167.

ORDER

§ 302.1 Movement of plants and plant products into and out of the District of Columbia.

The Secretary of Agriculture, as required by the Plant Quarantine Act of August 20, 1912, as amended (41 Stat. 726; 7 U. S. C. 167), does hereby order that no plants or plant products shall be moved into or out of the District of Columbia except in compliance with the rules and regulations supplemental hereto which are hereby promulgated: *Provided*, That certain plants or plant products may be exempted from the rules and regulations in this part by administrative instructions issued by the Director of the Plant Quarantine Division when, in his judgment, such articles are considered innocuous as carriers of dangerous plant pests.

RULES AND REGULATIONS

§ 302.2 Definitions.

For the purpose of the regulations in this part the following words, names, and terms shall be construed, respectively, to mean:

(a) *Nursery stock.* All trees, shrubs, and plants having a persistent woody stem, and parts thereof capable of propagation, except fruit pits and seeds, provided that foreign-grown seeds of woody plants, of palms, of Vicia (vetch, etc), and of Lathyrus (sweet peas, etc.), are defined as nursery stock.

(b) *Herbaceous perennial plants, bulbs, and roots.* Plants whose roots persist 2 or more years but which lack persistent woody stems above the ground. This term includes fibrous-rooted perennials, such as strawberry plants and phlox; bulbs, such as narcissus and crocus; corms, such as gladiolus; tubers, such as dahlia; fleshy roots, such as peony; rhizomes, such as iris; and such greenhouse-grown plants as ferns, geraniums, orchids, etc.

(c) *Annual plants.* Plants grown from seed for bloom or food the same season and living only 1 year. This term includes such plants as cabbage, tomato, and aster.

(d) *Inspector.* Plant quarantine inspector of the United States Department of Agriculture.

(e) *Moved.* Offered for movement to or received for transportation by a common carrier or moved by any means whatever into or out of the District of Columbia.

(f) *Certificate.* A certificate showing that the nursery or premises from which the plants or plant products were taken were inspected within 1 year prior to the date of shipment and were found to be free from injurious insect pests and plant diseases, or that the plants or plant products were inspected prior to shipment and found to be free from injurious insect pests and plant diseases.

§ 302.3 Unrestricted articles.

No requirements as to certification or labeling are placed by the regulations in this part [1] on the entry into or movement out of the District of Columbia of (a) annual plants, cut flowers, or decorative plant material (such as branches and Christmas trees); (b) seeds, except certain foreign-grown seeds as defined in § 302.2(a); nor of (c) other plants and plant products not included in the definitions in § 302.2 (a), (b). The requirements as to delivery of plant materials are stated in § 302.4(c).

§ 302.4 Requirements relating to nursery stock and other plants and plant products.

(a) *Certification and marketing of nursery stock.* No nursery stock as

[1] Compliance with any special plant quarantine or restrictive order which may be applicable thereto is required. Information relative to such restrictions may be obtained from the Plant Quarantine Division.

defined in § 302.2 shall be moved into the District of Columbia unless a valid certificate signed by the State nursery or horticultural inspector of the State or Territory or country from which the stock is shipped is attached to the outside of each package or other container. Each package or other container shall in addition be plainly marked with the names and addresses of the consignor and consignee and with a statement showing the nature of the contents.

(b) *Marking of herbaceous perennials, bulbs, or roots.* No herbaceous perennial plants, bulbs, or roots, as defined in § 302.2, shall be moved into the District of Columbia unless the container thereof is plainly marked with the names and addresses of the consignor and consignee and with a statement showing the nature of the contents.[2]

(c) *Delivery of plants and plant products.* (1) No nursery stock, herbaceous plants, bulbs, or roots, originating outside of the District of Columbia shall be delivered to the consignee in the District of Columbia by a common carrier or other person until such delivery is authorized by an inspector of the Plant Quarantine Division.

(2) All nursery stock and herbaceous perennial plants, bulbs, and roots, annual plants, decorative plant material, and other plants and plant products, whether restricted or unrestricted, addressed to the United States Department of Agriculture, Washington, D. C., shall be delivered only at the Plant Inspection House of the Plant Quarantine Division (224 Twelfth Street SW.).

§ 302.5 Shipments which fail to comply with regulations.

Plants and plant products shipped into the District of Columbia, which are found to be infected or infested with any plant pest or disease, or which have not been moved in full compliance with the regulations in this part, may be disposed of as authorized in the Plant Quarantine Act.

§ 302.6 Certification of nursery stock and herbaceous perennial plants, bulbs, and roots.

(a) No nursery stock, or herbaceous perennial plants, bulbs, or roots, as defined in § 302.2, shall be moved out of the District of Columbia unless a certificate or permit has been issued therefor by the Plant Quarantine Division. Each package or other container of such plants, bulbs, or roots shall have such a certificate or permit attached to the outside thereof.

(b) A certificate or permit may be issued for the movement out of the District of Columbia of the nursery stock covered by this section, when it has been examined by an inspector and found apparently free from dangerous plant diseases and insects and when such shipment is found to comply in full with all Federal quarantine regulations.

(c) (1) Nursery stock, herbaceous perennial plants, bulbs, or roots, to be shipped out of the District of Columbia must be presented at the Plant Inspection House of the Plant Quarantine Division (224 Twelfth Street SW.) for inspection at the time of shipment unless otherwise authorized by an inspector.

(2) When large shipments are contemplated, arrangements may be made for inspection at other places by telephoning DUdley 8-2598, or writing the Division.

(3) Application for inspection of articles the movement of which is restricted by quarantine regulations or other restrictive orders shall be made at a season of the year sufficiently in advance of the contemplated date of shipment to provide for compliance with regulations.

(d) No common carrier or other person shall accept for shipment or remove from the District of Columbia any nursery stock, herbaceous perennial plants, bulbs, or roots, unless the required certificate or permit has been issued and is securely attached to the outside of each container.

[2] Herbaceous plants of foreign origin must be marked in accordance with the provisions of § 319.37 of this chapter.

PART 318—TERRITORIAL QUARANTINE NOTICES

Subpart—Hawaiian Fruits and Vegetables

QUARANTINE

Sec.
318.13 Notice of quarantine.
318.13a Administrative instructions relating to the movement from Hawaii to Guam of specified articles.

RULES AND REGULATIONS

318.13-1 Definitions.
318.13-2 Regulated articles.
318.13-3 Conditions of movement.
318.13-4 Conditions governing the issuance of certificates.
318.13-4a Administrative instructions authorizing the movement from Hawaii of frozen fruits and vegetables.
318.13-4b Administrative instructions approving ethylene dibromide fumigation as a condition for certification of certain fruits and vegetables for movement from Hawaii.
318.13-4c Administrative instructions prescribing methods of vapor-heat treatment of certain fruits and vegetables from Hawaii.
318.13-5 Application for inspection.
318.13-6 Marking, certification, and type of container.
318.13-7 Uncertified fruits, vegetables, and cut flowers taken aboard ships, vessels, other surface craft, or aircraft.
318.13-8 Inspection of vessels.
318.13-9 Disinfection of vessels.
318.13-10 Inspection of aircraft.
318.13-11 Disinfection of aircraft.
318.13-12 Inspection of baggage and cargo.
318.13-13 Posting of warning notice and distribution of baggage declarations.
318.13-14 Shipments for experimental or scientific purposes.

Subpart—Sugarcane

318.16 Notice of quarantine.
318.16a Administrative instructions and interpretation relating to movement to Guam of bagasse and related sugarcane products.

Subpart—Sweetpotatoes

318.30 Notice of quarantine.
318.30a Administrative instructions authorizing movement from Puerto Rico of certain sweetpotatoes grown under specified conditions.

Subpart—Territorial Cotton, Cottonseed, and Cottonseed Products

QUARANTINE

318.47 Notice of quarantine.
318.47a Administrative instructions relating to Guam.

RULES AND REGULATIONS

318.47-1 Definitions.
318.47-2 Articles the movement of which is prohibited or regulated.
318.47-3 Conditions governing the issuance of certificates and permits.
318.47-4 Shipments by the Department of Agriculture.

Subpart—Fruits and Vegetables From Puerto Rico or Virgin Islands

QUARANTINE

318.58 Notice of quarantine.

RULES AND REGULATIONS

318.58-1 Definitions.
318.58-2 Fruits and vegetables the movement of which is prohibited.
318.58-3 Fruits and vegetables the movement of which is authorized.
318.58-3c Administrative instructions authorizing the movement from Puerto Rico of frozen fruits and vegetables.
318.58-3d Administrative instructions authorizing the movement of mangoes from Puerto Rico after approved fumigation.
318.58-4 Application for inspection.
318.58-5 Certification of shipments.
318.58-6 Marking of containers.
318.58-7 Fruits and vegetables as ships' stores or in the possession of passengers and crew.
318.58-8 Inspection of vessels.
318.58-9 Disinfection of vessels.
318.58-10 Inspection of cargo.
318.58-11 Inspection of personal belongings.
318.58-12 Parcel post inspection.
318.58-13 Movement by the Department of Agriculture.
318.58-14 Special provisions for preflight inspection in Puerto Rico or the Virgin Islands of aircraft, cargo, etc.

Subpart—Sand, Soil, or Earth, With Plants From Territories and Districts

318.60 Notice of quarantine.

Subpart—Guam

QUARANTINE

318.82 Notice of quarantine.

REGULATIONS

318.82-1 Definitions.
318.82-2 Movement of regulated articles.
318.82-3 Costs.

AUTHORITY: §§ 318.13 to 318.82-3 issued under secs. 103, 106, 71 Stat. 32, 33, sec. 9, 37 Stat. 318; 7 U.S.C. 150bb, 150ee, 162. Interpret or apply sec. 8, 37 Stat. 318, as amended, sec. 10, 45; 7 U.S.C. 161.

Subpart—Hawaiian Fruits and Vegetables

QUARANTINE

§ 318.13 Notice of quarantine.

(a) Pursuant to section 8 of the Plant Quarantine Act of August 20, 1912, as

amended (7 U. S. C. 161) and having given public hearing as required thereunder, the Secretary of Agriculture has determined that it is necessary to quarantine the Territory of Hawaii to prevent the spread to other parts of the United States of dangerous plant diseases and insect infestations, including the Mediterranean fruit fly (Ceratitis capitata (Wied.)), the melon fly (Dacus cucurbitae Coq.), the oriental fruit fly (Dacus dorsalis Hendl.), citrus canker (Xanthomonas citri (Hasse) Dowson), green coffee scale (Coccus viridis (Green)), the bean pod borer (Maruca testulalis (Geyer)), the bean butterfly (Lampides boeticus (L.)), the Asiatic rice borer (Chilo simplex (Butl.)), the mango weevil (Cryptorhynchus mangiferae (F.)), and the Chinese rose beetle (Adoretus sinicus Burm.), which are new to or not widely prevalent or distributed within and throughout the United States, and said Secretary has quarantined the Territory of Hawaii because of such diseases and insect infestations.

(b) No fruits or vegetables, in the raw or unprocessed state; peel of fruits of any genus, species, or variety of the subfamily Aurantioideae, Rutoideae, or Toddalioideae of the botanical family Rutaceae; cut flowers; rice straw; or mango seeds shall be shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, tansported, moved, or allowed to be moved by any person from the Territory of Hawaii into or through the continental United States, Alaska, Guam, Puerto Rico, or the Virgin Islands of the United States, in manner or method or under conditions other than those prescribed in the regulations hereinafter made or amendments thereto: *Provided*, That whenever the Director of the Plant Quarantine Division shall find that existing conditions as to pest risk involved in the movement of the articles to which the regulations supplemental hereto apply, make it safe to modify, by making less stringent, the restrictions contained in any of such regulations, he shall publish such findings in administrative instructions specifying the manner in which the regulations shall be made less stringent, whereupon such modification shall become effective; or he may, when the public interest will permit, with respect to the movement of such articles to Guam, upon request in specific cases and notification to the person making the request, authorize their certification under conditions, specified in the certificate to carry out the purposes of this subpart, that are less stringent than those contained in the regulations.

(c) This section leaves in full force and effect § 318.30 which restricts the movement from Hawaii, Puerto Rico, and the Virgin Islands of the United States into any of the States or certain Territories or Districts of the United States of all varieties of sweetpotatoes (Ipomoea batatas Poir.).

(d) Regulations governing the movement of live plant pests designated in this section are contained in Part 330 of this chapter.

§ 318.13a Administrative instructions relating to the movement from Hawaii to Guam of specified articles.

(a) The following fruits, vegetables, and other products may be moved from Hawaii into or through Guam without certification or other restriction under this subpart:

(1) Peel of fruits of all genera, species, and varieties of the subfamilies Aurantioideae, Rutoideae or Toddalioideae of the botanical family Rutaceae.

(2) Cut flowers, as defined in § 318.13–1(c).

(3) All fruits and vegetables designated in § 318.13–2(b).

(4) Bitter melons, Cavendish bananas, and zucchini squash.

(b) Section 318.13–13 shall not apply with respect to the movement of surface or air traffic from Hawaii to Guam.

RULES AND REGULATIONS

§ 318.13–1 Definitions.

For the purpose of the regulations in this subpart the following words, names, and terms shall be construed, respectively, to mean:

(a) *Plant pests.* The injurious insects and plant diseases referred to in § 318.13, in any stage of development.

(b) *Fruits and vegetables.* The more or less succulent portions of food plants, and parts thereof, in the raw or unprocessed state, such as bananas, coconuts, pineapples, potatoes, ginger root, tomatoes, peppers, melons, citrus, mangoes, etc.

(c) *Cut flowers.* Cut blooms of gardenia and mauna loa or leis made thereof.

(d) *Mango seeds.* Seeds of the fruit of mango (Mangifera spp.), fresh or dried.

(e) *Rice straw.* Stems or straw of rice (Oryza sativa), when used as packing material or for other purposes.

(f) *Inspector.* An inspector of the United States Department of Agriculture authorized by the Secretary of Agriculture to enforce the provisions of the Plant Quarantine Act.

(g) *Certificate.* A document signed by an inspector certifying that a particular ship, vessel, other surface craft, or aircraft, or any specified lot or shipment of fruits or vegetables or other plant materials, via baggage, parcel post, express, freight or other mode of transportation, has been inspected and found apparently free from articles the movement of which is prohibited by the quarantine and regulations in this subpart, and from the plant pests referred to in said quarantine; or that the lot or shipment is of such a nature that no danger of infestation or infection is involved; or that it has been treated in a manner to eliminate infestation. A certificate covering treated products must state the treatment applied.

(h) *Person.* This term shall be construed to include both the plural and the singular, as the case demands, and shall include corporations, companies, societies, and associations.

(i) *Moved (move and movement).* Shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved, or allowed to be moved, directly or indirectly, from the Territory of Hawaii into or through the continental United States, Alaska, Guam, Puerto Rico, or the Virgin Islands of the United States. Local, interisland movement is in no way affected by the regulations in this subpart. ("Move" and "movement" shall be construed accordingly.)

(j) *Disinfection (disinfect and disinfected).* The application to parts or all of a ship, vessel, other surface craft, or aircraft of a treatment that may be designated by the inspector as effective against such plant pests as may be present. ("Disinfect" and "disinfected" shall be construed accordingly.)

§ 318.13–2 Regulated articles.

(a) *Prohibited movement.* Fruits, vegetables, and other products specified in § 318.13, and not eligible for inspection and certification under § 318.13–4 or otherwise expressly authorized movement either in the regulations in this subpart or in administrative instructions issued by the Director of the Plant Quarantine Division are prohibited movement.

(b) *Regulated movement.* The movement of the following fruits and vegetables from the Territory of Hawaii is allowed throughout the year upon compliance with the regulations in this subpart:

Aechmea bracteata (Sw.) Griseb, fruitbearing panicles.
Arrowhead (Sagittaria sagittifolia).
Arrowroot (Maranta arundinacea).
Asparagus (Asparagus officinalis).
Bean sprouts, soy (Glycine hispida).
Bean sprouts, mungo (Phaseolus aureus).
Burdock, great (Arctium lappa, Lappa major, L. edulis).
Butterbur (Petasites japonicus).
Cabbage (Brassica oleracea).
Cabbage, Chinese (Brassica pekinensis, B. chinensis).
Cabbage, swamp (Ipomoea reptans).
Carrot (Daucus carota satira).
Cassava (Manihot sp.).
Celery (Apium graveolens).
Chinese spinach (Amaranthus gangeticus).
Chives (Allium schoenoprasum).
Chrysanthemum, garland (Chrysanthemum coronarium).
Coconuts (Cocos nucifera), in mature green or mature brown condition.
Coriander (Coriandrum sativum).
Dandelion (Taraxacum officinale).
Dropwort, water (Oenanthe stolonifera).
Foxheads or Nipple fruits (Solanum mamosum).
Garlic (Allium sativum).
Ginger bracts (Zingiber mioga).
Ginger root (Zingiber officinale).
Honewort (Cryptotaenia canadensis).
Jesuit's nut (Trapa bicornis, T. natans).
Kudzu (Pueraria thunbergiana).
Leek (Allium porrum).
Lettuce (Lactuca sativa)
Lily root (Nelumbium nucifera).
Mahogany fruit (Swietenia mahagoni (L.) Jacq.).
Mugwort (Artemisia vulgaris).
Nightshade, Malabar (Bassella rubra).
Onion, green (Allium fistulosum).
Parsley (Petroselinum hortense).
Perilla (Perilla frutescens).
Pineapples (Ananas sativa), smooth Cayenne.
Potato (Solanum tuberosum).
Radish greens (Raphanus sativus longipinnatus).

Radish, oriental (Raphanus sativus longipinnatus).
Sausage fruit (Kigelia pinnata (Jacq.)).
Shallot (Allium ascalonicum).
Spinach (Spinacia oleracea).
Sweet corn (Zea mays).
Taro root, shoots and stalks (Colocasia antiquorum esculentum).
Watercress (Nasturtium officinale).
Waternut (waterchestnut) (Eleocharis dulcis (E. tuberosa) (Scirpus tuberosus)).
Wood rose (Ipomoea tuberosa L.).
Yam bean root (Pachyrhizus erosus).
Yams Dioscorea (spp.).

Provided, That additions of other fruits and vegetables may be made to the foregoing list of regulated articles by the Director of the Plant Quarantine Division when he determines that such fruits or vegetables, either as ordinarily packed and shipped or after treatment, do not involve risk of spreading any of the plant pests designated in the foregoing quarantine, and when such findings have been made known in administrative instructions of the Director of the Plant Quarantine Division.

§ 318.13–3 Conditions of movement.

(a) *Certification.* Regulated articles shall not be moved from the Territory of Hawaii unless accompanied by a valid certificate issued by an inspector, except that coconuts (husked or unhusked, and when in mature green or mature brown condition), free from wrapping or packing materials, may be moved through the mails without certification.

(b) *Segregation of certified articles.* Articles certified after treatment in accordance with § 318.13–4(b), taken aboard any ship, vessel, other surface craft, or aircraft in the Territory of Hawaii must be segregated and protected in a manner as required by the inspector.

§ 318.13–4 Conditions governing the issuance of certificates.

Certificates may be issued for the movement of articles permitted movement in accordance with the regulations in this subpart under either of the following conditions:

(a) Fruits and vegetables designated in § 318.13–2(b) may be certified when they have been inspected by an inspector and found apparently free from infestation.

(b) Fruits, vegetables, and other products designated in § 318.13 (except those listed in § 318.13–2(b)) for which treatments may be approved by the Director of the Plant Quarantine Division may be certified after such treatments have been applied under the observation of an inspector in accordance with administratively approved procedure. Any treatment that may be approved must be applied at the expense of the shipper, owner, or person in charge of such fruits and vegetables, except that no charge will be made for services performed by the inspector in the supervision of such treatments. The Department of Agriculture or its inspector will not be responsible for loss or damage resulting from any treatment prescribed or supervised.

§ 318.13–4a Administrative instructions authorizing the movement from Hawaii of frozen fruits and vegetables.

(a) The type of treatment designated in this part as freezing shall be one of the commercially acceptable methods that involves initial freezing at subzero temperatures and subsequent storage at not higher than 0° F., with a storage tolerance of plus 20° F. Such treatments are commonly known as quick freezing, sharp freezing, frozen-pack, or cold-pack. Any equivalent freezing method is also included in this designation.

(b) The Director of the Plant Quarantine Division, pursuant to the authority contained in §§ 318.13–2(b) and 318.13–4(b), hereby approves the process of freezing as a treatment for all fruits and vegetables described in § 318.13, except as otherwise provided in paragraph (d) of this section. Such frozen fruits and vegetables may be certified for movement from Hawaii into or through any other Territory, State, or District of the United States.[1]

(c) The inspector in Hawaii shall determine that such fruits and vegetables are in a satisfactory frozen state before issuing a certificate. The inspector on the mainland will release the shipment on the basis of the certificate issued in Hawaii.

(d) The movement from Hawaii of frozen fruits and vegetables is not authorized when such fruits and vegetables are subject to attack, in the area of origin, by plant pests that may not, in the judgment of the Director of the Plant Quarantine Division, be destroyed by freezing.

(e) Freezing of fruits and vegetables as authorized in this section is considered necessary for the elimination of pest risk, and no liability shall attach to the United States Department of Agriculture or to any officer or representative of that Department in the event of injury resulting to fruits or vegetables offered for movement in accordance with the instructions of this section.

§ 318.13–4b Administrative instructions approving ethylene dibromide fumigation as a condition for certification of certain fruits and vegetables for movement from Hawaii.

(a) *Approved fumigation.* The Director of the Plant Quarantine Division hereby approves ethylene dibromide fumigation, applied in accordance with the provisions of this section, as a treatment for bitter melons, Cavendish bananas, fresh litchi nuts, cucumbers, papayas, pineapples, other than smooth cayenne, string beans, and Zucchini squash. Such fruits and vegetables treated and handled as provided in this section may be certified for movement from the Territory of Hawaii.

(b) *Fumigation in open containers.* The fruits and vegetables designated in paragraph (a) of this section may be fumigated in open containers in an approved atmospheric fumigation chamber for a period of two hours at a minimum temperature of 70° F. with a dosage of one-half pound of ethylene dibromide per 1,000 cubic feet of space, including the load.

(c) *Pineapples in corrugated collars.* Pineapples (other than smooth cayenne) in corrugated paper collars, packed in unlined, well-aerated crates may be fumigated in an approved atmospheric fumigation chamber for a period of three hours at a minimum temperature of 70° F. with a dosage of three-quarters pound of ethylene dibromide per 1,000 cubic feet of space, including the load.

(d) *Prepacked papayas.* (1) Papayas prepacked for shipment using only materials approved in advance by the inspector may be fumigated in an atmospheric fumigation chamber approved for this purpose for a period of two hours at a minimum temperature of 70° F. with a dosage of 1½ pounds of ethylene dibromide per 1,000 cubic feet of space, including the load.

(2) The fruit may be individually wrapped in tissue paper, or packed in shredded paper or wood excelsior, in unlined corrugated cartons and sealed along the central flap with Kraft paper tape. No additional covering or lining for the cartons is authorized.

(e) *Approved equipment, procedure, and load limit.* (1) Fumigation chambers and equipment used in the treatments specified in this section must be approved for that purpose by the Plant Quarantine Division. Such a chamber must be equipped with a gas-tight glass window to permit a view inside the chamber while fumigation is in progress. The ethylene dibromide must be applied in the liquid state and heated over an electric hot-plate or other suitable means until vaporization is completed. The exposure time shall be calculated from the time vaporization is completed.

(2) Loading of the fumigation chamber shall be limited to ¾ of the height of the chamber but in no instance shall the containers be stacked higher than five feet. In each individual stack, containers may be placed one directly atop another and such space shall be provided around each stack for proper circulation of the fumigant as the inspector deems necessary. Adequate circulation shall be provided throughout the fumigation period by one or more fans positioned as directed by the inspector.

(f) *Supervision of treatments and subsequent handling.* The treatments approved in this section and the subsequent handling of the fruits and vegetables so treated must be under the supervision of a plant quarantine inspector of the Plant Quarantine Division. Such treated fruits and vegetables must be safeguarded against reinfestation during the period prior to movement from Hawaii in a manner satisfactory to the said inspector. Certification of these commodities for such movement will be made only upon compliance with the prescribed treatment and post-treatment safeguards.

(g) *Costs.* All costs of the treatments and prescribed post-treatment safeguards provided for in this section, other than the services of the supervising inspector during regularly assigned hours of duty and at the usual place of duty, shall, as required by § 318.13–4(b), be borne by the owner of the fruits or vegetables, or his representative.

(h) *Department not responsible for damage.* While the treatments approved in this section are judged from

[1] Applications for certificates to move frozen fruits and vegetables from Hawaii under this subpart may be made to Plant Quarantine Division, Room 248, Federal Building, Honolulu 9, Hawaii.

experimental tests to be safe for use with the designated fruits and vegetables, the Department of Agriculture and its inspector assume no responsibility for any loss or damage resulting from any treatment prescribed or supervised.

(i) *Tolerance.* Tests show that there is no detectable difference between untreated papaya, fresh litchi nuts, pineapple, cucumber, Zucchini squash, and bitter melon, and these commodities fumigated as approved in this section, after a minimum storage of 5 to 6 days at 55° F. Fumigated string beans and Cavendish bananas show slight though questionable effects, but are considered commercially acceptable.

§ 318.13–4c Administrative instructions prescribing methods of vapor-heat treatment of certain fruits and vegetables from Hawaii.

(a) *Approved vapor-heat methods of treatment.* (1) Approved vapor-heat treatment, in accordance with the following procedure, is hereby designated as an administratively approved procedure that meets the requirements for the certification, in accordance with § 318.13–4 (b), of papayas, bell peppers, eggplants, pineapples (other than smooth Cayenne), Italian squash, and tomatoes for movement from Hawaii:

(i) In the approved vapor-heat treatment the fruits and vegetables are heated by saturated vapor at 110° F. which in condensing on the fruits and vegetables gives up its latent heat. This latent heat is essential in assuring mortality of eggs and larvae of the oriental fruit fly, the Mediterranean fruit fly and the melon fly, and in raising the temperature of the fruits and vegetables evenly and quickly so as to prevent damage to the treated products. In applying the treatment the saturated vapor is accompanied by a fine water mist and air admixture.

(ii) The fruits and vegetables are cooled immediately after treatment and no wax or paraffin, either dry or in solution, may be used until after the treatment has been completed. Vapor-heat treatments are approved only if the vapor conditions within the heat treating room, the manner of stacking the boxes containing the fruits and vegetables in the room, and all other conditions affecting the efficacy of the treatment are satisfactory to the supervising inspector, to assure mortality of eggs and larvae of the oriental fruit fly, the Mediterranean fruit fly, and the melon fly.

(iii) In applying this treatment, in accordance with these principles, the temperature of the fruits and vegetables shall be raised to 110° F., at the approximate center of the fruits and vegetables, within a period designated by the inspector, and shall be held at that level during the following 8¾ hours.

(2) Approved vapor-heat treatment, in accordance with the following procedure, is hereby designated as an alternate administratively approved procedure that meets the requirements for the certification, in accordance with § 318.13–4(b), of papayas for movement from Hawaii:

(i) In the approved vapor-heat "quick run-up" treatment the papayas are heated by saturated vapor until the temperature at the approximate center of the fruit reaches a minimum of 117° F. The cooling and other conditions prescribed in subparagraph (1) (ii) of this paragraph apply.

(ii) The conditioning of the papayas preparatory to the treatment, as provided in paragraph (e) of this section, shall be completed within a period designated by the inspector.

(3) The treatments provided for in subparagraphs (1) and (2) of this paragraph must be conducted in a heat-treating room approved by the Plant Quarantine Division and must be conducted under the supervision of an inspector of that Division, who at all times shall have access to the fruits and vegetables while they are undergoing treatment.

(4) The Division will approve only those rooms which are properly constructed and adequately equipped to handle and treat the fruit or vegetables, at locations acceptable to the inspector in areas where required supervision can be furnished. Hereafter no treating plant will be approved until it is equipped with a self-recording temperature and humidity indicator acceptable to the inspector.

(b) *Subsequent handling.* All handling in Hawaii subsequent to treatment of fruits and vegetables intended for shipment elsewhere in the United States must be carried out to meet requirements of and under the supervision of the inspector.

(c) *Costs.* All costs of treatment and prescribed post-treatment safeguards, other than the services of the supervising inspector during regularly assigned hours of duty and at the usual place of duty, shall, as required by § 318.13–4 (b), be borne by the owner of the fruits or vegetables, or his representative.

(d) *Department not responsible for damage.* In the tests and experiments so far conducted, fruits and vegetables (other than eggplants) have not been injured and the results following treatment have been successful. It is however, emphasized that inexactness and carelessness in using the approved method of treatment may result in injury to the fruit and vegetables treated. In approving this treatment the United States Department of Agriculture does not accept responsibility for fruit or vegetable injury.

(e) *Conditioning.* (1) The treatments set forth in paragraph (a) of this section are in addition to any other procedure or practice that may be found by the shipper to be desirable to condition or otherwise handle fruits or vegetables that may be offered for treatment.

(2) Eggplants require conditioning before they will tolerate the approved vapor-heat treatment. Even when conditioned, darkening of their seeds usually occurs. In tests of eggplant tolerance to vapor-heat treatment, 6 to 8 hours conditioning at 110° F. and approximately 40 percent relative humidity before the prescribed 8¾-hour holding period has been found effective. This conditioning procedure or any other that the shipper has developed and found satisfactory may be used for eggplants at the shipper's risk.

(3) Papayas require conditioning before they will tolerate the approved vapor-heat "quick run-up" treatment and even then some injury may result. Any conditioning that the shipper has developed and found satisfactory may be used with the "quick run-up" treatment for papayas at the shipper's risk.

§ 318.13–5 Application for inspection.

Persons intending to move any fruits or vegetables that may be certified in accordance with the provisions of § 318.13–4 shall make application for inspection or treatment on forms provided for this purpose as far as possible in advance of the contemplated date of shipment. They will also be required to prepare, handle, and safeguard such articles from infestation or reinfestation, and to assemble them at such points as the inspector may designate, placing them so that inspection may be readily made. All costs, including storage, transportation, and labor incident to inspection, other than the services of the inspector shall be paid by the shipper. Blank forms[1] for use in making applications for inspections will be furnished free upon request to the United States Department of Agriculture, Plant Quarantine Division, Honolulu, Hawaii.

§ 318.13–6 Marking, certification, and type of container.

Each container of articles required to be certified under the regulations in this subpart shall be plainly marked for identification purposes as required by the inspector, and shall be accompanied by a certificate issued in compliance with the regulations in this subpart. In the case of lot shipments, either in containers or in bulk, a certificate covering the lot shall be attached to the waybill, manifest or bill of lading. Containers or wrappers shall be new or of materials approved by an inspector.

§ 318.13–7 Uncertified fruits, vegetables, and cut flowers taken aboard ships, vessels, other surface craft, or aircraft.

(a) *In the possession of passengers or crew members.* Small quantities of fruits, vegetables, and cut flowers, subject to the quarantine and regulations in this subpart, when loose and free of packing materials, may be taken aboard any ship, vessel, other surface craft, or aircraft by passengers or members of the crew without inspection and certification in the Territory of Hawaii. However, if such articles so taken aboard, are not eligible for inspection and certification under § 318.13–4(a), they must be entirely consumed or disposed of before arrival within the territorial waters of the continental United States, Alaska, Guam, Puerto Rico, or the Virgin Islands of the United States: *Provided,* That no such uncertified articles may be taken aboard any aircraft as baggage or otherwise, when such aircraft is to be inspected and certified before its departure from the Territory of Hawaii in the manner set

[1] Form PQ–170.

forth in § 318.13–10 of the regulations in this subpart.

(b) *As ship's stores or decorations.* Fruits, vegetables, and cut flowers subject to the quarantine and regulations in this subpart may be taken aboard ship, vessel, or other surface craft, or aircraft in the Territory of Hawaii without inspection or certification. However, such fruits, vegetables, and cut flowers not eligible for inspection and certification under § 318.13–4(a) must be entirely consumed or removed from the ship, vessel, other surface craft, or aircraft before arrival within the territorial waters of the continental United States, Alaska, Guam, Puerto Rico, or the Virgin Islands of the United States: *Provided*, That no such uncertified articles may be taken aboard any aircraft as stores or otherwise, when such aircraft is to be inspected and certified before its departure from the Territory of Hawaii in the manner set forth in § 318.13–10.

§ 318.13–8 Inspection of vessels.

All ships, vessels, and other surface craft from Hawaii, upon coming within the territorial waters of the continental United States, Alaska, Guam, Puerto Rico, or the Virgin Islands of the United States, shall be subject to examination by inspectors for the purpose of ascertaining by inspection whether any of the articles or insects prohibited movement by the quarantine and regulations in this subpart are contained in such ships, vessels, or other surface craft, or whether there remains any infestation from such articles. Such inspection will be made at the discretion of the inspector, either in the stream or at a pier, wharf, or mole within the confines of any port in the United States, other than in the Territory of Hawaii. If inspection is made in the stream, the ship, vessel, or other surface craft shall remain in the quarantine or inspection area until the inspector has notified the master or other responsible ship's officer, in writing, that further detention in quarantine for inspection purposes is not required. If inspection is made at a pier, wharf, or mole, the master or other responsible ship's officer shall not permit the unloading of any cargo, stores, baggage, or other personal belongings of the passengers and crew until he receives the written notification referred to above from the inspector. This inspection shall be made only between the hours of sunrise and sunset, and any ship, vessel, or other surface craft arriving after sunset shall remain at anchor in the quarantine or inspection area until inspection can be made on the following morning. *Provided;* That inspection between the hours of sunset and sunrise may be made when the inspector has been furnished advance information of the approximate hour of arrival, and the number of passengers carried, if any, and when facilities satisfactory to the inspector are provided both aboard the ship, vessel, or other surface craft and on the pier for adequate lighting and availability of stores, quarters, and baggage for inspection, as well as transportation to and from the ship, vessel, or other surface craft in the quarantine or inspection area, if necessary.

§ 318.13–9 Disinfection of vessels.

Any ship, vessel, or other surface craft arriving from the Territory of Hawaii at a port in the continental United States, Alaska, Guam, Puerto Rico, or the Virgin Islands of the United States, which is found upon inspection to contain articles subject to the quarantine and regulations in this subpart infected or infested with any of the plant pests designated in the quarantine or to be contaminated with any article or injurious insect prohibited movement by said quarantine and regulations, shall be immediately disinfected by the person in charge or possession of such ship, vessel, or other surface craft under the supervision of an inspector and in the manner prescribed by him.

§ 318.13–10 Inspection of aircraft.

All aircraft arriving from the Territory of Hawaii at a port within the territorial limits of the Continental United States, Alaska, Guam, Puerto Rico, or the Virgin Islands of the United States shall be subject to examination by inspectors for the purpose of ascertaining by inspection if any article or injurious insect the movement of which is prohibited by the quarantine and regulations in this subpart is contained in any such aircraft, or if any infestation from such prohibited articles remains. Except in the case of forced landings, all aircraft moving between the Territory of Hawaii and the continental United States, Alaska, Puerto Rico, or the Virgin Islands of the United States, shall, upon coming within the territorial limits of the continental United States, Alaska, Puerto Rico, or said Virgin Islands, land at an airport of entry, unless permission to land elsewhere than at an airport of entry is first granted by the Commissioner of Customs, Washington, D. C., with concurrence of the Plant Quarantine Division, and shall remain there until inspected and released by the inspector. No baggage, cargo, or other articles shall be removed from the aircraft until such removal has been authorized by an inspector: *Provided*, That in the case of forced landings by such aircraft, the aircraft commander or operator shall not allow any baggage, cargo, or other articles to be removed therefrom, unless such removal is necessary for purposes of safety or the preservation of life or property. As soon as practicable, the aircraft commander, or a member of the crew in charge, or the owner of the aircraft shall communicate with the nearest plant quarantine officer and make a full report of the circumstances of the flight and of the forced landing: *Provided further*, That aircraft proceeding from the Territory of Hawaii to or through the continental United States, Alaska, Puerto Rico, or the Virgin Islands of the United States may, at the discretion of an inspector, be inspected immediately prior to the departure of such aircraft from the Territory of Hawaii in lieu of inspection at the port of arrival, and when such aircraft, its cargo, stores, and baggage and other personal effects of passengers and crew members have been inspected and found free of articles or insects, the movement of which is prohibited by the quarantine and regulations in this subpart, the inspector shall issue a certificate to that effect for delivery to the pilot or person in charge of the aircraft as evidence for later presentation at the port of arrival that such inspection has been made.

§ 318.13–11 Disinfection of aircraft.

Any aircraft arriving from the Territory of Hawaii at a port in the continental United States, Alaska, Guam, Puerto Rico, or the Virgin Islands of the United States, which is found upon inspection to contain articles subject to the quarantine and regulations in this subpart infested or infected with any of the plant pests designated in § 318.13 or which is found to be contaminated with any articles or injurious insects prohibited movement by said quarantine and regulations shall be immediately disinfected by or at the direction of the person in charge or possession of such aircraft, under the supervision of an inspector and in the manner prescribed by him; and any aircraft found upon inspection pursuant to the second provision in § 318.13–10 prior to its departure from the Territory of Hawaii for a port in the continental United States, Alaska, Puerto Rico, or the Virgin Islands of the United States, to contain or to be contaminated with any articles or injurious insects as aforesaid, shall be disinfected by the person in charge or in possession of such aircraft, under the supervision of an inspector and in a manner prescribed by him, before it will qualify for the certificate referred to in the said second proviso, in § 318.13–10.

§ 318.13–12 Inspection of baggage and cargo.

(a) All baggage and other personal effects of passengers and members of crews on ships, vessels, other surface craft or aircraft moving from the Territory of Hawaii shall be subject to examination by an inspector to ascertain if they contain any of the articles prohibited movement by the quarantine and regulations in this subpart. Such baggage inspection shall be made, at the discretion of the inspector, on the dock or on the ship, vessel, other surface craft or aircraft while in a quarantine or inspection area, either at the port of departure in the Territory of Hawaii or at the first or any subsequent port of arrival in the continental United States, Alaska, Guam, Puerto Rico, or the Virgin Islands of the United States, and no baggage or other personal effects of passengers or crew members from the Territory of Hawaii shall be released until said effects have been inspected and passed. Baggage inspections will not be performed until the person in charge or possession of the carrier ship, vessel, other surface craft, or aircraft provides sufficient space and adequate facilities thereon, or on piers or landing fields for such inspection.

(b) Inspectors may require that any box, bale, crate, bundle, package, trunk, bag, suitcase, or other container, carried as ships' stores, cargo, or otherwise, by any ship, vessel, other surface craft, or aircraft moving between the Territory of Hawaii and the continental United States, Alaska, Guam, Puerto Rico, or the Virgin Islands of the United States, be

opened for inspection to determine whether any article prohibited movement by the quarantine and regulations in this subpart is present. If any such prohibited article, including any injurious insect or any fruit or vegetable infested with plant pests, is found, the inspector may order the return of the article to the place of origin under safeguards satisfactory to him, seize and destroy it, or otherwise dispose of it or such part thereof as in his judgment is necessary to comply with the quarantine and regulations in this subpart.

(c) No cargo shall be loaded on or unloaded from any ship, vessel, other surface craft, or aircraft arriving from the Territory of Hawaii at a port in the continental United States, Alaska, Guam, Puerto Rico, or the Virgin Islands of the United States, either at the first or any subsequent port of arrival where passengers are disembarked, without authorization of the inspector in charge of the inspection of passengers' baggage.

§ 318.13–13 Posting of warning notice and distribution of baggage declarations.

(a) Before any ship, vessel, other surface craft, or aircraft from Hawaii arrives within the boundaries of the continental United States, Alaska, Guam, Puerto Rico, or the Virgin Islands of the United States, the master, or other responsible officer thereof, shall cause to be distributed to each adult passenger thereon a baggage declaration [2] to be furnished by the United States Department of Agriculture, calling attention to the provisions of the Plant Quarantine Act, and the quarantine and regulations in this subpart. These baggage declarations shall be executed and signed by the passengers and shall be collected and delivered by the master or other responsible officer of the ship, vessel, other surface craft, or aircraft, to the inspector on arrival at the quarantine or inspection area: *Provided,* That in the case of aircraft inspected and certified as set forth in the second proviso of § 318.13–10 no baggage declarations will be required.

(b) Every person owning or controlling any dock, harbor, or landing field in Hawaii from which ships, vessels, other surface craft, or aircraft leave for ports in the continental United States, Alaska, Guam, Puerto Rico, or the Virgin Islands of the United States shall post, and keep posted at all times, in one or more conspicuous places in passenger waiting rooms on or in said dock, harbor, or landing field a warning notice directing attention to the quarantine and regulations in this subpart.[3] Every master, or other responsible officer of any ship, vessel, other surface craft, or aircraft leaving Hawaii destined to a port in the continental United States, Alaska, Guam, Puerto Rico, or the Virgin Islands of the United States shall similarly post, and keep posted at all times, such a warning notice in the ship, vessel, other surface craft, or aircraft under his charge.

[2] Form No. PQ–132.

[3] An acceptable warning notice appears on Form PQ–132.

§ 318.13–14 Shipments for experimental or other scientific purposes.

Articles subject to the requirements of the regulations in this subpart may be moved under this subpart for experimental or other scientific purposes on such conditions and under such safeguards as may be prescribed by the Director of the Plant Quarantine Division to carry out the purposes of this subpart. The container or, if there is none, the article itself shall bear, securely attached to the outside thereof, an identifying tag from the Plant Quarantine Division.

Subpart—Sugarcane

§ 318.16 Notice of quarantine.

(a) The Secretary of Agriculture, having previously quarantined Hawaii and Puerto Rico to prevent the spread to other parts of the United States of certain dangerous plant diseases and insect infestations of sugarcane, now determines that it is necessary also to quarantine the Virgin Islands of the United States to prevent the spread of dangerous plant diseases and insect infestations of sugarcane found in said Virgin Islands and new to and not widely prevalent or distributed within and throughout the United States, including the sugarcane root borer, Diaprepes abbreviatus (L.), and the gummosis disease, Xanthomonas vasculorum (Cobb) Dowson.

(b) Under the authority conferred by section 8 of the Plant Quarantine Act of August 20, 1912, as amended (7 U. S. C. 161), and having given public hearing as required thereunder, the Secretary of Agriculture hereby quarantines Hawaii, Puerto Rico, and the Virgin Islands of the United States to prevent the spread of said dangerous plant diseases and insect infestations of sugarcane.

(c) No canes of sugarcane, or cuttings or parts thereof, or sugarcane leaves, or bagasse, shall be shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved, or allowed to be moved by any person from Hawaii, Puerto Rico, or the Virgin Islands of the United States into or through any other State, Territory, or District of the United States: *Provided,* That the prohibitions of this section shall not apply to the movement of such products from the Virgin Islands of the United States to Puerto Rico; nor prohibit the movement of such products by the United States Department of Agriculture for scientific or experimental purposes; nor prohibit the movement of specific products which the Department may authorize under permit, on condition that they are to be so treated, processed, or manufactured and so handled in connection with such treatment, processing, or manufacture, that, in the judgment of the Department their movement will involve no pest risk, or under certificate issued by the Department that they have been thus treated, processed, or manufactured: *Provided, further,* That whenever the Director of the Plant Quarantine Division shall find that facts exist as to pest risk involved in the movement of one or more of the products to which this subpart applies, making it safe to modify, by making less stringent, the requirements contained therein, he shall set forth and publish such finding in administrative instructions specifying the manner in which the subpart should be made less stringent, whereupon such modification shall become effective. As used in this section, the term "State, Territory, or District of the United States" means "Alaska, Guam, Hawaii, Puerto Rico, the Virgin Islands of the United States, or the continental United States."

§ 318.16a Administrative instructions and interpretation relating to movement to Guam of bagasse and related sugarcane products.

Bagasse and related sugarcane products have been so processed that, in the judgment of the Department, their movement from Hawaii into or through Guam will involve no pest risk, and they may be so moved without permit or other restriction under this subpart, if they are made available for inspection upon request by an inspector of the Department in Hawaii or in Guam. If upon inspection they are found to be infected, infested, or contaminated with any plant pest and are not subject to disposal under this part, disposition may be made in accordance with § 330.106 of this chapter.

Subpart—Sweetpotatoes

§ 318.30 Notice of quarantine.

(a) The Administrator of the Agricultural Research Service has determined that it is necessary to quarantine Hawaii and Puerto Rico to prevent the spread to other parts of the United States of the sweetpotato scarabee (Euscepes postfasciatus Fairm.) and the sweetpotato stem borer (Omphisa anastomosalis Guen.), dangerous insect infestations new to and not widely prevalent or distributed within or throughout the United States, and that it is necessary also to quarantine the Virgin Islands of the United States to prevent the spread to other parts of the United States of the sweetpotato scarabee.

(b) Under the authority conferred by section 8 of the Plant Quarantine Act of August 20, 1912, as amended (7 U. S. C. 161), and after public hearing as required thereunder, the Administrator of the Agricultural Research Service therefore has quarantined Hawaii, Puerto Rico, and the Virgin Islands of the United States to prevent the spread of the sweetpotato scarabee (Euscepes postfasciatus Fairm.) and the sweetpotato stem borer (Omphisa anastomosalis Guen.).

(c) No variety of sweetpotatoes (Ipomoea batatas Poir.) shall be shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved, or allowed to be moved by any person from Hawaii, Puerto Rico, or the Virgin Islands of the United States into or through any other State, Territory, or District of the United States: *Provided,* That the prohibitions of this section shall not pro-

hibit the movement of sweetpotatoes in either direction between Puerto Rico and the Virgin Islands of the United States; nor prohibit the movement of sweetpotatoes by the United States Department of Agriculture for scientific or experimental purposes; nor prohibit the movement from Puerto Rico or the Virgin Islands of the United States of sweetpotatoes which the Director of the Plant Quarantine Division may authorize under permit or certificate to such northern ports of the United States as he may designate in such permit or certificate, conditioned upon the fumigation of such sweetpotatoes under the supervision of an inspector of said Division either in Puerto Rico or the Virgin Islands of the United States or at the designated port of arrival, in a manner approved by the said Director; nor prohibit the movement from Hawaii of sweetpotatoes which the Director of the Plant Quarantine Division may authorize under permit or certificate to such ports of the United States as he may designate in such permit or certificate, conditioned upon the fumigation of such sweetpotatoes in Hawaii under the supervision of an inspector of said Division, in a manner approved by the said Director: *Provided further*, That whenever the Director of the Plant Quarantine Division shall find that facts exist as to pest risk involved in the movement of sweetpotatoes or any classification thereof to which this subpart applies, making it safe to modify, by making less stringent, the requirements contained therein, he shall set forth and publish such finding in administrative instructions specifying the manner in which the subpart should be made less stringent, whereupon such modification shall become effective.

(d) As used in this section, the term "State, Territory, or District of the United States" means "Alaska, Guam, Hawaii, Puerto Rico, the Virgin Islands of the United States, or the continental United States."

§ 318.30a Administrative instructions authorizing movement from Puerto Rico of certain sweetpotatoes grown under specified conditions.

The Director of the Plant Quarantine Division hereby finds that facts exist as to the pest risk involved in the movement of sweetpotatoes to which § 318.30 applies, making it safe to modify by making less stringent the requirements of § 318.30 with respect to washed sweetpotatoes graded by inspectors of the Commonwealth of Puerto Rico in accordance with Puerto Rican standards which do not provide a tolerance for insect infestation or evidence of insect injury and found by such inspectors to comply with such standards. Hereafter, in addition to movement authorized under § 318.30(c), such sweetpotatoes will be eligible for inspection by a Branch inspector to determine whether they are free of the sweetpotato scarabee (Euscepes postfasciatus Fairm.) and for certification for movement from Puerto Rico to Baltimore, Maryland, and Atlantic Coast ports north thereof if found free of such insect, provided the sweetpotatoes are certified by an inspector of the Commonwealth of Puerto Rico as having been so washed and graded and as having been grown in accordance with the following procedures:

(a) Fields in which the sweetpotatoes have been grown shall have been given a preplanting treatment with an approved soil insecticide.

(b) Before planting in such treated fields, the sweetpotato draws and vine cuttings shall have been dipped in an approved insecticidal solution.

(c) During the growing season an approved insecticide shall have been applied to the vines at prescribed intervals.

The sweetpotatoes shall be inspected by an inspector of the Plant Quarantine Division prior to shipment from Puerto Rico.

Subpart—Territorial Cotton, Cottonseed, and Cottonseed Products

QUARANTINE

§ 318.47 Notice of quarantine.

(a) The Secretary of Agriculture having previously quarantined the Territory of Hawaii and Puerto Rico on account of the pink bollworm of cotton (Pectinophora gossypiella Saunders) and the cotton blister mite (Eriophyes gossypii Banks), insect pests new to and not widely prevalent or distributed within and throughout the United States, now determines that it is necessary to extend the quarantine to prevent the spread of these insects from the Virgin Islands of the United States, where they are known to occur.

(b) Under authority conferred by section 8 of the Plant Quarantine Act of August 20, 1912, as amended (7 U. S. C. 161) and having given the public hearing required thereunder, the Secretary of Agriculture hereby quarantines the Territory of Hawaii, Puerto Rico, and the Virgin Islands of the United States to prevent the spread of the said insect pests.

(c) All parts and products of plants of the genus Gossypium, such as seeds including seed cotton; cottonseed; cotton lint, linters, and other forms of cotton fiber; cottonseed hulls, cake, meal, and other cottonseed products, except oil; cotton waste; and all other unmanufactured parts of cotton plants; and all second-hand burlap and other fabric which have been used, or are of the kinds ordinarily used, for wrapping or containing cotton, are hereby prohibited movement from the Territory of Hawaii, Puerto Rico, and the Virgin Islands of the United States into or through any other State, Territory or District of the United States, in manner or method or under conditions other than those prescribed in the regulations hereinafter made or amendments thereto: *Provided*, That whenever the Director of the Plant Quarantine Division shall find that existing conditions as to the pest risk involved in the movement of the articles to which the regulations supplemental hereto apply, make it safe to modify, by making less stringent, the restrictions contained in any such regulations, he shall set forth and publish such findings in administrative instructions, specifying the manner in which the regulations should be made less stringent, whereupon such modification shall become effective.

(d) As used in this subpart, unless the context otherwise requires, the term "State, Territory, or District of the United States" means State, the District of Columbia, Alaska, Guam, Hawaii, Puerto Rico, or the Virgin Islands of the United States.

§ 318.47a Administrative instructions relating to Guam.

The plants, products and articles specified in § 318.47(c) may be moved from Hawaii into or through Guam without restriction under this subpart.

RULES AND REGULATIONS

CROSS REFERENCE: For rules and regulations governing the importation of cotton and cottonseed products into the United States, see §§ 319.8 to 319.8–27 of this chapter.

§ 318.47–1 Definitions.

For the purpose of the regulations in this subpart the following words, names, and terms shall be construed, respectively, to mean:

(a) *Cotton.* Parts and products of plants of the genus Gossypium, including seed cotton; cottonseed; cotton lint, linters and other forms of cotton fiber; cottonseed hulls, cake, meal, and other cottonseed products, except oil; cotton waste; and all other unmanufactured parts of cotton plants; and second-hand burlap and other fabric which have been used, or are of the kinds ordinarily used, for wrapping or containing cotton.

(b) *Seed cotton.* The unginned lint and seed admixture, just as it is picked from the cotton boll.

(c) *Cottonseed.* The seed of the cotton plant, either separated from the lint or as a component part of seed cotton.

(d) *Lint.* All forms of raw or unmanufactured ginned cotton, either baled or unbaled, including all cotton fiber, except linters, which has not been woven or spun, or otherwise manufactured.

(e) *Linters.* All forms of unmanufactured cotton fiber separated from cottonseed after the lint has been removed, including that form referred to as "hull fiber."

(f) *Waste.* All forms of cotton waste derived from the manufacture of cotton lint, in any form or under any trade designation, including gin waste; and waste products derived from the milling of cottonseed.

(g) *Seedy waste.* Picker waste, gin waste, and oil mill waste, and any other cotton by-products capable of carrying a high percentage of cottonseed.

(h) *Clean waste.* Wastes derived from the processing of lint in machines after the card machine, including card strips but not card fly.

(i) *Bale covers.* Second-hand burlap and other second-hand fabric by whatever trade designation, which have been used, or are of the kinds ordinarily used, for wrapping or otherwise containing cotton. Burlap and other fabric of the kinds ordinarily used for wrapping cotton, when new or unused, are excluded from this definition.

(j) *Certificate (certification, certified).* A type of authorization, evidenc-

ing freedom from infestation, issued by the Director of the Plant Quarantine Division to allow the movement of lint, linters, waste, seed cotton, cottonseed, cottonseed hulls, cake, and meal, and bale covers in accordance with regulations in this subpart. "Certification" and "certified" shall be construed accordingly.

(k) *Permit.* A type of general authorization issued by the Director of the Plant Quarantine Division to allow the movement of lint, linters, waste other than seedy waste, cottonseed cake and meal, and bale covers in accordance with the regulations in this subpart.

(l) *Fumigated.* Fumigated under the supervision of an inspector of the Plant Quarantine Division in a fumigation plant approved by the Director of that Division and in accordance with methods approved by the Director of said Division.

(m) *Moved (movement, move).* Shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved, or allowed to be moved, directly or indirectly, from the Territory of Hawaii, Puerto Rico, or the Virgin Islands of the United States, into or through any other State, Territory, or District of the United States. "Movement" and "move" shall be construed accordingly.

§ 318.47–2 Articles the movement of which is prohibited or regulated.

(a) *Articles prohibited movement.* The movement of seed cotton, cottonseed, and seedy waste, when unfumigated, is prohibited except as provided in § 318.47–3(b)(2).

(b) *Articles the movement of which is regulated.* Lint; linters; waste; seed cotton; cottonseed; cottonseed hulls, cake, and meal; and bale covers may be moved upon compliance with the conditions prescribed in § 318.47–3.

§ 318.47–3 Conditions governing the issuance of certificates and permits.

(a) *Fumigated lint; linters; waste; seed cotton; cottonseed; cottonseed hulls, cake, and meal; and bale covers.* Lint; linters; waste; seed cotton; cottonseed; cottonseed hulls, cake, and meal; and bale covers, fumigated in the Territory or District of origin and so certified, are allowed unrestricted movement to any port.

(b) *Unfumigated lint, linters, waste, and bale covers.* (1) Unfumigated Hawaiian, Puerto Rican, or Virgin Islands of the United States lint, linters, waste other than seedy waste, and bale covers will be allowed to move under permit, by all-water route, for entry only at the ports of Norfolk, Baltimore, New York, Boston, San Francisco, and Seattle, or other port of arrival designated in the permit, and at such designated port of arrival shall become subject to the regulations governing the handling of cotton imported from foreign countries.

(2) Fumigation may be waived and certificates issued for lint, linters, and waste which have been determined by an inspector of the Plant Quarantine Division to have been so manufactured or processed by bleaching, dyeing, or other means, as to have removed all seeds, or to have destroyed all insect life therein.

(c) *Cottonseed cake and meal.* (1) Cottonseed cake and meal which have been inspected in the Territory or District of origin and certified by an inspector of the Plant Quarantine Division as being free from contamination with whole, uncrushed cottonseed, will be allowed unrestricted movement to any port.

(2) Hawaiian, Puerto Rican, and Virgin Islands of the United States cottonseed cake and meal, when neither fumigated nor inspected in accordance with the provisions of this section, will be allowed entry under permit through any port at which the services of an inspector are available, subject to examination by an inspector for freedom from contamination with uncrushed cottonseed. If found to be free from such contamination, the cottonseed cake or meal may be released from further entry restrictions. Cottonseed cake or meal found to be contaminated shall be refused entry or subjected as a condition of entry and release to such safeguards as may be prescribed by the inspector from such administratively approved methods as will, in his judgment, be necessary to eliminate infestations of the pink bollworm or cotton blister mite.

§ 318.47–4 Shipments by the Department of Agriculture.

Cotton may be moved by the Department of Agriculture for experimental or scientific purposes under such conditions as may be prescribed by the Director of the Plant Quarantine Division, which conditions may include clearance through the Plant Introduction Section of the Crops Research Division.

Subpart—Fruits and Vegetables From Puerto Rico or Virgin Islands

QUARANTINE

§ 318.58 Notice of quarantine.

(a) The Secretary of Agriculture having previously quarantined Puerto Rico to prevent the spread to other parts of the United States of certain dangerous insect infestations, including the fruit flies, Anastrepha suspensa (Loew) and A. mombinpraeoptans Sein, and the bean pod borer, Maruca testulalis (Geyer), not heretofore widely prevalent or distributed within and throughout the United States, now determines that it is necessary also to quarantine the Virgin Islands of the United States to prevent the spread of such dangerous insects from said Virgin Islands.

(b) Under the authority conferred by section 8 of the Plant Quarantine Act of August 20, 1912, as amended (7 U. S. C. 161), and having given public hearing as required thereunder, the Secretary of Agriculture hereby quarantines Puerto Rico and the Virgin Islands of the United States to prevent the spread of said dangerous insect infestations.

(c) No fruits or vegetables, in the raw or unprocessed state, shall be shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved, or allowed to be moved by any person from Puerto Rico or the Virgin Islands of the United States into or through Alaska, Guam, Hawaii, or the continental United States, in manner or method or under conditions other than those prescribed in the regulations hereinafter made or amendments thereto: *Provided,* That whenever the Director of the Plant Quarantine Division shall find that facts exist as to pest risk involved in the movement of one or more of the products to which this subpart applies, making it safe to modify, by making less stringent, the requirements contained therein, he shall set forth and publish such finding in administrative instructions specifying the manner in which the subpart should be made less stringent, whereupon such modification shall become effective.

(d) No restrictions are placed hereby on the movement of fruits or vegetables in either direction between Puerto Rico and the Virgin Islands of the United States.

(e) This section leaves in full force and effect § 318.30 which restricts the movement from Hawaii, Puerto Rico, and the Virgin Islands of the United States into any of the States or certain Territories or Districts of the United States of all varieties of sweetpotatoes (Ipomoea batatas Poir.).

RULES AND REGULATIONS

§ 318.58–1 Definitions.

(a) *Fruits and vegetables.* The edible, more or less succulent, portions of food plants in the raw or unprocessed state, such as bananas, oranges, grapefruit, pineapples, tomatoes, peppers, lettuce, etc.

(b) *Plant litter.* Leaves, twigs, or other portions of plants, or plant remains or rubbish as distinguished from clean fruits and vegetables, or other commercial articles.

(c) *Inspector.* An inspector of the Plant Quarantine Division, United States Department of Agriculture.

(d) *Moved (movement and move).* Shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved, or allowed to be moved by any person from Puerto Rico or the Virgin Islands of the United States into or through Alaska, Guam, Hawaii, or the continental United States. ("Movement" and "move" shall be construed accordingly.)

§ 318.58–2 Fruits and vegetables the movement of which is prohibited.

Movement of fruits of mango (Mangifera spp.), jobo (Spondias spp.), guava (Psidium guajava), and pomarrosa or rose apple (Eugenia jambos), and all other fruits and vegetables for which movement is not authorized in § 318.58–3, is prohibited: *Provided,* That any fruit or vegetable the movement of which is thus prohibited may be removed from a prohibited status and included in the list for which movement is authorized in § 318.58–3, by administrative instructions issued by the Director of the Plant Quarantine Division when evidence sat-

isfactory to him is obtained that the movement of the product in question, either subject to a specified treatment, or as packed and shipped, will not result in the dissemination of injurious insects.

§ 318.58–3 Fruits and vegetables the movement of which is authorized.[1]

(a) Subject to the conditions provided in this section, and to any treatment prescribed by the Director of the Plant Quarantine Division, the following fruits and vegetables may be moved when they are free from plant litter, are marked in compliance with § 318.58–6, and have been inspected by an inspector and certified by him to be free from injurious insect infestation (including the West Indian fruitfly and the bean pod borer) or to have been given prescribed treatment:

Citrus fruits (orange, grapefruit, lemon, citron, and lime);
Corn (sweet corn on cob);
Peppers;
String beans, lima beans, faba beans, and pigeonpeas, in the pod, and fresh okra. However, products within this subparagraph will be certified for movement to ports other than Baltimore, Maryland, or any Atlantic Coast port north thereof only when they have been treated as prescribed by the Director of the Plant Quarantine Division, and under the supervision of an inspector. Such products may be certified for movement to Baltimore, Maryland, and Atlantic Coast ports north thereof without such treatment, but untreated fresh okra may be so certified only for immediate processing or consumption in these northern areas.

(b) The following fruits and vegetables are subject to inspection, either in the field or when presented for shipment, as the inspector may require, but unless found by him to be infested shall be free to move without certification, marking, treatment, or other requirements of this subpart, except that they must be free from plant litter and soil: *Provided*, That if the inspector shall find any field, grove, lot, shipment, or container of such fruits and vegetables infested with injurious insects, he shall notify the owner or person in charge, in writing, of the existence of the infestation and the extent thereof, and thereafter movement of the fruit or vegetable so specified shall be prohibited while the infestation persists, unless in the judgment of the inspector movement may be safely allowed subject to certification after having been given an approved treatment, or after sorting, conditioning, or other effective safeguard measures:

Algarroba pods (Hymenaea courbaril).
Allium spp. (onion, chive, garlic, leek, scallion, shallot).
Anise (Pimpinella anisum).
Apio, celery root (Arracacia xanthorrhiza).
Arrowroot (Maranta arundinacea).
Artichoke, Jerusalem (Helianthus tuberosus).
Asparagus.
Avocado.
Balsamapple, balsam-pear (Momordica balsamina; M. charantia).
Banana and plantain (fruit).
Banana leaves (fresh, without stalks or midrib).
Beans (fresh shelled lima and faba beans).
Beet, including Swiss chard.
Brassica oleracea (cabbage, cauliflower, Brussels sprouts, broccoli, collard, kale, kohlrabi, Savoy).
Breadfruit, jackfruit (Artocarpus spp.).
Cacao bean (Theobroma cacao).
Carrot.
Celery.
Chayote (Sechium edule).
Chicory, endive (Cichorium intybus).
Citrus fruit (citron, grapefruit, lemon, lime, and orange) destined for ports on the Atlantic seaboard north of and including Baltimore.
Cucumbers, including Angola cucumber (Sicania odorata).
Culantro, coriander (Eryngium foetidum; Coriandrum sativum).
Dasheen, malanga, taro (Colocasia and Caladium spp.).
Eggplant.
Fennel.
Ginger root (Zingiber officinale).
Horseradish (Armoracia).
Kudzu (Pueraria thunbergiana).
Lerens, sweet corn root (Calathea allouia).
Lettuce.
Mangosteen (Garcinia mangostana).
Mustard greens.
Palm hearts.
Papaya, lechosa (Carica papaya).
Parsley.
Parsnip.
Peas (in pod) (Pisum sativum).
Pigeonpea (fresh shelled).
Pineapple.
Potato.
Quenepa (Melicocca bijuga).
Radish.
Rhubarb.
Rutabaga.
Spinach.
Squash, pumpkin, watermelon, vegetable marrow, cantaloup, calabaza.
Strawberry.
Tamarind beanpod (Tamarindus indica).
Tomato.
Turnip.
Watercress.
Waterlily root, lotus root (Nelumbium nelumbo).
Yam, ñame (Dioscorea spp.).
Yautia, tanier (Xanthosoma spp.).
Yuca, cassava (Manihot esculenta).

§ 318.58–3c Administrative instructions authorizing the movement from Puerto Rico of frozen fruits and vegetables.

(a) The type of treatment designated in this subpart as freezing shall be one of the commercially-acceptable methods that involves initial freezing at subzero temperatures and subsequent storage at not higher than 0° F., with a storage tolerance of plus 20° F. Such treatments are commonly known as quick freezing, sharp freezing, frozen-pack, or cold-pack. Any equivalent freezing method is also included in this designation.

(b) The Director of the Plant Quarantine Division is satisfied that the movement of all fruits and vegetables specified in § 318.58–2, when frozen, will not result in the dissemination of injurious insects. Accordingly, pursuant to the authority contained in the proviso of § 318.58–2, all fruits and vegetables specified therein, when frozen, are hereby removed from a prohibited status and are included in the list for which movement from Puerto Rico into or through any other State, Territory, or District is authorized in § 318.58–3. Freezing is hereby prescribed as an approved treatment meeting the treatment requirements for the movement of fruits and vegetables specified in § 318.58–3.[1]

(c) The inspector in Puerto Rico shall determine that such fruits and vegetables are in a satisfactory frozen state before issuing a certificate. The inspector on the mainland will release the shipment on the basis of the certificate issued in Puerto Rico.

(d) The movement from Puerto Rico of frozen fruits and vegetables is not authorized when such fruits and vegetables are subject to attack, in the area of origin, by plant pests that may not, in the judgment of the Director of the Plant Quarantine Division, be destroyed by freezing.

(e) Freezing of fruits and vegetables as authorized in these instructions is considered necessary for the elimination of pest risk, and no liability shall attach to the United States Department of Agriculture or to any officer or representative of that Department in the event of injury resulting to fruits or vegetables offered for movement in accordance with these instructions.

§ 318.58–3d Administrative instructions authorizing the movement of mangoes from Puerto Rico after approved fumigation.

(a) *Removal from prohibited status.* Mangoes that have been subjected to approved fumigation and otherwise handled as provided for in paragraph (b) of this section are hereby removed from the prohibited status established by § 318.58–2 and may be moved from Puerto Rico in accordance with paragraph (a) of § 318.58–3.

(b) *Approved fumigation.* (1) The approved fumigation shall consist of fumigation with ethylene dibromide at normal atmospheric pressure, in a fumigation chamber which has been approved for that purpose by the Plant Quarantine Division. The dosage shall be applied at the following rates:

Temperature (° F.)	Dosage (pounds of ethylene dibromide per 1,000 cubic feet)	Exposure period (hours)
80–89	¾	2
70–79	1	2
55–69	1¼	2

The temperature to be used in determining the dosage schedule shall be the lower of the temperatures of the air and fruit. Cubic feet of space shall include the load. The ethylene dibromide must be applied in the liquid state and volitalized within the sealed fumigation chamber in an electrically heated vapor-

[1] The following are not considered raw or uprocessed fruits and vegetables within the meaning of § 318.58: Coconuts, breadnuts, dried peas and beans, dried seeds, dried or cured medicinal plants and herbs, annatto seeds (achiote), gourd (higuero), cannonball fruit (Couroupita gulanensis), and cut flowers.

[1] Further information concerning the movement of frozen fruits and vegetables from Puerto Rico may be obtained from the Plant Quarantine Branch, Building "N", Plant Quarantine Division, Rooms 307 and 308 Post Office Bldg., P.O. Box 3386, San Juan 15, P.R.

izing pan. The electrically heated vaporizing pan shall be controlled by a switch outside of the fumigation chamber and shall be equipped with a signal light to indicate when the current is on or off. The 2-hour period of exposure shall begin 15 minutes after all liquid ethylene dibromide has been injected into the electrically heated vaporizing pan inside the fumigation chamber, after which the electric current for the vaporizing pan can be turned off. The gas shall be circulated within the chamber continuously for the 2-hour period by an electric fan or blower.

(2) Mangoes to be fumigated may be packed as for shipping in crates with shredded packing material. When fruits are individually wrapped in paper the wrappings must be removed before fumigation. When loaded in the fumigation chamber the crates or other containers shall be separated at least 2 inches on all sides by wooden strips or other means. The chamber shall not be loaded to more than 50 percent of capacity.

(3) Both the fumigation and the subsequent handling of the mangoes preparatory to shipment must be under supervision of a plant quarantine inspector of the Plant Quarantine Division. Fumigated mangoes must be safeguarded against reinfestation during the period prior to shipment in a manner satisfactory to the inspector. Certification of mangoes for shipment will be based on both the treatment and compliance with the prescribed post-treatment safeguards.

(4) All costs of treatment and prescribed post-treatment safeguards, other than the services of the supervising inspector, shall be borne by the owner of the mangoes, or his representative.

(5) While the prescribed treatment is judged from experimental tests to be safe for use with mangoes, the Department assumes no responsibility for any damage sustained through or in the course of treatment.

§ 318.58–4 Application for inspection.

Persons intending to move any of the fruits or vegetables for which certification is required under § 318.58–3 shall make application for inspection thereof as far as possible in advance of the probable date of shipment. The application shall show the quantity of the fruits or vegetables which it is proposed to move, their identifying marks and numbers, their exact location, and the contemplated date of shipment. Forms on which to make application for inspection will be furnished, upon request, by the United States Department of Agriculture, Plant Quarantine Division.

§ 318.58–5 Certification of shipments.

(a) Fruits and vegetables for which certification is required under § 318.58–3 shall not be moved by ship, vessel, aircraft, or otherwise, unless each shipment is accompanied by a certificate issued by an inspector showing that such fruits or vegetables have been inspected and pronounced free from injurious insect infestation, including the West Indian fruitfly and the bean pod borer, or that the required treatment has been given. Copies of inspection certificates shall accompany the manifests, memoranda, or bills of lading pertaining to such shipments.

(b) No charge will be made for the inspector's service in inspection and certification, but all costs for labor, cartage, storage, packing and unpacking, and other expenses incidental to inspection shall be borne by the shipper. Applicants for inspection shall place the fruits or vegetables to be inspected so that they can be readily examined; if not so placed, inspection will be refused.

§ 318.58–6 Marking of containers.

No fruits or vegetables for which certification is required under § 318.58–3 shall be moved unless the crate, box, bale, or other container thereof is so marked with the marks and numbers given on the application that it may be identified at the port of first arrival.

§ 318.58–7 Fruits and vegetables as ships' stores or in the possession of passengers and crew.

The movement of fruits and vegetables is permitted from Puerto Rico or the Virgin Islands of the United States as ships' stores or in the possession of passengers and crew on ships, vessels, or aircraft plying between Puerto Rico or the Virgin Islands of the United States and any other State, Territory, or District of the United States: *Provided*, That all such products shall upon arrival in Hawaii, Alaska, Guam, or the continental United States be submitted for inspection and disposition as provided in §§ 318.58–8 and 318.58–11, and (a) they must be free from infestation with injurious insects; (b) those fruits and vegetables not listed in § 318.58–3 shall not be landed; (c) prohibited fruits and vegetables retained aboard shall be subject to the safeguards provided in § 352.8 of this chapter.

§ 318.58–8 Inspection of vessels.

Inspectors are authorized to enter upon ships, vessels, and aircraft from Puerto Rico or the Virgin Islands of the United States at any time after they come within the territory or territorial waters of any other State, Territory, or District of the United States, whether in the stream or at the dock, wharf, mole, or landing field for the purpose of ascertaining by inspection whether any of the fruits and vegetables covered by this subpart are contained in such ships, vessels, or aircraft as cargo or ships' stores, or whether there remains any infestation from such fruits or vegetables.

§ 318.58–9 Disinfection of vessels.

Disinfection under the direction of and in the manner prescribed by the inspector of any ship, vessel, or aircraft plying between Puerto Rico or the Virgin Islands of the United States and any other State, Territory, or District of the United States upon arrival at the dock, wharf, mole, or landing field may be required if the ship, vessel, or aircraft is found to contain or to be contaminated with any of the fruits or vegetables infested with injurious insects. Such disinfection shall be performed by the person having charge or possession of the ship, vessel, or aircraft and at a place satisfactory to the inspector. When such ship, vessel, or aircraft has been disinfected in a manner satisfactory to such inspector, he shall immediately issue and deliver to the person having charge or possession thereof a certificate to that effect.

§ 318.58–10 Inspection of cargo.

Inspectors are authorized to ascertain by inspection of the cargo of any ship, vessel, or aircraft plying between Puerto Rico or the Virgin Islands of the United States and any other State, Territory, or District of the United States at the port of first arrival, that each lot or shipment moving under certification agrees in nature and amount with the certificate, and that all shipments of fruits and vegetables for which a certificate is required are duly certified; to determine, in the case of fruits and vegetables the movement of which is not authorized, if infestation is present; and to require for such unauthorized shipments safeguards, treatment, return, or destruction, as may be necessary to prevent the dissemination of injurious insects.

§ 318.58–11 Inspection of personal belongings.

Inspectors are authorized to inspect the baggage and other personal belongings of passengers and members of the crew on ships, vessels, or aircraft plying between Puerto Rico or the Virgin Islands of the United States and any other State, Territory, or District of the United States, in order to determine whether they contain products prohibited or restricted movement by this subpart, and if infested or unauthorized products are found, to require such safeguarding, treatment, or destruction as in the judgment of the inspector may be necessary. For the purpose of such inspection an inspector is authorized to open any box, bale, crate, bundle, or other package, including trunks, which may contain or be liable to contain any of the fruits or vegetables covered by the § 318.58. The inspector shall designate whether such inspection shall be made at the port of departure in Puerto Rico or the Virgin Islands of the United States or at the port of debarkation within any other State, Territory, or District of the United States and no such baggage or personal belongings of passengers or crew shall be removed from the dock, airport, or landing field at the port where the inspection is to be made until the same have been inspected and passed by an inspector. The inspection provisions of this section are not applicable to the personal belongings of passengers and crews moving only in either direction between Puerto Rico and the Virgin Islands of the United States.

§ 318.58–12 Parcel post inspection.

Inspectors are authorized to inspect, with the cooperation of the United States Post Office Department, parcel post packages placed in the mails in Puerto Rico or the Virgin Islands of the United States, to determine whether such packages contain fruits or vegetables the movement of which is not authorized under this subpart, to examine fruits and vegetables so found for insect infestation, and to notify the postmaster in

writing of any violation of this subpart in connection therewith.

§ 318.58–13 Movement by the Department of Agriculture.

The quarantine and regulations in this subpart shall not apply to movement of fruits and vegetables from Puerto Rico or the Virgin Islands of the United States by the United States Department of Agriculture for experimental or scientific purposes.

§ 318.58–14 Special provisions for preflight inspection in Puerto Rico or the Virgin Islands of aircraft, cargo, etc.

Notwithstanding any other provisions in the regulations in this subpart, any aircraft proceeding from Puerto Rico or the Virgin Islands of the United States to or through Alaska, Guam, Hawaii, or the continental United States, and its cargo and stores, and the baggage and other personal belongings of its passengers and crew members, may at the discretion of an inspector, be inspected as provided in this section immediately prior to the departure of such aircraft from Puerto Rico or the Virgin Islands of the United States, in lieu of inspection at port of debarkation, and the provisions of §§318.58–4 and 318.58–6 through 318.58–11 shall not apply to such aircraft, cargo, stores, baggage, and personal belongings which are so inspected. When such aircraft, cargo, stores, baggage, and personal belongings have been so inspected and found free of dangerous insects and products, the movement of which is prohibited by § 318.58 and the regulations in this subpart, the inspector shall issue a certificate to that effect, for delivery to the aircraft commander, as evidence, for later presentation at the port of debarkation, that such inspection has been made. Any aircraft found upon such preflight inspection to contain or to be contaminated with any such insects or products shall be disinfected by the person in charge or in possession of such aircraft, under the supervision of an inspector and in manner prescribed by him, before it will qualify for such a certificate. When, for any other reason, in the judgment of the inspector a hazard of spread of dangerous insects is presented in the movement of aircraft to be given preflight inspection, disinfection of such aircraft, by the inspector or, under his supervision, by the person in charge or possession of the aircraft, may be required by the inspector before the aircraft will qualify for such a certificate. Products authorized movements in § 318.58–3 must be inspected and certified, or otherwise approved by the inspector for movement, before being taken aboard any aircraft as cargo, stores, baggage, or otherwise, when such aircraft is to be given preflight inspection, and must in other respects comply with the requirements of §§ 318.58–3 and 318.58–5 except insofar as contrary provision is made in this section. The inspection provisions of this section are not applicable to the movement of aircraft, cargo, stores, and personal belongings of passengers and crews moving in either direction only between Puerto Rico and the Virgin Islands of the United States.

Subpart—Sand, Soil, or Earth, With Plants From Territories and Districts

§ 318.60 Notice of quarantine.

(a) The Secretary of Agriculture, having previously quarantined Hawaii and Puerto Rico to prevent the spread to other parts of the United States, by means of sand, soil, or earth about the roots of plants, of immature stages of certain dangerous insects, including Phyllophaga spp. (White grubs), Phytalus sp., and Adoretus sp., and of several species of termites or white ants, new to and not heretofore widely prevalent or distributed within and throughout the United States, now determines that it is necessary also to quarantine the Virgin Islands of the United States to prevent the spread of such dangerous insects from said Virgin Islands.

(b) Under the authority conferred by section 8 of the Plant Quarantine Act of August 20, 1912, as amended (7 U. S. C. 161), and having given public hearing as required thereunder, the Secretary of Agriculture hereby quarantines Hawaii, Puerto Rico, and the Virgin Islands of the United States to prevent the spread of said dangerous insects.

(c) Sand (other than clean ocean sand), soil, or earth around the roots of plants shall not be shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved, or allowed to be moved by any person from Hawaii, Puerto Rico, or the Virgin Islands of the United States into or through any other State, Territory, or District of the United States: *Provided*, That the prohibitions of this section shall not apply to the movement of such products in either direction between Puerto Rico and the Virgin Islands of the United States: *Provided further*, That such prohibitions shall not prohibit the movement of such products by the United States Department of Agriculture for scientific or experimental purposes, nor prohibit the movement of sand, soil, or earth around the roots of plants which are carried, for ornamental purposes, on vessels into mainland ports of the United States and which are not intended to be landed thereat, when evidence is presented satisfactory to the inspector of the Plant Quarantine Division of the Department of Agriculture that such sand, soil, or earth has been so processed or is of such nature that no pest risk is involved, or that the plants with sand, soil, or earth around them are maintained on board under such safeguards as will preclude pest escape: *And provided further*, That such prohibitions shall not prohibit the movement of plant cuttings or plants that have been (1) freed from sand, soil, and earth, (2) subsequently potted and established in sphagnum moss, or other packing material approved under § 319.37–16 that had been stored under shelter and had not been previously used for growing or packing plants, (3) grown thereafter in a manner satisfactory to an inspector of the Plant Quarantine Division to prevent infestation through contact with sand, soil, or earth, and (4) certified by an inspector of the Plant Quarantine Division as meeting the requirements of subparagraphs (1), (2), and (3) of this paragraph.

(d) As used in this section, the term "State, Territory, or District of the United States" means "Alaska, Guam, Hawaii, Puerto Rico, the Virgin Islands of the United States, or the continental United States."

Subpart—Guam

QUARANTINE

§ 318.82 Notice of quarantine.

(a) Pursuant to sections 8 and 9 of the Plant Quarantine Act of 1912, as amended (7 U.S.C. 161, 162) and sections 103 and 106 of the Federal Plant Pest Act (7 U.S.C. 150bb, 150ee), and after public hearing, it has been determined that it is necessary to quarantine Guam to prevent the spread to other parts of the United States of dangerous insect infestations and plant diseases, which are new to or not heretofore widely prevalent or distributed within and throughout the United States, including among others: Icerya aegyptiaca (Dougl.), Xanthomonas citri (Hasse) Dowson, Aleurocanthus spiniferus (Q.), Phyllocnistis citrella (Stainton), Coccus viridis (Green), Anomala sulcatula Burm., Furcaspis oceanica Ldgr., Stephanoderes hampei (Ferr.), Pectinophora scutigera (Holdaway), Dacus dorsalis Hend., Dacus cucurbitae (Coq.), Marcua testulalis (Geyer), Lampides boeticus (L.), Prays endocarpa Meyr., Prodenia litura (F.), Euscepes postfasciatus (Fairm.), Earias fabia (Stoll), Elsinoe batatas (Saw.) Viegas and Jenkins, Uredo dioscoreae-alatae Rac., Cercospora batatae Zimm., Coniothyrium sp., Phyllosticta colocasiophila Weed., Xanthomonas vasculorum (Cobb) Dowson, Rhabdoscelus obscurus (Boisd.), Neomaskellia bergii (Sign.), Pyrausta nubilalis (Hbn.), Physoderma zeae-maydis Shaw, Leptocorisa acuta (Thunb.), Adoretus sinicus Burm., and Holotrichia mindanaona Brenske, as well as other plant pests, and Guam is hereby quarantined because of such insect infestations and diseases and other plant pests, and regulations are prescribed in this subpart governing the movement of carriers of these pests.

(b) No plants or parts thereof capable of propagation; seeds; fruits or vegetables; cotton or cotton covers; sugarcane or parts or by-products thereof; cereals; cut flowers; or packing materials; as such articles are defined in regulations supplemental hereto, shall be shipped, deposited for transmission in the mail, offered for shipment, received for transportation, carried, otherwise transported or moved, or allowed to be moved, by mail or otherwise, by any person from Guam into or through any other State, Territory, or District of the United States, in any manner or method or under conditions other than those prescribed in the regulations, as from time to time amended: *Provided*, That whenever the Director of the Plant Quarantine Division shall find that existing conditions as to the pest risk involved in the movement from Guam of the articles designated herein, make it safe to modify, by making less stringent,

the restrictions contained in any regulations in this subpart or in any other subpart in this chapter made applicable thereto by this subpart, he shall publish such findings in administrative instructions, specifying the manner in which the regulations should be made less stringent with respect to such movement, whereupon such modification shall become effective; or he may, when the public interests will permit in specific cases, upon notification to the consignor and to the consignee, authorize the interstate movement from Guam of the articles to which such regulations apply, under conditions that are less stringent than those contained in the regulations.

(c) Regulations governing the movement of live plant pests designated in this section are contained in Part 330 of this chapter.

REGULATIONS

§ 318.82–1 Definitions.

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

(a) *Plants.* Trees, shrubs, vines, cuttings, grafts, scions, buds, herbaceous plants, bulbs, roots, and other plants and plant parts intended for propagation.

(b) *Seeds.* The mature ovular bodies produced by flowering plants, containing embryos capable of developing into new plants by germination.

(c) *Fresh fruits and vegetables.* The edible, more or less succulent, portions of food plants in the raw or unprocessed state.

(d) *Cotton and cotton covers.* Any parts or products of plants of the genus Gossypium, including seed cotton; cottonseed; cotton lint, linters, and other forms of cotton fiber (not including yarn, thread, and cloth); cottonseed hulls, cake, meal, and other cottonseed products except oil; cotton waste, including gin waste and thread waste; and any other unmanufactured parts of cotton plants; and secondhand burlap and other fabrics, shredded or otherwise, which have been used, or are of the kinds ordinarily used, for containing cotton, grains (including grain products), field seeds, agricultural roots, rhizomes, tubers, or other underground crops.

(e) *Sugarcane or parts or by-products thereof.* Stems of sugarcane (Saccharum spp.), or cuttings or parts thereof, sugarcane leaves, or bagasse or other parts of sugarcane plants, except seeds, not sufficiently processed to remove plant pest danger.

(f) *Cereals.* Seed and other plant parts of all members of the grass family (Gramineae) which yield grain or seed suitable for food, including, but not limited to, wheat, rice, corn and related plants. This definition shall include straw, hulls, chaff and products of the milling process (but excluding flour) of such grains and seeds as well as stalks and all other parts of broomcorn.

(g) *Cut flower.* The highly perishable commodity known in the commercial flower-producing industry as a cut flower, and being the severed portion of a plant, including the inflorescence, and any parts of the plant attached thereto, in a fresh state.

(h) *Packing materials.* Any plant or plant product, or soil as defined in § 330.100(t) of this chapter, or other substance associated with or accompanying any commodity or shipment to serve for filling, wrapping, ties, lining, mats, moisture retention, protection, or any other auxiliary purpose. The word "packing," as used in the expression "packing materials," shall include the presence of such materials within, in contact with, or accompanying such commodity or shipment.

(i) *Administrative instructions.* Published documents relating to the enforcement of the regulations in this subpart, issued under the authority of such regulations by the Director of the Plant Quarantine Division.

(j) *State, Territory, or District of the United States.* Guam, Hawaii, Puerto Rico, the Virgin Islands of the United States, or the continental United States (including Alaska).

(k) *United States.* The States, the District of Columbia, Guam, Hawaii, Puerto Rico, and the Virgin Islands of the United States.

(l) *Oceania.* The islands of the Central and South Pacific, including Micronesia, Melanesia, and Polynesia, as well as Australia, New Zealand, and the Malay Archipelago.

(m) *Far East.* The countries of East and Southeast Asia, including Japan, Korea, Taiwan, the northeastern provinces of Manchuria, the Philippines, Indo-China, and India.

§ 318.82–2 Movement of regulated articles.

(a) Plants, plant products, and other articles designated in § 318.82 may be moved from Guam into or through any other State, Territory, or District of the United States only if, in the case of articles other than soil, they meet the strictest plant quarantine requirements for similar articles offered for entry into such State, Territory, or District from Oceania or the Far East under Part 319 or 321 of this chapter, except requirements for permits, foreign inspection certificates, notices of arrival, and notices of shipment from port of arrival, and in the case of soil if it meets the requirements of § 330.300 of this chapter. If such similar articles cannot be imported into the particular State, Territory, or District from Oceania or the Far East under either Part 319 or 321 of this chapter, the interstate movement of the articles from Guam into or through such State, Territory or District shall be similarly prohibited. Plants, plant products, and other articles moved from Guam into or through any other State, Territory or District of the United States shall be subject to inspection at the port of first arrival in another part of the United States to determine whether they are free of plant pests and otherwise meet the requirements applicable to them under this subpart, and shall be subject to release, in accordance with § 330.105 (a) of this chapter as if they were foreign arrivals. Such articles shall be released only if they meet all applicable requirements under this subpart.

(b) A release may be issued orally by the inspector when inspection of small quantities of regulated articles is involved except that a release issued in specific cases pursuant to the proviso in § 318.82 shall be in writing.

(c) The appropriate provisions of Part 352 of this chapter are hereby made applicable to the safeguarding of regulated articles from Guam temporarily in parts of the United States other than Guam, when landing therein is not intended or landing has been refused in accordance with this subpart. The movement of plant pests, means of conveyance, plants, plant products, and other products and articles from Guam into or through any other State, Territory, or District is also regulated by Part 330 of this chapter.

§ 318.82–3 Costs.

All costs incident to the inspection, handling, cleaning, safeguarding, treating, or other disposal of products or articles under this subpart, except for the services of an inspector during regularly assigned hours of duty and at the usual places of duty, shall be borne by the owner.

PART 319—FOREIGN QUARANTINE NOTICES

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319.55 Notice of quarantine.
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QUARANTINE

319.70 Notice of quarantine.

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Subpart—Cut Flowers

QUARANTINE

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319.74–6 Shipments for experimental or scientific purposes.
319.74–7 Territorial applicability.

AUTHORITY: §§ 319.8 to 319.74–7 issued under sec. 106, 71 Stat. 33, sec. 9, 37 Stat. 318; 7 U.S.C. 150ee, 162. Interpret or apply secs. 1, 5, 7, 37 Stat. 315, as amended, 316, 317; 7 U.S.C. 154, 159, 160.

Subpart—Foreign Cotton and Covers

QUARANTINE

§ 319.8 Notice of quarantine.

(a) Pursuant to sections 5 and 7 of the Plant Quarantine Act of 1912, as amended (7 U.S.C. 159, 160), and after the public hearing required thereunder, the Administrator of the Agricultural Research Service hereby determines that the unrestricted importation into the United States from all foreign countries and localities of (1) any parts or products of plants of the genus Gossypium, including seed cotton; cottonseed; cotton lint, linters, and other forms of cotton fiber (not including yarn, thread, and cloth); cottonseed hulls, cake, meal, and other cottonseed products, except oil; cotton waste, including gin waste and thread waste; and any other unmanufactured parts of cotton plants; and (2) secondhand burlap and other fabrics, shredded or otherwise, which have been used or are of the kinds ordinarily used, for containing cotton, grains (including grain products), field seeds, agricultural roots, rhizomes, tubers, or other underground crops, may result in the entry into the United States of the pink bollworm (Pectinophora gossypiella (Saund.)), the golden mematode of potatoes Heterodera rostochiensis Wr.), the flag smut disease (Urocystis tritici Koern.), and other injurious plant diseases and insect pests, and said Administrator hereby further determines, that, in order to prevent the introduction into the United States of said plant diseases and insect pests, which are new to or not heretofore widely prevalent or distributed within and throughout the United States, it is necessary to forbid the importation into the United States of the plants and products, including fabrics, specified above, except as permitted in the regulations supplemental hereto. Hereafter the plants and products specified above shall not be imported or offered for entry into the United States from any foreign country or locality except as permitted by said regulations, and the plants and products permitted by the regulations to be imported or offered for entry shall be subject to the provisions of sections 1, 2, 3, and 4 of said Plant Quarantine Act (7 U.S.C. 154, 156, 157, and 158): *Provided*, That whenever the Director of the Plant Quarantine Division shall find that existing conditions as to pest risk involved in the importation of the articles to which the regulations supplemental hereto apply, make it safe to modify, by making less stringent the restrictions contained in any of such regulations, he shall publish such findings in administrative instructions, specifying the manner in which the restrictions shall be made less stringent, whereupon such modification shall become effective; or he may, upon request in specific cases, when the public interests will permit, authorize such importation under conditions specified in the permit to carry out the purposes of this part that are less stringent than those contained in the regulations.

(b) As used in this section the term "United States" shall have the meaning ascribed to it in the regulations supplemental hereto.

§ 319.8a Administrative instructions relating to the entry of cotton and covers into Guam.

The plants and products specified in § 319.8(a) may be imported into Guam without further permit, other than the authorization contained in this paragraph. Sections 319.8–2 and 319.8–3 shall not be applicable to such importations. In addition, such importations need not comply with the requirements of § 319.8–4 relating to notice of arrival inasmuch as there is available to the inspector the essential information normally supplied by the importer at the time of importation. Sections 319.8–5 through 319.8–27 shall not be applicable to importations into Guam. Inspection of such importations may be made under the general authority of § 330.105(a) of this chapter. If an importation is found infected, infested, or contaminated with any plant pest and is not subject to disposal under this part, disposition may be made in accordance with § 330.106 of this chapter.

REGULATIONS; GENERAL

§ 319.8–1 Definitions.

For the purposes of the regulations in this subpart, the following words shall be construed, respectively, to mean:

(a) *Cotton.* Parts and products of plants of the genus Gossypium, including seed cotton; cottonseed; cotton lint, linters and other forms of cotton fiber, not including yarn, thread and cloth; cottonseed hulls, cake, meal, and other cottonseed products, except oil; waste; and all other unmanufactured parts of cotton plants.

(b) *Seed cotton.* Cotton as it comes from the field.

(c) *Cottonseed.* Cottonseed from which the lint has been removed.

(d) *Lint.* All forms of raw ginned cotton, either baled or unbaled, except linters and waste.

(e) *Linters.* All forms of cotton fiber separated from cottonseed after the lint has been removed, excluding so-called hull fiber.

(f) *Waste.* All forms of cotton waste derived from the manufacture of cotton lint, in any form or under any trade designation, including gin waste and thread waste; and waste products derived from the milling of cottonseed. Gin trash is not within the definition of waste.

(g) *Gin trash.* All of the material produced during the cleaning and ginning of seed cotton, bollies or snapped cotton except the lint, cottonseed, and gin waste.

(h) *Covers.* Second-hand burlap and other fabrics, shredded or otherwise, including any whole bag, any bag that has been slit open, and any part of a bag, which have been used, or are of the kinds ordinarily used, for containing cotton, grains (including grain products), field seeds, agricultural roots, rhizomes, tubers, or other underground crops. Burlap and other fabrics, when new or unused are excluded from this definition.

(i) *Uncompressed.* Baled or packaged to a density not exceeding approximately 20 pounds per cubic foot.

(j) *Compressed.* Compressed or pressed and baled or packaged to a density greater than approximately 20 pounds and less than approximately 28 pounds per cubic foot.

(k) *Compressed to high density.* Compressed or pressed and baled or packaged to a density of approximately 28 or more pounds per cubic foot.

(l) *Contamination (contaminate).* Containing or bearing whole cottonseed or seed cotton or other material which may carry the pink bollworm, the golden nematode of potatoes, the flag smut disease, or other injurious plant diseases or insect pests. (The verb contaminate shall be construed accordingly.)

(m) *Samples.* Samples of lint, linters, waste, cottonseed cake, and cottonseed meal, of the amount and character usually required for trade purposes.

(n) *United States.* Any of the States, the District of Columbia, Alaska, Guam, Hawaii, Puerto Rico, or the Virgin Islands of the United States.

(o) *North, northern.* When used to designate ports of arrival, these terms mean the port of Norfolk, Virginia, and

all Atlantic Coast ports north thereof, ports along the Canadian border, and Pacific Coast ports in the States of Washington and Oregon. When used in a geographic sense to designate areas or locations, these terms mean any State in which cotton is not grown commercially. However when cotton is grown commercially in certain portions of a State, as is the case in Illinois, Kansas, and Missouri, these terms include those portions of such State as may be determined by the Director of the Division as remote from the main area of cotton production.

(p) *Contiguous areas of Mexico.* The cotton-producing areas of Mexico contiguous to cotton-producing areas in that part of the United States designated as the regulated area in Federal pink bollworm regulations (§ 301.52–2 of this chapter, as amended).

(q) *West Coast of Mexico.* The State of Sinaloa, the State of Sonora (except that part of the Imperial Valley lying between San Luis Mesa and the Colorado River), and the Southern Territory of Baja California, in Mexico.

(r) *Imperial Valley of Mexico.* The Imperial Valley in the State of Baja California, Mexico, and that portion of the Valley in the State of Sonora, Mexico, lying between San Luis Mesa and the Colorado River.

(s) *Treatment.* Procedures administratively approved by the Director of the Division for destroying infestations or infections of insect pests or plant diseases, such as fumigation, application of chemicals or dry or moist heat, or processing, utilization, or storage.

(t) *Permit.* A form of authorization to allow the importation of cotton or covers in accordance with the regulations in this subpart.

(u) *Approved.* Approved by the Director of the Division.

(v) *Approved fumigation facilities.* Approved vacuum fumigation plant at a port where an inspector is available to supervise the fumigation.

(w) *Utilization.* Processing or manufacture, in lieu of fumigation at time of entry, at a mill or plant specifically approved by the Director of the Division.[1]

(x) *Authorized.* Authorized by the Director of the Division.

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

(z) *Division.* The Plant Quarantine Division, Agricultural Research Service, of the United States Department of Agriculture.

(aa) *Inspector.* Any person authorized by the Secretary of Agriculture to enforce the provisions of the Plant Quarantine Act.

(bb) *Person.* Any individual, firm, corporation, company, society, or association, or any organized group of any of the foregoing.

(cc) *Root crop.* The underground crop portions of any plants.

[1] A list of approved mills and plants may be obtained from the Plant Quarantine Division, Room 406, U.S. Appraisers Stores, 408 Atlantic Ave., Boston 10, Mass.

CONDITIONS OF IMPORTATION AND ENTRY OF COTTON AND COVERS

§ 319.8–2 Permit procedure.

(a) Except as otherwise provided for in §§ 319.8–10 and 319.8–18, permits shall be obtained for importations into the United States of all cotton and covers. Permits will be issued only for cotton and covers authorized entry under §§ 319.8–6 through 319.8–20. Persons desiring to import cotton or covers under §§ 319.8–6 through 319.8–20 shall, in advance of departure of such material from a foreign port, submit to the Division an application[2] stating the name and address of the importer, the country from which such material is to be imported, and the kind of cotton or covers it is desired to import. Applications to import cottonseed shall state the approximate quantity and the proposed United States port of entry. Applications to import lint, linters, or waste shall state whether such materials are compressed.

(b) Applications to import lint, linters, or waste at a port[3] other than one in the North, in California, or on the Mexican Border shall also specify whether the commodity is compressed to high density.

(c) Applications for permits may be made orally or on forms provided for the purpose by the Division, or may be made by a letter or telegram containing all the information required by this section.

(d) Upon receipt and approval of such application by the Division, an individual or continuing permit will be issued authorizing the importation and specifying the port of entry and the conditions of entry. A copy of the permit will be supplied to the importer.

(e) Upon receipt of an application to import lint, linters, waste, or covers, without treatment, for utilization under agreement as defined in § 319.8–8 (a) (2), an investigation will be made by an inspector to determine that the receiving mill or plant is satisfactorily located geographically, is equipped with all necessary safeguards, and is apparently in a position to fulfill all precautionary conditions to which it may agree. Upon determination by the inspector that these qualifications are fulfilled, the owner or operator of the mill or plant may sign an agreement specifying that the required precautionary conditions will be maintained. Such signed agreement will be a necessary requisite to the release at the port of entry of any imported lint, linters, waste, or covers for forwarding to and utilization at such mill or plant in lieu of vacuum fumigation or other treatment otherwise required by this subpart. Permits for the importation of such materials will be issued in accordance with paragraph (a) of this section.

(f) Permits for importation of any cotton or covers are conditioned upon compliance with all requirements set forth therein and such additional requirements in this subpart as are in terms applicable thereto. Failure to comply with any such requirement will be deemed to invalidate the permit. Permits may also be cancelled or may be refused as provided in § 319.8–3, or entry denied as provided in §§ 319.8–11, 319.8–12, and 319.8–13.

(g) If through no fault of the importer a shipment of cotton or covers arrives at a United States port in advance of the issuance of a permit, it may be held, under suitable safeguards prescribed by the inspector at the port, in Customs custody at the risk of the importer, pending issuance of a permit, for a period not exceeding 20 days.

(h) Pending development of adequate treating facilities in Guam, any cotton or covers that are subject to treatment as a condition of entry therein must first be entered and treated in accordance with the requirements of this subpart at a United States port of arrival where such treating facilities are available.

§ 319.8–3 Refusal and cancellation of permits.

(a) Permits for the importation of lint, linters, and waste from contiguous areas of Mexico as authorized in § 319.8–11 may be refused and existing permits cancelled by the Director of the Division or the inspector (1) if, in the opinion of the Director of the Division, effective quarantine measures are not maintained by the duly authorized officials of Mexico to prohibit the movement into such contiguous areas of cotton and covers grown or handled in other parts of Mexico infested by the pink bollworm or in countries other than the United States, or (2) if the lint, linters, and waste have not been produced in the contiguous areas and handled under sanitary conditions paralleling those required by § 301.52–1 et seq. of this chapter, as amended, for like products originating in parts of the United States designated in § 301.52–2 of this chapter, as amended, as coming within the pink bollworm regulated area.

(b) Permits for the importation of lint and linters from the West Coast of Mexico as authorized in § 319.8–12 may be refused and existing permits cancelled by the Director of the Division or the inspector (1) if, in the opinion of the Director of the Division, effective quarantine measures are not maintained by the duly authorized officials of Mexico to prohibit the movement into the West Coast of Mexico of cotton and covers grown or handled in other parts of Mexico infested with the pink bollworm or in countries other than the United States, or (2) if it has been determined by the Division that the pink bollworm exists in the area comprising the West Coast of Mexico.

(c) Permits for the importation of cottonseed from the State of Sonora, Mexico, as authorized in § 319.8–12 (d), may be refused and existing permits cancelled by the Director of the Division or the inspector (1) if, in the opinion of the Director of the Division, effective quarantine measures are not maintained by

[2] Applications for permits should be made to Plant Importations Branch, Plant Quarantine Division, 209 River Street, Hoboken, N.J.

[3] Including ports in Gaum, Hawaii, Puerto Rico, and the Virgin Islands of the United States.

the duly authorized officials of Mexico to prohibit the movement into the State of Sonora, Mexico, of cotton and covers grown or handled in other parts of the West Coast of Mexico or in parts of Mexico infested with the pink bollworm or in countries other than the United States, or (2) if it has been determined by the Division that the pink bollworm exists in the State of Sonora, Mexico.

(d) Permits for the importation of cotton and covers from the Imperial Valley of Mexico as authorized in § 319.8–13 may be refused and existing permits cancelled by the Director of the Division or the inspector (1) if, in the opinion of the Director of the Division, effective quarantine measures are not maintained by the duly authorized officials of Mexico to prohibit the movement into the State of Baja California, Mexico, of cotton and covers grown or handled in other parts of Mexico or in countries other than the United States, (2) if it has been determined by the Division that the pink bollworm exists in the Imperial Valley of Mexico, or elsewhere in the State of Baja California, or (3) if cottonseed is moved to the Southern Territory of Baja California from areas of Mexico infested with the pink bollworm or from countries other than the United States, or other pest hazards are discovered or allowed to develop therein or in the State of Baja California which in the opinion of the Director of the Division would increase the risk of pest introduction into the United States by importations under § 319.8–13.

§ 319.8–4 Notice of arrival.

Immediately upon arrival at a port of entry of any shipment of cotton or covers the importer shall submit in duplicate, through the United States Collector of Customs, or, in the case of Guam, through the Customs officer of the Government of Guam, and for the Plant Quarantine Division, a notice of such arrival, on a form provided for that purpose (Form PQ–368) and shall give such information as is called for by that form.

§ 319.8–5 Marking of containers.

Every bale or other container of lint, linters, waste, or covers imported or offered for entry shall be plainly marked with a bale number or other mark to distinguish it from other bales or containers. Bales of lint and linters from contiguous areas of Mexico, the West Coast of Mexico, and the Imperial Valley of Mexico shall, in addition, be tagged or otherwise marked to show the gin or mill of origin, unless for immediate export.

§ 319.8–6 Cottonseed cake and cottonseed meal.

Entry of cottonseed cake and cottonseed meal will be authorized through any port at which the services of an inspector are available, subject to examination by an inspector for freedom from contamination. If found to be free of contamination, importations of such cottonseed cake and cottonseed meal will be released from further plant quarantine entry restrictions. If found to be contaminated such importations will be refused entry or subjected as a condition of entry to such safeguards as the inspector may prescribe, according to a method selected by him from administratively authorized procedures known to be effective under the conditions under which the safeguards are applied.

§ 319.8–7 Processed lint, linters, and waste.

Entry of lint, linters, and waste will be authorized without treatment but upon compliance with other applicable requirements of this subpart when the inspector can determine that such lint, linters, and waste have been so processed by bleaching, dyeing, or other means, as to have removed all cottonseed or to have destroyed all insect life.

§ 319.8–8 Lint, linters, and waste.

(a) *Compressed to high density.* (1) (i) Entry of lint, linters, and waste, compressed to high density, will be authorized subject to vacuum fumigation by approved methods at any port where approved fumigation facilities are available.

(ii) Importations of such lint, linters, and waste, arriving at a northern port where there are no approved fumigation facilities may be entered for transportation in bond to another northern port where such facilities are available, for the required vacuum fumigation.

(iii) Importations of such lint, linters, and waste, arriving at a port in the State of California where there are no approved fumigation facilities may be entered (*a*) for immediate transportation in bond by all-water route to a port where approved fumigation facilities are available, there to receive the required vacuum fumigation before release, or (*b*) for immediate transportation in bond by all-water route to a northern port for entry, without fumigation, for utilization as provided for in subparagraph (2) of this paragraph.

(2) Entry of lint, linters, and waste compressed to high density, will be authorized without vacuum fumigation at any northern port, subject to movement to an approved mill or plant, the owner or operator of which has executed an agreement with the Division to the effect that, in consideration of the waiving of vacuum fumigation as a condition of entry and the substitution of approved utilization therefor:

(i) The lint, linters, and waste so entered will be processed or manufactured at the mill or plant and until so used will be retained thereat, unless written authority is granted by the Division to move the material to another mill or plant:

(ii) Sanitary measures satisfactory to the Division will be taken with respect to the collection and disposal of any waste, residues, and covers, including the collection and disposal of refuse from railroad cars, trucks, or other carriers used in transporting the material to the mill or plant;

(iii) Inspectors of the Division will have access to the mill or plant at any reasonable time to observe the methods of handling the material, the disposal of refuse, residues, waste, and covers, and otherwise to check compliance with the terms of the agreement;

(iv) Such reports of the receipt and utilization of the material, and disposal of waste therefrom as may be required by the inspector will be submitted to him promptly;

(v) Such other requirements as may be necessary in the opinion of the Director of the Division to assure retention of the material, including all wastes and residues, at the mill or plant and its processing, utilization or disposal in a manner that will eliminate all pest risk, will be complied with.

(3) Failure to comply with any of the conditions of an agreement specified in subparagraph (2) of this paragraph may be cause for immediate cancellation of the agreement by the inspector and refusal to release, without vacuum fumigation, lint, linters, and waste for transportation to the mill or plant.

(4) Agreements specified in subparagraph (2) of this paragraph may be executed only with owners or operators of mills or plants located in States in which cotton is not grown commercially and at locations in such other States as may be administratively designated by the Director of the Division after due consideration of possible pest risk involved and the proximity of growing cotton.

(b) *Uncompressed or compressed.* (1) (i) Entry of uncompressed or compressed lint, linters, and waste will be authorized, subject to vacuum fumigation by approved methods, through any northern port, through any port in the State of California, and through any port on the Mexican Border, where approved fumigation facilities are available.

(ii) Importations of such lint, linters, and waste arriving at a northern port where there are no approved fumigation facilities may be entered for immediate transportation in bond to another northern port where such facilities are available, for the required vacuum fumigation.

(iii) Importation of such lint, linters, and waste arriving at a port in the State of California where there are no approved fumigation facilities may be entered (*a*) for immediate transportation in bond by all-water route to any port in California or any northern port where approved fumigation facilities are available, there to receive the required vacuum fumigation before release, or (*b*) if compressed below high density, or if uncompressed waste derived from cotton milled in a non-cotton-producing country,[4] for immediate transportation in bond by all-water route to a northern port for entry without vacuum fumigation for utilization as provided for in paragraph (a) (2) of this section.

(2) Entry without vacuum fumigation will be authorized for compressed lint, linters, and waste and for uncompressed waste derived from cotton milled in non-cotton-producing countries,[4] arriving at a northern port, subject to movement to

[4] For the purposes of this subpart the following countries are considered as non-cotton-producing countries: Austria, Belgium, Canada, Denmark, Eire, Finland, France, Germany, Great Britain (United Kingdom), Iceland, Liechtenstein, Luxembourg, Netherlands, Norway, Portugal, Sweden and Switzerland.

an approved mill or plant, the owner or operator of which has executed an agreement with the Division as provided for in paragraph (a) (2) of this section.

§ 319.8–9 Hull fiber and gin trash.

(a) Entry of hull fiber will be authorized under the same conditions as are applicable to waste under this subpart.

(b) Entry of gin trash will be authorized under the same conditions as are applicable to either seed cotton or cottonseed under this subpart.

§ 319.8–10 Covers.

(a) Covers, including bags, slit bags, and parts of bags, which have been used as containers for cotton grown or processed in countries other than the United States may be authorized entry either (1) through northern ports or ports in the State of California, subject to vacuum fumigation by an approved method at a northern port or a California port, or without vacuum fumigation when the covers are moved for utilization to an approved mill or plant the owner or operator of which has executed an appropriate agreement with the Division similar to that described in § 319.8–8(a)(2), provided that movement by an all-water route will be required when it is necessary to move such covers from a California port to another California port or to a northern port for vacuum fumigation thereat or for forwarding therefrom to a mill or plant for utilization; or (2) through Mexican Border ports named in the permits, for vacuum fumigation by approved methods in parts of the United States within the pink bollworm regulated area designated in § 301.52–2 of this chapter, as amended. When such covers arrive at a port [5] other than a northern, California or Mexican Border port they will be required to be transported therefrom immediately, in bond by an all-water route, to a northern or California port where approved vacuum fumigation facilities are available, for vacuum fumigation thereat by an approved method or forwarding therefrom to an approved mill or plant for utilization: *Provided*, That such forwarding from a northern port to a California mill or plant must be by an all-water route.

(b) American cotton bagging, commonly known as coarse gunny, which has been used to cover only cotton grown or processed in the United States, may be authorized entry at any port under permit and upon compliance with §§ 319.8–4 and 319.8–5, without fumigation or other treatment. Marking patches of the finer burlaps or other fabrics when attached to bales of such bagging may be disregarded if, in the judgment of the inspector, they do not present a risk of carrying live pink bollworms, golden ematode cysts or flag smut spores.

(c) Bags, slit bags, parts of bags, and other covers which have been used as containers for root crops or are of a kind ordinarily used as containers for root crops may be authorized entry subject to immediate treatment in such manner and according to such method as the inspector may select from administratively authorized procedures known to be effective under the conditions under which the treatment is applied, and subject to any additional safeguard measures that may be prescribed by the inspector pursuant to § 319.8–24, or that he may prescribe in regard to the manner of discharge from the carrier and conveyance to the place of treatment: *Provided*, That such covers may be authorized entry from Canada without treatment as prescribed in this paragraph unless the covers are found to be contaminated.

(d) Bags, slit bags, parts of bags, and other covers that have been used as containers for wheat or wheat products that have not been so processed as to have destroyed all flag smut disease spores, or that have been used as containers for field seeds separated from wheat during the process of screening, and which arrive from a country named in § 319.59 (notice of quarantine No. 59 relating to the flag smut disease),[6] if intended for reuse in this country as grain containers may be authorized entry, subject to immediate treatment at the port of arrival. If such covers are not intended to be reused in this country as grain containers their entry may be authorized subject to movement for utilization to an approved mill or plant the owner or operator of which has executed an appropriate agreement with the Division similar to that described in § 319.8–8 (a) (2). Covers coming within this paragraph only, may be entered without permit other than the authorization provided in this paragraph and without other restriction under this subpart upon presentation to an inspector of satisfactory evidence that they have been used only for grains exported from the United States and are being returned empty without use abroad and that while abroad they have been handled in a manner to prevent their contamination.

(e) When upon arrival at a port of entry any shipment of bags, slit bags, parts of bags, or other covers, is found to include one or more bales containing material the importation of which is regulated by paragraph (a), (c), or (d) of this section, the entire shipment, or any portion thereof, may be required by the inspector to be treated as specified in the applicable paragraph.

(f) If upon their arrival at a port of entry covers are classified by the inspector as coming within more than one paragraph of this section, they will be authorized entry only upon compliance with such requirements of the applicable paragraphs as the inspector may deem necessary to prevent the introduction of plant diseases and insect pests.

(g) Notwithstanding the provisions of any other paragraph of this section the entry from any country of bags, slit bags, parts of bags, and other covers will be authorized without treatment but upon compliance with other applicable sections of this subpart if the inspector finds that they have obviously not been used in a manner that would contaminate them or when in the inspector's opinion there is otherwise no plant pest risk associated with their entry.

OTHER CONDITIONS APPLICABLE TO COTTON AND COVERS FROM MEXICO

§ 319.8–11 From contiguous areas of Mexico.

(a) *Lint, linters, and waste.* (1) Contingent upon the continued maintenance by the duly authorized Mexican officials of effective quarantine measures to prohibit the movement into contiguous areas of Mexico of cotton and covers grown or handled in other parts of Mexico infested with the pink bollworm or in countries other than the United States, the entry of lint, linters, and waste that have been certified by an inspector as having been produced in the contiguous areas of Mexico and as having been grown and handled under sanitary conditions paralleling those required for like products originating in adjacent parts of the United States designated as within the pink bollworm regulated area in § 301.52–2 of this chapter, as amended, will be authorized through ports on the Mexican Border named in the permits for movement into such regulated area of the United States. Gin and oil mill wastes from the contiguous areas of Mexico may be similarly authorized entry subject to treatment, under supervision of an inspector, according to procedures administratively approved under § 301.52 et seq. of this chapter, as amended, as a prerequisite for movement out of the area regulated on account of pink bollworm. Such lint, linters, and waste must be in covers free of contamination to the satisfaction of the inspector. Upon arrival at such ports, the lint, linters, and waste meeting the requirements of this section will be released from further plant quarantine entry restrictions and will immediately become subject to the requirements of said § 301.52 et seq., applicable to like products originating in the pink bollworm regulated area.

(2) If the Director of the Division or the inspector finds that effective quarantines are not so maintained by Mexican officials, or if an inspector is unable to certify lint, linters, or waste as specified in subparagraph (1) of this paragraph, entry will be refused under this section and will only be authorized in accordance with § 319.8–7, § 319.8–8, § 319.8–14, § 319.8–16, § 319.8–17, § 319.8–18, or § 319.8–20.

(b) *Cottonseed and cottonseed hulls.* (1) Entry of cottonseed will be authorized at any port on the Mexican Border when certified by an inspector as having been produced in a contiguous area of Mexico, as having been treated by a method satisfactory to the Director of

[5] Including ports in Guam, Hawaii, Puerto Rico, and the Virgin Islands of the United States.

[6] The countries named in § 319.59, the Flag Smut Disease Quarantine, are Aden Protectorate, Afghanistan, Australia, Bulgaria, Caucasus (including but not limited to Azerbaidzhan, South Russia, and Transcaucasia), Chile, China, Cyprus, Egypt, Greece, India, Iran, Iraq, Israel, Italy, Japan, Oman, Pakistan, Palestine, Portugal, Saudi Arabia, Sinai Peninsula, Spain, Syria, Trans-Jordan, Tunisia, Turkestan, Turkey, Union of South Africa, and Yemen.

the Division, and as having been subsequently handled so as to prevent risk of introducing live pink bollworms and other injurious insects and plant diseases.

(2) Entry of cottonseed hulls will be authorized at any port on the Mexican Border when certified by an inspector as having been produced from seed that was treated in a contiguous area of Mexico by a method satisfactory to the Director of the Division, and as having been subsequently handled so as to prevent risk of introducing live pink bollworms and other injurious insects and plant diseases.

(3) Upon arrival in the United States such cottonseed and cottonseed hulls shall be released from further plant quarantine entry restrictions and shall immediately become subject to the requirements of § 301.52 et seq. of this chapter, as amended, applicable to cottonseed and cottonseed hulls originating in the pink bollworm regulated area.

§ 319.8–12 From West Coast of Mexico.

(a) *Compressed lint and linters.* Contingent (1) upon the continued maintenance by the duly authorized Mexican officials of effective quarantine measures to prohibit the movement into the West Coast of Mexico of cotton and covers grown or handled in parts of Mexico infested with the pink bollworm or in countries other than the United States, and (2) upon continued freedom of this area from infestation with the pink bollworm, the entry of lint and linters that are compressed and that originate in the West Coast of Mexico will be authorized through such ports as are specified in the permits. If the Director of the Division or the inspector determines that either of these contingencies is not met, entry will be refused under this paragraph and will only be authorized in accordance with §§ 319.8–7, 319.8–8, 319.8–14, 319.8–16, 319.8–17, 319.8–18, or 319.8–20.

(b) *Uncompressed lint and linters.* Uncompressed lint and linters from the West Coast of Mexico in covers free of contamination to the satisfaction of the inspector may be entered for immediate transportation in bond to a port designated by the inspector and by a route selected by him from a list of administratively approved ports and routings available to him, for compression, vacuum fumigation, or immediate exportation, or such material may be entered for movement to an approved mill or plant, the owner or operator of which has executed an agreement with the Division similar to that described in § 319.8–8 (a) (2).

(c) *Treated linters and cottonseed hulls.* Linters and cottonseed hulls originating in the West Coast of Mexico that have been certified by an inspector as having been produced from cottonseed that was treated in the West Coast of Mexico by a method satisfactory to the Director of the Division and as having been subsequently protected from contamination may be entered through Nogales, Arizona, and such other ports as are specified in the permits.

(d) *Cottonseed.* Contingent upon the continued maintenance by the duly authorized Mexican officials of effective quarantine measures to prohibit the movement into the State of Sonora, Mexico, of cotton and covers grown or handled in other parts of the West Coast of Mexico, in parts of Mexico infested with the pink bollworm, or in countries other than the United States, and upon continued freedom of the State of Sonora, Mexico, from infestation with the pink bollworm, cottonseed originating in the State of Sonora, Mexico, and contained in new sacks may enter at Nogales, Arizona, and such other ports as may be named in the permit for transportation in bond to Fabens, Texas, for prompt vacuum fumigation.

§ 319.8–13 From Imperial Valley, Mexico.

Contingent upon the continued maintenance by the duly authorized Mexican officials of effective quarantine measures to prohibit the movement into the State of Baja California, Mexico, of cotton and covers grown or handled in other parts of Mexico or in countries other than the United States, and upon continued freedom of the Imperial Valley of Mexico and other parts of the State of Baja California from infestation with the pink bollworm, and upon the absence of conditions in the Southern Territory of Baja California and the State of Baja California that would increase the risk of pest introduction into the United States by importations under this section, the entry of cotton and covers originating in the Imperial Valley of Mexico will be authorized through such ports on the Mexican Border as are specified in the permits. If the Director of the Division or the inspector determines that any of these contingencies is not met, entry will be refused under this section and will only be authorized in accordance with §§ 319.8–6 through 319.8–10, 319.8–14, or 319.8–16 through 319.8–20.

§ 319.8–14 Special authorization for lint, linters, and waste from Mexico.

(a) Compressed lint, linters, and waste originating in Mexico may be entered under a permit at ports on the Mexican Border named in the permits, for movement via rail, over specified routes if required by the inspector, to (1) New Orleans, Louisiana, for vacuum fumigation or immediate exportation, (2) an approved mill or plant in the north, or other designated plant for manufacture into cellulose, if the owner or operator of such mill or plant has executed an agreement with the Division as provided in § 319.8–8 (a) (2), or (3) northern ports for vacuum fumigation or exportation.

(b) Uncompressed lint, linters, and waste originating in Mexico will be authorized entry at Mexican Border ports specified in the permits (1) for movement to Fabens, Texas, for vacuum fumigation, after which they will be released from further plant quarantine entry restrictions and will immediately become subject to the requirements of § 301.52 et seq. of this chapter, as amended, applicable to like products originating in the pink bollworm regulated area, or (2) for compression at designated places located in parts of the United States designated as within the pink bollworm regulated area in § 301.52–2 of this chapter, as amended, after which such lint, linters, and waste shall be moved under the same conditions as described in paragraph (a) of this section.

(c) All such lint, linters, and waste enterable under this section must be in covers free from uncrushed cottonseed to the satisfaction of the inspector.

§ 319.8–15 Mexican cotton and covers otherwise enterable.

Cotton and covers from Mexico may also be entered in accordance with §§ 319.8–6 through 319.8–10 and 319.8–16 through 319.8–20 insofar as said sections are applicable.

MISCELLANEOUS PROVISIONS

§ 319.8–16 Importation into United States of cotton and covers exported therefrom.

(a) Cotton and covers grown, produced, or handled in the United States and exported therefrom, and in the original bales or other containers in which such material was exported therefrom, may be imported into the United States at any port under permit, without vacuum fumigation or other treatment or restriction as to utilization, upon compliance with §§ 319.8–2, 319.8–4, and 319.8–5, and upon the submission of evidence satisfactory to the inspector that such material was grown, produced, or handled in the United States and does not constitute a risk of introducing the pink bollworm into the United States.

(b) Cotton and covers of foreign origin imported into the United States in accordance with this subpart and exported therefrom, when in the original bales or other original containers, may be reimported into the United States under the conditions specified in paragraph (a) of this section.

§ 319.8–17 Importation for exportation, and importation for transportation and exportation; storage.

(a) Importation of cotton and covers for exportation, or for transportation and exportation, in accordance with this subpart shall also be subject to §§ 352.1 through 352.8 of this chapter, as amended.

(b) Importation at northern ports of unfumigated lint, linters, waste, cottonseed cake, cottonseed meal, and covers used only for cotton, for exportation or for transportation and exportation through another northern port, may be authorized by the inspector under permit if, in his judgment, such procedures can be authorized without risk of introducing the pink bollworm.

(c) Importation, for purposes of storage in Customs custody pending exportation, of lint, linters, and waste, compressed to high density, will be authorized under permit at any port where approved fumigation facilities are available, and where there are inspectors at the port to supervise such storage, if the bales of such material are free of surface contamination, if they are kept segregated from other cotton and covers in a

manner satisfactory to the inspector, and if waste is collected and disposed of in a manner satisfactory to the inspector.

(d) Except as provided in § 319.8–23 (a) (4), compressed lint, linters, and waste, uncompressed waste derived from cotton milled in a non-cotton-producing country,[7] and covers, arriving at a port in the north for entry for exportation, vacuum fumigation, or utilization in accordance with the requirements in this subpart, may be allowed movement in Customs custody for storage at a point in the north pending such exportation, or movement to an approved mill or plant for vacuum fumigation or utilization, when there are inspectors available to supervise such storage, if the bales are free of surface contamination, if they are kept segregated from other cotton and covers in a manner satisfactory to the inspector, and if waste is collected and disposed of in a manner satisfactory to the inspector. Such lint, linters, waste, and covers shall remain under Customs custody until released by the inspector.

(e) Importation of lint, linters, and waste from Mexico for transportation and exportation will be authorized under permit if such material is compressed before, or immediately upon entering into the United States, or is compressed while en route to the port of export at a compress specifically authorized in the permit. The ports of export which may be named in the permit shall be limited to those that have been administratively approved for such exportation. Storage of such compressed cotton may be authorized, in approved bonded warehouses in Texas.

(f) Importation of uncompressed lint, linters, and waste from Mexico will be authorized under permit at Brownsville, Texas, for exportation. Importation of such material may also be authorized at such other ports and under such conditions as may be designated in the permits for transportation to and exportation from the designated ports.

§ 319.8–18 Samples.

(a) Samples of lint, linters, waste, cottonseed cake, and cottonseed meal may be entered without further permit other than the authorization contained in this section, but subject to inspection and such treatment as the inspector may deem necessary. Samples which represent either such products of United States origin or such products imported into the United States in accordance with the requirements of this subpart, and which were exported from the United States, may be entered into the United States without inspection when the inspector is satisfied as to the identity of the samples.

(b) Samples of cottonseed or seed cotton may be entered subject to the conditions and requirements provided in §§ 319.8–2, 319.8–4, and 319.8–19.

[7] For the purposes of this subpart the following countries are considered as non-cotton-producing countries: Austria, Belgium, Canada, Denmark, Eire, Finland, France, Germany, Great Britain (United Kingdom), Iceland, Liechtenstein, Luxembourg, Netherlands, Norway, Portugal, Sweden and Switzerland.

(c) Bales or other containers of cotton shall not be broken or opened for sampling and samples shall not be drawn until the inspector has so authorized and has prescribed the conditions and safeguards under which such samples shall be obtained.

§ 319.8–19 Cottonseed or seed cotton for experimental or scientific purposes.

Entry of small quantities of cottonseed or seed cotton for experimental or scientific purposes may be authorized through such ports as may be named in the permit, and shall be subject to such special conditions as shall be set forth in the permit to provide adequate safeguards against pest entry.

§ 319.8–20 Importations by the Department of Agriculture.

Cotton and covers may be imported by the Department of Agriculture for experimental or scientific purposes under such conditions as may be prescribed by the Director of the Division, which conditions may include clearance through the Plant Introduction Section of the Crops Research Division.

§ 319.8–21 Release of cotton and covers after 18 months' storage.

Cotton and covers, the entry of which has been authorized subject to vacuum fumigation or other treatment because of the pink bollworm only, and which have not received such treatment but have been stored for a period of 18 months or more will be released from further plant quarantine entry restrictions.

§ 319.8–22 Ports of entry or export.

When ports of entry or export are not specifically designated in this subpart but are left to the judgment of the inspector, the inspector shall designate only such ports as have been administratively approved for such entry or export.

§ 319.8–23 Treatment.

(a) (1) Vacuum fumigation as required in this subpart shall consist of fumigation, in a vacuum fumigation plant approved by the Director of the Division, under the supervision of an inspector and to his satisfaction. Continued approval of the plant will be contingent upon the granting by the operator thereof, to the inspector, of access to all parts of the plant at all reasonable hours for the purpose of supervising sanitary and other operating conditions, checking the efficacy of the apparatus and chemical operations, and determining that wastage has been cleaned up and disposed of in a manner satisfactory to the inspector; and upon the maintenance at the plant of conditions satisfactory to the inspector.

(2) After cotton and covers have been vacuum fumigated they shall be so marked under the supervision of an inspector. Such material may thereafter be distributed, forwarded, or shipped without further plant quarantine entry restriction.

(3) Cotton and covers held by an importer for vacuum fumigation must be stored under conditions satisfactory to the inspector.

(4) Prompt vacuum fumigation of cotton and covers (other than high density cotton free of surface contamination) will be required at non-northern ports. Similar prompt vacuum fumigation will be required at Norfolk, Virginia, during the period June 15 to October 15 of each year, except for covers which have been used to contain only lint, linters, or waste, and the bales of which are compressed to a density of 28 or more pounds per cubic foot and are free of surface contamination.

(b) An inspector may authorize the substitution of processing, utilization, or other form of treatment for vacuum fumigation when in his opinion such other treatment, selected by him from administratively authorized procedures, will be effective in eliminating infestation of the pink bollworm.

§ 319.8–24 Collection and disposal of waste.

(a) Importers shall handle imported, unfumigated cotton and covers in a manner to avoid waste. If waste does occur, the importer or his agent shall collect and dispose of such waste in a manner satisfactory to the inspector.

(b) If, in the judgment of an inspector, it is necessary as a safeguard against risk of pest dispersal to clean railway cars, lighters, trucks, and other vehicles and vessels used for transporting such cotton or covers, or to clean piers, warehouses, fumigation plants, mills, or other premises used in connection with importation of such cotton or covers, the importer or his agent shall perform such cleaning, in a manner satisfactory to the inspector.

(c) All costs incident to such collection, disposal, and cleaning other than the services of the inspector during his regular tour of duty and at the usual place of duty, shall be borne by the importer or his agent.

§ 319.8–25 Costs and charges.

The services of the inspector during regularly assigned hours of duty and at the usual places of duty shall be furnished without cost to the importer. The Division will not assume responsibility for any costs or charges, other than those indicated in this section, in connection with the entry, inspection, treatment, conditioning, storage, forwarding, or any other operation of any character incidental to the physical entry of an importation of a restricted material.

§ 319.8–26 Material refused entry.

Any material refused entry for noncompliance with the requirements of this subpart shall be promptly removed from the United States or abandoned by the importer for destruction, and pending such action shall be subject to the immediate application of such safeguards against escape of plant pests as the inspector may prescribe. If such material is not promptly safeguarded by the importer, removed from the United States, or abandoned for destruction to the satisfaction of the inspector it may be seized, destroyed, or otherwise disposed of in

accordance with section 10 of the Plant Quarantine Act(7 U. S. C. 164a). Neither the Department of Agriculture nor the inspector will be responsible for any costs accruing for demurrage, shipping charges, cartage, labor, chemicals, or other expenses incidental to the safeguarding or disposal of material refused entry by the inspector, nor will the Department of Agriculture or the inspector assume responsibility for the value of material destroyed.

§ 319.8–27 Applicability of Mexican Border Regulations.

The provisions in this subpart in no way affect the applicability of Part 320 of this chapter, as amended, the Mexican Border Regulations, to the entry from Mexico of railway cars or other vehicles or materials.

Subpart—Avocado Seed

§ 319.12 Notice of quarantine.

(a) On and after February 27, 1914, and until further notice, by virtue of section 7 of the act of Congress approved August 20, 1912, known as "The Plant Quarantine Act" (37 Stat. 317; 7 U.S.C. 160), the importation into the United States, from Mexico and the countries of Central America, of the seeds of the avocado or alligator pear, except for experimental or scientific purposes by the Department of Agriculture, is prohibited: *Provided*, That this prohibition shall not apply to importations into Guam of the seeds of the avocado or alligator pear but such importations are subject to the requirements of § 319.37–4(b).

(b) As used in this subpart, unless the context otherwise requires, the term "United States" means the States, the District of Columbia, Alaska, Guam, Hawaii, Puerto Rico, and the Virgin Islands of the United States.

Subpart—Sugarcane

§ 319.15 Notice of quarantine.

(a) On and after October 1, 1934, under authority conferred by the Plant Quarantine Act approved August 20, 1912 (37 Stat. 315; 7 U.S.C. 151–167), as amended, the importation into the United States of canes of sugarcane, or cuttings or parts thereof, sugarcane leaves, the bagasse, from all foreign countries and localities, is prohibited: *Provided*, That this prohibition shall not apply to importations by the United States Department of Agriculture for scientific or experimental purposes, nor to importations of specific materials which the Department may authorize under permit on condition that they have been or are to be so treated, processed, or manufactured that, in the judgment of the Department, their entry will involve no pest risk: *Provided, further*, That whenever the Director of the Plant Quarantine Division shall find that existing conditions as to pest risk involved in the importation of bagasse and related sugarcane products into Guam, make it safe to modify by making less stringent the restrictions of this section with respect to such importation, he shall publish such finding in administrative instructions, specifying the manner in which the restrictions shall be made less stringent and imposing such conditions on such importation as he deems necessary to carry out the purposes of this section, whereupon such modification shall become effective.

(b) As used in this subpart, unless the context otherwise requires, the term "United States" means the States, the District of Columbia, Alaska, Guam, Hawaii, Puerto Rico, and the Virgin Islands of the United States.

§ 319.15a Administrative instructions and interpretation relating to entry into Guam of bagasse and related sugarcane products.

Bagasse and related sugarcane products have been so processed that, in the judgment of the Department, their importation into Guam will involve no pest risk, and they may be imported into Guam without further permit, other than the authorization contained in this paragraph. Such importations may be made without the submission of a notice of arrival inasmuch as there is available to the inspector the essential information normally supplied by the importer at the time of importation. Inspection of such importations may be made under the general authority of § 330.105(a) of this chapter. If an importation is found infected, infested, or contaminated with any plant pest and is not subject to disposal under this part, disposition may be made in accordance with § 330.106 of this chapter.

Subpart—Citrus Canker and Other Citrus Diseases

§ 319.19 Notice of quarantine.

(a) The Secretary of Agriculture, having given the public hearing required by law, declares that it is necessary, in order to prevent the introduction into the United States of the citrus canker disease (Xanthomonas citri (Hasse) Dowson), and also other citrus diseases, all of which are new to and not heretofore widely prevalent or distributed within and throughout the United States, to forbid the importation into the United States of plants or any plant part, except fruit and seeds, of all genera, species, and varieties of the subfamilies Aurantioideae, Rutoideae and Toddalioideae of the botanical family Rutaceae, from Europe, Asia, Africa, South America, Central America, North America outside of the United States, Australia, and foreign oceanic countries and islands.

(b) Hereafter the importation from the foreign countries and localities named of plants or any plant part, except fruit and seeds, of all genera, species, and varieties of the subfamilies Aurantioideae, Rutoideae, and Toddalioideae of the botanical family Rutaceae, is prohibited.

(c) This prohibition shall not apply to importations for experimental or scientific purposes by the United States Department of Agriculture upon such conditions and under such requirements as may be prescribed by the Director of Plant Quarantine Division, for such importations.

(d) This prohibition shall not apply to importations into Guam of the plants and plant parts designated in paragraph (b) of this section but such importations are subject to the requirements of § 319.37–6.

(e) As used in this section unless the context otherwise requires, the term "United States" means the continental United States, Alaska, Guam, Hawaii, Puerto Rico, and the Virgin Islands of the United States.

Subpart—Corn Diseases

QUARANTINE

§ 319.24 Notice of quarantine.

(a) The fact has been determined by the Secretary of Agriculture, and notice is hereby given, that maize or Indian corn (Zea mays L.) and closely related plants are subject to certain injurious diseases, especially Peronospora maydis Raciborski, Sclerospora sacchari Miyake and other downy mildews; also the Physoderma diseases of maize, Physoderma zeae-maydis Shaw, and Physoderma maydis Miyake, new to and not heretofore widely prevalent or distributed within and throughout the United States, and that these diseases occur in southeastern Asia (including India, Siam, Indo-China and China), Malayan Archipelago, Australia, New Zealand, Oceania, Philippine Islands, Formosa, Japan, and adjacent islands.

(b) On and after July 1, 1916, and until further notice, by virtue of section 7 of the act of Congress approved August 20, 1912, known as the "Plant Quarantine Act" (37 Stat. 317; 7 U. S. C. 160), the importation into the United States, in the raw or unmanufactured state, from southeastern Asia (including India, Siam Indo-China and China), Malayan Archipelago, Australia, New Zealand, Oceania, Philippine Islands, Formosa, Manchuria, Japan, and adjacent islands, of seed and all other portions of Indian corn or maize (Zea mays L.), and the closely related plants, including all species of Teosinte (Euchlaena), Jobs-tears (Coix), Polytoca, Chionachne, and Sclerachne, except for experimental or scientific purposes by the Department of Agriculture, except as provided in the regulations supplemental hereto, is prohibited: *Provided*, That whenever the Director of the Plant Quarantine Division shall find that existing conditions as to pest risk involved in the importation of the articles to which the regulations supplemental hereto apply, make it safe to modify, by making less stringent, the restrictions contained in any of such regulations, he shall publish such findings in administrative instructions, specifying the manner in which the regulations shall be made less stringent, whereupon such modification shall become effective; or he may, when the public interests will permit, with respect to the importation of such articles into Guam, upon request in specific cases, authorize such importation under conditions, specified in the permit to carry out the purposes of this subpart, that are less stringent than those contained in the regulations.

(c) As used in this subpart, unless the context otherwise requires, the term

"United States" means the States, the District of Columbia, Alaska, Guam, Hawaii, Puerto Rico, and the Virgin Islands of the United States.

§ 319.24a Administrative instructions relating to entry of corn into Guam.

Corn may be imported into Guam without further permit, other than the authorization contained in this section but subject to compliance with § 319.24–3. Such imports need not comply with the notice of arrival requirements of § 319.24–4 inasmuch as information equivalent to that in a notice of arrival is available to the inspector from another source. Section 319.24–5 shall not be applicable to importations of corn into Guam. Such importations shall be subject to inspection at the port of entry. Corn found upon inspection to contain disease infection will be subject to sterilization in accordance with methods selected by the inspector from administratively authorized procedures known to be effective under the conditions in which applied.

REGULATIONS GOVERNING ENTRY OF INDIAN CORN OR MAIZE

§ 319.24–1 Applications for permits for importation of corn.

Persons contemplating the importation of corn into the United States shall, before shipping the corn, make application for a permit, on forms provided for that purpose, to the Plant Quarantine Division, Department of Agriculture, Washington, D.C., stating the name and address of the exporter, the country and locality where grown, the port of departure, the proposed port of entry, and the name and address of the importer or of the broker in the United States to whom the permit should be sent.

§ 319.24–2 Issuance of permits.

(a) Upon receipt of an application and upon approval by an inspector a permit will be issued specifying the conditions of entry and the port of entry to carry out the purposes of this subpart, and a copy will be supplied to the importer.

(b) Further permits may be refused and existing permits revoked, if the application therefor does not correctly give the locality where the corn was grown, or is false or deceptive in any material particular.

§ 319.24–3 Marking as condition of entry.

Every bag or other container of corn offered for entry shall be plainly marked with such numbers or marks as will make it easily possible to associate the bags or containers with a particular importation.

§ 319.24–4 Notice of arrival of corn by permittee.

Immediately upon the arrival of the corn at the port of entry the permittee shall submit, in duplicate, notice to the Plant Quarantine Division, through the United States Collector of Customs, or, in the case of Guam, through the Customs officer of the Government of Guam, on forms provided for that purpose, stating the number of the permit, the number of bags or other containers of corn included in the shipment, the bag or other container numbers or marks, the country and locality where the corn was grown, the name and address of the exporter or foreign shipper, the port of departure, the date of arrival, the name of the ship or vessel, and the designation of the dock where the corn is to be landed.

§ 319.24–5 Condition of entry.

The corn shall not be removed from the port of entry, nor shall any bag or other container thereof be broken or opened, except for the purpose of sterilization, until a written notice is given to the United States Collector of Customs, or, in the case of Guam, the Customs officer of the Government of Guam, by an inspector of the Plant Quarantine Division, that the corn has been properly sterilized and released for entry without further restrictions so far as the jurisdiction of the Department of Agriculture extends thereto. All apparatus and methods for accomplishing such sterilization must be satisfactory to the Plant Quarantine Division. Corn will be delivered to the permittee for sterilization, upon the filing with the appropriate customs official of a bond in the amount of $5,000, or in an amount equal to the invoice value of the corn if such value is less than $5,000, with approved sureties, and conditioned upon sterilization of the corn under the supervision and to the satisfaction of an inspector of the Plant Quarantine Division; and upon the redelivery of the corn to said customs official within 40 days from the arrival of the corn at the port of entry.

Subpart—Citrus Fruit

NOTE: Citrus nursery stock, except seeds, is prohibited entry from all foreign countries and localities by the citrus nursery stock quarantine No. 19 (§ 319.19).

The importation from all foreign countries of fruits of citrus and citrus relatives, other than those specified in this subpart, is restricted by the provisions of fruit and vegetable quarantine No. 56 (§§ 319.56 to 319.56–8).

§ 319.28 Notice of quarantine.

(a) Under the authority conferred by section 7 of the Plant Quarantine Act of August 20, 1912, as amended, and having held the public hearing required thereunder, the Secretary of Agriculture does hereby declare, (1) that in order to prevent the introduction into the United States of the citrus canker disease (Xanthomonas citri (Hasse) Dowson) the importation into the United States of all fruits and peel of all genera, species, and varieties of the subfamilies Aurantioideae, Rutoideae, and Toddalioideae of the botanical family Rutaceae from eastern and southeastern Asia (including India, Burma, Ceylon, Siam, Indo-China, and China), the Malayan Archipelago, the Philippine Islands, Oceania (except Australia and Tasmania), Japan (including Formosa and other islands adjacent to Japan), Mauritius, and Seychelles, is prohibited; (2) that in order to prevent the introduction into the United States of sweet orange scab (Elsinoe australis Bitanc. and Jenkins) the importation into the United States of fruits and peel of all genera, species, and varieties of Citrus aurantifolia (Christm.) Swingle, C. aurantium L., C. hystrix DC., C. limon (L.) Burm. f., C. paradisi Macf., C. reticulata Blanco, C. sinensis (L.) Osbeck, and Fortunella margarita (Lour.) Swingle, from Argentina, Brazil, Paraguay, and Uruguay, is prohibited; and (3) that in order to prevent the introduction into the United States of the bacterial disease known as "Cancrosis B" the importation into the United States of fruits and peel of all genera, species, and varieties of Citrus aurantifolia (Christm.) Swingle, C. aurantium L., C. limon (L.) Burm. f., C. medica L., and C. sinensis (L.) Osbeck, from Argentina, Paraguay, and Uruguay, is prohibited: *Provided*, That seeds and processed peel of fruits designated herein are excluded from the provisions of this quarantine. Such seeds, however, are subject to the requirements of the Nursery Stock, Plant, and Seed Quarantine, No. 37 (§§ 319.37 to 319.37–15).

(b) This prohibition shall not apply to importations for experimental or scientific purposes by the United States Department of Agriculture upon such conditions and under such requirements as may be prescribed in permits that may be issued by the Director of the Plant Quarantine Division for such importations. This prohibition shall not apply to importations into Alaska of oranges of the mandarin class grown in Japan, but such importations are subject to permit and other requirements under the Fruits and Vegetables Quarantine (§ 319.56). Further, this prohibition shall not apply to importations into Guam of the fruits and peel designated in paragraph (a)(1) of this section but such importations are subject to permit and other requirements under the Fruits and Vegetables Quarantine (§ 319.56).

(c) As used in this section unless the context otherwise requires, the term "United States" means the continental United States, Alaska, Guam, Hawaii, Puerto Rico, and the Virgin Islands of the United States.

Subpart—Sweetpotatoes

§ 319.29 Notice of quarantine.

(a) The fact has been determined by the Secretary of Agriculture, and notice is hereby given, that certain injurious insects, new to and not heretofore widely prevalent or distributed within and throughout the United States, namely, sweetpotato weevils (Cylas spp.), occur in Cuba, Haiti, Jamaica, British Guiana, India, China, Cochin China, Friendly Islands, Sumatra, Formosa, Philippine Islands, Australia, Madagascar, and Liberia, and the sweetpotato scarabee (Euscepes batatae), occurs in the Barbados, Antigua, Nevis, St. Vincent, St. Kitts, Jamaica, Brazil, New Zealand, and Guam.

(b) On and after January 1, 1918, and until further notice, by virtue of the act of Congress approved August 20, 1912, known as "The Plant Quarantine Act" (37 Stat. 315; 7 U. S. C. 151–167), the importation into the United States for any purpose of any variety of sweetpotatoes

(Ipomoea batatas) from the above-named and all other foreign countries and localities, is prohibited, except for experimental or scientific purposes by the Department of Agriculture: *Provided*, That the entry for immediate export, or for immediate transportation and exportation in bond, of sweetpotatoes (Ipomoea batatas) of all varieties designated in this quarantine may be permitted in accordance with §§ 352.2–352.8 of this chapter. As used in this section, unless the context otherwise requires, the term "United States" means the continental United States only.

Subpart—Bamboo

§ 319.34 Notice of quarantine.

(a) The fact has been determined by the Secretary of Agriculture, and notice is hereby given, that dangerous plant diseases, including the bamboo smut (Ustilago shiraiana), new to and not heretofore widely prevalent or distributed within and throughout the United States, occur in Japan, China, India, Philippine Islands, Australia, New Zealand, Oceania, Africa, Europe, South America, British West Indies, Cuba, and Central America.

(b) On and after October 1, 1918, and until further notice, by virture of the act of Congress approved August 20, 1912, known as "The Plant Quarantine Act" (37 Stat. 315; 7 U. S. C. 151–167), the importation into the United States for any purpose of any variety of bamboo seed, plants, or cuttings thereof capable of propagation, including all genera and species of the tribe Bambuseae, from the above-named and all other foreign countries and localities, is prohibited, except for experimental or scientific purposes by the Department of Agriculture: *Provided*, that the entry for immediate export, or for immediate transportation and exportation in bond, of bamboo seed, plants, or cuttings thereof capable of propagation, including all genera and species of the tribe Bambuseae, may be permitted in accordance with §§ 352.2–352.8 of this chapter: *Provided, further*, That this prohibition shall not apply to importations into Guam of the bamboo seeds, plants, or cuttings designated in this paragraph but such importations are subject to the requirements of §§ 319.37–4(b) and 319.37–6.

(c) This notice of quarantine does not apply to bamboo timber consisting of the mature dried culms or canes which are imported for fishing-rod, furniture-making, or other purposes, or to any kind of article manufactured from bamboo, or to bamboo shoots cooked or otherwise preserved.

(d) As used in this subpart, unless the context otherwise requires, the term "United States" means the States, the District of Columbia, Alaska, Guam, Hawaii, Puerto Rico, and the Virgin Islands of the United States.

Subpart—Nursery Stock, Plants, and Seeds

QUARANTINE

§ 319.37 Notice of quarantine.

(a) Under the authority conferred by section 5 of the Plant Quarantine Act (7 U.S.C. 159) and having given the public hearing required thereunder, the Secretary of Agriculture hereby determines that the unrestricted importation from any foreign country or locality, of field-grown florists' stock, trees, shrubs, vines, cuttings, grafts, scions, or buds, or fruit pits or other seeds of forest, fruit, or ornamental trees or shrubs; or bedding plants; or other herbaceous plants, bulbs, or roots, or field, vegetable, or flower seeds; or other plants or plant products for, or capable of, propagation may result in the entry into the United States of injurious plant diseases and insects pests. Hereafter all such nursery stock, and other plants and plant products, except those designated in paragraph (b) of this section, shall be subject to all the provisions of sections 1 through 4 of the Plant Quarantine Act (7 U.S.C. 154, 156, 157, 158) and shall not be imported into the United States except as provided in the regulations supplemental to this section: *Provided*, That whenever the Director of the Plant Quarantine Division shall find that existing conditions as to pest risk involved in the importation of the articles to which the regulations supplemental hereto apply, make it safe to modify, by making less stringent, the restrictions contained in any of such regulations, he shall publish such findings in administrative instructions, specifying the manner in which the regulations shall be made less stringent, whereupon such modification shall become effective; or he may, when the public interests will permit, with respect to the importation of such articles into Guam, upon request in specific cases, authorize such importation under conditions specified in the permit to carry out the purposes of this subpart, that are less stringent than those contained in the regulations: *Provided further*, That this quarantine shall not apply to nursery stock or other plants or seeds covered by special quarantines or other restrictive orders now in force or which may later be promulgated.

(b) Under the authority conferred by section 7 of the Plant Quarantine Act (7 U.S.C. 160) and having given the public hearing required thereunder, the Secretary of Agriculture hereby determines that, in order to prevent the introduction into the United States of certain tree, plant and fruit diseases, and injurious insects, new to or not heretofore widely prevalent or distributed within and throughout the United States, it is necessary to prohibit, and he hereby does prohibit, the importation into the United States, except by the United States Department of Agriculture for experimental or scientific purposes, of the following nursery stock and other plants and plant products from the foreign countries and localities hereinafter designated, because of the injurious insects or diseases therewith listed:

Plant material [1]	Foreign country or countries from which prohibited	Injurious insect or plant disease determined as existing in the country or countries named and capable of being transported in the prohibited plant material.
Abies spp.	All foreign countries except Canada.	50 or more species of rusts. Phomopsis pseudotsugae Wilson (Douglas fir canker). Chrysomyxa abietis (Wallr.) Ung. (a rust causing a serious needle disease).
Acacia spp.	Australia and Oceania.	Uromycladium tepperianum (Sacc.) McAlp. (Rust).
Acer spp.	Japan.	Xanthomonas acernea (Ogawa) Burk (leaf disease). Maple-variegation virus.
Aesculus spp.	Bulgaria, England, France, Germany and Japan. Czechoslovakia, England and Germany.	Horsechestnut-variegation virus.
Aleurites spp.	China and Brazil.	Mycosphaerella aleuritidis (Miyake) Ou (Leaf spot).
Althaea spp.	India. Africa. Germany.	Hollyhock yellow-vein mosaic virus. Ruga gossypii (Cotton leaf-curl virus). Galla anemones Holmes (Anemone-Alloiophylly virus).
Anemone spp.		
Berberis spp. (plants of all species and horticultural varieties not designated as resistant to black stem rust in accordance with § 301.38–5 of this chapter or amendments thereof).	All foreign countries.	Puccinia graminis Pers. (Black-stem rust).
Berberis spp. (plants of all species and horticultural varieties designated as resistant to black stem rust in accordance with § 301.38–5 of this chapter or amendments thereof).	All foreign countries when destined to the eradication states designated in § 301.38–3 of this chapter or amendments thereof.	Puccinia graminis Pers. (Black-stem rust).
Berberis spp. seed.	All foreign countries.	Puccinia graminis Pers. (Black-stem rust).
Castanea spp.	All foreign countries when destined to California, Idaho, Oregon or Washington.	Endothia parasitica (Murr.) Ander. and Ander. (Chestnut bark disease).

See footnote at end of table.

Plant material [1]	Foreign country or countries from which prohibited	Injurious insect or plant disease determined as existing in the country or countries named and capable of beint transported in the prohibited plang material.
Castanopsis spp.	All foreign countries when destined to California, Idaho, Oregon or Washington.	Endothia parasitica (Murr.) Ander. and Ander. (Chestnut bark disease).
Cedrus spp.	Europe	Phomopsis pseudotsugae Wilson (Douglas fir canker). Fusarium fuliginosporum Sibilia (Seedling disease).
Corylus spp.	Canadian provinces east of Manitoba, when destined to California, Oregon, or Washington.	Cryptosporella anomala (Pk.) Sacc. (Filbert blight).
Cytisus spp.	Bulgaria, England, and Germany.	Marmor laburni Holmes (Laburnum-mosaic virus).
Daphne spp.	New Zealand	Daphne mosaic virus.
Datura spp.	India	Datura-mosaic virus.
	England	Datura virus 1 Smith and d'Oliveira (Datura-Virosis virus). Marmor tabaci var. deformans Holmes (Enation-mosaic strain of tobacco-mosaic virus).
Dianthus spp.	England	Verticillium cinerescens Wr.
Eucalyptus spp.	Argentina	Leaf chlorosis virus.
	Ceylon, Europe and Uruguay	Pestalotia disseminata Thuem. (Parasitic leaf fungus).
Euonymus spp.	Germany	Marmor euonymi Holmes (Euonymus-mosaic virus).
Fraxinus spp.	Europe	Pseudomonas savastanoi var. fraxini (Brown) Dowson (Canker and dwarfing disease of ash).
Fruit and Nut Stocks except vegetatively produced understocks.	All foreign countries except Canada.	A diversity of plant pests.
Gladiolus spp.	Africa	Puccinia mecleanii Doidge Uredo gladioli-buettneri Bub. Uromyces gladioli P. Henn. U. nyikensis Syd. U. transversalis (Theum.) Wint. (Rusts).
Gossypium spp.	All foreign countries	Ruga gossypii Holmes (Cotton leaf-curl virus).
Hibiscus spp.	India	Yellow-mosaic virus of okra.
	Sudan and Nigeria	Ruga gossypii Holmes (Cotton leaf curl virus).
	Trinidad	Mosaic-disease virus of okra.
Hydrangea spp.	Germany	Hydrangea-virescence virus.
Ilex spp.	England and France	Ilex-variegation virus.
Jasminum spp.	Belgium, England and Germany.	Jasmine-variegation virus.
Juniperus spp.	Finland and Rumania	Exosporium deflectens Karst. (needle-cast disease).
Laburnum spp.	Bulgaria, England, and Germany.	Marmor laburni Holmes (Laburnum-mosaic virus).
Larix spp.	Europe	Phomopsis pseudotsugae Wilson (Douglas fir canker).
Lens spp. seeds	All South American countries	A rust fungus (a form of Uromyces fabae (Pers.) d By)
Ligustrum spp.	Germany	Marmor ligustri Holmes (Ligustrum-mosaic virus).
Mahoberberis spp. (plants of all species and horticultural varieties not designated as resistant to black stem rust in accordance with §301.38-5 of this chapter or amendments thereof).	All foreign countries	Puccinia graminis Pers. (Black-stem rust).
Mahoberberis spp. (plants of all species and horticultural varieties designated as resistant to black stem rust in accordance with §301.38-5 of this chapter or amendments thereof).	All foreign countries when destined to the eradication states designated in §301.38-3 of this chapter or amendments thereof.	Puccinia graminis Pers. (Black-stem rust).
Mahoberberis spp. seed	All foreign countries	Puccinia graminis Pers. (Black-stem rust).
Mahonia spp. (plants of all species and horticultural varieties not designated as resistant to black stem rust in accordance with §301.38-5 of this chapor amendments thereof).	All foreign countries	Puccinia graminis Pers. (Black-stem rust).
Mahonia spp. (plants of all species and horticultural varieties designated as resistant to black stem rust in accordance with §301.38-5 of this chapter or amendments thereof).	All foreign countries when destined to the eradication states designated in §301.38-3 in this chapter or amendments thereof.	Puccinia graminis Pers. (Black-stem rust).

See footnote at end of table.

Plant material [1]	Foreign country or countries from which prohibited	Injurious insect or plant disease determined as existing in the country or countries named and capable of being transported in the prohibited plant material
Mahonia spp. seed	All foreign countries	Puccinia graminis Pers.
Malus spp. (except vegetatively-produced understocks).	Austria	Diaporthe mali Bres. (Leaf, branch and fruit fungus).
	China	Valsa mali Miyabe and Yamada ex M. Miura (Branch canker fungus).
	Europe	Monilinia fructigena (Aderh. and Ruhl.) Honey (Brown rot of fruit).
	Japan	Monilinia fructigena (Aderh. and Ruhl.) Honey (Brown rot of fruit). Valsa mali Miyabe and Yamada ex M. Miura (Branch canker fungus).
	Korea	Physalospora piricola Nose (Leaf, branch and fruit fungus).
	Manchuria	Monilinia fructigena (Aderh. and Ruhl.) Honey (Brown rot of fruit).
Malus spp.	South Africa	Monilinia fructigena (Aderh. and Ruhl.) Honey (Brown rot of fruit). Mottle leaf or mosaic chlorosis of apple (Virus).
Mangifera spp., seeds	All foreign countries except those in the Western Hemisphere.	Sternochetus mangiferae F. (Mango weevil).
Morus spp.	China and Japan	Mulberry mosaic virus.
Nicotiana spp.	Australia and Great Britain	Marmor lethale Holmes (Tobacco-necrosis virus).
Nut and fruit stocks	(See Fruit and Nut Stocks.)	
Pelargonium spp. (except stem cuttings)	All foreign countries except Canada.	Marmor lethale Holmes (Tobacco-necrosis virus).
Picea spp.	Europe, Japan and Siberia	Chrysomyxa rhododendri (DC) D By. (Rust causing a serious needle disease).
	Europe	Phomopsis pseudotsugae Wilson (Douglas fir canker).
Pinus spp. (2- or 3-leaved)	Europe and Japan	Cronartium flaccidum (Alb. and Schwein) Wint. (Rust causing serious stunting of hard pines).
	Japan	An undescribed gall-forming rust.
Pinus spp. (5-leaved)	All foreign countries when destined to states designated as noninfected in §301.63-3a of this chapter or amendments thereof.	Cronartium ribicola Fischer (White-pine blister rust).
Populus spp.	Europe	Pseudomonas rimaefaciens Koning (Canker).
Primula spp.	Australia and Great Britain	Marmor lethale Holmes (Tobacco-necrosis virus).
Prunus spp.	Germany	Pox-disease virus of sweet cherry.
	Switzerland	Rigi cherry disease virus.
Prunus spp. (except vegetatively-produced understocks).	Europe, Asia, Africa, Oceania (including Australia and New Zealand).	A diversity of plant diseases.
Prunus spp.	All foreign countries, except Canada, when destined to California.	A diversity of plant diseases.
Pseudotsuga spp.	Europe	Phomopsis pseudotsugae Wilson (Douglas fir canker).
Pyrus spp. (except vegetatively-produced understocks).	Europe, Japan, Manchuria, and South Africa.	Monilinia fructigena (Aderh. and Ruhl.) Honey (Brown rot of fruit).
	Japan and China	Gymnosporangium haraeanum Syd. (Rust). Gymnosporangium japonicum Syd. (Rust).
	Korea	Physalospora piricola Nose (Leaf, branch and fruit disease).
Quercus spp.	Japan	Stereum hiugense Imazaki (white rot); and an undescribed gall-forming rust.
Ribes nigrum (both plants and seeds)	All foreign countries when destined to states designated as noninfected in §301.63-3a of this chapter or amendments thereof.	Cronartium ribicola Fischer (White-pine blister-rust).
Ribes nigrum	England and New Zealand	Aphelenchoides ribes (Taylor 1917) Goodey 1923 (Black currant eel worm).
	British Isles	Acrogenus ribis Burk. (Black currant reversion disease virus).
Rosa spp.	Australia, Italy, and New Zealand.	Marmor flaccumfaciens Holmes (Rose wilt virus).
Salix spp.	England and The Netherlands	Bacterium salicis Day (Watermark disease).
Seeds of all kinds when in pulp	All foreign countries	Fruitflies.

Plant material[1]	Foreign country or countries from which prohibited	Injurious insect or plant disease determined as existing in the country or countries named and capable of being transported in the prohibited plant material.
Sorbus spp.	Germany	Pyrus disease virus No. 1.
	China, Japan, Southeastern Asia, Philippine Islands, Oceania (including Australia and New Zealand).	Taphrina piri Kusano (Leaf distortion fungus).
Vitis spp.	Europe	Marmor viticola Holmes (Vine mosaic virus).
Wisteria	Australia	Mosaic disease.

[1] The term "spp." as used after a generic name in this subpart, includes all species, varieties, and hybrids, of the genus. Unless otherwise specifically indicated, all items of plant material appearing in this subpart refer to the plants as well as all vegetative parts thereof, including buds, cuttings, scions, and layers, but seeds are not included unless specifically mentioned.

(c) As used in this section unless the context otherwise requires, the term "United States" means the continental United States, Alaska, Guam, Hawaii, Puerto Rico, and the Virgin Islands of the United States.

RULES AND REGULATIONS

§ 319.37a Administrative instructions exempting sterile cultures of orchid seedlings in glass containers from some of the requirements of nursery stock, plant, and seed quarantine regulations.

(a) Sterile cultures of orchid seedlings in glass containers may be imported into the United States without further permit other than the authorization contained in this paragraph, but subject to the conditions and requirements of § 319.37–2.

§ 319.37–1 Definitions.

Words used in the singular form in the regulations in this subpart shall be deemed to import the plural, and vice versa, as the case may demand. For the purposes of §§ 319.37 to 319.37–27 the following words shall be construed, respectively, to mean:

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

(b) *Division.* The Plant Quarantine Division, United States Department of Agriculture.

(c) *Inspector.* Any person authorized by the Secretary of Agriculture of the United States to enforce the provisions of the Plant Quarantine Act.

(d) *Person.* Any individual, firm, corporation, company, society, association, or other organized group of any of the foregoing.

(e) *Importer.* The permittee, agent of the permittee, or other person bringing to the United States plant material which is subject to the quarantine and regulations in this subpart.

(f) *Plant pest.* Any living stage of the numerous small invertebrate animals belonging to the phylum Arthropoda (as, for example, insects, mites, ticks, centipedes, etc.), any form of elongated invertebrates lacking appendages, commonly referred to as worms (as, for example, nematodes), any form of protozoa, any form of fungi (as, for example, rusts, smuts, molds, and yeasts), any form of bacteria, any form of viruses, or any form of similar or allied organisms, which can directly or indirectly injure or cause disease in plants or parts thereof.

(g) *Restricted plant material.* Any living material the entry of which is not prohibited by any quarantine or order, and which is not restricted entry by any other quarantine or order, which is imported, offered for entry into, or arrives within the territorial limits of, the United States.

(h) *Bulbs.* The tubers of species of Anemone, Begonia, Cyclamen, Gloxinia, Ranunculus, and Eranthis, and the underground portions of plants of the botanical families Amaryllidaceae, Iridaceae, and Liliaceae, including bulbs, corms, rhizomes, tubers, pips, fleshy roots or other underground growths, a unit of which when planted produces an individual plant.

(i) *Seeds.*[1] The mature ovular bodies produced by flowering plants, containing embryos capable of developing into new plants by germination.

(j) *Fruit and nut plants.* Woody plants grown commercially for their edible fruiting parts, such as apples, grapes, almonds, and currants, but not such as mulberry, oak, and ginkgo.

(k) *Fruit and nut stocks.* Plants which are to be budded or grafted with buds or scions of fruit or nut plants as distinguished from fruit and nut plants which are to be grown on for what they are.

(l) *Permit.* A form of authorization to allow the importation of restricted plant material in accordance with the regulations in this subpart.

(m) *United States.* The continental United States, Alaska, Guam, Hawaii, Puerto Rico, and the Virgin Islands of the United States.

(n) *Europe.* The Continent of Europe, the British Isles, and the other Islands on the European continental shelf.

(o) *Treatment.* Fumigation or any other process involving the application of a gas, dry or moist heat, chemicals, low temperatures, etc., excision of infected parts, or any other processing of plants or parts of plants including bulbs and seeds, that is designed to eliminate or control any infestation or infection by a plant pest.

[1] Compliance by the importer with rules and regulations under the Federal Seed Act (7 U. S. C. 1551 et seq.) administered by the Agricultural Marketing Service, U. S. Department of Agriculture, may also be required with respect to the importation of certain seeds which is regulated by the provisions of that act.

§ 319.37–2 Restricted plant material enterable without individual permits.

Restricted plant material (except Aglaonema) which is imported for food, analytical, medicinal, or manufacturing purposes, and seed specified in § 319.37–4(a) may be entered without further permit other than the authorization contained in this section but subject to the conditions and requirements outlined in §§ 319.37–7, 319.37–8, 319.37–9, 319.37–11, 319.37–15, 319.37–16, 319.37–17, and 319.37–20: *Provided,* That the inspector may waive the inspection provided for in § 319.37–8 for any shipment when in his judgment such inspection is unnecessary.

§ 319.37–2a Administrative instructions exempting certain restricted articles from some of the requirements of the nursery stock, plant, and seed quarantine regulations.

The following articles are hereby exempted from the requirements of the regulations specified in paragraphs (a) to (c) of this section:

(a) Restricted plant material (except Aglaonema) for food, analytical, medicinal, or manufacturing purposes, enterable under § 319.37–2, is hereby exempted from the notice of arrival requirements of § 319.37–11.

(b) All seeds of field crops, vegetables, and annual, biennial and perennial flowers which are essentially herbaceous in character (except seeds of Lathyrus, Lens spp., okra, and Vicia), enterable under § 319.37–4, are hereby exempted from the notice of arrival requirements of § 319.37–11 when the inspector at any port shall find and shall so inform the importers concerned that equivalent information is obtainable from ships' manifests or other sources and that the notice of arrival requirements are being waived.

(c) All grains and cereals from Canada which are restricted plant material enterable under § 319.37–2 are hereby exempted from the provisions of §§ 319.37–7, 319.37–8, 319.37–9, 319.37–11, 319.37–15, and 319.37–16, relating respectively to costs and charges, inspection, treatment, notice of arrival, freedom from soil, and approved packing materials.

§ 319.37–3 Bulbs.

(a) Bulbs may be imported in accordance with the requirements of §§ 319.37–7, 319.37–8, 319.37–10 through 319.37–17, and 319.37–20, except that entry will be refused to bulbs found upon inspection to contain injurious pests which may not be destroyed by treatment. Treatment of bulbs will be required when an inspector's examination discloses that, in his opinion, treatment is feasible to destroy infestations or infections of living plant pests. When treatment is required, the inspector shall prescribe a method of treatment for such bulbs in accordance with administratively authorized procedures known to be effective under the conditions under which they are applied. An inspector at a port not having special inspection or treating facilities may require shipments of bulbs to be trans-

ported in bond to a port with such facilities for inspection and treatment under such safeguards as he may prescribe.

(b) Neither the Department of Agriculture nor the inspector shall be deemed responsible for any adverse effects of any such treatment.

(c) The inspector may refuse entry to any bulbs which at the time of inspection at the port of entry are of such nature or are in such condition that, in his judgment, they cannot be treated without substantial injury.

(d) The inspector may determine whether he will inspect bulbs on the piers or at special inspection facilities, and whether the entire shipment or any parts thereof as designated by him shall be transferred from the piers to special inspection facilities for inspection.

§ 319.37–4 Seeds.

(a) *Seeds importable without individual permits.* Seeds of field crops, vegetables, and annual, biennial, and perennial flowers which are essentially herbaceous in character, except seeds of Lathyrus, Lens spp., okra, and Vicia, may be imported into the United States without further permit other than the authorization contained in this paragraph but subject to the conditions and requirements of § 319.37–2.

(b) *Seeds importable under permit.* All seeds not under paragraph (a) of this section, not prohibited entry in § 319.37 or any other quarantine, and not restricted in any other quarantine, and including seeds of Lathyrus, okra, and Vicia; and seeds of Lens spp. from other than South American countries; which are free from pulp of a character which will support living larvae of fruit flies or other injurious insects, other than stored-product insects of general distribution, may be imported into the United States with a permit. Such seeds, except vetch seeds, may be imported in commercial quantities, subject to the requirements of § 319.37–7 through § 319.37–17, and § 319.37–20, through ports that have special inspection facilities and are named in the permit issued for the seeds. Vetch seeds in commercial quantities may be imported subject to the requirements of the same sections but through any port, except any port on the Pacific Coast, which is named in the permit and at which the services of an inspector are available and the seed may be treated as required by the inspector. In the case of seeds of such fruits as are approved for importation without treatment under the provisions of §§ 319.56, 319.56–1 et seq., the requirements as to freedom from pulp shall not apply when such seeds are imported, under the requirements of this section, for propagation.

§ 319.37–5 Restricted plant material from Canada.

(a) Excepting the restricted plant material specified in § 319.37–2 which may enter at any point on the Canadian Border where there is a Customs officer, and that which is specified in § 319.37–19 (c), restricted plant material, including fruit and nut stocks, may be imported from Canada as baggage, express, or freight at any port where there is a United States Customs official and by mail pursuant to § 319.37–10, through ports named in the permits, subject to the conditions and requirements set forth in § 319.37–7 through § 319.37–14, and § 319.37–16, § 319.37–17 and § 319.37–20, but the treatment requirement of § 319.37–9 shall be waived unless the condition of the shipment or other special circumstances necessitate, in the opinion of the inspector, the application of a treatment.

(b) Restricted plant material specified in § 319.37–19(c) may be imported from Canada under a permit issued in advance, through the port specified in the permit, and subject to all the conditions and requirements of § 319.37–7 through § 319.37–14, § 319.37–16, § 319.37–17, § 319.37–19, and § 319.37–20.

(c) Restricted plant material may be certified under § 319.37–13(b) as of Canadian origin when it can be shown to have been produced in the Dominion of Canada, or to have been imported from the United States. Herbaceous perennials imported into and grown on in Canada may be considered of Canadian production one growing season after importation. Woody plants, and greenhouse plants, such as orchids, ferns, palms, aspidistra, and other plants of like character, which have been imported into and grown on in Canada, except when imported into the Dominion from the United States, may not be considered as of Canadian origin and production and are enterable into the United States only under the requirements of § 319.37–6.

§ 319.37–6 Restricted plant material generally.

All restricted plant material excepting that specified in § 319.37–2 to § 319.37–5, inclusive, may be imported subject to the conditions and requirements set forth in § 319.37–7 through § 319.37–20, through a port which has special inspection facilities, to be designated in the permits. In addition to these requirements, all importations of five-leaf pines, currants, and gooseberries shall be made under conditions which are in harmony with the plant disease control program under the domestic blister rust quarantine (301.63 of this chapter).

§ 319.37–7 Costs and charges.

The services of the inspector during regularly assigned hours of duty and at the usual places of duty shall be furnished without cost to the importer. No charge will be made to the importer for Government owned or controlled special inspection facilities and equipment used in treatment, but the inspector may require the importer to furnish any special labor, chemicals, packing materials, or other supplies required in handling an importation under the quarantine and regulations in this subpart. The Division will not be responsible for any costs or charges, other than those indicated in this section, in connection with the entry, unpacking, inspection, treatment, repacking, conditioning, storage, forwarding, or any other operation of any character incidental to the physical entry of an importation of restricted plant material.

§ 319.37–8 Inspection; freedom from plant pests; defoliation.

Except as otherwise provided herein, all plant material shall be subject to inspection to determine freedom from pests, and to determine compliance with requirements of the quarantine and regulations in this subpart. Inspection of Primula spp., except Primula spp. from Canada, shall be accomplished by detention of the plants for the time necessary to test them for the presence of tobacco-necrosis virus by the process of inoculating known susceptible plants, which is termed "indexing." This type of inspection will be available only at the Port of New York. Advance notice must be given of the arrival of such plants so that test seedlings will be available. Entry will be refused to restricted plant material found upon inspection to harbor injurious pests which are not widely prevalent in the United States, when no adequate method of treatment is available. When inspection discloses that the only pests present are such as are known to be widely prevalent within the United States, the inspector may require as a condition of entry that the shipment be treated by the best method available. In the latter case, where no method of treatment is known or the degree of pest infestation or infection is determined by the inspector as negligible he may permit the entry of the restricted plant material under appropriate restrictions or safeguards, in accordance with procedures administratively authorized by the Director of Division. Furthermore, all plants and cuttings of genera, that are not prohibited entry into the United States but are known to be hosts of the citrus blackfly or may hereafter be determined as such, from all foreign countries (except Canada, countries in Europe and Asia Minor; and those in Africa bordering the Mediterranean Sea), must be defoliated before shipment from the country of origin if they are to be imported through any port other than the Ports of New York and Seattle. The Director of the Plant Quarantine Division shall issue administrative instructions listing the genera of plants that are not prohibited entry into the United States but are known to be hosts of the citrus blackfly or that may hereafter be determined as such.

§ 319.37–8a Administrative instructions designating genera known to be hosts of the citrus blackfly.

(a) The Director of the Division, upon the basis of evidence satisfactory to him, has determined that the following genera of plants, that are not prohibited entry into the United States, are known hosts of the citrus blackfly (Aleurocanthus woglumi Ashby):

Achras.
Anacardium.
Annona.
Ardisia.
Bouvardia.
Bumelia.
Bursera.
Buxus.
Calocarpum.
Capsicum.
Cardiospermum.
Cedrela.
Cestrum.
Cnidoscolus.
Coffea.
Crataegus.
Cydonia.
Diospyros.
Duranta.
Eugenia.
Fraxinus.
Hibiscus.
Hura.
Ixora.

Jatropha.
Lagerstroemia.
Lucuma.
Magnolia.
Mammea.
Mangifera.
Melia.
Myroxylon.
Myrtus.
Parmentiera.
Persea.
Plumeria.
Populus.
Psidium.
Punica.
Pyrus.
Sapindus.
Solandra.
Spondias.
Strelitzia.
Tabebuia.
Vitis.
Zingiber.

(b) If additional admissible plants are later determined to be hosts of the citrus blackfly they shall also be listed in paragraph (a) of this section.

(c) Blackfly host plants of genera that are prohibited entry into the United States are not included in the list in paragraph (a) of this section.

§ 319.37–9 Treatment.

(a) Unless otherwise provided in the regulations in this subpart, all restricted plant material, except bulbs, shall be treated upon arrival in the United States in a manner required by the inspector and under his supervision, and in a place approved by him. If this involves transportation of such material to a port having special inspection or treating facilities, the inspector may require that the material be transported in bond under such safeguards as he may prescribe. The inspector may waive treatment if in his judgment it is advisable to do so when inspection has failed to show cause for treatment. The inspector shall prescribe a schedule of treatment for restricted plant material according to a method selected by him in accordance with administratively authorized procedures known to be effective under the conditions under which the treatment is applied. Neither the Department of Agriculture nor the inspector shall be deemed responsible for any adverse effects of any such treatment.

(b) The inspector may refuse entry to any restricted plant material (except bulbs) which at the time of inspection at the port of entry is of such nature or is in such condition that, in his judgment, it cannot be treated without substantial injury.

§ 319.37–10 Importation by mail.

Importation by mail of any restricted plant material for which a permit is required as a condition of entry pursuant to § 319.37–3 through § 319.37–6 will be permitted only when the shipment is accompanied from the foreign mailing point by a special mailing tag or label which will direct the package to the Division at the inspection point named on the tag or label, or when the package is addressed to the Division at an inspection point named in the permit authorizing the importation by mail. Special mailing tags or labels will be furnished by the Division upon request made at the time of application for permit under § 319.37–12 and will bear the identifying number of the permit.

§ 319.37–11 Notice of arrival.

Immediately upon arrival at a port of entry of any shipment of restricted plant material the importer shall submit, in duplicate, through the United States Collector of Customs, or in the case of Guam, through the Customs officer of the Government of Guam, and for the Plant Quarantine Division, a notice of such arrival on forms provided for that purpose (Form PQ–368) and shall give such information as is called for by that form; and he shall also submit with the notice an invoice or packing list which identifies the contents of the shipment.

§ 319.37–12 Applications for and issuance of permits.

(a) Except as otherwise provided in § 319.37–2 and § 319.37–4(a) permits are required for importations of all restricted plant material. Persons desiring to import restricted plant material for which a permit is required as a condition of entry pursuant to § 319.37–3 through § 319.37–6 shall first submit to the Division an application[2] stating the name and address of the importer, the approximate quantity and kinds (botanical designations) of restricted plant material it is desired to import, the country where grown, the port of entry in the United States, the name and address of the agent, if any, representing the importer, the means of transportation to be employed, i.e., mail, air mail, express, air express, freight, air freight, or baggage. Such restricted plant material may be imported only after a permit has been issued, but if through no fault of the importer a shipment of such material arrives in advance of the issuance of a permit it may be held, under suitable safeguards prescribed by the inspector, in Customs custody and at the risk of the importer, pending the issuance of a permit, for a period not exceeding 20 days. Applications may be made orally or on forms provided for the purpose by the Division, or may be made by a letter or telegram containing all the information required by this paragraph.

(b) Prospective importers of restricted plant material which will be required to be grown under postentry quarantine conditions outlined in § 319.37–19 shall also comply with § 319.37–19 (b) in submitting the application for permit.

(c) Upon receipt of an application and upon approval by the inspector a permit or other authorization will be issued specifying the conditions of entry and the port of entry, and a copy will be supplied to the importer.

(d) Permits for the importation of plants that are to be inspected for the presence of virus disease by the technique of indexing may limit the number of such plants in any one importation to the number that can be readily examined by this method.

§ 319.37–13 Certification.

(a) All restricted plant material from countries with official systems of inspection, except that entering pursuant to § 319.37–2, shall be accompanied by an original certificate attached to the invoice, and each container shall bear a copy-certificate, issued by a duly authorized official of the country of export stating (1) the country where the restricted plant material covered by the certificate was grown, (2) that it has been thoroughly inspected by him, or under his direction, both during the growing season and at the time of packing, and was found, and believed to be, free from plant pests, (3) that it is free from all sand, soil, or earth, except for restricted plant material under § 319.37–5, and (4) that only approved packing materials have been used. If the restricted plant material was not produced in the country from which it is shipped to the United States, the certificate and copy-certificate required in this paragraph must have been issued by the duly authorized official of the country where such material was grown. In addition, all restricted plant material entering the United States from any foreign country or locality, except that entering pursuant to § 319.37–2, shall be accompanied by an original certificate attached to the invoice, and each container shall bear a copy-certificate, issued by a duly authorized official of the country where such material was grown, stating that the restricted plant material covered by the certificate was grown on land on which no golden nematode (Heterodera rostochiensis Wr.) is known by him to occur. In countries where the golden nematode is reported to occur the certificate shall, in addition, state the date of the most recent inspection of the land in which the restricted plant material was grown. These two forms of certification may be included in a single certificate.[3]

(b) All restricted plant material entering the United States from Canada pursuant to § 319.37–5 when considered as of Canadian origin or production as specified in § 319.37–5 (c) shall be certified as of such origin by a duly authorized official of the Dominion pursuant to paragraph (a) of this section.

§ 319.37–14 Marking of containers.

Each case, box, or other container of restricted plant material shall be clearly and plainly marked and individually numbered and shall show the general nature and quantity of the contents, the country and locality where grown, the name and address of both the shipper and the consignee, and when containing restricted plant material importable only under permit, pursuant to § 319.37–3 through § 319.37–6, the number of the permit authorizing the importation. Containers of restricted plant material importable only under permit shall be addressed to the consignee in care of the

[2] Applications for permits should be made to Plant Importations Branch, Plant Quarantine Division, 209 River Street, Hoboken, N.J.

[3] The following is a suggested certificate, that would meet these requirements:

This is to certify (1) that the plant material covered by this certificate was grown in _____; (2) that it was inspected by me or under my direction both during the growing season and at the time it was packed and was found, and is believed by me, to be free from injurious insects and plant diseases; (3) that it is free from all sand, soil, or earth; (4) that the packing material used is of the type approved under the provisions of Nursery Stock, Plant, and Seed Quarantine No. 37; and (5) that the plant material was grown on land which, on the basis of an inspection made on _____, 19__, was free from the golden nematode, Heterodera rostochiensis Wr.

Plant Quarantine Division at the port of entry designated in the permit.

§ 319.37–15 Freedom from soil.

All restricted plant material must be free from sand, soil, or earth, and any shipment arriving in the United States which is not free from such sand, soil, or earth, except shipments under § 319.37–5, may be refused entry. This requirement does not apply to approved packing material as provided in § 319.37–16.

§ 319.37–16 Approved packing materials.

All packing materials employed in connection with any shipment of restricted plant material are subject to approval for such use by the Director of Division, who shall specify in administrative instructions a list of approved packing materials and instructions as to their use.

§ 319.37–16a Administrative instructions; list of approved packing materials and instructions for their use.

(a) The following materials, when free from sand, soil, or earth, unless otherwise noted, and when they have not been previously used as packing or otherwise with living plants, are approved as packing materials for use in connection with any shipment of restricted plant materials imported in accordance with §§ 319.37 to 319.37–28:

Buckwheat hulls.
Charcoal (inspection is difficult when this material is used. It should be used only where its particular qualities are especially desirable and other approved packing materials are unsuitable).
Coral sand from Bermuda, when free from surface soil, and certified as such by the Director of Agriculture of Bermuda.
Excelsior.
Exfoliated vermiculite.
Ground cork.
Ground peat.
Sawdust.
Shavings.
Sphagnum moss.
Vegetable fiber when free of pulp, including coconut fiber and Osmunda fiber, but excluding sugarcane fiber and cotton fiber.

(b) In addition, the following material is approved as a packing material for us in connection with lily bulbs from Japan and The Ryukyu Islands imported in accordance with § 319.37–3:

Subsoil from Japan and The Ryukyu Islands treated with an insecticide of a kind and in an amount deemed by the Director of Division as adequate to destroy Phyllobrotica spp. and other insect pests, when certified, in the case of Japan, by an authorized official of the Plant Protection Section, Japanese Ministry of Agriculture and Forestry, or, in the case of The Ryukyu Islands, by an authorized official of the Ryukyu Plant Quarantine Service, as having been dug from at least 2 feet below the soil surface, sifted, dried, and stored so as to prevent contamination with insects and plant diseases, and treated with an insecticide as prescribed by the Director of Division.

(c) In cases of emergency an inspector may approve for use for specific shipments packing materials other than those listed, after he has determined that such materials are free from sand, soil, or earth and that their use does not involve a risk of introducing plant pests. Should the inspector determine that any unlisted packing material accompanying a specific shipment of restricted plant material is objectionable, the shipment may be refused entry.

(d) Other regulations of this Department governing the entry of hay and straw packing material are contained in 9 CFR Part 95. Such material is restricted entry from countries where rinderpest or foot-and-mouth disease exists. Any such material offered for entry without having met the conditions of 9 CFR Part 95 is required by said part to be disinfected or burned. The provisions of 9 CFR, Part 95 are not applicable to hay and straw mats, jackets, or casings.

(e) All restricted material from Europe and Canada must be free from willow withes. Such material, when not free from willow withes, will be refused entry until the withes are removed and destroyed. Such material, when accompanied by willow withes, may be held in customs custody for a period not exceeding 40 days, during which period the permittee or his agent, after making satisfactory arrangements, may remove and destroy the withes under the supervision of, and in a manner satisfactory to, an inspector, after which the shipment may be handled in the usual way.

§ 319.37–17 Prohibited plant material accompanying restricted plant material.

If any container of restricted plant material is found to contain plant material prohibited importation by §§ 319.37 through 319.37–27 or any other quarantine or order, the entire container may be refused entry by the inspector.

§ 319.37–18 Size-age limitations.

(a) Except as provided in this paragraph, all restricted trees and shrubs to be imported shall be limited to the youngest and smallest, normal, clean, and healthy plants which can be successfully freed from soil about their roots, transported to the United States, and established. The inspector may use as a maximum size criterion in enforcing this limitation the normal size of plants no more than two years of age when they have been grown from seeds or cuttings, or having no more than one year's growth after severance from the parent plant when produced by layers, or having no more than two seasons' growth from the bud or graft when they have been produced by budding or grafting, except that the maximum size criterion for rhododendrons (including azalea) or other genera or species of similar slow growth habit shall be the normal size of plants no more than three years of age when they have been grown from seeds or cuttings, or having no more than three years' growth from the bud or graft, or no more than two years' growth after severance in the case of layers. The size-age limitation shall not apply to naturally dwarf or miniature forms not exceeding 12 inches in height from the soil line nor to artificially dwarfed forms of the character popular in parts of the Orient. Whenever the importer makes a showing with his application for permit, satisfactory to the inspector responsible, that importation of a larger plant, such as, for example, a specimen plant, is necessary, and if in the opinion of the inspector such larger plant may be imported under conditions prescribed in the permit without added risk of pest entry, the inspector may authorize an exception to the limitation of this paragraph and shall specify the exception in the permit.

(b) Herbaceous perennials which are usually imported in the form of root crowns or clumps shall be limited to one-year-old plants produced from single propagating units, or, when consisting of divided clump material, such as Astilbe, to divisions comparable to one-year-old plants produced from single propagating units.

(c) Imports of any plants, including but not limited to certain cacti, cycads, yuccas, and dracaenas, not subject to sizeage limitations under paragraph (a) or (b) of this section, whose growth habits simulate the woody character of trees and shrubs, shall be limited to such sizes as may be set forth in administrative instructions by the Director of the Plant Quarantine Division to carry out the purposes of the Plant Quarantine Act.

(d) Whenever the Director of the Division shall find that plants of any kinds, classes, or growth habit, when limited in size and age as set forth in paragraphs (a) and (b) of this section, are too young and small successfully to be freed of soil, transported, and established in the United States, he may set forth in administrative instructions other criteria for the size-age limitation of such plants.

(e) Except as provided in this paragraph, only seeds may be imported in the case of forest trees, species of any plants used for understocks, and woody ornamental plants that are botanical species or botanical varieties and which grow true from seed. The inspector responsible may issue a permit authorizing in advance the importation of plants rather than seeds of such species and varieties specified in this paragraph whenever the importer makes a showing with his application for permit, satisfactory to the inspector, that the plants desired cannot be produced from seed because either (1) they are variations which are reproduced by vegetative means only or (2) it is impossible or impracticable to import viable seed.

(f) Restricted plant material arriving in the United States contrary to any limitation provided in this section may be refused entry.

§ 319.37–18a Administrative instructions prescribing size limitations for cacti, cycads, yuccas, dracaenas, and plants of similar growth habits; interpretation regarding status of palms.

(a) *Size limitations.* Plants of cacti, cycads, yuccas, dracaenas, and plants of similar growth habits, not subject to size-age limitations under § 319.37–18 (a) or (b), whose growth habits simulate the woody character of trees and shrubs, may be imported under permit if they are:

(1) No greater than 12 inches in height, exclusive of foliage;

(2) Specimen plants and meet the conditions prescribed for the importation of specimen plants in § 319.37–18 (a).

(b) *Interpretation.* Palms are considered to be in the same category as woody plants and are subject to the limitations prescribed in § 319.37–18 (a).

§ 319.37–19 **Postentry quarantine.**

(a) All restricted plant material listed in paragraph (c) of this section will be required as a condition of importation, to be grown under the postentry quarantine conditions set forth in paragraph (b) of this section, and no such material shall be moved from the port of entry until the agreement required in paragraph (b) of this section has been filed with the inspector and other pertinent arrangements for growing in postentry quarantine have been completed to the satisfaction of the inspector. Should inspection at port of arrival of restricted plant material not listed in paragraph (c) of this section, other than that imported pursuant to § 319.37–2, reveal symptoms indicating that unrestricted release of such plant material may present pest entry risk not removed by treatment, the inspector may require such plant material to be grown in postentry quarantine when the importer has made the necessary arrangements, otherwise such plant material shall be refused entry.

(b) In the case of restricted plant material listed in paragraph (c) of this section or otherwise required by the inspector to be grown under postentry quarantine, the importer shall file with his application for permit an agreement to

(1) Grow such material on premises indicated in the permit and owned or controlled by him until released by the Branch;

(2) Permit inspectors to have access to the said premises at all reasonable daylight hours;

(3) Keep the restricted plant material and any increase therefrom identified with suitable labels showing the name of the plants and the number of the permit which authorized their importation;

(4) Make no distribution from the specified premises of the restricted plant material or increase or cut blooms therefrom, until released from the agreement by the Division, which release in the case of cut blooms may be written authorization by the inspector;

(5) Apply any remedial measure prescribed by the inspector to the imported plant material, increase therefrom, or other plants growing on the premises, including destruction of any or all of same, if necessary in the judgment of the inspector, to prevent the dissemination of a plant pest.

(c) The following restricted plant material shall as a condition of importation be grown in postentry quarantine under conditions set forth in this section.

Plants to be grown under postentry quarantine	*Where imported from*
Acer spp	All foreign countries except Bulgaria, Canada, England, France, Germany, and Japan.
Aesculus spp	All foreign countries except Canada, Czechoslovakia, England, and Germany.
Aleurites spp	All foreign countries except China and Brazil.
Althaea spp	All foreign countries except Africa, Canada, and India.
Anthurium spp	All foreign countries.
Berberis spp. (plants of all species and horticultural varieties designated as resistant to black stem rust in accordance with § 301.38–5 of this chapter or amendments thereof).	All foreign countries. (May not be grown under postentry quarantine in the eradication states designated in § 301.38–3 of this chapter or amendments thereof).
Boltonia spp	Canada.
Bromeliads	All foreign countries when destined to Hawaii.
Camellia spp	Ceylon.
Crataegus monogyna Jacq	Europe.
Cedrus spp	All foreign countries except Canada and those in Europe.
Corylus spp	The Canadian province of Manitoba and provinces west thereof, when destined to the states of California, Oregon, and Washington.
Cytisus spp	All foreign countries except Bulgaria, Canada, England, and Germany.
Daphne spp	All foreign countries except Canada and New Zealand.
Datura spp	All foreign countries except England and India.
Dianthus spp	All foreign countries except England.
Eucalyptus spp	All foreign countries except Argentina, Ceylon, Uruguay, and those in Europe.
Euonymus spp	All foreign countries except Germany.
Fraxinus spp	All foreign countries except Canada and those in Europe.
Fruit and net plants, buds, cuttings, scions, and vegetatively-produced understocks (except as otherwise provided).	All foreign countries except Canada.
Hibiscus spp	All foreign countries except Sudan, Nigeria, India, and Trinidad.
Humulus spp	All foreign countries.
Hydrangea spp	All foreign countries except Germany.
Ilex spp	All foreign countries except Canada, England, and France.
Jasminum spp	All foreign countries except Belgium, Canada, England, and Germany.
Juniperus spp	All foreign countries except Canada, Finland, and Rumania.
Laburnum spp	All foreign countries except Bulgaria, Canada, England, and Germany.
Larix spp	All foreign countries except Canada and those in Europe.
Ligustrum spp	All foreign countries except Canada and Germany.
Mahoberberis spp. (plants of all species and horticultural varieties designated as resistant to black stem rust in accordance with § 301.38–5 of this chapter or amendments thereof).	All foreign countries. (May not be grown under postentry quarantine in the eradication states designated in § 301.38–3 of this chapter or amendments thereof.)
Mahonia spp. (plants of all species and horticultural varieties designated as resistant to black stem rust in accordance with § 301.38–5 of this chapter or amendments thereof).	All foreign countries. (May not be grown under postentry quarantine in the eradication states designated in § 301.38–3 of this chapter or amendments thereof.)
Malus spp., including stocks, when not prohibited entry.	All foreign countries except Canada.
Mespilus germanica L	Europe.
Morus spp	All foreign countries except Canada, China, and Japan.
Nicotiana spp	All foreign countries except Australia, Great Britain, and Canada.
Nut and fruit stocks	(See Fruit and Nut Stocks.)
Passiflora spp	All foreign countries.
Picea spp	All foreign countries except Canada, Japan, Siberia, and those in Europe.
Pinus spp. (2- or 3-leaved)	All foreign countries except Canada, Japan, and those in Europe.
Populus spp	All foreign countries except Canada and those in Europe.
Prunus spp., including stocks, when not prohibited entry.	All foreign countries except Canada, and from Canada when destined to California.

Plants to be grown under postentry quarantine—Continued	*Where imported from*
Pseudotsuga spp.	All foreign countries except Canada and those in Europe.
Pyrus spp., including stocks, when not prohibited entry.	All foreign countries except Canada.
Quercus spp.	All foreign countries except Canada and Japan.
Rhododendron spp., including azaleas (evergreen plants of all species and varieties; and any deciduous species or varieties in foliage).	Europe (except Belgium and The Netherlands), Asia, New Zealand, and North America north of the United States-Canadian border. (If the United States Department of Agriculture acquires evidence it considers to be conclusive, indicating that the rust, Chrysomyxa ledi (Alb. & Schw.) d By. var. rhododendri (d By.) Savile (formerly known as C. rhododendri (DC.) d By.), does not occur within any country in the areas named and that it is being prevented entry therein by adequate plant quarantine measures, such plants may be permitted entry in accordance with the provisions of § 319.37–6.)
Ribes nigrum	All foreign countries except British Isles, Canada, and New Zealand (may not be grown under postentry quarantine when destined to states designated as noninfected in § 301.63–3a of this chapter or amendment thereof).
Rosa spp.	All foreign countries except Australia, Canada, Italy, and New Zealand.
Rubus spp.	All foreign countries.
Salix spp.	All European countries except England and The Netherlands.
Sorbus spp.	All foreign countries except Canada, China, Germany, Japan, Philippine Islands, and those in Southeastern Asia and Oceania (including Australia and New Zealand).
Ulmus spp.	All foreign countries except Canada and those from which entry of this species is prohibited by § 319.70 et seq. of this chapter or amendments thereof.
Vitis spp.	All foreign countries other than Canada and those in Europe.
Wisteria spp.	All foreign countries except Canada and Australia.

§ 319.37–20 Plant material refused entry.

Any plant material refused entry for noncompliance with the requirements and conditions of this subpart shall be promptly removed from the United States or abandoned by the importer for destruction, and pending such action shall be subject to the immediate application of such safeguards against escape of plant pests as the inspector may prescribe. If such restricted plant material is not promptly safeguarded by the importer, removed from the United States, or abandoned for destruction to the satisfaction of the inspector it may be seized, destroyed, or otherwise disposed of in accordance with section 10 of the Plant Quarantine Act (7 U. S. C. 164a). Neither the Department of Agriculture nor the inspector will be responsible for any costs accruing for demurrage, shipping charges, cartage, labor, chemicals, etc., incidental to the safeguarding or disposal of plant material refused entry by the inspector, nor will the Department of Agriculture or the inspector be responsible for the value of the plant material so disposed of. It shall be understood that any person applying for a permit under § 319.37–12 agrees to the conditions and requirements of this section.

§ 319.37–21 Ports of entry.

(a) Ports of entry for the various kinds and classes of restricted plant material shall be those specified under § 319.37–3 through § 319.37–6. In specifying ports of entry [4] for importations the inspector issuing permits shall be governed by the general principle that uninspected and untreated shipments shall not move long distances overland for inspection and treatment but shall be inspected and treated at the authorized point at or nearest the port of arrival.

(b) Pending development of adequate treating facilities in Guam, restricted plant material that is subject to treatment as a condition of entry therein must first be entered and treated in accordance with the requirements of this subpart at a United States port of arrival where such treating facilities are available.

§ 319.37–22 Importations for exportation and importations for transportation and exportation.

Importations of restricted plant material for exportation or for transportation and exportation subject to the quarantine and regulations of this subpart shall be subject to the Plant Safeguard Regulations in §§ 352.1 through 352.7 of this chapter as amended from time to time.

§ 319.37–23 Importations by the Department of Agriculture.

Restricted plant material may be imported by the Department of Agriculture for experimental or scientific purposes under such conditions as may be prescribed by the Director of Division and through the Plant Introduction Section of the Crops Research Division.

§ 319.37–24 Cooperation with States.

Whenever, in the opinion of the Director of Division, a State, Territory, or District of the United States covered by § 319.37 shall have taken action to suppress types of pests that may be imported with certain nursery stock and other plants and seeds, and shall have promulgated, when such action contributes to the suppressive program, a plant quarantine prohibiting the entry in interstate movement of specific kinds of nursery stock, other plants, or seeds that might introduce such pests, and further shall have requested through the responsible official that the United States Department of Agriculture cooperate by restricting the importation from specific foreign countries of such nursery stock, other plants, or seeds into the State, Territory, or District in question, importations thereof to said State, Territory, or District may be denied by the Director of Division either through refusing approval of a permit or such other means as he may provide in administrative instructions.

§ 319.37–25 Appendix A: List of ports at which inspectors are located.

Ports with special inspection and treating facilities are indicated by an asterisk (*).

Alabama: Mobile, 463 U.S. Courthouse and Customhouse.

Arizona: Douglas, 209 U.S. Border Station. Nogales, 128 Federal Inspection Station Building. San Luis, U.S. Border Station.

California: Calexico, 203 U.S. Border Station. San Diego, 308 Broadway Pier Building. San Pedro, 104 Ferry Building. *San Francisco, 2 Agriculture Building, Embarcadero at Mission Street. San Ysidro, 229 Federal Building.

District of Columbia: *Plant Inspection House, 224 Twelfth Street SW., Washington.

Florida: Jacksonville, 445 New Post Office Building, 311 West Monroe Street. Key West, 226 Federal Building, 307 Simonton Street. *Miami, 404 Calumet Bldg., 10 Northeast Third Avenue. Pensacola, 312–B Federal Building, corner Chase and Palafox Streets. Port Everglades, 102 Customhouse. Tampa, 409 East Cass Street. West Palm Beach, 216 Federal Building, Olive and Fern Streets.

Georgia: Atlanta, 512 Atlanta National Building. Savannah, 107 Customhouse, 1 East Bay Street.

Hawaii: Hilo, Board of Agriculture and Forestry. Honolulu, 248 Federal Building.

Illinois: Chicago, 800 Customhouse, 610 South Canal Street.

Louisiana: Baton Rouge, 107A Old State Capitol Building. New Orleans, 207 Customhouse, 423 Canal Street.

Maryland: Baltimore, 129 Customhouse.

Massachusetts: Boston, 408 Atlantic Avenue, 405 U. S. Appraiser's Stores Building.

Michigan: Detroit, 405 Customhouse, 100 Larned Street.

Minnesota: St. Paul, 1416 New Post Office and Customs Building.

New Jersey: *Hoboken, 209 River Street (Plant Inspection House).

New York: Buffalo, 530 Federal Building. New York, 844 Federal Building, Christopher Street.

North Carolina: Wilmington, U.S. Court and Custom House.

Ohio: Cleveland, 427 Engineer's Building, 1365 Ontario Street.

[4] See § 319.37–26 for a list of ports at which inspectors are located. Ports with special inspection and treating facilities are indicated by an asterisk (*).

Oregon: Portland, 110 Old U.S. Courthouse, Sixth and Yamhill Street.

Pennsylvania: Philadelphia, 601–A Customhouse.

Puerto Rico: *San Juan, 307 and 308 Post Office Building.

South Carolina: Charleston, 17 Customhouse.

Tennessee: Memphis, 111 Desoto Post Office Building, 161 East Calhoun Avenue.

Texas: Brownsville, U.S. Fumigation Plant. Corpus Christi, 420 Taylor Street. Dallas, 544 U.S. Terminal Station, 207 South Houston Street. Del Rio, International Bridge Landing. Eagle Pass, 209–210 U.S. Post Office and Customhouse. El Paso, 241 U.S. Court House. Galveston, 17th and Strand Streets, Customhouse Building. Hidalgo, U.S. Customs Building, International Bridge. Houston, 206 U.S. Appraiser's Stores Building, 7300 Wingate Street. *Laredo, 207–211 Federal Building. Port Arthur, Post Office and Customhouse. Presidio, U.S. Customhouse, International Bridge. Roma, Starr County Bridge Co. Building. San Antonio, International Airport Terminal Building. Weslaco, U.S. Customhouse Building.

Vermont: St. Albans, U.S. Customs and Post Office Building.

Virgin Islands of U.S.: Charlotte Amalie, St. Thomas, U.S. Post Office and Customs House.

Virginia: Arlington, MATS Terminal Building, National Airport. Norfolk, U.S. Post Office and Courthouse Building.

Washington: Blaine, 211 Customs Station, Pacific Highway. *Seattle, 904 Federal Office Building.

§ 319.37–26 Appendix B: Prohibited or restricted entry of plant material for propagation.

The entry of the following plant material for propagation is prohibited or restricted by specific quarantines and other restrictive orders now in force:

(a) Irish potatoes from all countries except the Dominion of Canada and Bermuda.

(b) Cottonseed (including seed cotton) of all species and varieties from any foreign country and locality.

(c) Seeds of the avocado or alligator pear from Mexico and the countries of Central America.

(d) Canes of sugarcane or cuttings or parts thereof from all foreign countries.

(e) Seed and all other portions in the raw or unmanufactured state of Indian corn or maize (Zea mays L.), and the closely related plants, including all species of Teosinte (Euchlaena), Job's tears (Coix), Polytoca, Chionachne, Sclerachne, and Trilobachne from Australia, Burma, Cambodia, China, Formosa, India, Indonesia, Japan and adjacent islands, Laos, Malaya, Manchuria, New Guinea, New Zealand, North Viet-Nam, Oceania, Pakistan, Philippines, Ryukyu Islands, Thailand, and Viet-Nam.

(f) All varieties of sweetpotatoes (Ipomoea batatas) from all foreign countries and localities.

(g) All varieties of bamboo seed, plants, or cuttings thereof capable of propagation, including all genera and species of the tribe Bambuseae, from all foreign countries.

(h) Seed or paddy rice from all foreign countries and localities.

(i) Wheat from Aden Protectorate, Afganistan, Australia, Bulgaria, Caucasus (including but not limited to Azerbaidzhan, South Russia, and Transcaucasia), Chile, China, Cyprus, Egypt, Greece, India, Iran, Iraq, Israel, Italy, Japan, Oman, Pakistan, Palestine, Portugal, Saudi Arabia, Sinai Peninsula, Spain, Syria, Trans-Jordan, Tunisia, Turkestan, Turkey, Union of South Africa, and Yemen.

(j) Seed and all other portions in the raw or unmanufactured state of Indian corn or maize, broomcorn, sweet sorghums, grain sorghums, Sudan grass, Johnson grass, sugarcane, pearl millet, napier grass, teosinte, and Job's tears from all foreign countries and localities.

(k) Citrus plants or any plant part except seeds of all genera, species, and varieties of the subfamilies Aurantioideae, Rutoideae and Toddalioideae of the botanical family Rutaceae from all foreign countries and localities.

(l) All plants, cuttings, and scions of elm and related plants from the continent of Europe and the Canadian Province of Quebec.

(m) Coffee plants and propagating parts thereof from all foreign countries and localities when destined to Puerto Rico and Hawaii.

§ 319.37–27 Territorial applicability.

The regulations in this subpart shall apply with respect to importations into the continental United States, Alaska, Guam, Hawaii, Puerto Rico, and the Virgin Islands of the United States.

Subpart—Indian Corn or Maize, Broomcorn, and Related Plants

QUARANTINE

§ 319.41 Notice of quarantine.

(a) The fact has been determined by the Secretary of Agriculture, and notice given, that dangerous plant pests, including the so-called European corn borer (Pyrausta nubilalis Hubn.), and also other dangerous insects, as well as plant diseases not heretofore widely prevalent or distributed within and throughout the United States, exist, as to one or more of such pests, in Europe, Asia, Africa, Dominion of Canada, Mexico, Central and South America, and other foreign countries and localities, and may be introduced into this country through importations of the stalks or other parts of Indian corn or maize, broomcorn, and related plants.

(b) The Secretary of Agriculture, under the authority conferred by the act of Congress approved August 20, 1912, known as the Plant Quarantine Act (37 Stat. 315; 7 U. S. C.151–167), determined that it was necessary, in order to prevent the further introduction of the dangerous plant pests mentioned above, to forbid, except as provided in the rules and regulations supplemental hereto, the importation into the United States from all foreign countries and localities of the stalk and all other parts, whether used for packing or other purposes, in the raw or unmanufactured state, of Indian corn or maize (Zea mays L.), broomcorn (Andropogon sorghum var. technicus), sweet sorghums (Andropogon sorghum), grain sorghums (Andropogon sorghum), Sudan grass (Andropogon sorghum sudanensis), Johnson grass (Andropogon halepensis), sugarcane (Saccharum officinarum), including Japanese varieties, pearl millet (Pennisetum glaucum), napier grass (Pennisetum purpureum), teosinte (Euchlaena luxurians), and jobs-tears (Coix lachryma-Jobi).

(c) Hereafter, and until further notice, by virtue of said act of Congress approved August 20, 1912, the importation into the United States of the stalk and all other parts of the plants enumerated above from all foreign countries and localities except as provided in the rules and regulations supplemental hereto, is prohibited: *Provided*, That whenever the Director of the Plant Quarantine Division shall find that existing conditions as to pest risk involved in the importation of the articles to which the regulations supplemental hereto apply, make it safe to modify, by making less stringent, the restrictions contained in any of such regulations, he shall publish such findings in administrative instructions, specifying the manner in which the regulations shall be made less stringent, whereupon such modification shall become effective; or he may, when the public interests will permit, with respect to the importation of such articles into Guam, upon request in specific cases, authorize such importation under conditions, specified in the permit to carry out the purposes of this subpart, that are less stringent than those contained in the regulations.

(d) As used in this subpart, unless the context otherwise requires, the term "United States" means the States, the District of Columbia, Alaska, Guam, Hawaii, Puerto Rico, and the Virgin Islands of the United States.

§ 319.41a Administrative instructions relating to entry into Guam of broomcorn, brooms, and similar articles.

(a) Broomcorn for manufacturing purposes, and brooms and similar articles made of broomcorn may be imported into Guam without further permit, other than the authorization contained in this section, and without other restriction under this subpart. Notice of arrival for such importations is not necessary inasmuch as there is available to the inspector the essential information normally supplied by the importer at time of importation. Inspection of such importations may be made under the general authority of § 330.105(a) of this chapter. If an importation is found infected, infested, or contaminated with any plant pest and is not subject to disposal under this part 319, disposition may be made in accordance with § 330.106 of this chapter.

(b) Shelled corn and seeds of other plants listed in § 319.41, and mature corn on the cob, may be imported into Guam without further permit, other than the authorization contained in this section, and without other restriction under this subpart, but such importations are subject to the requirements of § 319.37–4(a).

(c) Green corn on the cob may be imported into Guam without restriction under this subpart, but such importations are subject to the requirements of § 319.56–2.

RULES AND REGULATIONS

§ 319.41–1 Plant products permitted entry.[1]

Except as restricted from certain countries and localities by special quarantines and other orders now in force,[2]

[1] Except as provided in § 319.41–6 the regulations in this subpart do not authorize importations through the mails.

[2] The entry of the following plants and plant products is prohibited or restricted by specific quarantines and other restrictive orders now in force.

(a) Living canes of sugarcane, or cuttings or parts thereof, from all foreign countries. (§ 319.15.)

(b) Seed and all other portions in the raw or unmanufactured state of Indian corn or maize (Zea mays L.), and the closely related plants, including all species of Teosinte

and by such as may hereafter be promulgated, the following articles may be imported:

(a) Subject only to the requirements of paragraphs (a), (b), and (c) of § 319.41–5.

(1) Green corn on the cob, in small lots for local use only, from adjacent areas of Canada.

(2) Articles made of the stalks, leaves, or cobs of corn, when prepared, manufactured, or processed in such manner that in the judgment of the inspector no pest risk is involved in their entry.

(3) Corn silk.

(b) Upon compliance with the regulations in this subpart:

(1) Broomcorn for manufacturing purposes, brooms or similar articles made of broomcorn, clean shelled corn, and clean seed of the other plants covered by § 319.41.

(2) Corn on the cob, green or mature, from the provinces of Canada west of and including Manitoba,[3] and from Mexico, Central America, South America, the West Indies, the Bahamas, and Bermuda.

§ 319.41–2 Application for permits.

(a) Persons contemplating the importation of any of the articles specified in § 319.41–1 (b), shall first make application to the Plant Quarantine Division for a permit, stating in the application the name and address of the exporter, the country and locality where grown, the port of arrival, and the name and address of the importer in the United States to whom the permit should be sent. Unless otherwise stated in the permit, all permits will be valid from date of issuance until revoked.

(b) Applications for permits should be made in advance of the proposed shipments; but if, through no fault of the importer, a shipment should arrive before a permit is received, the importation will be held in customs custody at the risk and expense of the importer for a period not exceeding 20 days pending the receipt of the permit.

(c) Applications may be made by telegraph, in which case the information required above must be given.

§ 319.41–3 Issuance of permits.

(a) On approval by the Director of the Plant Quarantine Division of the application mentioned in § 319.41–2, a permit will be issued.

(b) For broomcorn and brooms and similar articles made of broomcorn, permits will be issued by the Director of the Plant Quarantine Division for such ports as may be designated therein, except that permits will be issued for the entry of broomcorn originating in countries other than those in the North or South American Continents or the West Indies only through the ports of Baltimore, Boston, and New York, or through other northeastern ports which may from time to time be designated in the permit, and at which facilities for treatment of infested material may be available, such entry to be limited to those shipments accompanied by on-board bills of lading dated within the period September 15 through February 15 of the succeeding year, both dates inclusive. Permits will not be issued for the entry of broomcorn from any source through ports on the Pacific Coast.

(c) For shelled corn and for seeds of other plants listed in § 319.41, and for corn on the cob, green or mature, from the land areas designated in § 319.41(b) (2), permits will be issued for ports where the Plant Quarantine Division maintains an inspection service and for such other ports as may be designated in the permit.

(d) Pending development of adequate treating facilities in Guam, any of the articles specified in § 319.41–1 that are subject to treatment as a condition of entry therein must first be entered and treated in accordance with the requirements of this subpart at a United States port of arrival where such treating facilities are available.

§ 319.41–4 Notice of arrival by permittee.

Immediately upon arrival of the importation at the port of arrival the permittee shall submit, in duplicate, notice to the Plant Quarantine Division, through the United States Collector of Customs, or, in the case of Guam, through the Customs officer of the Government of Guam, on forms provided for that purpose, stating the number of the permit, the date of entry, the name of ship or vessel, railroad, or other carrier, the country and locality where the articles were grown, the name of the foreign shipper, the quantity or number of bales or containers, and the marks and numbers on the bales or containers, the port of arrival, and the name of the importer or broker at the port of arrival.

§ 319.41–5 Condition of entry.

(a) The entry of the articles covered by § 319.41–1 is conditioned on their freedom from the European corn borer and other injurious insects and plant diseases, and upon their freedom from contamination with plant materials prohibited entry under other quarantines. All shipments of these articles shall be subject to inspection at the port of arrival by an inspector of the Plant Quarantine Division, in order to determine their freedom from such insects and diseases and from contaminating materials, and to such sterilization, grinding, or other necessary treatment as the inspector may prescribe. Should an importation be found on inspection to be so infested or infected or contaminated that, in the judgment of the inspector, it can not be made safe by sterilization or other treatment, the entire shipment may be refused entry.

(b) When entry under sterilization or other treatment is permitted, the importation will be released to the permittee for such treatment, upon the filing with the appropriate customs official of a bond in the amount of $5,000, or in an amount equal to the invoice value, if such value be less than $5,000, with approved sureties, and conditioned that the importation shall be sterilized or otherwise treated under the supervision of the inspector; that no bale or container shall be broken, opened, or removed from the port of arrival unless and until a written notice is given to said customs official by an inspector that the importation has been properly sterilized or treated; and that the importation shall be redelivered to said customs official within 30 days after its arrival.

§ 319.41–5a Administrative instructions: method used for the disinfection of imported broomcorn and broomcorn brooms.

Broomcorn and articles made of broomcorn which are required to be treated, under the provisions of § 319.41–5, will be treated by one of the following methods:

(a) *Vacuum fumigation.* (1) The temperature of the stalks and of the fumigation chamber during the fumigation shall be not less than 60° F.

(2) The dosage for the fumigation shall be 3 pounds of liquid hydrocyanic acid or its equivalent per 1,000 cubic feet of space.

(3) The air pressure in the fumigation chamber shall be reduced to the equivalent of 2 inches of mercury (a 28-inch vacuum at sea level), after which the hydrocyanic acid shall be introduced and the low pressure held for the duration of the fumigation.

(4) The exposure shall be not less than 3 hours.

(b) *Steam sterilization.* (1) The air pressure in the treating chamber shall be reduced to the equivalent of 5 inches of mercury (a 25-inch vacuum at sea level).

(2) Steam shall then be introduced until a positive pressure of 10 pounds is obtained.

(3) The exposure to the 10-pound positive pressure of steam shall continue for a period sufficient to assure a constant temperature in all parts of the treating chamber, after which the steam may be shut off and the treating chamber exhausted of the uncondensed steam.

§ 319.41–6 Importations by mail.

In addition to entries by freight or express provided for in § 319.41–5, importations are permitted by mail of (a) mature corn on the cob from the countries specified in § 319.41–1(b) (2), (b) clean shelled corn and clean seed of the other plants covered by § 319.41: *Provided,* That a permit has been issued for the importation: *Provided further,* That each shipment is accompanied from the foreign mailing point by a special mailing tag, which will direct the package to a Plant Quarantine Division inspection station for inspection in accordance with § 319.41–5 before release to the mails for delivery to the importer. These special mailing tags will be furnished on request to the importer for transmission to his foreign shipper.

(c) Should a shipment requiring sterilization or other treatment under the

(Euchlaena), Job's-tears (Coix), Polytoca, Chionachne, Sclerachne, and Trilobachne, from Australia, Burma, Cambodia, China, Formosa, India, Indonesia, Japan and adjacent islands, Laos, Malaya, Manchuria, New Guinea, New Zealand, North Viet-Nam, Oceania, Pakistan, Philippines, Ryukyu Islands, Thailand, and Viet-Nam. (§ 319.24.)

[3] A quarantine is maintained by Canada to prevent spread of the European corn borer from the infested eastern areas to the still uninfested Provinces west of Ontario.

provisions of the regulation in this subpart arrive at a port where facilities for such sterilization or other treatment are not maintained, such shipment shall either be promptly shipped under safeguards and by routing prescribed by the inspector to an approved port where facilities for sterilization or other treatment are available, or it shall be refused entry.

(d) Other conditions of entry as applying to the certain classes of articles enumerated in § 319.41–1 are:

(1) *Broomcorn.* All importations of broomcorn shall be so baled as to prevent breakage and scattering in connection with the necessary handling and sterilization; if in the judgment of the inspector they are not so baled, entry may be refused. All importations of broomcorn shall be subject to such sterilization or other treatment as the inspector may require.

(2) *Articles made of broomcorn.* Brooms or similar articles made of broomcorn shall be subject to sterilization unless their manufacture involves the substantial elimination of stems or such treatment of the included stems as in the judgment of the inspector shall preclude such articles from being the means of carriage of the European corn borer and of other injurious insects and plant diseases.

(3) *Shelled corn and other seeds.* If shipments of shelled corn and seeds of the other plants from countries other than those named in § 319.41–1 (b) (2) are found upon inspection at the port of arrival to be appreciably fouled with cobs or other portions of the plants the inspector may require sterilization or other treatment or may refuse entry.

Subpart—Rice

QUARANTINE

§ 319.55 Notice of quarantine.

(a) The fact has been determined by the Secretary of Agriculture, and notice is hereby given, (1) that injurious fungous diseases of rice, including downy mildew (Sclerospora macrocarpa), leaf smut (Entyloma oryzae), blight (Oospora oryztorum), and glume blotch (Melanomma glumarum), as well as dangerous insect pests, new to and not heretofore widely prevalent or distributed within and throughout the United States, exist, as to one or more of such diseases and pests, in Europe, Asia, Africa, Central America, South America, and other foreign countries and localities, and may be introduced into this country through importations of seed or paddy rice, rice straw, and rice hulls, and (2) that the unrestricted importation of seed or paddy rice from the Republic of Mexico and of rice straw and rice hulls from all foreign countries and localities may result in the entry into the United States of the injurious plant diseases heretofore enumerated, as well as insect pests.

(b) Under authority conferred by the act of Congress approved August 20, 1912, known as "The Plant Quarantine Act" (37 Stat. 315; 7 U. S. C. 151–167), as amended, the Secretary of Agriculture does hereby declare that it is necessary, in order to prevent the introduction into the United States of the insect pests and plant diseases referred to, to forbid the importation into the United States of seed or paddy rice from all foreign countries and localities except the Republic of Mexico, and to restrict the importation of seed or paddy rice from the Republic of Mexico, and of rice straw and rice hulls from all foreign countries and localities.

(c) On and after November 23, 1933, by virtue of the said act of Congress, the importation of seed or paddy rice into the United States from all foreign countries and localities except the Republic of Mexico is prohibited, and the importation of seed or paddy rice from the Republic of Mexico and of rice straw and rice hulls from all foreign countries and localities is forbidden except in accordance with the rules and regulations supplemental hereto: *Provided*, That whenever the Director of the Plant Quarantine Division shall find that existing conditions as to pest risk involved in the importation of the articles to which the regulations supplemental hereto apply, make it safe to modify, by making less stringent, the restrictions contained in any of such regulations, he shall publish such findings in administrative instructions, specifying the manner in which the regulations shall be made less stringent, whereupon such modification shall become effective; or he may, when the public interests will permit, with respect to the importation of such articles into Guam, upon request in specific cases, authorize such importation under conditions, specified in the permit to carry out the purposes of this subpart, that are less stringent than those contained in the regulations.

(d) As used in this subpart, unless the context otherwise requires, the term "United States" means the States, the District of Columbia, Alaska, Guam, Hawaii, Puerto Rico, and the Virgin Islands of the United States.

§ 319.55a Administrative instructions relating to entry of rice straw and rice hulls into Guam.

Rice straw and rice hulls may be imported into Guam without further permit, other than the authorization contained in this paragraph. The port entry shall be Agana or such other port as may be satisfactory to the inspector. Such importations may be made without the submission of a notice of arrival inasmuch as there is available to the inspector the essential information normally supplied by an importer at the time of importation. The requirements of §§ 319.55–6 and 319.55–7 shall not apply. Inspections of such importations may be made under the general authority of § 330.105(a) of this chapter. If an importation is found infected, infested, or contaminated by any plant pest and is not subject to disposal under this part, disposition may be made in accordance with § 330.106 of this chapter.

Rules and Regulations

§ 319.55–1 Definitions.

(a) *Seed or paddy rice.* Unhusked rice in the form commonly used for seed purposes; the regulations in this subpart do not apply to husked or polished rice imported for food purposes.

(b) *Port of first arrival.* The first port within the United States where the shipment is (1) offered for consumption entry or (2) offered for entry for immediate transportation in bond.

(c) *Inspector.* An Inspector of the Plant Quarantine Division of the United States Department of Agriculture.

§ 319.55–2 Application for permit.

(a) Application for a permit to import seed or paddy rice from Mexico or rice straw or rice hulls from any country, may be made to the Plant Quarantine Division, indicating in the application the locality where the desired material has been grown, the port of first arrival, and the name and address of the importer in the United States to whom the permit should be sent, if other than the applicant.

(b) Applications for permits should be made in advance of the proposed shipments; but if, through no fault of the importer, a shipment should arrive before a permit is received, the importation will be held in customs custody at the port of first arrival, at the risk and expense of the importer, for a period not exceeding 20 days, pending the receipt of the permit.

(c) Application may be made by telegraph, in which case the information required above must be furnished.

§ 319.55–3 Ports of entry.

(a) For importations of seed or paddy rice from the Republic of Mexico, permits will be issued for entry through Mexican border ports and such other ports as may later be approved by the Plant Quarantine Division.

(b) For importations of rice straw and rice hulls from all foreign countries, permits will be issued for entry at New York and Boston and at such other ports as may later be approved by the Plant Quarantine Division.

(c) Pending development of adequate treating facilities in Guam, seed or paddy rice, rice straw, and rice hulls that are subject to treatment as a condition of entry therein must first be entered and treated in accordance with the requirements of this subpart at a United States port of arrival where such treating facilities are available.

(d) Should a shipment requiring treatment arrive at a port where facilities for such treatment are not maintained, such shipment shall either be promptly shipped under safeguards and by routing prescribed by the inspector to an approved port where facilities for treatment are available, or it shall be refused entry.

§ 319.55–4 Issuance of permits.

Upon receipt of an application and upon approval by an inspector a permit will be issued specifying the conditions of entry and the port of entry to carry out the purposes of this subpart, and a copy will be supplied to the importer.

§ 319.55–5 Notice of arrival by permittee.

Immediately upon the arrival of a shipment at the port of first arrival, the

permittee or his agent shall submit a notice, in duplicate, to the Plant Quarantine Division, through the United States Collector of Customs, or, in the case of Guam, through the Customs officer of the Government of Guam, on a form provided for that purpose, stating the number of the permit, the quantity in the shipment, the locality where grown, the date of arrival, and, if by rail, the name of the railroad company, the car numbers, and the terminal where the shipment is to be unloaded, or, if by vessel, the name of the vessel and the designation of the dock where the shipment is to be landed.

§ 319.55–6 Inspection and disinfection at port of arrival.

(a) *Paddy rice.* All importations of seed or paddy rice from Mexico shall be subject, as a condition of entry, to such inspection or disinfection, or both, at the port of arrival, as shall be required by the inspector, and to the delivery to the collector of customs by the inspector of a written notice that the seed or paddy rice has been inspected and found to be apparently free from plant diseases and insect pests or that the required treatment has been given. Should any shipment of such seed or paddy rice be found to be so infested with insect pests or infected with plant diseases that, in the judgment of the inspector, it cannot be cleaned by disinfection or other treatment, the entire shipment may be refused entry.

(b) *Rice straw and rice hulls.* (1) As a condition of entry, rice straw and rice hulls shall be subject to inspection and to treatment at the port of arrival, under the supervision of the inspector, by methods and at plants approved by the Plant Quarantine Division, and, as a further condition of entry, in order to permit effective treatment, the contents of packages or bales shall not be compressed to a density of more than 30 pounds per cubic foot. Rice straw and rice hulls will be admitted only at ports where adequate facilities are available for such treatment. The required treatment must be given within 20 days after arrival, but if any shipment of rice straw or rice hulls shall be found upon arrival to be dangerously infested or infected the inspector may direct immediate treatment under adequate safeguards; and, if the treatment and safeguards are not put into effect as directed, the shipment shall be removed from the country immediately or destroyed.

(2) Unless, within 20 days after the date of arrival of a shipment at the port at which the formal entry was filed, the importation has received the required treatment, due notice of which shall be given to the collector of customs by the inspector, demand will be made by the collector for redelivery of the shipment into customs custody under the terms of the entry bond, and, if such redelivery is not made, the shipment shall be removed from the country or destroyed.

(c) *General.* (1) All charges for storage, cartage, and labor incident to inspection and disinfection, other than the services of the inspector, shall be paid by the importer.

(2) All shipments shall be so baled, bagged, or wrapped as to prevent scattering or wastage. If, in the judgment of the inspector, a shipment is not so bagged, baled, or wrapped, it shall be reconditioned at the expense of the permittee or entry may be refused.

§ 319.55–7 Importations by mail.

Sections 319.55–2 to 319.55–6, inclusive, provide for importations otherwise than through the mails. Importations of seed or paddy rice from Mexico, and of rice straw and rice hulls from all foreign countries and localities, may be made by mail, *Provided* (a) That a permit has been issued for the importation in accordance with §§ 319.55–2, 319.55–4, and (b) That each shipment is accompanied from the foreign mailing point by a special mailing tag directing the package to a Plant Quarantine Division inspection station for inspection and, if necessary, for treatment, before being released to the mails for delivery to the importer, unless entry is refused in accordance with the provisions of § 319.55–6. The special mailing tags will be furnished on request to the importer for transmission in advance to his foreign shipper.

Subpart—Fruits and Vegetables

QUARANTINE

§ 319.56 Notice of quarantine.

(a) The fact has been determined by the Secretary of Agriculture, and notice is hereby given (1) that there exist in Europe, Asia, Africa, Mexico, Central America, and South America, and other foreign countries and localities, certain injurious insects, including fruit and melon flies (Tephritidae), new to and not heretofore widely distributed within and throughout the United States, which affect and may be carried by fruits and vegetables commercially imported into the United States or brought to the ports of the United States as ships' stores or casually by passengers or others, and (2) that the unrestricted importation of fruits and vegetables from the countries and localities enumerated may result in the entry into the United States of injurious insects, including fruit and melon flies (Tephritidae).

(b) The Secretary of Agriculture, under authority conferred by the act of Congress approved August 20, 1912 (37 Stat. 315; 7 U.S.C. 151–167), does hereby declare that it is necessary, in order to prevent the introduction into the United States of certain injurious insects, including fruit and melon flies (Tephritidae), to forbid, except as provided in the rules and regulations supplemental hereto, the importation into the United States of fruits and vegetables from the foreign countries and localities named and from any other foreign country or locality, and of plants or portions of plants used as packing material in connection with shipments of such fruits and vegetables.

(c) On and after November 1, 1923, and until further notice, the importation from all foreign countries and localities into the United States of fruits and vegetables, and of plants or portions of plants used as packing material in connection with shipments of such fruits and vegetables, except as provided in the rules and regulations supplemental hereto, is prohibited: *Provided*, That whenever the Director of the Plant Quarantine Division shall find that existing conditions as to pest risk involved in the importation of the articles to which the regulations supplemental hereto apply, make it safe to modify, by making less stringent, the restrictions contained in any of such regulations, he shall publish such findings in administrative instructions, specifying the manner in which the regulations shall be made less stringent, whereupon such modification shall become effective; or he may, when the public interests will permit, with respect to the importation of such articles into Guam, upon request in specific cases, authorize such importation under conditions, specified in the permit to carry out the purposes of this subpart, that are less stringent than those contained in the regulations.

(d) This section leaves in full effect all special quarantines and other orders now in force restricting the entry into the United States of fruits and vegetables with the exception of Quarantine No. 49, with regulations, on account of the citrus black fly, which is replaced by this section.

(e) As used in this section unless the context otherwise requires, the term "United States" means the continental United States, Alaska, Guam, Hawaii, Puerto Rico, and the Virgin Islands of the United States.

§ 319.56a Administrative instructions and interpretation relating to entry into Guam of fruits and vegetables under § 319.56.

(a) Only the following fruits and vegetables may be imported into Guam and they shall be subject to the requirements of this subpart as modified by this section.

(1) All fruits and vegetables from the Marianas Islands, Bonin Islands, Volcano Islands, and Ryukyu Islands;

(2) All fruits and vegetables from the Caroline Islands, except bananas and citrus fruits, and except taro from the Palau and Yap districts (the excepted products are not approved for entry into Guam under § 319.56);

(3) Stone and pome fruits, celery, lettuce, melons, watermelons, citrus fruits, tomatoes, potatoes, grapes, and bell peppers from Japan and Korea;

(4) Leafy vegetables, celery, and potatoes, from the Philippine Islands;

(5) Celery, lettuce, and potatoes, from Australia;

(6) Celery, chives, garlic, leek, onions, arrowroot, kale, cow-cabbage, cauliflower, broccoli, cabbage, sprouts, asparagus, Portuguese cabbage, cassava, dasheen, gingerroot, horseradish, kudzu, lettuce, turnip, udo, waterchestnut, watercress, waterlilyroot, and yam bean root, from Formosa;

(7) Lettuce from Netherlands New Guinea;

(8) Celery, lettuce, loquats, persimmons, tomatoes, and stone fruits, from New Zealand;

(9) Celery and lettuce, from Thailand;

(10) Green corn on the cob;

(11) All other fruits and vegetables administratively approved for entry into any other part or port of the United States, except those for which a treatment is specified as a condition of entry and except any which are now, or may subsequently be, specifically designated in this section as not approved.

(b) The inspector in Guam may, in his judgment, accept an oral application and issue an oral permit for products within paragraph (a) of this section, which shall be deemed to fulfill the requirements of §§ 319.56–3 and 319.56–4. He may waive the documentation required in § 319.56–5 for such products whenever he shall find that information available from other sources meets the requirements under this subpart for the information normally supplied by such documentation.

(c) The provisions of §§ 319.56–2a and 319.56–2b shall not apply to chestnuts and acorns imported into Guam and they shall be enterable without further permit, other than the authorization contained in this paragraph, and without other restriction under this subpart, in accordance with the second paragraph of § 319.56–2. Inspections of such importations may be made under the general authority of § 330.105(a) of this chapter. If an importation is found infected, infested, or contaminated with any plant pest and is not subject to disposal under this part, disposition may be made in accordance with § 330.106 of this chapter.

(d) Coconuts are not approved for entry into Guam from the Trust Territory under § 319.56.

(e) Application of the provisions of §§ 319.56–2d, and 319.56–2f to 319.56–2m, inclusive, is impracticable in the case of traffic into Guam and therefore such application is withdrawn. The fruits and vegetables which are the subject of said provisions are not enterable into Guam except as they are now, or may later be, listed in paragraph (a) of this section. Yams are included in the listings in (a) (1) and (2) of this section.

(f) Baskets or other containers made of coconut fronds are not approved for use as containers for fruits and vegetables imported into Guam. Fruits and vegetables in such baskets or containers offered for importation into Guam will not be regarded as meeting the requirement of the first paragraph of § 319.56–2.

RULES AND REGULATIONS

§ 319.56–1 Definitions.

(a) *Fresh fruits and vegetables.* The edible, more or less succulent, portions of food plants in the raw or unprocessed state, such as bananas, oranges, grapefruit, pineapples, tomatoes, peppers, lettuce, etc.

(b) *Plants or portions of plants.* Leaves, twigs, or other portions of plants, or plant litter or rubbish as distinguished from clean fruits and vegetables, or other commercial articles.

(c) *Port of first arrival.* The first port within the United States where the shipment is (1) offered for consumption entry or (2) offered for entry for immediate transportation in bond.

(d) *Inspector.* An inspector of the Plant Quarantine Division, United States Department of Agriculture.

§ 319.56–2 Restrictions on entry of fruits and vegetables.

(a) All importations of fruits and vegetables must be free from plants or portions of plants, as defined in § 319.56–1(b).

(b) Dried, cured, or processed fruits and vegetables (except frozen fruits and vegetables), including cured figs and dates, raisins, nuts, and dried beans and peas, may be imported without permit or other compliance with the regulations in this subpart: *Provided,* That any such articles may be made subject to entry only under permit and on compliance with the safeguards to be prescribed therein, when it shall be determined by the Secretary of Agriculture that the condition of drying, curing, or processing to which they have been subjected may not entirely eliminate risk. Such determination with respect to any such articles shall become effective after due notice.

(c) Fruits and vegetables grown in the Dominion of Canada and in Newfoundland,[1] including its mainland territory of Labrador, may be imported into the United States from these countries free from any restrictions whatsoever under the regulations in this subpart.

(d) Fruits and vegetables grown in the British Virgin Islands may be imported into the Virgin Islands of the United States without further permit other than the authorization contained in this paragraph but subject to the requirements of the first paragraph of this section, and of §§ 319.56–5, 319.56–6 and 319.56–7, except that such fruits and vegetables are exempted from the notice of arrival requirements of § 319.56–5 when an inspector shall find that equivalent information is obtainable from the United States Collector of Customs.

(e) Any other fruit or vegetable, except as restricted, as to certain countries and districts, by special quarantines [2] and other orders [1] now in force and by such restrictive orders as may hereafter be promulgated, may be imported from any country under permit and on compliance with the regulations in this subpart, at such ports as shall be authorized in the permits, on presentation of evidence satisfactory to the United States Department of Agriculture either (1) that such fruits and vegetables are not attacked in the country of origin by injurious insects, including fruit and melon flies (Tephritidae), or (2) that their importation from definite areas or districts under approved safeguards prescribed in the permit can be authorized without risk, or (3) that they have been treated, or are to be treated, in accordance with such conditions and procedure as may be prescribed by the Director of the Plant Quarantine Division, under the supervision of a plant quarantine inspector of the said Department.

(f) Pending development of adequate treating facilities in Guam, fruits and vegetables that are subject to treatment as a condition of entry therein must first be entered and treated in accordance with the requirements of this subpart at a United States port of arrival where such treating facilities are available.

§ 319.56–2a Permits required for entry of chestnuts and acorns and certain coconuts.

It has been determined that the drying and processing of chestnuts and acorns, and of coconuts imported into Guam from the Trust Territory, may not entirely eliminate risk of spread of injurious insects. Therefore, notice is hereby given that chestnuts and acorns of all varieties and species may be imported into any part of the United States from any foreign country and coconuts may be imported into Guam from the Trust Territory, only under permit and upon compliance with the safeguards prescribed therein pursuant to § 319.56–2.

§ 319.56–2b Administrative instructions; conditions governing the entry of acorns and chestnuts.

(a) *Countries other than Canada.* The importation of acorns and chestnuts into the United States for purposes other than propagation, from all foreign countries and localities, except Canada, is authorized under permit under the provisions of § 319.56 as follows:

(1) *Authorized ports of entry.* Permits are issued on any port in the United States where this Division maintains inspection service in the enforcement of foreign plant quarantines.

(2) *Inspection.* All shipments are subject to inspection as a condition of entry.

(3) *Freedom from living stages of injurious insects.* Shipments shall be free of living stages of injurious insects including the European codling moth, Laspeyresia (Carpocapsa) splendana, and chestnut weevils, Balaninus spp., as a condition of release.

(4) *Infested shipments.* A shipment found to be infested with living stages of injurious insects shall be immediately destroyed unless in the judgment of the inspector it can be disposed of under adequate safeguards as the inspector may require in regard to handling, routing, etc., in one of the following ways:

(i) Immediate exportation.

(ii) Treatment at the first port of arrival.

(iii) Shipment from a port of arrival where no treatment facilities are available to a port where such facilities are available.

(5) *Approved treating plants.* Shipments required to be treated as a condition of entry shall be treated under the supervision of an inspector of the Plant Quarantine Division at plants approved for the purpose by this Division. Approved plants are at present located at

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[1] The importation of potatoes into the United States from Newfoundland and all other foreign countries, except the Dominion of Canada and Bermuda, is governed by the restricted entry order and regulations in §§ 321.1 through 321.8 of this chapter.

[2] The importation of citrus fruits into the United States from eastern and southeastern Asia and certain other areas is restricted by the Citrus Fruit Quarantine, § 319.28.

New York, San Pedro (Los Angeles), San Francisco, and Seattle.

(b) *Canada.* Acorns and chestnuts grown in and shipped from Canada are enterable without permit or other restriction when imported for purposes other than propagation.

§ 319.56–2c Administrative instructions authorizing the importation of frozen fruits and vegetables.

(a) The type of treatment designated in this subpart as freezing shall be one of those treatments commonly known as quick freezing, sharp freezing, or frozen pack. In general this involves an initial quick freezing at subzero temperatures with subsequent storage and transportation handling at not higher than 20° F. Any equivalent freezing method is also included in this designation.

(b) The Director of the Plant Quarantine Division, under authority contained in § 319.56–2, hereby prescribes freezing as a satisfactory treatment for all fruits and vegetables enterable under permit under § 319.56. Such frozen fruits and vegetables may be imported from any country under permit, on compliance with §§ 319.56–1 through 319.56–7 (exclusive of nonrelated administrative instructions), at such ports as shall be authorized in the permits.

(c) Such fruits and vegetables may not be removed from the vessel or vehicle transporting them until it has been determined by an inspector of the Plant Quarantine Division that they are in a satisfactory frozen state on arrival in this country.

(d) If the temperature of the fruits or vegetables in any part of such an importation is found to be above 20° F. at the time of inspection upon arrival, the entire shipment shall remain on board the vessel or vehicle under such safeguards as may be prescribed by the inspector of the Plant Quarantine Division until the temperature of the shipment is below 20° F., or the shipment is transported outside the United States or its territorial waters, or is otherwise disposed of to the satisfaction of the inspector.

(e) The importation from foreign countries of frozen fruits and vegetables is not authorized when such fruits and vegetables are subject to attack in the area of origin, by plant pests that may not, in the judgment of the Director of the Plant Quarantine Division, be destroyed by freezing.

(f) Freezing of fruits and vegetables as authorized in the instructions in this section is considered necessary for the elimination of pest risk, and no liability shall attach to the United States Department of Agriculture or to any officer or representative of that Department in the event of injury resulting to fruits or vegetables offered for entry in accordance with the instruction in this section.

§ 319.56–2d Administrative instructions for cold treatments of imported Vinifera grapes and certain other fruits.

(a) *Treatments authorized.* The following cold treatments are authorized for imported Vinifera grapes and any other fresh fruits enterable under § 319.56–2 under permit and upon compliance with applicable regulations in this subpart:

(1) *Phases of treatments.* Authorized cold treatments shall consist of (i) precooling, during which the fruit shall be cooled until its pulp temperature is at or below a level designated in or under this paragraph and (ii) refrigeration, during which the fruit shall be held at or below this level for a number of days designated in or under this paragraph.

(2) *Refrigeration temperatures and periods.* Fruit cold treated because of the Mediterranean fruit fly shall be refrigerated for one of the following periods at or below the respective temperature designated:

10 days—32° F.
11 days—33° F.
12 days—34° F.
14 days—35° F.
16 days—36° F.

Fruit cold treated because of fruit flies of the genus Anastrepha (other than A. ludens (Loew)) shall be refrigerated for one of the following periods at or below the respective temperature designated:

11 days—32° F.
13 days—33° F.
15 days—34° F.
17 days—35° F.

Fruit cold treated because of the Mexican fruit fly (A. ludens (Loew)) shall be refrigerated for one of the following periods at or below the respective temperature designated:

18 days—33° F.
20 days—34° F.
22 days—35° F.

Refrigeration temperatures and periods for fruit to be cold treated because of other species of fruit flies may be designated by the Director of the Plant Quarantine Division, if experimental data are available concerning applicable treatments of known effectiveness.

(b) *Place and manner of treatments—*(1) *Places of precooling and refrigeration.* Refrigeration may be conducted while the fruit is on shipboard in transit to the United States. If not so refrigerated, the fruit shall be both precooled and refrigerated after arrival only in cold storage warehouses approved by the Director of the Plant Quarantine Division and located at the port of New York or such other northern ports as he may hereafter designate. Fruit which is to be refrigerated in transit shall be precooled either at a dockside refrigeration plant prior to loading aboard the carrying vessel, or aboard the carrying vessel prior to its departure. Refrigeration shall be completed in the compartment or room in which it is begun.

(2) *Precooling of fruit before departure.* Fruit which is to be refrigerated in transit must be precooled to the temperature designated in or under paragraph (a) of this section before it leaves the port of shipment in the country of its origin and a certificate to that effect, issued by a responsible official of the Department of Agriculture of such country shall accompany each cargo of the fruit to its destination. The precooling may be conducted in accordance with either subdivisions (i) or (ii) of this subparagraph:

(i) Fruit may be precooled at a dockside refrigeration plant prior to loading aboard the carrying vessel. Such fruit shall be precooled to a temperature at which it can be transferred to the refrigerated compartments on such vessel without a rise above the maximum temperature prescribed in or under paragraph (a) of this section. The certifying official shall sample fruit temperatures in all sections of the lot of fruit until he is satisfied that complete precooling has been accomplished in accordance with this section. As the loading proceeds the certifying official shall take frequent temperature readings of individual boxes of fruit. A record of such temperature readings shall accompany the certificate.

(ii) Fruit may be precooled aboard the carrying vessel. Such fruit shall be precooled in the same refrigerated compartments in which it is to be refrigerated. The boxes of the fruit shall be spaced, by horizontal wooden strips, so that each has at least one inch of clearance above and below to allow free circulation of the cooling air. At least two inches of clearance shall be allowed between stacks of the fruit. The certifying official shall sample fruit temperatures in all sections of the compartment until he is satisfied that complete precooling has been accomplished. The entire precooling must be completed as provided in these instructions and the certificate issued before the carrying vessel leaves the country of origin.

(3) *Refrigeration in transit.* (i) Refrigeration in transit shall consist of holding the fruit temperature at or below the maximum temperature level for the number of days prescribed in or under paragraph (a) of this section. A continuous, automatic temperature record under lock shall be maintained from at least four locations to be designated in each refrigerated compartment by an inspector of the Plant Quarantine Division. In large refrigerated compartments additional temperature elements may be required. Vessels whose temperature recording apparatus of less than four elements per compartment has already been approved by the Director of such Division may be allowed to continue with their present equipment. Charts from the temperature recording apparatus shall be made readily available to an inspector of such Division at the port of arrival.

(ii) Refrigeration shall begin when the loading of precooled fruit has been completed or when the certifying official is satisfied that precooling aboard the vessel has been completed. The certifying official shall designate and initial on the thermograph chart the beginning of the refrigeration period. Refrigeration shall continue until the vessel arrives at the port of destination and the fruit is released for unloading by an inspector of the Plant Quarantine Division, even though this may prolong the refrigeration beyond the required period.

(4) *Safeguarding untreated fruit.* Whenever fruit is offered for entry as cold treated in transit and it cannot be established to the satisfaction of such inspector that the fruit has received the required cold treatment, such safeguards against the spread of fruitfly infestation

as the inspector may prescribe shall be immediately applied.

(5) *Cold treatment after arrival.* (i) Fruit to be both precooled and refrigerated after arrival in the United States shall be delivered under the supervision of an inspector of the Plant Quarantine Division to the approved cold storage warehouse where such treatment is to be conducted.

(ii) The fruit must arrive at a temperature sufficiently low to prevent insect activity and shall be promptly precooled and refrigerated. An automatic, continuous temperature record is required of each refrigeration, like that prescribed in subparagraph (3) of this paragraph for refrigeration in transit. The number of records required will be designated by the inspector for each refrigeration, depending upon the circumstances of each operation.

(iii) Shipments offered for entry before cold treatment may be allowed to leave customs custody under redelivery bond for cold treatment. Final release of the shipment by the United States Collector of Customs, or, in the case of Guam, by the Customs officer of the Government of Guam, will be effected after the inspector has notified the said Customs official that the required cold treatment has been given.

(6) *Containers and season of arrival.* There are no restrictions on the types of containers in which fruit may be packed, nor on the season of the year during which shipments may be made. Untreated fruit arriving in broken containers must be immediately repacked under the supervision of an inspector or the contents must be immediately destroyed in a manner satisfactory to the inspector.

(7) *Procedures in country of origin.* (i) By arrangement between the Director of the Plant Quarantine Division and the equivalent official in the country of origin, certifying officials will be designated by the country of origin. Their signatures shall be filed with the Plant Quarantine Division.

(ii) Each container of fruit intended for intransit refrigeration shall be stamped or marked as it is loaded on the carrying vessel so that it can be readily identified as such. Fruit being shipped under permit to be completely cold treated at the Port of New York or other subsequently designated northern ports shall not be so marked.

(iii) Fruit precooled at a dockside refrigeration plant shall be transferred to the refrigerated compartments on the carrying vessel without a rise in temperature above the maximum for the desired refrigeration. When this transfer has been accomplished, the certifying official shall issue a certificate of precooling.

(iv) Fruit to be precooled on the carrying vessel in the refrigerated compartments shall be loaded under supervision of the certifying official to assure that all packages have the proper clearance on all sides. When precooling has been completed, a certificate of precooling shall be issued by such official.

(v) Fruit in transit for cold treatment after arrival shall be loaded in a separate compartment and segregated from any fruit that is being refrigerated in transit.

(vi) Fruit not intended for any phase of cold treatment shall not be loaded in the same refrigerated compartment with fruit to be given such cold treatment.

(vii) The certifying official shall calibrate the elements of the temperature recording instruments not more than 3 days prior to the loading of fruit, by immersing them in a 32° F. mixture of crushed ice and water, and recording their deviation from 32° F. He shall also supervise the placement of the temperature elements in the proper places in the cargo of fruit.

(viii) The certificate of precooling shall be issued in quadruplicate, to cover the cargo of one vessel. The original certificate shall be airmailed to the inspector of the Plant Quarantine Division in charge at the port of destination. One copy shall accompany the carrying vessel. The third copy shall be mailed to the Plant Quarantine Division, United States Department of Agriculture, Washington 25, D. C. A record showing calibration of the elements of the temperature recording instruments, as required in subdivision (vii) of this subparagraph shall be attached to each certificate, along with any record of the fruit temperature readings required in subparagraph (2) (i) of this paragraph. The certificate shall also show the identifying stamp or mark placed on all containers of fruit undergoing intransit refrigeration.

(c) *Approval of precooling plants, refrigerated compartments, warehouses.* All precooling plants in the country of origin, the refrigerated compartments on the carrying vessels, and cold storage warehouses at the Port of New York or subsequently designated northern ports must have prior approval of the Director of the Plant Quarantine Division before any phase of cold treatment is begun. Requests for such approval shall be made to Plant Importations Branch, Quarantine Division, 209 River Street, Hoboken, New Jersey.[3]

(d) *Caution and disclaimer.* In prescribing cold treatments of Vinifera grapes and certain other fruits, it should be emphasized that inexactness and carelessness in applying the treatments may result in injury to the fruit, or its rejection for entry. The cold treatments required for the entry of fruit are considered necessary for the elimination of pest risk, and no liability shall attach to the United States Department of Agriculture or to any officer or representative of that Department in the event injury results to fruit offered for entry in accordance with these instructions.

§ 319.56–2e Administrative instructions prescribing method of fumigation of oranges, grapefruit, and tangerines from Mexico.

Approved fumigation with ethylene dibromide at normal atmospheric pressure, in accordance with the following procedure, is hereby prescribed as an alternate condition of entry under permit, through ports specified in the permit, for all shipments of oranges, grapefruit, and tangerines from Mexico.

[3] Applications for permits to import fruit under this subpart may also be made to said Plant Importations Branch.

(a) *Approved fumigation.* (1) The approved fumigation shall consist of fumigation with ethylene dibromide at normal atmospheric pressure in a fumigation chamber which has been approved by the Plant Quarantine Division. The chamber must be equipped with a gastight window which will permit viewing the electrically heated vaporizing pan inside the chamber. The Plant Quarantine Division will approve only those chambers which are properly constructed, satisfactorily maintained, adequately equipped, and at locations where required treatment supervision can be furnished. The treatment period shall be for 2 hours and the dosage adjusted to the chamber load, which shall not exceed 80 percent of the volume, and temperature as follows:

Load in percent of chamber volume	Dosage in ounces per 1,000 cu. ft.	
	60°–70° F.	Above 70° F.
Below 25	9	7
25 to 50	11	9
50 to 80	13	11

The ethylene dibromide, a liquid at ordinary temperatures, must be volatilized within the sealed fumigation chamber in an electrically heated vaporizing pan. The gas shall be circulated within the chamber continuously for the 2-hour exposure period by an electric fan or blower, the 2-hour period to begin when volatilization is complete. The fan or blower must be of a capacity to circulate the entire air mass within the chamber in one minute.

(2) Oranges, grapefruit, and tangerines may be waxed and packed for shipment before fumigation and fruits may be individually wrapped with conventional citrus tissue. When loaded in the fumigation chamber the boxes or containers must be stacked evenly over the total floor surface and stacks separated by at least one inch. Spacing between boxes in a stack may be required if the inspector believes such spacing is necessary to insure adequate gas circulation. Oranges, grapefruit, and tangerines contained in mesh bags or perforated polyethylene bags must be placed in field boxes or similar containers for fumigation.

(b) *Supervision of fumigation.* Inspectors of the Plant Quarantine Division will supervise the fumigation of oranges, grapefruit, and tangerines in Mexico and will prescribe such safeguards as may be necessary for the handling, packing, and transportation of the fruit from the time it leaves the treating plant until it reaches the United States port of entry, and such safeguards shall include freedom from leaves and other debris. The final release of the fruit for entry into the United States will be conditioned upon compliance with the prescribed safeguards.

(c) *Costs.* All costs of constructing, maintaining, and operating fumigation plants and facilities, and carrying out precautions prescribed for posttreatment safeguards shall be borne by the owner of the fruit or his representative.

(d) *Approval of fumigation plants.* Approval of fumigation plants in Mexico will be contingent upon compliance with the provisions of paragraph (a)(1) of this section and upon the availability of qualified personnel for assignment to supervise the treatment and posttreatment handling of oranges, grapefruit, and tangerines. Those in interest must make advance arrangements for approval of the fumigation plant and for supervision, and furnish the Director of the Plant Quarantine Division[4] with acceptable assurances that they will provide, without cost to the United States Department of Agriculture, all salaries, transportation, per diem, and other administrative and incidental expenses for the supervising inspectors, including the payment to the inspectors of additional compensation for their services in excess of 40 hours weekly, according to the rates established for the payment of inspectors of the Plant Quarantine Division.

(e) *Department not responsible for damage.* While the prescribed treatment is judged from experimental tests to be safe for use with oranges, grapefruit, and tangerines, the Department assumes no responsibility for any damage sustained through or in the course of treatment, or because of posttreatment safeguards.

(Sec. 5, 37 Stat. 316; 7 U.S.C. 159)

§ 319.56–2f Administrative instructions; conditions governing the entry of cipollini from Morocco.

(a) Shipments of cipollini (Muscari comosum) from Morocco have frequently been found infested at time of entry with an injurious insect, Exosoma lusitanica, not known to occur in the United States. The limited type of inspection at our disposal is not considered adequate to detect all cases of infestation and, since the effectiveness of methyl bromide fumigation in freeing this product from the insect in question is now well established, it has been decided to require this fumigation as a condition of entry for future shipments.

(b) On and after December 7, 1939, therefore, fumigation with methyl bromide will be a condition of entry for all shipments of cipollini from Morocco. This treatment shall be carried out under the supervision of a plant quarantine inspector at the expense of the importer, and release of the shipment will be withheld until the treatment has been completed. In addition to fumigation only such inspection will be given as the inspector may judge necessary from time to time to determine pest conditions on arrival or to assure himself of the effectiveness of the treatment.

(c) The entry of cipollini from Morocco may be made only through the ports of New York and Boston at which ports facilities for vacuum fumigation with methyl bromide, as herein required, are available.

[4] Preliminary inquiries should be directed to the Regional Supervisor, Plant Quarantine Division, P.O. Box 909, 407 Federal Building, Brownsville, Tex.

§ 319.56–2g Administrative instructions prescribing method of treatment of oranges, grapefruit, tangerines, and Manila mangoes from Mexico.

(a) *Conditions for issuance of permits.* (1) Either of the approved vapor-heat schedules of treatment specified in paragraph (b) of this section will meet the treatment requirements imposed under § 319.56–2 as a condition of the issuance of permits for (i) the importation from Mexico of commercially-sound oranges, free of leaves and other plant debris, or (ii) the importation from Mexico during the 5-month period beginning November 1 and ending the following March 31, of commercially-sound tangerines, with tight skins and free from air pockets or puffiness, and free of leaves and other debris.

(2) The approved vapor-heat schedule of treatment specified in paragraph (b)(1) of this section will meet the treatment requirements imposed under § 319.56–2 as a condition of the issuance of permits for the importation from Mexico of commercially sound grapefruit and Manila mangoes, free of leaves and other plant debris.

(3) The treatment must be conducted in a heat-treating room approved by the Plant Quarantine Division and must be conducted under the supervision of an inspector of that Division, who at all times shall have access to such fruits while they are undergoing treatment.

(4) The Division will approve only those rooms which are properly constructed and adequately equipped to handle and treat such fruits, at locations acceptable to the inspector in areas where required supervision can be furnished. No treating plant will hereafter be approved until it is equipped with a self-recording temperature and humidity indicator acceptable to the inspector.

(5) All handling in Mexico subsequent to treatment of such fruits intended for shipment to the United States must be carried out to meet requirements satisfactory to the inspector and under such supervision as he may deem necessary.

(6) All costs of construction, equipping, maintaining and operation of treating rooms and those associated with prescribed post-treatment safeguards shall be borne by the owner of such fruits, or his representative.

(7) Supervision at places contiguous to ports of entry where inspectors are regularly stationed will be furnished without cost to the owner of the fruit, or his representative.

(8) In cases where treating rooms are located in the interior of Mexico, or at places removed from ports of entry where inspectors are regularly stationed, those in interest must make advance arrangements for approval of the plant and for supervision, and furnish the Director of the Plant Quarantine Division with acceptable assurance that they will provide, without cost to the United States Department of Agriculture, all salaries, transportation, per diem, and other incidental expenses for the supervising inspectors, including the payment to the inspectors of additional compensation for their services in excess of 40 hours weekly, according to rates established for the payment of Plant Quarantine Division inspectors.

(9) In the tests and experiments so far conducted with the approved treating schedules such fruits have not been injured. It is, however, emphasized that inexactness and carelessness in using the approved schedules for vapor-heat treatment may result in injury to the fruit treated. In authorizing the use of the treatment specified in paragraph (b) of this section, the United States Department of Agriculture does not accept responsibility for fruit injury.

(b) *Vapor-heat method of treatment and approved schedules.* In approved vapor-heat treatment the fruit is heated by saturated vapor at 110° F. which in condensing on the fruit gives up its latent heat. This latent heat is essential in assuring mortality of eggs and larvae of the fruitflies known to occur in Mexico and in raising the temperature of the fruit evenly and quickly so as to prevent damage to the fruit. In practice in such treatments the saturated vapor is accompanied by a fine water mist and air admixture. The fruit is cooled immediately after treatment, and no wax or paraffin, either dry or in solution, is used until after the treatment has been completed. Vapor-heat treatment is approved only if the vapor conditions within the heat-treating room, the manner of stacking the field boxes containing the fruit in the room, and all other conditions affecting the efficacy of the treatment are satisfactory, in the opinion of the supervising inspector, to assure mortality of eggs and larvae of the fruitflies known to occur in Mexico. The following schedules of vapor-heat treatment, when conducted in accordance with the principles stated above in this paragraph and in paragraph (a) of this section, are approved:

(1) The temperature of the fruit shall be raised to 110° F., at the approximate center of the fruit, in a period of 8 hours and shall be held at that level during the following 6 hours. This method is adapted to sterilization plants that do not have the capacity to increase the temperature of the fruit steeply at the beginning of the treating period.

(2) The temperature of the fruit shall be raised to 110° F., at the approximate center of the fruit, in a period of 6 hours and shall be held at that level during the following 4 hours. The temperature of the fruit must be raised rapidly during the first 2 hours, after which it may be gradually raised to 110° F. in the following 4 hours.

§ 319.56–2h Administrative instructions prescribing method of treatment of garlic from Algeria, Hungary, Italy, Morocco, Spain, and Yugoslavia.

(a)(1) Except as otherwise provided in these administrative instructions, fumigation with methyl bromide in vacuum fumigation chambers approved by the Director of the Plant Quarantine Division is a condition of entry under permit for all shipments of garlic (Allium sativum) from Algeria, Hungary, Italy, Morocco, Spain, and Yugoslavia. Fumigation is to be carried out under the supervision of a plant quarantine inspector and at the expense of the importer.

While it is believed that the garlic will be unaffected by the fumigation, the treatment will be at the importer's risk. Such entry will be limited to the ports of Baltimore, Md., Boston, Mass., Los Angeles, Calif., New Orleans, La., New York, N.Y., Norfolk, Va., San Juan, P.R., San Francisco, Calif., and Seattle, Wash., where approved facilities for vacuum fumigation with methyl bromide are available, and to such other ports as may be named in the permits if approved vacuum fumigation facilities are later made available at those other ports.

(2) Such vacuum fumigation shall be in accordance with the following fumigation schedule:

Temperature (° F.)	Dosage—pounds of methyl bromide per 1,000 cu. ft.	Exposure period (hours)	Vacuum (inches)
90-96 (inclusive)	2	1½	15
80-89 (inclusive)	2	2	15
70-79 (inclusive)	2½	2	15
60-69 (inclusive)	3	2	15
50-59 (inclusive)	3	3	15
40-49 (inclusive)	3	4	15

(b) (1) The following alternate procedure is approved by the Director of the Plant Quarantine Division as a condition of entry under permit for shipments of garlic (Allium sativum) from Italy and Spain:

(i) A certificate shall be obtained from the appropriate phytosanitary official of the country of origin to the effect that such garlic is free of living stages of Brachycerus spp. and Dyspessa ulula (Bkh.), said certification to be based on field inspection and certification and subsequent reexamination at the port of departure prior to exportation. The phytosanitary certificate to be issued by such official shall show the shipment to be either initially free from these pests or to have been fumigated.

(ii) The original copy of the phytosanitary certificate shall be attached to the manifest accompanying the shipment. However, with the consent of the Plant Quarantine inspector, the importer may arrange to have the original phytosanitary certificate mailed direct to the Inspector in Charge, Plant Quarantine Division, at the port of entry, if this will expedite inspection and release of certified shipments. If such an arrangement is made, a copy of the phytosanitary certificate shall be attached to the manifest accompanying the shipment.

(iii) Shipments of certified Italian or Spanish garlic will be subject to inspection upon arrival in the United States and if found infested with living stages of Brachycerus spp. or Dyspessa ulula (Bkh.) shall be fumigated in accordance with paragraph (a) of this section.

(2) The entry of certified garlic under the alternate procedure provided for in subparagraph (1) of this paragraph will be limited to the ports named in paragraph (a) (1) of this section or such other ports as may subsequently be named in the permits.

(3) Continuance of the alternate procedure provided for in subparagraph (1) of this paragraph for the importation of Italian or Spanish garlic is contingent upon the satisfactory observance of such procedure by the respective countries of origin.

§ 319.56–2i Administrative instructions prescribing method of treatment of mangoes from the West Indies.

(a) *Fumigation upon arrival.* Approved fumigation with ethylene dibromide at normal atmospheric pressure, in accordance with the following procedure, upon arrival, is hereby prescribed as a condition of entry under permit under § 319.56–2 for all shipments of mangoes from the West Indies other than those entered in accordance with the alternate procedure authorized in paragraph (b) of this section:

(1) *West Indies.* As used in this paragraph, the term "West Indies" means the foreign islands lying between North and South America, the Caribbean Sea, and the Atlantic Ocean, including, among others, Cuba, Jamaica, Dominican Republic, and the Bahama, Leeward and Windward Islands, but excluding the chain of islands adjacent and parallel to the north coast of South America (the largest of which are Aruba, Curacao, Bonaire, Tortuga, Margarita, Trinidad, and Tobago).

(2) *Ports of entry.* Mangoes to be offered for entry must be shipped direct from the country of origin to New York or such other North Atlantic ports as may be named in the permit.

(3) *Precooling of fruit.* Mangoes to be offered for entry must be cooled to a maximum temperature of 50° F. prior to unloading from the ship. The fruit may not be removed from the vessel until an inspector of the Plant Quarantine Division has satisfied himself that this requirement has been complied with and that the fruit can be moved promptly to the fumigation chamber.

(4) *Approved fumigation.* (i) The approved fumigation shall consist of fumigation with ethylene dibromide at normal atmospheric pressure, in a fumigation chamber which has been approved for that purpose by the Plant Quarantine Division. The dosage shall be applied at the following rates:

Temperature (° F.)	Dosage (pounds of ethylene dibromide per 1,000 cubic feet)	Exposure period (hours)
80-89	¾	2
70-79	1	2
55-69	1¼	2

The temperature to be used in determining the dosage schedule shall be the lower of the temperatures of the air and fruit. Cubic feet of space shall include the load. The ethylene dibromide must be applied in the liquid state and volitalized within the sealed fumigation chamber in an electrically heated vaporizing pan. The electrically heated vaporizing pan shall be controlled by a switch outside of the fumigation chamber and shall be equipped with a signal light to indicate when the current is on or off. The 2-hour period of exposure shall begin 15 minutes after all liquid ethylene dibromide has been injected into the electrically heated vaporing pan inside the fumigation chamber, after which the electric current for the vaporizing pan can be turned off. The gas shall be circulated within the chamber continuously for the 2-hour period by an electric fan or blower.

(ii) Mangoes to be fumigated may be packed in crates with shredded packing material. When fruits are individually wrapped in paper the wrappings must be removed before fumigation. When loaded in the fumigation chamber the crates or other containers shall be separated at least 2 inches on all sides by wooden strips or other means. The chamber shall not be loaded to more than 50 percent of capacity.

(5) *Other conditions.* The unloading of fruit from the vessel, its delivery to an approved fumigation plant, and the fumigation procedure will be under the supervision of an inspector of the Plant Quarantine Division. The unloading and delivery shall be conducted in accordance with such safeguard requirements as the inspector may impose to prevent the dissemination of injurious insects. Final release of the fruit for entry into the United States will be conditioned upon compliance with such safeguard requirements and the prescribed regulations.

(6) *Costs.* All costs of treatment and required safeguards and supervision, other than the services of the supervising inspector during regularly assigned hours of duty and at the usual place of duty, shall be borne by the owner of the mangoes, or his representative.

(7) *Department not responsible for damage.* The treatment prescribed in subparagraph (4) of this paragraph is judged from experimental tests to be safe for use with mangoes. However, the Department assumes no responsibility for any damage sustained through or in the course of treatment, or compliance with requirements under subparagraph (5) of this paragraph or in the precooling of fruit required prior to unloading from the vessel.

(b) *Alternate procedure.* Mangoes produced in Cuba if satisfactorily treated in Cuba and otherwise handled and certified as provided in this paragraph will be eligible for entry under permit under § 319.56–2.

(1) *Approved fumigation.* The mangoes shall be fumigated at approved plants in Cuba in accordance with paragraph (a) (4) of this section.

(2) *Approval of fumigation plants; costs of supervision.* Fumigation in Cuba will be contingent upon the availability of a fumigation plant approved by the Director of the Plant Quarantine Division to apply the treatment prescribed in paragraph (a) (4) of this section and upon the availability of qualified personnel for assignment to approve the plant and to supervise the treatment and post-treatment handling of the mangoes in Cuba. Those in interest must make advance arrangements for approval of the fumigation plant and for supervision, and furnish the Director of the Plant Quarantine Division with acceptable assurances that they will provide, without

cost to the United States Department of Agriculture, all transportation, per diem, and other incidental expenses of such personnel and compensation for such personnel for their services in excess of 40 hours weekly, in connection with such approval and supervision, according to the rates established for the payment of inspectors of the Plant Quarantine Division.

(3) *Supervision of fumigation and subsequent handling.* The fumigation prescribed in this paragraph and the subsequent handling of the mangoes so fumigated must be under the supervision of a representative of the Plant Quarantine Division. The treated fruit must be safeguarded against reinfestation during the period prior to shipment from Cuba, in a manner required by such representative.

(4) *Certification.* Mangoes will be certified by a representative of the Plant Quarantine Division in Cuba for entry into the United States upon the basis of treatment under this paragraph and compliance with the post-treatment safeguard requirements imposed by such representative. The final release of the fruit for entry into the United States will be conditioned upon compliance with such requirements and upon satisfactory inspection on arrival to determine efficacy of treatment.

(5) *Costs.* All costs incident to fumigation, including those for constructing, equipping, maintaining and operating fumigation plants and facilities, and carrying out requirements of post-treatment safeguards, and all costs as indicated in subparagraph (2) of this paragraph incident to plant approval and supervision of treatment and subsequent handling of the mangoes in Cuba shall be borne by the owner of the fruit or his representative.

(6) *Department not responsible for damage.* The treatment prescribed in paragraph (a) (4) of this section is judged from experimental tests to be safe for use with mangoes. However, the Department assumes no responsibility for any damage sustained through or in the course of treatment, or because of post-treatment safeguards.

(7) *Ports of entry.* Mangoes to be offered for entry in accordance with the alternate procedure provided for in this paragraph may be entered under permit at any United States port where an inspector is stationed.

(8) *Ineligible shipments.* Any shipments of mangoes produced in Cuba that are not eligible for certification under the alternate procedure provided for in this paragraph may enter only upon compliance with paragraph (a) of this section.

§ 319.56–2j Administrative instructions prescribing method of fumigation of mangoes and plums from Mexico.

Approved fumigation with ethylene dibromide at normal atmospheric pressure, in accordance with the following procedure, is hereby prescribed as a condition of entry under permit for all shipments of mangoes and plums from Mexico.

(a) *Approved fumigation.* (1) The approved fumigation shall consist of fumigation with ethylene dibromide at normal atmospheric pressure, in a fumigation chamber which has been approved for that purpose by the Plant Quarantine Division. Such chambers must be equipped with a gas-tight glass window to permit a view inside the chamber while fumigation is in progress. The Plant Quarantine Division will approve only those fumigation plants that are properly constructed and adequately equipped to handle and treat mangoes and plums at locations acceptable to the inspector, in areas where required supervision can be furnished. The dosage shall be applied at the rate of 1 pound of ethylene dibromide per 1,000 cubic feet of space for 2 hours at a minimum temperature of 77° F. Cubic feet of space shall include the load. The 2-hour period of exposure shall begin when all of the fumigant has been introduced into the chamber. The required temperature applies to both air and fruit. The ethylene dibromide must be applied in the liquid state and volatilized within the sealed fumigation chamber by direct contact with a highly heated metal surface over an electric hot plate or other suitable heating medium. The gas shall be circulated within the chamber continuously for the 2-hour period by an electric fan or blower.

(2) Mangoes to be fumigated may be packed in export flats with wood excelsior before treatment. Plums to be fumigated may be prepacked in slatted containers and wood excelsior used if desired. Paper wrappings for individual fruits may not be used for mangoes and plums unless authorized in advance by the Plant Quarantine Division. Fruit to be fumigated may also be placed in open field boxes. When loaded in the fumigation chamber the boxes or containers shall be separated by at least 2 inches on all sides by wooden strips or other means. The chamber shall not be loaded to more than one-third capacity.

(b) *Supervision of fumigation.* (1) Inspectors of the Plant Quarantine Division will supervise the fumigation of mangoes and plums and will prescribe such safeguards as may be necessary for the handling, packing, and transportation of the fruit from the time it leaves the treating plant until it reaches the United States port of entry. The final release of the fruit for entry into the United States will be conditioned upon compliance with the prescribed safeguards.

(2) Supervision of fumigation at places in Mexico contiguous to ports of entry where inspectors are regularly stationed will, if practicable, be carried out as a part of normal inspection activities and when so available will be furnished without cost to the owner of the fruit or his representative.

(c) *Costs.* All costs of constructing, equipping, maintaining and operating fumigation plants and facilities, and carrying out precautions prescribed for post-treatment safeguards shall be borne by the owner of the fruit or his representative. Where normal inspection activities preclude the furnishing of supervision during regularly assigned hours of duty, supervision will be furnished on a reimbursable overtime basis and the owner of the fruit or his representative will be charged in accordance with §§ 354.1 and 354.2 of this chapter.

(d) *Approval of fumigation plants.* Approval of fumigation plants in the interior of Mexico or at places removed from ports of entry where inspectors are regularly stationed will be contingent upon compliance with the provisions of paragraph (a) (1) of this section and upon the availability of qualified personnel for assignment to supervise the treatment and post-treatment handling of mangoes and plums. Those in interest must make advance arrangements for approval of the fumigation plant and for supervision, and furnish the Director of the Plant Quarantine Division with acceptable assurances that they will provide, without cost to the United States Department of Agriculture, all salaries, transportation, per diem, and other incidental expenses for the supervising inspectors, including the payment to the inspectors of additional compensation for their services in excess of 40 hours weekly, according to the rates established for the payment of inspectors of the Plant Quarantine Division.

(e) *Department not responsible for damage.* While the prescribed treatment is judged from experimental tests to be safe for use with mangoes and plums, the Department assumes no responsibility for any damage sustained through or in the course of treatment, or because of post-treatment safeguards.

§ 319.56–2k Okra from Mexico.

(a) *Administrative instructions prescribing method of treatment of okra from certain parts of Mexico.* Fumigation with methyl bromide at normal atmospheric pressure, in accordance with the following procedure is hereby prescribed as an alternate condition of importation under permit under § 319.56–2 for all shipments of okra from Mexico, except okra produced in the Imperial Valley of Baja California, Mexico;

(1) *Approval of fumigation room.* The fumigation shall consist of fumigation with methyl bromide at normal atmospheric pressure, in a fumigation room which has been approved for that purpose by the Plant Quarantine Division. The Plant Quarantine Division will approve only those fumigation rooms that are properly constructed and adequately equipped to handle and treat okra, and are located, either within the United States or Mexico, within the practicable supervisory range of a port of entry where inspectors are stationed and where the required supervision can be accomplished without encroaching upon normal port inspection assignments.

(2) *Fumigation schedule.* Such fumigation shall be in accordance with the following fumigation schedule:

Temperature (° F.)	Dosage (pounds of methyl bromide per 1,000 cubic feet)	Exposure period (hours)
90	1.0	2
80	1.5	2
70	2.0	2
60	2.5	2
50	3.0	2
40	3.5	2

(3) *Fumigation procedure.* Okra to be fumigated may be packed in slatted crates or other gas-permeable containers. The fumigation room shall not be loaded to more than two-thirds of its capacity. The containers may be stacked one on top of another, but a 3- to 4-inch space must be provided between each container throughout the load. Good air circulation above and below the load shall be provided as soon as the okra is loaded and must be continued during the full period of fumigation and until the okra has been removed to a well-ventilated location. Strong blasts of air should not be directed against the okra. Fumigation at temperatures in excess of 90° F. may result in injury to okra and should be avoided if possible.

(4) *Supervision of fumigation.* (i) Inspectors of the Plant Quarantine Division will supervise the fumigation of okra and will specify such safeguards as may be necessary for the handling and transportation of the okra before and subsequent to fumigation, if, in the opinion of the inspector this is necessary to assure that there will be no pest risk associated with the importation and treatment. The final release of the okra for entry into the United States will be conditioned upon compliance with the specified safeguards.

(ii) Supervision of approved fumigation rooms will, if practicable, be carried on as a part of normal port inspection activities and when so available will be furnished without cost to the owner of the okra or his representative.

(5) *Costs.* All costs of constructing, maintaining, and operating fumigation plants and facilities, and carrying out the specified pre-treatment and post-treatment safeguards shall be borne by the owner of the okra or his representative. Where normal inspection activities preclude the furnishing of supervision during regularly assigned hours of duty, supervision will be furnished on a reimbursable overtime basis and the owner of the okra or his representative will be charged in accordance with §§ 354.1 and 354.2 of this chapter.

(6) *Department not responsible for damage.* While the prescribed treatment is judged from experimental tests to be safe for use with okra, the Department assumes no responsibility for any damage sustained through or in the course of treatment or because of pre-treatment or post-treatment safeguards. There has not been an opportunity to test these treatments under all conditions or on all okra varieties or on okra from all areas involved.

(b) *Interpretation re importation of okra from Imperial Valley of Baja California.* Okra produced in the Imperial Valley of Baja California, Mexico, may enter under permit and subject to inspection at the ports of Calexico and San Ysidro, California.

§ 319.56–21 Administrative instructions prescribing method of fumigation of field-grown grapes from specified countries.

Approved fumigation with methyl bromide at normal atmospheric pressure, in accordance with the following procedure, is hereby prescribed as a condition of entry under permit for all shipments of field-grown grapes from the continental countries of southern and middle Europe, North Africa, and the Near East listed in paragraph (a) of this section. This fumigation shall be in addition to other conditions prescribed in the permit as conditions of entry for field-grown grapes from the areas named.

(a) *Continental countries of southern and middle Europe, North Africa, and the Near East.* As used in this section, the term "continental countries of southern and middle Europe, North Africa, and the Near East" means Algeria, Austria, Bulgaria, Cyprus, Egypt, France, Germany, Greece, Hungary, Israel, Italy, Libya, Luxembourg, Portugal, Spain, Switzerland, Syria, and Union of Soviet Socialist Republics.

(b) *Ports of entry.* Grapes to be offered for entry must be shipped from the country of origin to New York or such other North Atlantic ports as may be named in the permit.

(c) *Precooling of fruit.* Grapes to be offered for entry must be shipped under refrigeration and the fruit may not be removed from the vessel until the inspector has satisfied himself that this requirement has been complied with and that the fruit can be moved promptly for treatment without danger of plant pest dissemination.[5]

(d) *Approved fumigation.* Approved fumigation shall consist of fumigation with methyl bromide at normal atmospheric pressure in a fumigation chamber that has been approved for that purpose by the Plant Quarantine Division. The fumigation may also be accomplished under tarpaulins in a manner, satisfactory to the inspector, that will insure adequate air and fruit temperatures, volatilization, distribution, and concentration of the fumigant. Such fumigation shall be in accordance with the following fumigation schedule:

Temperature, degrees F.	Methyl bromide dosage in pounds per 1,000 cubic feet	Exposure time-hours
70–79	2	2½
60–69	2½	2½
50–59	3	2½
40–49	3½	2½

(e) *Supervision of fumigation.* Inspectors of the Plant Quarantine Division shall supervise the fumigation of grapes and shall prescribe such safeguards as may be necessary for unloading, handling, and transportation preparatory to fumigation or other treatment. The final release of the fruit for entry into the United States will be conditioned upon compliance with prescribed safeguards and required treatments.

(f) *Costs.* All costs of treatment and required safeguards and supervision, other than the services of the supervising inspector during regularly assigned hours of duty and at the usual place of duty, shall be borne by the owner of the grapes or his representative.

(g) *Department not responsible for damage.* The treatment prescribed in paragraph (d) of this section is judged from experimental tests to be safe for use with field-grown grapes. However, the Department assumes no responsibility for any damage sustained through or in the course of such treatment or by compliance with requirements under paragraph (e) of this section or in the precooling of fruit required prior to unloading from the vessel.

§ 319.56–2m Administrative instructions prescribing method of treatment of imported yams.

(a) *Fumigation upon arrival.* Except as otherwise provided in paragraph (b) of this section, approved fumigation with methyl bromide at normal atmospheric pressure, in accordance with the following procedure, upon arrival at the port of entry, is hereby prescribed as a condition of importation under permit under § 319.56–2 for shipments of yams from all foreign countries.

(1) *Ports of entry.* Yams to be offered for entry may be shipped, under permit under § 319.56–2, direct from the country of origin to ports in the United States where approved fumigation facilities are available.

(2) *Approved fumigation.* (i) The approved fumigation shall consist of fumigation with methyl bromide at normal atmospheric pressure, in a fumigation chamber that has been approved for that purpose by the Plant Quarantine Division. The dosage shall be applied at the following rates:

Temperature (° F.)	Dosage (pounds of methyl bromide per 1,000 cubic feet)	Exposure period (hours)
90–96	2.5	4
80–89	3.0	4
70–79	3.5	4

(ii) Yams to be fumigated may be packed in slatted crates or other gas-permeable containers. The fumigation chamber shall not be loaded to more than two-thirds of its capacity. The four-hour exposure period shall begin when all the fumigant has been introduced into the chamber and volatilized. Cubic feet of space shall include the load of yams to be fumigated. The required temperatures apply to both the air and the yams. Good circulation above and below the load shall be provided as soon as the yams are loaded in the chamber and shall continue during the full period of fumigation and until the yams have been removed to a well-ventilated location. Fumigation of yams below the minimum temperature prescribed in the fumigation schedule may result in injury to the yams and should be avoided. Yams are sensitive to bruising and should be carefully packed to prevent this. At the same time they should be given as much aeration as possible.

(3) *Other conditions.* (i) Inspectors of the Plant Quarantine Division will

[5] Grapes from countries where the Mediterranean fruit fly occurs are subject to the cold treatment as described in § 319.56–2d; P. Q. 583. Under certain conditions such treatment may be effected in transit or upon arrival at the port of New York.

supervise the fumigation of yams and will specify such safeguards as may be necessary for their handling and transportation before and after fumigation, if, in the opinion of the inspector, this is necessary to assure there will be no pest risk associated with the importation and treatment. Final release of the yams for entry into the United States will be conditioned upon compliance with the specified safeguards.

(ii) Supervision of approved fumigation chambers will, if practicable, be carried on as a part of normal port inspection activities. When so available such supervision will be furnished without cost to the owner of the yams or his representative.

(4) *Costs.* All costs of treatment and required safeguards and supervision, other than the services of the supervising inspector during regularly assigned hours of duty and at the usual place of duty, shall be borne by the owner of the yams, or his representative.

(5) *Department not responsible for damage.* While the prescribed treatment is judged from experimental tests to be safe for use with yams, the Department assumes no responsibility for any damage sustained through or in the course of treatment or because of pretreatment or posttreatment safeguards.

(b) *Alternate procedures.* (1) Yams produced in Japan and offered for entry under a permit issued in accordance with § 319.56–2 shall be subject to examination by an inspector at the port of entry. If this examination shows the yams to be free of plant pests, they may be imported without the fumigation required by paragraph (a) of this section.

(2) Yams produced in Cuba, if satisfactorily treated in Cuba and otherwise handled and certified as provided in this subparagraph will be eligible for entry under permit under § 319.56–2.

(i) *Approved fumigation.* The yams shall be fumigated at approved plants in Cuba in accordance with paragraph (a)(2) of this section.

(ii) *Approval of fumigation plants; costs of supervision.* Fumigation in Cuba will be contingent upon the availability of a fumigation plant, approved by the Director of the Plant Quarantine Division, to apply the treatment prescribed in paragraph (a)(2) of this section and upon the availability of qualified personnel for assignment to approve the plant and to supervise the treatment and posttreatment handling of the yams in Cuba. Those in interest must make advance arrangements for approval of the fumigation plant and for supervision, and furnish the Director of the Plant Quarantine Division with acceptable assurances that they will provide, without cost to the United States Department of Agriculture, for all transportation, per diem, and other incidental expenses of such personnel and compensation for such personnel for their services in excess of 40 hours weekly, in connection with such approval and supervision, according to the rates established for the payment of inspectors of the Plant Quarantine Division.

(iii) *Supervision of fumigation and subsequent handling.* The fumigation prescribed in this paragraph and the subsequent handling of the yams so fumigated must be under the supervision of a representative of the Plant Quarantine Division. The treated yams must be safeguarded against insect infestation during the period prior to shipment from Cuba, in a manner required by such representative.

(iv) *Certification.* Yams will be certified by a representative of the Plant Quarantine Division in Cuba for entry into the United States upon the basis of treatment under this subparagraph and compliance with the posttreatment safeguard requirements imposed by such representative. The final release of the yams for entry into the United States will be conditioned upon compliance with such requirements and upon satisfactory inspection on arrival to determine efficacy of treatment.

(v) *Costs.* All costs incident to fumigation, including those for construction, equipping, maintaining and operating fumigation plants and facilities, and carrying out requirements of posttreatment safeguards, and all costs as indicated in subdivision (ii) of this subparagraph incident to plant approval and supervision of treatment and subsequent handling of the yams in Cuba shall be borne by the owner of the yams or his representative.

(vi) *Department not responsible for damage.* The treatment prescribed in paragraph (a)(2) of this section is judged from experimental tests to be safe for use with yams. However, the Department assumes no responsibility for any damage sustained through or in the course of treatment, or because of posttreatment safeguards.

(vii) *Ports of entry.* Yams to be offered for entry in accordance with the alternate procedure provided for in this subparagraph may be entered under permit under § 319.56–2 at any United States port where an inspector is stationed.

(viii) *Ineligible shipments.* Any shipments of yams produced in Cuba that are not eligible for certification under the alternate procedure provided for in this subparagraph may enter only upon compliance with paragraph (a) of this section.

§ 319.56–3 Applications for permits for importation of fruits and vegetables.

(a) Persons contemplating the importation of fruits or vegetables the entry of which is authorized in the regulations in this subpart shall first make application to the Plant Quarantine Division for a permit, stating in the application the country or locality of origin of the fruits or vegetables, the port of first arrival, and the name and address of the importer in the United States to whom the permit should be sent.

(b) Applications for permits should be made in advance of the proposed shipments; but if, through no fault of the importer, a shipment should arrive before a permit is received, the importation will be held in customs custody at the port of first arrival, at the risk and expense of the importer, for a period not exceeding 20 days pending the receipt of the permit.

(c) Application may be made by telegraph, in which case the information required above must be given.

(d) A separate permit must be secured for shipments from each country and for each port of first arrival in the United States.

§ 319.56–4 Issuance of permits.

Upon receipt of an application and upon approval by an inspector a permit will be issued specifying the conditions of entry and the port of entry to carry out the purposes of this subpart, and a copy will be supplied to the importer.

§ 319.56–5 Notice of arrival by permittee.

(a) Immediately upon the arrival of fruits or vegetables, from the countries specified in § 319.56, at the port of first arrival, the permittee or his agent shall submit a notice, in duplicate, to the Plant Quarantine Division, through the United State Collector of Customs, or, in the case of Guam, through the Customs officer of the Government of Guam, on forms provided for that purpose, stating the number of the permit; the kinds of fruits or vegetables; the quantity or the number of crates or other containers included in the shipment; the country or locality where the fruits or vegetables were grown; the date of arrival; the name of the vessel, the name and the number, if any, of the dock where the fruits or vegetables are to be unloaded, and the name of the importer or broker at the port of first arrival, or, if shipped by rail, the name of the railroad, the car numbers, and the terminal where the fruits or vegetables are to be unloaded.

(b) Permits may be revoked and other permits refused if the permittee or his agent fails to submit the notice of arrival or gives a false notice or in any other way violates the quarantine.

§ 319.56–6 Inspection and disinfection of importations of fruits and vegetables.

(a) All importations of fruits or vegetables shall be subject, as a condition of entry, to such inspection or disinfection, or both, at the port of first arrival, as shall be required by the inspector of the Department of Agriculture, and shall be subject to reinspection at destination at the option of said Department.

(b) Should any shipment of fruits or vegetables be found to be so infested with fruitflies or other dangerous pests that, in the judgment of the inspector of the Department of Agriculture, it cannot be cleaned by disinfection or treatment, or to contain leaves, twigs, or other portions of plants as packing or otherwise, the entire shipment may be refused entry.

(c) No crate, box, hamper, or other container of fruits or vegetables, or fruits and vegetables in bulk, shall be removed from the port of first arrival unless and until a written notice is given to the collector of customs by the inspector of the United States Department of Agriculture that the products have been inspected and found to be free from infestation and from plants or portions of plants used

as packing or otherwise: *Provided,* That the requirements under the regulations in this subpart with respect to the entry of foreign fruits and vegetables into any State for local consumption shall not be a bar to the enforcement of such additional safeguards as may be deemed necessary by the officials of such States.

(d) All charges for storage, cartage, and labor incident to inspection and disinfection, other than the services of the inspector, shall be paid by the importer.

§ 319.56–7 Inspection of baggage and cargo on the dock.

Inspectors of the United States Department of Agriculture are authorized to cooperate with the customs inspectors in the examination of all baggage or other personal belongings of passengers or members of crews of vessels or other carriers whenever such examination is deemed necessary for the purpose of enforcing the provisions of § 319.56 with respect to the entry of any prohibited or restricted fruits or vegetables or plants or portions of plants which may be contained in the baggage or other belongings of such persons.

§ 319.56–8 Territorial applicability.

The regulations in this subpart shall apply with respect to importations into the continental United States, Alaska, Guam, Hawaii, Puerto Rico, and the Virgin Islands of the United States.

Subpart—Flag Smut

QUARANTINE

§ 319.59 Notice of quarantine.

(a) Pursuant to sections 5 and 7 of the Plant Quarantine Act of 1912, as amended (7 U. S. C. 159, 160), and having given the public hearing required thereunder, the Secretary of Agriculture hereby determines that the unrestricted importation into the United States of (1) grain of any and all species and varieties of wheat (Triticum spp.); (2) wheat straw, hulls, and chaff; (3) wheat products of the milling process, such as bran, shorts, thistle sharps, and pollards, but excluding wheat flour; and (4) seeds of Melilotus indica and of any other field crops that have been separated from wheat during the process of screening; from Aden Protectorate, Afghanistan, Australia, Bulgaria, Caucasus (including but not limited to Azerbaidzhan, South Russia, and Transcaucasia), Chile, China, Cyprus, Egypt, Greece, India, Iran, Iraq, Israel, Italy, Japan, Oman, Pakistan, Palestine, Portugal, Saudi Arabia, Sinai Peninsula, Spain, Syria, Trans-Jordan, Tunisia, Turkestan, Turkey, Union of South Africa, and Yemen, may result in the entry into the United States of the flag smut disease of wheat, an injurious plant disease caused by the fungus Urocystis tritici Koernicke, and said Secretary hereby further determines that, in order to prevent the introduction into the United States of said disease which is not heretofore widely prevalent or distributed within and throughout the United States, it is necessary to forbid the importation into the United States of the aforesaid products from the foreign countries and localities specified above, except as permitted in the regulations supplemental hereto (§§ 319.59–1 to 319.59–7). Hereafter such products shall not be imported or offered for entry into the United States from such foreign countries and localities except as permitted by said regulations, and the products permitted by the regulations to be imported or offered for entry shall be subject to the provisions of sections 1, 2, 3, and 4 of said Plant Quarantine Act (7 U.S.C. 154, 156, 157, and 158): *Provided,* That whenever the Director of the Plant Quarantine Division shall find that existing conditions as to pest risk involved in the importation of the articles to which the regulations supplemental hereto apply, make it safe to modify, by making less stringent, the restrictions contained in any of such regulations, he shall publish such findings in administrative instructions, specifying the manner in which the regulations shall be made less stringent, whereupon such modification shall become effective; or he may, when the public interests will permit, with respect to the importation of such articles into Guam, upon request in specific cases, authorize such importation under conditions specified in the permit to carry out the purposes of this subpart, that are less stringent than those contained in the regulations.

(b) As used in this section, the term "United States" shall have the meaning ascribed to it in the regulations supplemental hereto (§ 319.59–1(j)). Applicability of the provisions in this subpart to imports into Guam shall be limited to the provisions restricting the importation of wheat straw, hulls, and chaff.

§ 319.59a Administrative instructions relating to the entry into Guam of wheat straw, hulls, and chaff.

Wheat straw, hulls, and chaff may be imported into Guam without further permit, other than the authorization contained in this section, and without other restriction under this subpart. Notice of arrival for such importations is not necessary inasmuch as there is available to the inspector the essential information normally supplied by the importer at the time of importation. Inspection of such importations may be made under the general authority of § 330.105(a) of this chapter. If an importation is found infected, infested, or contaminated by any plant pest and is not subject to disposal under this part, disposition may be made in accordance with § 330.106 of this chapter.

RULES AND REGULATIONS

§ 319.59–1 Definitions.

For the purposes of the regulations in this subpart, the following words shall be construed, respectively, to mean:

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

(b) *Division.* The Plant Quarantine Division, United States Department of Agriculture.

(c) *Inspector.* Any person authorized by the Secretary of Agriculture of the United States to enforce the provisions of the Plant Quarantine Act.

(d) *Person.* Any individual, firm, corporation, company, society, association, or other organized group of any of the foregoing.

(e) *Flag smut.* The fungus disease known as the flag smut disease of wheat (Urocystis tritici Koern.), in any stage of development.

(f) *Wheat straw, hulls, or chaff.* Straw, hulls, or chaff of wheat, whether imported independently or in connection with any other importation.

(g) *Containers.* Bags of gunny or any other fabric that are being used as containers for wheat straw, hulls, or chaff or seeds specified in § 319.59.

(h) *Importer.* The permittee, agent of the permittee, or other person bringing to the United States any product which is subject to this subpart.

(i) *Imported.* Brought to the United States from a country or locality designated in § 319.59, whether directly therefrom or via another country or locality.

(j) *United States.* Any of the States, the District of Columbia, Alaska, Guam, Hawaii, Puerto Rico or the Virgin Islands of the United States.

(k) *Permit.* An authorization for the importation of products in accordance with the regulations in this subpart.

§ 319.59–2 Products prohibited importation.

Wheat grain and wheat products of the milling process, except wheat flour and except such other wheat products as have been so milled or so processed as to have destroyed all flag smut spores, are prohibited importation except as provided in § 319.59–7.

§ 319.59–3 Enterable products and conditions for their entry.

(a) Upon compliance with the requirements for permits in § 319.59–5 and notice of arrival in § 319.59–6, the following products may be entered under the conditions stated:

(1) *Wheat products other than flour.*[1] Wheat products of the milling process (other than wheat flour which is not subject to this subpart) may be entered after it has been determined by an inspector that such products have been so milled or so processed as to have destroyed all flag smut spores that may have been present.

(2) *Certain field crop seeds; wheat straw, hulls, and chaff.* Seeds of Melilotus indica and seeds of any other field crops that have been separated from wheat during the screening process and wheat straw, hulls, and chaff may be entered subject to treatment of such products and the containers thereof under § 319.59–4 upon arrival.

[1] Section 319.8–10 restricts the importation from countries where the flag smut disease is known to occur of bags, slit bags, parts of bags, or other covers, that have been previously used as containers of wheat or wheat products not so processed as to have destroyed all flag smut spores, or that have been previously used as containers of field seeds separated from wheat during the process of screening.

§ 319.59–4 Treatment.

All products subject to § 319.59–3(a)(2) and their containers as a condition of entry shall be treated upon arrival in the United States by the application of 5-percent ethyl mercury phosphate dust, or other chemical or method found by the Director of the Division to be substantially as effective as 5-percent ethyl mercury phosphate dust in eliminating flag smut infection; or shall be processed or utilized as authorized by the inspector in a manner to destroy such infection, at an approved mill or plant under an agreement similar to that provided for in § 319.8–8(a)(2). The schedule of treatment or method of processing or utilization of products under this section shall be according to a method selected by the inspector from administratively authorized procedures known to be effective under the conditions and with due recognition of any health hazards involved. Neither the Department of Agriculture nor the inspector shall be deemed responsible for any adverse effects of any such treatment. Treated seeds should be planted without delay in order to avoid reduced germination. All costs of such treatments, other than the services of an inspector during regularly assigned hours of duty and at the usual places of duty, shall be paid by the importer.

§ 319.59–5 Applications for and issuance of permits.

(a) Any person desiring to import products eligible for importation under this subpart shall, in advance of such importation, submit to the Division an application stating the name and address of the importer, the approximate quantity and kinds of products it is desired to import, the country where grown, the port of entry into the United States, the name and address of the agent, if any, representing the importer, and the means of transportation to be employed. Such products may be imported only after a permit has been issued therefor.

(b) Permits for the importation of products under this subpart are conditioned upon compliance with all requirements set forth therein and such additional requirements in this subpart as are in terms applicable thereto. Failure to comply with any such requirement will be deemed to invalidate the permit.

(c) Pending development of adequate treating facilites in Guam, any wheat straw, hulls, or chaff that are subject to treatment as a condition of entry therein must first be entered and treated in accordance with the requirements of this subpart at a United States port of arrival where such treating facilities are available.

§ 319.59–6 Notice of arrival.

A notice of arrival shall be submitted by the importer, in duplicate, through the United States Collector of Customs, or, in the case of Guam, through the Customs officer of the Government of Guam, to the Plant Quarantine Division, immediately upon arrival at a port of entry of any shipment of products subject to this subpart. Such notice shall be submitted on a form provided for that purpose by the Plant Quarantine Division (Form PQ–368) and shall contain the information called for by that form.

§ 319.59–7 Importations for experimental and scientific purposes.

Products subject to this subpart may be imported by the United States Department of Agriculture for experimental or scientific purposes, on such conditions and under such safeguards as may be prescribed by the Director of Division. The containers of products so imported shall bear, securely attached to the outside thereof, an identifying tag from the Division.

Subpart—Packing Materials

QUARANTINE

§ 319.69 Notice of quarantine.

By virtue of the act of August 20, 1912 (37 Stat. 315; 7 U.S.C. 151–167), the public hearing required thereby having been duly held, notice is hereby given as follows:

(a) On and after July 1, 1933, the following plants and plant products, when used as packing materials, are prohibited entry into the United States from the countries and localities named:

(1) Rice straw, hulls, and chaff; from all countries.

(2) Corn and allied plants (maize, sorghum, broomcorn, Sudan grass, napier grass, jobs-tears, teosinte, Polytoca, Sclerachne, Chionachne); all parts, from all countries except Mexico, and the countries of Central America, the West Indies, and South America.

(3) Cotton and cotton products (lint, waste, seed cotton, cottonseed, and cottonseed hulls); from all countries.

(4) Sugarcane; all parts of the plant including bagasse, from all countries.

(5) Bamboo; leaves and small shoots, from all countries.

(6) Leaves of plants; from all countries.

(7) Forest litter; from all countries.

(8) Soil containing an appreciable admixture of vegetable matter, from all countries, except such types of soil or earth as are authorized as safe for packing by the rules and regulations promulgated supplemental to this quarantine.

Exceptions to the above prohibitions may be authorized in the case of specific materials which have been so prepared, manufactured, or processed that in the judgment of the inspector no pest risk is involved in their entry.

(b) On and after June 8, 1953, the following plants and plant products when used as packing materials will be permitted entry into the United States from the countries and localities designated below only in accordance with the regulations supplemental to this quarantine:

(1) Cereal straw, hulls, and chaff (such as oats, barley, and rye), from all countries, except rice straw, hulls, and chaff which are prohibited importation from all countries by paragraph (a) of this section, and except wheat straw, hulls, and chaff which are restricted importation by § 319.59 from Aden Protectorate, Afghanistan, Australia, Bulgaria, Caucasus (including but not limited to Azerbaidzhan, South Russia, and Transcaucasia), Chile, China, Cyprus, Egypt, Germany, Greece, India, Iran, Iraq, Israel, Italy, Japan, Oman, Pakistan, Palestine, Portugal, Saudi Arabia, Sinai Peninsula, Spain, Syria, Trans-Jordan, Tunisia, Turkestan, Turkey, Union of South Africa, and Yemen.

(2) Corn and allied plants (maize, sorghum, broomcorn, Sudan grass, napier grass, jobs-tears, teosinte, Polytoca, Sclerachne, Chionachne); all parts, from Mexico and the countries of Central America, the West Indies, and South America.

(3) Willow twigs; from Europe.

(4) Grasses and hay and similar indefinite dried or cured masses of grasses, weeds, and herbaceous plants; from all countries.

(5) Soil containing an appreciable admixture of vegetable matter, from all countries, which is authorized as safe for packing by the rules and regulations promulgated supplemental to this quarantine.

(c) However, whenever the Director of the Plant Quarantine Division shall find that existing conditions as to pest risk involved in the movement of the articles to which the regulations supplemental hereto apply, make it safe to modify, by making less stringent, the restrictions contained in any of such regulations, he shall publish such findings in administrative instructions, specifying the manner in which the regulations shall be made less stringent, whereupon such modification shall become effective; or he may, when the public interests will permit, with respect to the importation of such articles into Guam, upon request in specific cases, authorize such importation under conditions, specified in the permit to carry out the purposes of this subpart, that are less stringent than those contained in the regulations.

(d) This quarantine shall leave in full force and effect all other quarantines and orders.

(e) As used in this subpart, unless the context otherwise requires, the term "United States" means the States, the District of Columbia, Alaska, Guam, Hawaii, Puerto Rico, and the Virgin Islands of the United States.

§ 319.69a Administrative instructions and interpretation relating to the entry into Guam of plant materials specified in § 319.69.

(a) Plants and products designated in §§ 319.69(a)(1), (3), (4), and (5) and (b)(1), (3), and (4) as prohibited or restricted entry into the United States from the countries and localities named may be imported into Guam as packing materials without prohibition or restriction under this subpart. Inspection of such importations may be made under the general authority of § 330.105(a) of this chapter. If an importation is found infected, infested, or contaminated with any plant pest and is not subject to disposal under this part, disposition may be made in accordance with § 330.106 of this chapter.

(b) Corn and allied plants listed in § 319.69(a)(2) may be imported into Guam subject to the requirements of §§ 319.69–2, 319.69–3, and 319.69–4.

(c) Under § 319.69(a) (6) and (7), coconut fronds and other parts of the coconut trees are prohibited entry into Guam as packing materials except as permitted in § 319.37–16a.

RULES AND REGULATIONS

§ 319.69–1 Definitions.

(a) *Packing materials.* The expression "packing material", as used in § 319.69, includes any of the plants or plant products enumerated, when these are associated with or accompany any commodity or shipment to serve for filling, wrapping, ties, lining, mats, moisture retention, protection, or for any other purpose; and the word "packing", as used in the expression "packing materials", shall include the presence of such materials within, in contact with, or accompanying such commodity or shipment.[1]

(b) *Soil containing vegetable matter.* Soil containing an appreciable admixture of vegetable matter, here brought under quarantine only because its content of decaying vegetation or plant remains carries a definite pest risk, is to be distinguished from soil of purely mineral or earthy composition, which is not covered by this quarantine.

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

§ 319.69–2 Freedom from pests.

All packing materials allowed entry under restriction shall be free from injurious insects and plant diseases.

§ 319.69–3 Entry inspection.

All packing materials shall be subject to inspection at time of entry.

§ 319.69–4 Disposition of materials found in violation.

If the inspector shall find packing materials associated with or accompanying any commodity or shipment being imported, or to have been imported, in violation of § 319.69 or of the regulations in this subpart or shall find them infested or infected with injurious insects or plant diseases, he may refuse entry to the shipment, or he may seize and destroy or otherwise dispose of such packing material, or he may require it to be replaced, or sterilized, or otherwise treated.

§ 319.69–5 Types of soil authorized for packing.

The following types of soil or earth are authorized as safe for packing: (a) Peat, (b) peat moss, and (c) Osmunda fiber.

Subpart—Dutch Elm Disease

QUARANTINE

§ 319.70 Notice of quarantine.

(a) The Secretary of Agriculture, having given the public hearing required by law, has determined that an injurious plant disease known as the Dutch elm disease, caused by the fungus Ceratostomella ulmi Buisman (Graphium ulmi Schwarz), not heretofore widely prevalent or distributed within and throughout the United States, exists in various countries of the continent of Europe as well as certain foreign areas north of the United States. Therefore, pursuant to the provisions of the Plant Quarantine Act of August 20, 1912 (37 Stat. 316 and 317; 7 U.S.C. 159 and 160), the Secretary of Agriculture forbids the importation into the United States from the continent of Europe, and the Dominion of Canada and other foreign areas north of the United States, including Newfoundland, Labrador, St. Pierre, Miquelon and islands adjacent thereto of (1) seeds, leaves, plants, cuttings, and scions of elm and related plants; (2) logs of elm and related plants; (3) lumber, timber, and veneer of such plants if bark is present on them; and (4) crates, boxes, barrels, packing cases, and other containers, and other articles manufactured in whole or in part of the wood of elm or related plants, if such wood is not free from bark, except as provided in the regulations supplemental to this quarantine: *Provided,* That this prohibition shall not apply to importation into Guam of the products designated in this section, but such importations of elm plants and parts thereof and seeds, for propagation, are subject to the requirements of §§ 319.37–4(b) and 319.37–6.

(b) As used in this subpart, unless the context otherwise requires, the term "United States" means the States, the District of Columbia, Alaska, Hawaii, Puerto Rico, and the Virgin Islands of the United States.

RULES AND REGULATIONS

§ 319.70–1 Definitions.

For the purposes of the regulations in this part, the following words, names, and terms shall be construed respectively, to mean:

(a) *Dutch elm disease.* The fungus disease of elms caused by Ceratostomella ulmi Buisman (Graphium ulmi Schwarz), in any stage of development.

(b) *Elm and related plants.* Plants of the botanical family Ulmaceae, comprising all species of the following genera: Ampelocera, Aphananthe, Barbeya, Celtis, Chaetachne, Chaetoptelca, Gironniera, Holoptelea, Lozanella, Parasponia, Phyllostylon, Planera, Pteroceltis, Trema, Ulmus and Zelkova.

(c) *Certificate of origin.* A certificate issued and signed by an authorized governmental official of the country of origin stating that the products in the shipment were grown in a country, territory, or province where the Dutch elm disease is not known to occur.

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

§ 319.70–2 Conditions governing the entry of elm and related plants from Europe.

(a) Products designated in § 319.70 may not be imported into the United States from the Continent of Europe: *Provided, however,* That under unusual circumstances an exception to this prohibition may be authorized by the Secretary of Agriculture for entry of such products under permit, under such conditions and regulations as he may prescribe, or when the particular products have been or are to be so treated, prepared, or processed that, in his judgment, their entry involves no risk of pest introduction.

§ 319.70–3 Conditions governing the entry of elm and related plants from Canada and other foreign areas north of the United States.

(a) Products designated in § 319.70 (other than seeds) may not be imported into the United States from the Province of Quebec, Canada.

(b) Logs, lumber, and any other parts of elm and related plants incapable of propagation may be imported into the United States under permit issued in accordance with § 319.70–4 and notice of arrival executed in accordance with § 319.70–5 when they have originated in either the Dominion of Canada (other than the Province of Quebec) or the other foreign areas north of the United States designated in § 319.70. Permit and notice of arrival requirements for such importations may be waived by the inspector when the products are accompanied by a certificate of origin.

(c) Clean seeds from any of the designated foreign areas north of the United States and other propagative materials of elm and related plants from these same areas (other than the Province of Quebec) are hereby exempted from the provisions of § 319.70. Admission of these products, however, is subject to the provisions of the Nursery Stock, Plant, and Seed Quarantine, No. 37 (§§ 319.37 to 319.37–24).

§ 319.70–4 Procedure for obtaining permits.

Persons desiring to import products of elm or related plants incapable of propagation, the entry of which is regulated by the regulations in this part, shall submit to the Plant Quarantine Division an application[1] stating the name and address of the importer, the country, and, in the case of Canada, the province, from which the material is to be imported, the approximate quantity of the commodity for which a permit is desired, and the proposed United States port of entry. Upon receipt and approval of such application by the Plant Quarantine Division, a permit will be issued authorizing the importation and specifying the authorized port of entry and the pertinent conditions and requirements for entry.

§ 319.70–5 Notice of arrival.

Immediately upon the arrival at a port of entry of any material, the entry of which is permissible only under permit, the permittee shall submit to the Plant Quarantine Division, through the Collector of Customs, duplicate copies of a notice of arrival. Forms for this

[1] Since it is the packing materials themselves which constitute the danger and not the manner of use, it is intended that the definition shall include their presence within or accompanying a shipment regardless of their function or relation to a shipment or the character of the shipment.

[1] Address applications to Plant Importations Branch, Plant Quarantine Division, 209 River Street, Hoboken, New Jersey.

purpose are available from either the Plant Quarantine Division or the Collector of Customs.

§ 319.70–6 Shipments for experimental or scientific purposes.

Articles governed by § 319.70 may be imported for experimental or scientific purposes by the Uinted States Department of Agriculture upon such conditions and restrictions as the Director of the Plant Quarantine Division may prescribe.

Subpart—Coffee

QUARANTINE

§ 319.73 Notice of quarantine.

Pursuant to sections 5, 7, and 9 of the Plant Quarantine Act of 1912, as amended, and section 106 of the Federal Plant Pest Act (7 U.S.C. 159, 160, 162, 150ee), and after the public hearing required thereunder, the Administrator of the Agricultural Research Service hereby determines that the unrestricted importation into Puerto Rico and Hawaii from all foreign countries and localities of (a) the seeds or beans of coffee which, previous to importation, have not been roasted to a degree which, in the judgment of an inspector of the Department of Agriculture, will have destroyed coffee borers in all stages, (b) coffee berries or fruits, (c) coffee plants and leaves, and (d) empty sacks previously used for unroasted coffee, may result in the entry into Puerto Rico and Hawaii of the coffee berry borer (Stephanoderes hampei Ferr. [S. coffeae Hgdn.]) and an injurious rust disease caused by the fungus Hemileia vastatrix B. and Br., and said Administrator hereby further determines, that, in order to prevent the introduction into Puerto Rico and Hawaii of said insect pest and coffee disease, which are new to and not heretofore widely prevalent or distributed within and throughout the United States, it is necessary to forbid the importation into Puerto Rico and Hawaii of the products and plants specified above, except as permitted in the regulations supplemental hereto. Hereafter, the products and plants specified above shall not be imported or offered for entry into Puerto Rico and Hawaii from any foreign country or locality except as permitted by said regulations. However, whenever the Director of the Plant Quarantine Division shall find that existing conditions as to pest risk involved in the importation of one or more of the products to which this subpart applies, make it safe to modify, by making less stringent, the restrictions contained in any such regulations, he shall publish such findings in administrative instructions, specifying the manner in which the regulations shall be made less stringent, whereupon such modification shall become effective; or he may, upon request in specific cases, when the public interests will permit, authorize such importation under conditions specified in the permit to carry out the purposes of this part that are less stringent than those contained in the regulations.

REGULATIONS

§ 319.73–1 Definitions.

For the purposes of the provisions in this subpart, unless the context otherwise requires, the following words shall be construed, respectively, to mean:

(a) *Division.* The Plant Quarantine Division, Agricultural Research Service of the Department.

(b) *Director.* The Director of the Plant Quarantine Division of the Agricultural Research Service of the Department, or any officer or employee of the Division to whom authority has heretofore been delegated or may hereafter be delegated to act in his stead.

(c) *Inspector.* Any person authorized by the Secretary of Agriculture of the United States to enforce the provisions of the Plant Quarantine Act.

(d) *Permit.* A form of authorization to allow the importation of certain products in accordance with the regulations in this subpart.

§ 319.73–2 Products prohibited importation.

The seeds or beans of coffee which, previous to importation, have not been roasted to a degree which, in the judgment of an inspector, will have destroyed coffee borers in all stages; coffee berries or fruits; coffee plants and leaves; and empty sacks previously used for unroasted coffee; are prohibited importation into Puerto Rico and Hawaii, except as provided in §§ 319.73–3 and 319.73–4.

§ 319.73–3 Conditions for importation of certain products into Puerto Rico.

(a) *Coffee samples.* Samples of unroasted coffee seeds and beans, not exceeding one pound in weight, may be imported into Puerto Rico under permit by mail, freight, express, or baggage. They shall be subject, on arrival, to inspection and fumigation or such other treatment as may be required by the inspector.

(b) *In-transit shipments.* In-transit shipments of unroasted coffee seeds and beans through Puerto Rico to foreign countries shall be subject to the Plant Safeguard Regulations (Part 352 of this chapter). The same restrictions shall apply to shipments of these products in transit through Puerto Rico to destinations elsewhere in the United States.

(c) *Empty sacks previously used for unroasted coffee.* Empty sacks previously used for unroasted coffee may be imported into Puerto Rico under permit subject to inspection by an inspector. If found to be contaminated with unroasted coffee seeds, beans, or berries, the sacks shall be immediately disinfected by the person in charge or possession of such sacks, under the supervision of an inspector and in the manner prescribed by him.

§ 319.73–4 Conditions for in-transit movement of certain products through Hawaii.

(a) In-transit shipments through Hawaii of samples of unroasted coffee seeds and beans in closed mail dispatches, destined to foreign countries or to destinations elsewhere in the United States in compliance with this subpart, will be allowed to proceed without action by the inspector. Other samples of unroasted coffee seeds or beans received by mail in the post offices in Hawaii shall be subject to inspection and safeguard action by the inspector, who shall require their immediate return to origin or immediate forwarding to a destination elsewhere in the United States in compliance with this subpart. Such return or onward movement shall be in closed mail dispatches. If immediate action is not possible they shall be destroyed as a prohibited importation.

(b) Samples of unroasted coffee seeds or beans coming to Hawaii as cargo and not unloaded in Hawaii may be allowed to proceed to a foreign destination or to a destination elsewhere in the United States in compliance with this subpart. If the samples are transshipped in Hawaii, it shall be done immediately and the inspector shall see that the samples are properly wrapped or packaged to prevent pest escape and, if necessary, shall require the carrier to rewrap or package them to the inspector's satisfaction.

(c) Other mail, cargo and baggage shipments of products covered by § 319.73–2, arriving in Hawaii shall not be unloaded or transshipped in Hawaii and shall be subject to the inspection and other applicable requirements of the Plant Safeguard Regulations (Part 352 of this chapter).

§ 319.73–5 Costs.

All costs incident to the inspection, handling, cleaning, safeguarding, treating, or other disposal of products or articles under this subpart, except for the services of an inspector during regularly assigned hours of duty and at the usual places of duty, shall be borne by the owner, or his agent, having responsible custody thereof.

Subpart—Cut Flowers

QUARANTINE

§ 319.74 Notice of quarantine.

(a) The Secretary of Agriculture, having given the public hearing required by law and having determined the pest risk involved, forbids the importation of cut flowers into the United States from foreign countries, including those in Europe, Asia, Africa, Australia, South America, Central America, North America, and other foreign countries and islands (other than cut flowers produced in the Dominion of Canada, Labrador, Newfoundland, and the United States), except as provided in the regulations supplemental to this subpart.

(b) This subpart shall not be construed to modify provisions applicable to cut flowers included in special quarantine or other restrictive orders now in force or hereafter promulgated.

(c) As used in this section, the term "United States" means the continental United States, Alaska, Guam, Hawaii, Puerto Rico, and the Virgin Islands of the United States.

RULES AND REGULATIONS

§ 319.74–1 Definitions.

For the purpose of the regulations in this subpart the following words, names,

and terms shall be construed, respectively, to mean:

(a) *Cut flower.* The highly perishable commodity known in the commercial flower-producing industry as a cut flower, and being the severed portion of a plant, including the inflorescence, and any parts of the plant attached thereto, in a fresh state. This definition shall not include dried, bleached, dyed, or chemically treated decorative plant materials; filler or greenery, such as fern fronds and asparagus plumes, frequently packed with fresh cut flowers; nor to Christmas greenery, such as holly, mistletoe, and Christmas trees.

(b) *Inspector.* An employee of the United States Department of Agriculture authorized by the Secretary of Agriculture to enforce the provisions of the Plant Quarantine Act.

(c) *Permit.* A form of authorization to allow the importation of cut flowers in accordance with the regulations in this subpart. In the case of cut flowers imported in small quantities, this may be an oral authorization by the inspector at the port of entry.

§ 319.74–2 Regulated articles.

(a) All cut flowers imported into the United States from the foreign countries and islands designated in the quarantine are subject to the regulations in this subpart.

(b) Such types of cut flowers as may be determined by the Director of the Plant Quarantine Division and designated by him in administrative instructions as involving special risk of introducing into the United States any new and potentially injurious insect or plant disease shall be admitted only under permit.

(c) Whenever, in the opinion of the Director of the Plant Quarantine Division, a State, Territory or District of the United States covered by § 319.74 shall have taken action to suppress types of pests that may be imported with certain cut flowers, and shall have promulgated, when such action contributes to the suppressive program, a plant quarantine prohibiting the entry in interstate movement of specific kinds of cut flowers that might introduce such pests, and further shall have requested through the responsible official that the United States Department of Agriculture cooperate by restricting the importation from foreign countries named in this quarantine of such cut flowers into the State or Territory or District in question, importations thereof to said State or Territory or District may be denied by the Director of the Plant Quarantine Division either through refusing approval of a permit or such other means as he may announce.

§ 319.74–2a Administrative instructions relative to the cut flower quarantine.

Pursuant to the authority conferred upon the Director of the Plant Quarantine Division by § 319.74–2(b) (Notice of Quarantine No. 74), it has been determined that the following types of cut flowers involve special risk of introducing into the United States new and potentially injurious insects or plant diseases when imported into the United States from the foreign countries and localities designated in § 319.74:

Camellia—Camellia spp.
Gardenia, cape jasmine—Gardenia spp.
Rhododendron—Rhododendron spp. (including Azalea)
Rose—Rosa spp.
Lilac—Syringa spp.

Accordingly it is hereby required that the above types of cut flowers may be imported from the designated foreign countries and localities only under permits issued in accordance with the procedure authorized in §§ 319.74–3 to 319.74–5, inclusive.

§ 319.74–3 Conditions governing the entry of cut flowers.

(a) All cut flowers imported from the named foreign countries and localities, whether or not subject to permit requirements, shall be given such inspection and treatment at the port of entry as may be deemed necessary by the inspector. Any cut flowers found upon inspection to be infested with injurious insects or infected with plant diseases, which cannot be eliminated by treatment, shall be denied entry. The importer will be given the option of abandoning for destruction such rejected cut flowers or immediately shipping them to a point outside the United States.

(b) Under circumstances which will in the judgment of the inspector eliminate pest risk, the inspector may orally authorize entry in small quantities of cut flowers that are subject to the permit requirements.

(c) Whenever, during the inspection of cut flowers imported in accordance with the regulations in this subpart, the inspector shall find them to be infested with an injurious insect or infected with an injurious plant disease, which can be eliminated by a method of treatment selected by him in accordance with administratively authorized procedures known to be effective under the conditions applied, he may prescribe as a condition of entry that such treatment be applied by the importer or his agent, under the supervision of the inspector. All costs for such treatment, except for the services of the inspector, shall be borne by the importer or his agent. Neither the Department of Agriculture nor the inspector shall be deemed responsible for any adverse effects of such treatment on the cut flowers so treated. In lieu of treatment the importer of infested or infected cut flowers shall be given the option of immediately shipping them to a point outside the United States or abandoning them for immediate destruction.

§ 319.74–4 Procedure for obtaining permits.

(a) Persons desiring to import cut flowers subject to the permit requirements of the regulations in this subpart (other than small quantities eligible for entry upon oral authorization) shall submit to the Plant Quarantine Division an application[1] stating the exact designation of the cut flowers to be imported, the name and address of the exporter, the country where grown, the port of entry, the destination in the United States, and the name and address of the importer or agent in the United States to whom the permit should be sent.

(b) Application for permit should be made in advance of the proposed importation.

(c) Upon receipt and approval of such application by the Plant Quarantine Division, a permit will be issued which will authorize the importation, specify the port of entry, and prescribe conditions that may be needed to safeguard against the entry of pests.

§ 319.74–5 Notice of arrival.

Immediately upon the arrival at a port of entry of a commercial shipment of cut flowers, the entry of which is permissible only under permit, the permittee shall submit to the Plant Quarantine Division through the Collector of Customs, duplicate copies of a notice of arrival. A form is provided by the Plant Quarantine Division for that purpose.

§ 319.74–6 Shipments for experimental or scientific purposes.

Cut flowers may be imported for experimental or scientific purposes by the United States Department of Agriculture upon such conditions and restrictions as the Director of the Plant Quarantine Division may prescribe.

§ 319.74–7 Territorial applicability.

The regulations in this subpart shall apply with respect to importations into the continental United States, Alaska, Guam, Hawaii, Puerto Rico and the Virgin Islands of the United States.

[1] Address applications to Plant Importations Branch, Plant Quarantine Division, 209 River Street, Hoboken, New Jersey. Form PQ–687 may be used but a letter or telegram setting forth the required information will be accepted in lieu of an application on form PQ–687.

PART 320—MEXICAN BORDER REGULATIONS

Sec.
320.1 Administration.
320.2 Regulated vehicles, articles, and materials.
320.3 Definitions.
320.4 Inspection.
320.5 Railway cars.
320.6 Vehicles, articles, and materials, other than railway cars and unregulated boats.
320.7 Responsibility for opening and cleaning.
320.8 Responsibility for disinfection.
320.9 Fees for disinfection in Government-owned facilities.
320.10 Soil.

AUTHORITY: §§ 320.1 to 320.10 issued under 56 Stat. 40, as amended, sec. 106, 71 Stat. 33; 7 U.S.C. 149, 150ee.

§ 320.1 Administration.

The Director of the Plant Quarantine Division is charged with the administration of the provisions of this act and the and the regulations in this part concurrently with the Plant Quarantine Act and the quarantines and orders issued thereunder.

§ 302.2 **Regulated vehicles, articles, and materials.**[1]

To carry out the purpose of the aforesaid act to prevent the introduction of insect pests and plant diseases the regulations in this part shall apply to railway cars, boats crossing the Rio Grande, aircraft, drawn or self-propelled vehicles (such as wagons, carts, trucks, automobiles), freight, baggage, containers, and articles or materials which may be contaminated with insect pests or plant diseases.

§ 320.3 **Definitions.**

For the purpose of this part the following words, names, and terms shall be construed, respectively, to mean:

(a) "Inspector" means an inspector of the Plant Quarantine Division, United States Department of Agriculture.

(b) "Owner or agent" includes both the singular and the plural and denotes the person, agent, firm, company, or official, having responsible custody of railway cars, vehicles, or other materials subject to these regulations.

(c) "Disinfection" includes any treatment or process designed to destroy insect pests or plant disease organisms.

(d) "Railway cars" includes all types of cars commonly employed in the transportation of freight, such as box, flat, tank, refrigerator, gondola, stock, etc.

(e) "Cleaning" means the removal, to the satisfaction of the inspector, of matter, other than the cargo and articles being moved, which may carry insect pests or plant diseases from railway cars, other vehicles, freight, express, baggage, and other materials.

(f) "Other vehicles" includes means of conveyance other than railway cars, such as aircraft, boats, automobiles, trailers, trucks, wagons, and carts, etc.

(g) "Other materials" includes all commodities, articles, and materials which may be the means of introducing insect pests or plant diseases into the United States.

(h) *Soil.* The loose surface material of the earth in which plants grow, in most cases consisting of disintegrated rock with an admixture of organic material and soluble salts.

§ 320.4 **Inspection.**

As a condition of entry into the United States from Mexico all articles and materials designated in § 320.2 shall be subject to examination by an inspector for the purpose of determining whether they may enter the United States without risk of introducing insect pests and plant diseases.

§ 320.5 **Railway cars.**

When the inspector has determined by examination that railway cars may enter the United States without risk of introducing insect pests and plant diseases into the United States, he shall, insofar as these regulations may govern, permit their entry. If the examination discloses that any car is contaminated and would involve risk of introducing insect pests or plant diseases into the United States, he shall prescribe, as condition of entry, cleaning, transfer of cargo, or disinfection, or all three. When cleaning alone has been prescribed and done to the satisfaction of the inspector he shall permit the entry of the cleaned cars, insofar as these regulations may govern entry. When disinfection is prescribed the entry of the cars shall be conditioned on their being fumigated, under the supervision of the inspector, either in a Government-owned fumigation house or otherwise in a place and by methods prescribed by the inspector. Immediately upon entry of railway cars for fumigation they shall be moved by the owner or agent having charge of same directly to the Government-owned fumigation plant or "spotted" at an approved place and before placing the cars in the fumigation chambers or "spotting" them for fumigating the railroad company servicing the cars shall cause the car doors to be opened and subsequent to fumigation it shall be the responsibility of the railroad company to remove the cars from the fumigation plant or place where they have been "spotted" and to close the car doors when the occasion requires. When the prescribed fumigation has been accomplished in manner required by the Director of the Plant Quarantine Division, the inspector shall permit entry into the United States insofar as this part may govern. The inspector may authorize temporary entry of railway cars under conditions to be prescribed by him for unloading or loading in railroad yards at the port of entry or for in-transit movement from and to Mexico.

§ 320.6 **Vehicles, articles, and materials, other than railway cars and unregulated boats.**

When the inspector has determined by examination that vehicles, other than railway cars and unregulated boats, or any of the various articles and materials covered by this part may enter the United States without risk of introducing insect pests or plant diseases, he shall permit their entry insofar as the regulations in this part may govern. If the examination by the inspector discloses such regulated vehicles, articles, or materials are contaminated and would involve risk of introducing insect pests or plant diseases into the United States, he shall prescribe, as a condition of entry, cleaning, transfer of cargo, or disinfection, or any or all of these. The cleaning, transfer of cargo and disinfection shall be carried out under his supervision and to his satisfaction and until it has been so accomplished, entry into the United States shall be refused.

§ 320.7 **Responsibility for opening and cleaning.**

The owner or agent in charge of railway cars, other vehicles, and freight, express, baggage, articles, or other materials shall open these for inspection as required by the inspector and provide reasonable access to every part thereof, and when cleaning is prescribed by the inspector as a condition of entry, shall so open, and clean, and do any and all things reasonably pertaining thereto as required by the inspector. All costs incident to entry, opening, and cleaning, except for the services of the inspector, shall be paid by the owner or agent in charge.

§ 320.8 **Responsibility for disinfection.**

When disinfection involves fumigation the inspector will apply the fumigant whether in the houses erected for the purpose or in the cars themselves. If, in the judgment of the inspector, fumigation will not provide adequate safeguards against the introduction of insect pests and plant diseases, he may prescribe another type of disinfection which shall be applied by the owner or agent under the supervision of the inspector. Costs incident to such disinfection, other than the services of the inspector, shall be borne by the owner or his agent, or paid for as prescribed in § 320.9.

§ 320.9 **Fees for disinfection in Government-owned facilities.**

Prior to entry of railway cars or other vehicles requiring fumigation in Government-owned facilities as a condition of entry, the owner or agent in charge shall buy fumigation coupons from the inspector in charge at the port of entry. The price fixed for these coupons shall represent as nearly as may be, the average cost of materials, facilities, and special labor used by the Plant Quarantine Division in performing such fumigation. On the basis of the average cost for such fumigation, the inspector in charge shall, until further notice, collect a fee of $6.00 for each coupon sold. Payments for coupons, if practicable, shall be in the form of postal money orders, or bank drafts or certified checks drawn on United States banks, drawn to the credit of the Treasurer of the United States. Payments in United States currency will be accepted if tendered. All fees so collected by the inspector shall be promptly turned into the Treasury of the United States as miscellaneous receipts in accordance with the practices approved by the Secretary of Agriculture.

§ 320.10 **Soil.**

Soil may be imported, as such, from Mexico at any port on the Mexican border only as authorized under this section.

(a) *Permits.* The Director of the Plant Quarantine Division may issue permits for the importation of soil for research, analytical, religious, ceremonial, patriotic or similar purposes, or such other purposes as he shall deem consistent with the objectives of this part, specifying in the permit or in the related correspondence, the safeguards, including methods of treatment or other conditions, which he deems necessary for the purpose of preventing the introduction of insect pests and plant diseases.

(b) *Applications for permits.* Only persons resident in the United States may apply for permits to import soil from Mexico at a port on the Mexican border. Any such person contemplating such an importation shall first make application for a permit by using the form provided therefor by the Plant Quarantine Division or by submitting to the Division, in the form of a letter or other written communication, the following

[1] The entry of certain plants and plant products is regulated or prohibited by quarantines and regulations promulgated under the Plant Quarantine Act as amended.

information: Origin of the shipment, destination, quantity, method of shipment, proposed port of first arrival in the United States, approximate date of arrival in the United States, intended use, measures to be employed to prevent danger of dissemination of insect pests and plant diseases, method of final disposition, and the number of parcels expected to be moved. In acting upon the application for permit for such importation of soil, the Director will follow the procedures outlined in § 330.202 of this chapter for the consideration of applications for permits to move plant pests, insofar as they are applicable.

(c) *Issuance of permits; special mailing labels for mail importations.* Upon the approval of an application for a permit to import soil from Mexico under this part, the permit will be issued, including any conditions which, in the opinion of the Director, are necessary in order to prevent the introduction of insect pests and plant diseases. The Director may require the applicant to agree in writing to the conditions prior to the issuance of the permit. The importer will receive with the permit information on the manner in which the importation is to be made. All containers are to be stoutly constructed so as to prevent breakage in transit and danger of dissemination of insect pests and plant diseases and shall be appropriately labeled as to contents. If the soil is imported by mail, special mailing labels will be issued to the importer, with instructions for their use, which he is to send to the foreign shipper. The quantity of mailing labels issued will be sufficient for the foreign shipper to attach one to each parcel forwarded by mail. Such mailing labels will indicate to the postal and the plant quarantine officials that the importation is authorized under the conditions specified in the permit. Importations arriving by mail without labels will be subject to refusal of entry into the United States by the inspector unless treated, at the expense of the owner, in a manner to remove danger of introduction of insect pests and plant diseases. The Director may issue mailing labels for importations into the United States of earth other than soil when the importation might otherwise be impeded because of similarity to earth subject to regulation under this section.

PART 321—RESTRICTED ENTRY ORDERS

Subpart—Foreign Potatoes

Sec.

321.1 Order.

IMPORTATION OF POTATOES

321.2 Definition.
321.3 General conditions governing potato importations.
321.4 Applications for permits for importation of potatoes.
321.5 Permits for entry of potatoes.
321.6 Foreign certificate of inspection.
321.7 Notice of arrival of potatoes by permittee.
321.8 Special provision for the importation of potatoes from Bermuda and the Dominion of Canada (except Newfoundland).

AUTHORITY: §§ 321.1 to 321.8 issued under sec. 9, 37 Stat. 318; 7 U.S.C. 162. Interpret or apply secs. 1 and 5, 37 Stat. 315, as amended, 316, 7 U.S.C. 154, 159.

§ 321.1 Order.

(a) The Secretary of Agriculture, under authority conferred by section 5 of the act of Congress approved August 20, 1912, known as the Plant Quarantine Act (37 Stat. 316; 7 U. S. C. 159), does hereby determine and declare that, on and after January 15, 1914, common or Irish potatoes imported or offered for import into the United States shall be subject to all the provisions of sections 1, 2, 3, and 4 of said act of Congress.

(b) As used in this part, unless the context otherwise requires, the term "United States" means the States, the District of Columbia, Alaska, Guam, Hawaii, Puerto Rico, and the Virgin Islands of the United States.

IMPORTATION OF POTATOES

§ 321.2 Definition.

For the purpose of this subpart the term "potato" shall be understood as meaning the common or Irish potato (Solanum tuberosum) and its horticultural varieties.

§ 321.3 General conditions governing potato importations.

(a) Except as provided under § 321.8, potatoes will be admitted from any country when it is determined by such field inspection as shall be approved as adequate by the Plant Quarantine Division, that such country is free from potato wart and other injurious potato diseases and insect pests new to or not widely prevalent or distributed within and throughout the United States, and such country must further agree to examine and certify all potatoes offered for export in compliance with the regulations in this subpart: *Provided,* That the entry of potatoes will not be permitted from any country unless such country has an effective quarantine prohibiting the entry into such country of potatoes from any country known to be invaded by the potato wart or other injurious potato diseases or insect pests new to or not widely prevalent or distributed within and throughout the United States: *Provided further,* That the restrictions in this subpart shall not apply to the importation of potatoes into Guam, but such importations are subject to the requirements of § 319.56–2.

(b) Entry of potatoes will not be allowed unless the invoice is accompanied by an original certificate and unless each container bears a copy certificate in accordance with § 321.6.

(c) Potatoes will be admitted into the United States only through the port designated in the permit.

(d) The entry of potatoes will not be permitted except where the shipments pass directly from the country of origin to the port of entry in the United States: *Provided,* That when transshipment is necessary at a port of a country under quarantine such transshipment shall be made by lighters from boat to boat in the harbor without landing the potatoes, and the consular invoice of place of origin must follow the shipment from original port of departure to the port of entry in the United States.

(e) No shipment of potatoes will be permitted entry until it has been examined by an inspector of the Department of Agriculture and found or believed to be free from the potato wart and other injurious potato diseases and insect pests.

(f) Shipments of potatoes certified as provided herein found to be infested with potato wart or other injurious potato diseases, or with insect pests, will be refused entry.

(g) All charges for storage, cartage, and labor incident to inspection other than the services of inspectors, shall be paid by the importer.

(h) Except in case of bulk shipments, potatoes shall be contained only in bags, boxes, barrels, or other containers that have not previously been used for potatoes.

§ 321.4 Applications for permits for importation of potatoes.

(a) Persons contemplating the importation of potatoes shall first make application to the Plant Quarantine Division, Department of Agriculture, Washington 25, D.C., for a permit, stating in the application the name and address of the exporter, the country and locality where grown, the port of departure (or port of consular invoice), the proposed port of entry, and the name and address of the importer in the United States to whom the permit should be sent.

(b) Applications for permits must be made in advance of the shipment of the potatoes.

(c) Applications may be made by telegraph, in which case the information required above must be given.

§ 321.5 Permits for entry of potatoes.

(a) On approval by the Secretary of Agriculture of an application for the importation of potatoes a permit will be issued in quadruplicate. One copy of the permit will be furnished to the applicant, to be retained by him for presentation on the arrival of the imported potatoes to the customs officer at the port of entry named in the permit, one copy will be mailed to the collector at the port of entry, one to the inspector of the Department of Agriculture, and the fourth filed with the application. The beginning of the period for which a permit will be valid will be expressed in the permit. All permits will expire on the 30th day of June next after they become valid.

(b) Permits for the entry of potatoes may be refused and existing permits may be canceled on proof that the certificate of inspection does not correctly give the locality where the potatoes were grown, character of the shipment as to freedom from disease or insect infestation, or that the containers have been previously used for the shipment of potatoes.

§ 321.6 Foreign certificate of inspection.

(a) Each certificate shall give the number of the permit; the date of inspection; name and address of the exporter; the district or locality and the country where grown; name and address

of consignee; a statement that the potatoes were grown in a district free from infection with potato wart and have been certified by a duly authorized official to be free from potato wart and other injurious potato diseases and insect pests, and that they are contained in bags, boxes, barrels, or other containers that have not previously been used for potatoes, except as to bulk shipments. The original certificate shall be signed and sealed by a responsible inspection official for the country of origin. The copy certificate may be entirely printed, including the seal. The form of such certificate shall be as follows:

To whom it may concern:

This is to certify that the potatoes included in this shipment as per invoice attached, shipped under permit No. _____, consigned to _____
(Name and address of consignee)
shipped by _____,
(Name and address of exporter)
were grown in _____, a
(District or locality and country)
district free from infection with potato wart, are contained in bags, boxes, barrels, or other containers, except as to bulk shipments, not previously used for potatoes, and were certified by _____,
(Name of inspector)
_____, to be free from potato
(Date and year)
wart and other injurious potato diseases and insect pests.

[SEAL] (Signed) _____
(Title of official inspector)

(b) Permits may be canceled and further permits refused for the importation of potatoes from any country whenever such potatoes, in the judgment of the Plant Quarantine Division, are found to be so infested as plainly to indicate that the foreign inspection is merely perfunctory.

(c) Lists of officials in foreign countries authorized to inspect potatoes, giving their names and official designations, will be furnished to collectors of customs through the Secretary of the Treasury.

§ 321.7 Notice of arrival of potatoes by permittee.

(a) Immediately upon arrival and before unloading from the vessel or other carrier the permittee shall notify the Secretary of Agriculture, on forms provided for that purpose, stating the number of permit, the quantity of potatoes included in the shipment, the country and locality where grown, the name and address of exporter or shipper, the port of departure, the date of arrival, and the name of the ship or vessel if transported by water, and the designation of the dock where the potatoes are to be landed, and, if by rail, the name of the railroad company, the car numbers, and the terminal where the potatoes are to be unloaded. If the destination of the car is changed en route the permittee shall immediately notify the Secretary of Agriculture of the final destination.

(b) At the same time a copy of the notice to the Secretary of Agriculture shall be sent by the permittee to the duly authorized inspector of the department at the port of entry designated in the permit.

(c) Permits may be canceled and other permits refused if the permittee fails to give either of said notices or gives a false notice.

(d) Lists of such inspectors and officers may be ascertained from the collector of customs or the Plant Quarantine Division, Washington 25, D.C.

§ 321.8 Special provision for the importation of potatoes from Bermuda and the Dominion of Canada (except Newfoundland).

Potatoes may be imported from Bermuda and the Dominion of Canada (except Newfoundland) into the United States free of any restrictions whatsoever, until otherwise ordered, under the Plant Quarantine Act of August 20, 1912, as amended.

PART 322—IMPORTATION OF ADULT HONEYBEES INTO THE UNITED STATES

REGULATIONS

Sec.
322.1 Definition of bee diseases.
322.2 Definition of adult honeybees.
322.3 Importation of adult honeybees prohibited except as hereinafter provided.
322.4 Adult honeybees may be imported from countries free from bee diseases.
322.5 State laws on control of diseases of bees to be respected.

AUTHORITY: §§ 322.1 to 322.5 issued under sec. 1, 42 Stat. 833; 7 U. S. C. 281.

CROSS REFERENCE: For customs regulations concerning honeybees, see 19 CFR 12.31, 12.32.

§ 322.1 Definition of bee diseases.

For the purpose of the regulations in this part, it is understood that a disease dangerous to the adult honeybee is one which attacks adult honeybees, as distinguished from one which attacks the brood or developmental stages of the honeybee. Such diseases of adult honeybees are understood to include all diseases which attack adult honeybees, including queen bees, worker bees, and drones or male bees: *Provided*, That the disease caused by the protozoan parasite, Nosema apis, sometimes known as Nosema-disease, now widespread in the United States, shall not be considered as a disease dangerous to adult honeybees for the purposes of the regulations in this part.

§ 322.2 Definition of adult honeybees.

Since, in the opinion of the Secretary of Agriculture, the importation of queen bees, with necessary accompanying worker bees, is the only kind which is necessary for the improvement of the stock of honeybees within the United States, it is understood that, for the purposes of the regulations in this part, such expressions as the "importation of honeybees" or "importation of adult honeybees" shall mean the importation of queen bees and the necessary accompanying worker bees, except as hereinafter provided.

§ 322.3 Importation of adult honeybees prohibited except as hereinafter provided.

The importation into the United States of the honeybee (Apis mellifica) in its adult stage, except as hereinafter provided, is prohibited, and all adult honeybees offered for entry into the United States, except as hereinafter provided in the regulations in this part, shall be destroyed if not immediately exported.

§ 322.4 Adult honeybees may be imported from countries free from bee diseases.

In accordance with the second proviso of the act, adult honeybees may be imported into the United States from countries in which the Secretary of Agriculture shall have determined that there exists no disease dangerous to adult honeybees.

(a) The Secretary of Agriculture, having determined that no disease dangerous to adult honeybees exists in the Dominion of Canada and being advised that, under order of the Deputy Minister of Agriculture of the Dominion of Canada, dated April 22, 1922, the importation of bees, used and second-hand hives, and raw hive goods and products, except honey and wax, from the continent of Europe into the Dominion of Canada, is prohibited, does hereby authorize that adult honeybees, unrestricted as to the definition thereof contained in § 322.2 hereof, may be imported from the Dominion of Canada into the United States or any of its Territories or Districts free from any restriction whatsoever provided in the regulations in this part, until otherwise ordered.

(b) Importations under the second proviso of the act, from any country other than the Dominion of Canada, shall be conditioned on the determination by the Secretary of Agriculture that, as a result of adequate scientific investigations, no diseases dangerous to adult honeybees exist in the country in question and that adequate precautions have been taken by such country to prevent the importation of adult honeybees from countries where such dangerous diseases exist.

§ 322.5 State laws on control of diseases of bees to be respected.

Nothing in the regulations in this part shall interfere with the regulations of any State pertaining to the control of the diseases of bees, either of the adult stage or of the brood, and a removal of the restrictions of this act as applied to any country shall not be construed as granting permission for importations prohibited by the laws of the State into which shipment is contemplated.

PART 330—FEDERAL PLANT PEST REGULATIONS

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330.300a Administrative instructions exempting soil from Canada from certain restrictions.
330.301 Stone and quarry products from certain areas in Canada.
330.302 Domestic movements of earth (including soil), stone, etc.

Subpart—Garbage

330.400 Garbage.

AUTHORITY: §§ 330.100 to 330.400 issued under secs. 103, 106, 71 Stat. 32, 33; 7 U.S.C. 150bb, 150ee. Interpret or apply secs. 105, 107, 111, 71 Stat. 32, 34, 64 Stat. 561, and sec. 501, 65 Stat. 290; 7 U.S.C. 150dd, 150ff; 5 U.S.C. 140, 576.

Subpart—General Provisions

§ 330.100 Definitions.

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

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

(b) *Director.* The Director of the Plant Quarantine Division of the Agricultural Research Service of the Department, or any officer or employee of the Division to whom authority has heretofore been delegated or may hereafter be delegated to act in his stead, except for actions to be taken by the Director of the Plant Pest Control Division of said Service as provided in § 330.202 (b), in which cases "Director" means the Director of the Plant Pest Control Division or any officer or employee of that Division to whom authority has heretofore been delegated or may hereafter be delegated to act in his stead.

(c) *Division.* The Plant Quarantine Division, Agricultural Research Service of the Department.

(d) *Inspector.* A properly identified employee of the Department or other person authorized by the Department to enforce the provisions of the Federal Plant Pest Act and the Plant Quarantine Act.

(e) *Customs.* The Bureau of Customs, United States Treasury Department, or, with reference to Guam, the Customs office of the Government of Guam.

(f) *Person.* Any individual, corporation, company, association, firm, partnership, society, or joint stock company.

(g) *Owner.* The owner, or his agent (including a carrier), having responsible custody of a plant pest, means of conveyance, product or article subject to the regulations in this part.

(h) *Plant pest.* "Plant pest" means any living stage of: Any insects, mites, nematodes, slugs, snails, protozoa, or other invertebrate animals, bacteria, fungi, other parasitic plants or reproductive parts thereof, viruses, or any organisms similar to or allied with any of the foregoing, or any infectious substances, which can directly or indirectly injure or cause disease or damage in any plants or parts thereof, or any processed, manufactured, or other products of plants.

(i) *United States.* The States, the District of Columbia, Alaska, Guam, Hawaii, Puerto Rico, and the Virgin Islands of the United States.

(j) *Continental United States.* The States and the District of Columbia.

(k) *Territories or possessions.* Alaska, Guam, Hawaii, Puerto Rico, and the Virgin Islands of the United States.

(l) *Interstate.* From one State, Territory or possession or the District of Columbia into or through any other State, Territory or possession, or the District of Columbia. This term includes movements, within its provisions, to a port in the United States for export.

(m) *Move (moved and movement).* "Move" means ship, deposit for transmission in the mail, otherwise offer for shipment, offer for entry, import, receive for transportation, carry, or otherwise transport or move, or allow to be moved, by mail or otherwise. "Moved" and "movement" shall be construed accordingly.

(n) *Through the United States.* From and to places outside the United States.

(o) *Means of conveyance.* Automobiles, trucks, animal-drawn vehicles, railway cars, aircraft, boats, and other means of transportation.

(p) *Permit.* An authorization allowing the movement into or through the United States, or interstate, of a plant pest, or a regulated product, article, or means of conveyance in accordance with the provisions in this part.

(q) *The Federal Plant Pest Act.* Title I of the act approved May 23, 1957 (Title I, 71 Stat. 31; 7 U. S. C. 150aa et seq.).

(r) *Plant Quarantine Act.* The act approved August 20, 1912, 37 Stat. 315, as amended (7 U. S. C. 151 et seq.).

(s) *Earth.* The softer matter composing part of the surface of the globe, in distinction from the firm rock, and including the soil and subsoil, as well as finely divided rock and other soil formation materials down to the rock layer.

(t) *Soil.* The loose surface material of the earth in which plants grow, in most cases consisting of disintegrated rock with an admixture of organic material and soluble salts.

(u) *Garbage.* Any refuse material that contains fruit, vegetable, or other plant matter.

(v) *Administrative instructions.* Published documents relating to the enforcement of the regulations in this part, issued under authority of such regulations by the Director.

§ 330.101 Policy.

The purpose of the regulations in this part is to prevent the dissemination of plant pests into the United States, or interstate, by regulating the movement of plant pests into or through the United States, or interstate, and the movement of means of conveyance, earth, stone and quarry products, garbage, and certain other products and articles into or through the United States, or from any Territory or possession into or through any other Territory or possession or the continental United States. The Director shall employ procedures to carry out this purpose which will impose a minimum of impediment to foreign commerce and travel whenever practicable, consistent with proper precaution against plant pest dissemination. The same policy is to be applied in the case of interstate commerce and travel.

§ 330.102 Basis for certain regulations.

Whereas the unregulated movement of means of conveyance, their stores, baggage, mail, plants, plant products, garbage, earth, stone and quarry products, and other products and articles into or through the United States from places outside thereof or from any Territory or possession into or through any other Territory or possession or the continental United States may disseminate plant pests which are outside the scope of the Plant Quarantine Act, as well as pests within that act, and whereas authority to regulate the movement into or through the United States from foreign countries of means of conveyance and other nonplant products and articles, independently of plants or plant products, is not conferred by the Plant Quarantine Act, the regulations in this part are promulgated under the authority of the Federal Plant Pest Act.

§ 330.103 Documentation.

Any notifications, reports, and similar documentation not specified in the regulations in this part, but necessary to carry out the purpose of the regulations, will be prescribed in administrative instructions.

§ 330.104 Ports of entry.

Ports of entry for plant pests, means of conveyance, or other products or articles of any character whatsoever the entry or movement of which is regulated by the regulations in this part

may be specified in administrative instructions or in the permits if permits are required by the regulations. Such ports shall be selected by the Director from ports named in 19 CFR 1.1 as "ports of entry" for the purpose of enforcing the customs laws or named in 19 CFR 6.13 as "international airports," or airports at which permission to land aircraft has been granted by the Commissioner of Customs or by the Collectors of Customs in accordance with 19 CFR 6.2. Except as otherwise provided by administrative instructions, or by permits issued in accordance with this part, the ports of entry shall be those named in 19 CFR 1.1 and 6.13. The port of entry in Guam shall be Agana unless otherwise specified in the permit by the Director.

§ 330.105 Inspection.

(a) *Inspection of foreign arrivals.* In order to prevent the dissemination into the United States of plant pests and for the purpose of carrying out the regulations in this part, all plant pests; means of conveyance and their stores; baggage; mail; plants; plant products; soil; stone and quarry products under § 330.300; garbage; and any other product or article of any character whatsoever which an inspector considers may be infested or infected by or contain a plant pest, arriving in the United States from any place outside thereof for entry into or movement through the United States shall be subject to inspection by an inspector at the port of first arrival, except that mail will be handled in accordance with the joint customs and postal regulations for inspecting and handling mail. No such plant pests; means of conveyance or their stores; baggage; mail; plants; plant products; soil; stone or quarry products under § 330.300; garbage; or other products or articles which an inspector notifies the Customs authorities should be held for inspection shall be released by Customs officers for entry or onward movement until released by an inspector. The release of all means of conveyance, products and articles regulated under Parts 319, 320, 321, and 352 of this chapter shall be in accordance with the requirements of those parts and the applicable provisions in this part. Whenever it shall be deemed safe to modify the requirements of this section by exempting any class of means of conveyance, products or articles from the requirement that they be held for inspection and release of the inspector, the exemptions shall be specified in administrative instructions. Inspectors shall make local arrangements, in accordance with policies of the Division, with the Collector of Customs for the release by Customs officers on behalf of the inspector of any class of means of conveyance, their stores, baggage, mail, or other products or articles when such arrangements do not increase unduly the danger of plant pest dissemination and will facilitate clearance of means of conveyance, baggage, mail, or other products or articles.

(b) *Inspection of domestic movements.* For the purpose of preventing the interstate movement of plant pests, provisions requiring inspection of means of conveyance and products or articles moving interstate may be issued as regulations in association with quarantines in Part 301 or Part 318 of this chapter or in this part.

Notices appearing at 24 F.R. 4650, June 9, 1959, 24 F.R. 5363, July 2, 1959, 24 F.R. 6889, August 26, 1959, and 24 F.R. 7519, September 18, 1959, provide in part as follows: That means of conveyance subject to such inspection and release requirements and arriving at any port of entry outside the regularly assigned hours of duty of the Federal plant quarantine inspector, will be held for such inspection and release, until the regularly assigned hours of duty. However, notice is also hereby given that pursuant to the provisions of the Act of August 28, 1950 (5 U.S.C. 576) such inspection service outside of the regularly assigned hours of duty may be made available to any interested person, upon a reimbursable basis and in accordance with applicable regulations, upon request to the Plant Quarantine Inspector in Charge at such port.

Information concerning regularly assigned hours of duty for Federal plant quarantine inspectors at each port where such inspection is available may be obtained locally by application to the Plant Quarantine Inspector in Charge at such port.

§ 330.106 Emergency measures.

(a) Whenever inspection of any means of conveyance, stores, baggage, mail, plants, plant products, earth, stone and quarry products, garbage, or other products or articles of any character whatsover, arriving in the United States from a place outside thereof, or in the continental United States from any Territory or possession, or in a Territory or possession from any other Territory or possession, discloses a plant pest (other than one moving under permit in accordance with any conditions in the permit and the provisions in this part) which is new to, or not theretofore known to be widely prevalent or distributed within and throughout the United States, the inspector shall employ procedures necessary to prevent the dissemination of the plant pest. The inspector may follow administrative instructions containing procedures prescribed for certain situations, or he may follow a procedure selected by him from administratively approved methods known to be effective. The procedure may involve seizure, quarantine, treatment, application of other remedial measures, exportation, return to shipping point of origin, destruction, or other disposal, but no means of conveyance, product, article, or plant pest owned by any person shall be destroyed, exported, or returned to shipping point of origin or ordered to be so handled, unless there is, in the opinion of the inspector, no less drastic action adequate to prevent the dissemination of the plant pest. In forming such an opinion that no less drastic action is adequate, the inspector shall be guided by specific and general instructions received from Division officers applicable in such cases. This section does not authorize action with respect to any means of conveyance, product, article, or plant pest which, at the time of the proposed action, is subject to disposal under the Plant Quarantine Act. In taking action with respect to any means of conveyance, product, article, or plant pest the inspector shall take cognizance of applicable requirements of the customs and postal laws and regulations.

(b) The inspector may order the owner of any means of conveyance, product, article, or plant pest, subject to disposal under paragraph (a) of this section, to treat, apply other remedial measures, destroy, or make other disposal thereof without cost to the Federal Government and in a manner specified in accordance with paragraph (a) of this section.

(c) If the measures required by the inspector are not applied promptly by the owner within the time limits specified by the inspector, the inspector shall apply measures necessary to prevent the dissemination of the plant pests.

§ 330.107 Costs.

All costs (including those incurred under § 330.106 by the government or the owner) incident to the inspection, handling, cleaning, safeguarding, treating, or other disposal of means of conveyance or products, articles, or plant pests under this part, except for the services of an inspector during regularly assigned hours of duty and at the usual places of duty, shall be borne by the owner.

CROSS REFERENCE: See note following § 330.105.

§ 330.108 Authority to issue administrative instructions.

The Director is authorized to issue the administrative instructions for which provision is made in the regulations in this part, for the purpose of preventing dissemination of plant pests into the United States or interstate. In addition, whenever the Director shall find that existing conditions as to pest risk involved in the movement of plant pests, means of conveyance, or other products or articles to which the regulations in this part apply, make it safe to modify by making less stringent the restrictions contained in any of such regulations, he shall publish such findings in administrative instructions, specifying the manner in which the regulations shall be made less stringent, whereupon such modification shall become effective.

§ 330.109 Caution.

In applying treatments or taking other measures prescribed in administrative instructions or by the inspector, it should be understood that inexactness or carelessness may result in injury or damage.

Subpart—Movement of Plant Pests

§ 330.200 Movement of plant pests regulated; permits required.

No person shall knowingly move any plant pest into or through the United States from any place outside thereof, or interstate, or knowingly accept delivery of any plant pest so moving unless such movement is authorized under permit under this part and is made in accordance with the conditions therein and the provisions in this part. The movement of snails and slugs, as well as other plant pests, is governed by such provi-

sions. Biological specimens of plant pests, in preservative or dried, may be imported without further restriction under this part, but subject to inspection on arrival in the United States to confirm the nature of the material and freedom from risk of plant pest dissemination.

§ 330.201 Applications for permits to move plant pests.

(a) *Into or through the United States from any place outside thereof.* Only persons resident in the United States may apply for permits to move plant pests into the United States from any place outside thereof. Persons resident in the United States proposing such movement into the United States, or any person proposing movement through the United States, of any plant pests shall first make application for permits authorizing such movement by submitting to the Division the form provided therefor by the Division, or by submitting in the form of a letter or other written communication the following information insofar as is known to the applicant, for each kind of pest for which a permit is requested: (1) Scientific name of the pest, (2) stage, (3) quantity, (4) origin, (5) destination, (6) whether the pest is established in the State, Territory or other jurisdiction of destination in the United States, (7) method of shipment, (8) proposed port of first arrival in the United States, (9) approximate date of arrival, (10) number of parcels expected to be moved, (11) intended use, (12) measures to be employed to prevent danger of plant pest dissemination, and (13) method of final disposition. In addition, if host materials must necessarily accompany the plant pests, the application shall show the name of the host materials and the reasons it is necessary for them to accompany the plant pests. Applications for permits to move plant pests through the United States should state the name of the port of export instead of the information required by subparagraph (6) of this paragraph. Any applicant for a permit to move plant pests into or through the United States from any place outside thereof will facilitate the consideration of his application by furnishing any additional information known to him concerning the economic importance of the pests and the justification for the movement.

(b) *Interstate (including interstate for export).* Persons proposing to move plant pests interstate shall first make application for permits authorizing such movement by submitting to the Division the form provided therefor by the Division or by submitting the required information in the form of a letter or other written communication showing all pertinent information specified in paragraph (a) of this section and also the approximate date of the movement, except that persons desiring to move plant pests interstate to a port in the United States for export to a place outside of the United States[1] shall use the form provided therefor by the Division or submit to the Division in the form of a letter or other written communication the following information for each kind of pest: Scientific name of the pest, stage, quantity, origin, destination, method of shipment, proposed port of export from the United States, approximate date of the movement, number of parcels to be moved, proposed use, and measures to be employed to prevent danger of plant pest dissemination during the interstate movement. However in case it is proposed to move interstate, within or from an area quarantined under §§ 301.38, 301.45, 301.48, 301.52, 301.63, 301.64, 301.72, 301.76, 301.77, 301.78, 301.79, 301.80, or 301.81 of this chapter any plant pest covered by said section, the application should be made to the Plant Pest Control Division of the Agricultural Research Service of the Department. In any case the applicant for a permit will facilitate the consideration of his application by furnishing any additional information known to him concerning the economic importance of the pests and the justification for the movement.

§ 330.202 Consideration of applications for permits to move plant pests.

Except as provided in paragraph (b) of this section, the Director, upon the receipt of an application, made in accordance with § 330.201 (a) or (b), for a permit for movement of a plant pest into or through the United States from any place outside thereof, or interstate, shall consider the application on its merits.

(a) *Consultation.* He may consult with any Federal officials, the appropriate officials of any State, Territory, or other jurisdiction in the United States in charge of research or regulatory programs relative to plant pests, and any other qualified governmental or private research laboratory, institution, or individual, for views on the danger of plant pest dissemination into the United States, or interstate, in connection with the movement proposed.

(b) *Plant pests covered in any subpart of Part 301 of this chapter that affects movement within the continental United States.* The Director shall refer to the Director of the Plant Pest Control Division of the Agricultural Research Service of the Department any application for movement of a plant pest which is received by the Plant Quarantine Division but which should be filed with the Director of the Plant Pest Control Division under § 330.201, and all other action with respect to any application within the jurisdiction of the Plant Pest Control Division under § 330.201, and the interstate movement of the plant pest named therein, shall be taken by the Director of the Plant Pest Control Division, or any officer or employee of that Division to whom authority has heretofore been delegated or may hereafter be delegated to act in his stead. Such action shall be in accordance with the procedures established in this part.

(c) *Inspection of premises.* The Director may inspect the site where plant pests are proposed to be handled in connection with or after their movement under permit to determine whether existing or proposed facilities will be adequate to prevent plant pest dissemination in case a permit is issued, provided that the person in possession thereof is the applicant or such inspection is otherwise authorized.

§ 330.203 Action on applications for permits to move plant pests; form of and conditions in permits.

The Director, having considered an application for permit to move a plant pest, shall approve or deny the application in accordance with § 330.204. If the application is denied, the applicant shall be furnished the reasons therefor. If the application is approved, the Director shall issue the permit including any conditions which, in the opinion of the Director, are necessary to prevent dissemination of plant pests into the United States or interstate. Such conditions may include requirements for inspection of the premises where the plant pests are to be handled, after their movement under the permits, to determine whether the facilities thereat are adequate to prevent plant pest dissemination and the conditions of the permit are otherwise being observed. Permits authorizing movement of plant pests through the United States will include shipping instructions as to routing, labelling, and similar requirements as conditions of the permits. Any applicable conditions prescribed in administrative instructions may be incorporated in a written permit by citation, but shall be applicable whether or not so cited. The Director may, prior to the issuance of the permit, require the applicant to agree in writing to the conditions under which the plant pests will be safeguarded. The permits may be issued in a prescribed form or in letter form, or a combination thereof. A permit without conditions may be issued orally.

§ 330.204 Denial or cancellation of permits; reconsiderations.

(a) The Director will deny an application for a permit to move a plant pest when, in his opinion, such movement would involve a danger of dissemination of the pest. Danger of plant pest dissemination may be deemed to exist when:

(1) No acceptable safeguards adequate to prevent plant pest dissemination can be arranged;

(2) The destructive potential of the plant pest to plants, and parts and products thereof, should it escape despite proposed safeguards, outweighs the probable benefits to be derived from the proposed movement and use of the pest;

(3) The applicant, as a previous permittee, failed to maintain the safeguards or otherwise observe the conditions prescribed in a previous permit and failed to demonstrate his ability or intent to observe them in the future;

[1] Persons contemplating the shipment of plant pests to places outside the United States should make prior arrangements directly, or through the recipient, with the country of destination for the receipt of the plant pests into the country of destination. Many countries have laws governing the movement of plant pests into those countries, and therefore it is advisable to make advance arrangements for attaching permits, etc., as may be required by the countries of destination.

(4) The movement is adverse to the conduct of an eradication, suppression, control, or regulatory program of the Agricultural Research Service; or

(5) The movement is objected to in writing by an appropriate official of a State, Territory or possession, or the District of Columbia on the ground it will involve a danger of dissemination of the plant pest into the State, Territory or possession, or District.

(b) The Director may cancel any outstanding permit whenever:

(1) Information is received subsequent to the issuance of the permit of circumstances that constitute cause for the denial of an application for permit under paragraph (a) of this section; or

(2) The permittee has not maintained the safeguards or otherwise observed the conditions specified in the permit or in any applicable regulations or administrative instructions.

(c) Any person denied a permit, or whose permit has been cancelled, may request the Director in person or in writing for a reconsideration, and may submit any additional information he may have to support the original application.

§ 330.205 Disposal of plant pests when permits are canceled.

When an outstanding permit for the movement of a plant pest is canceled by the Director and not reinstated under § 330.204(c), the further movement of the plant pest covered thereby into or through the United States, or interstate, is prohibited by the Federal Plant Pest Act unless authorized in another permit. The permittee should arrange for disposal of the plant pest involved in a manner satisfactory to the Director to prevent plant pest dissemination. The Director may, whenever he deems it necessary as an emergency measure in order to prevent the dissemination of any plant pest new to or not theretofore known to be widely prevalent or distributed within and throughout the United States, seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of, in such manner as he deems appropriate, any plant pest which is moving without compliance with any conditions in the permit or the provisions of this part or after the permit has been canceled.

§ 330.206 Permits for plant pest movement associated with National Defense projects.

The Director will facilitate research associated with National Defense projects through issuance of permits for movement of plant pests for such research, upon receiving assurance satisfactory to him that adequate safeguards will surround utilization of the plant pests to prevent their dissemination.

§ 330.207 Permits for movement of organisms issued by other agencies.

Inspectors shall recognize permits for the movement of organisms issued under other acts by other Federal agencies. When such organisms are also plant pests, any further conditions of movement to carry out the purposes of the Federal Plant Pest Act which have been prescribed in administrative instructions, or in correspondence concerning a single shipment, shall be complied with but no additional permit will be required under this part.

§ 330.208 Courtesy permits.

The Director may issue permits for the movement into or through the United States, or interstate, of organisms which are not subject to regulation under the Federal Plant Pest Act or any other act, as a courtesy to facilitate movement when the movement might otherwise be impeded because of the similarity of the organisms with others regulated under the Federal Plant Pest Act. He may likewise issue such permits on behalf of any agency requesting such action as a courtesy to facilitate movement for organisms not subject to regulation under the Federal Plant Pest Act but subject to regulation under some other act.

§ 330.209 Permits for means of conveyance.

No permit shall be required for movement into or through the United States from any place outside thereof, or interstate, of a means of conveyance unless the primary purpose of such movement of the means of conveyance is to move plant pests.

§ 330.210 Packing materials and containers for plant pest movement; host materials.

Plant pests moved into or through the United States, or interstate, must be free of soil, except when the Director approves in the permit the movement of soil with the plant pest. Subject to this exception, only approved packing materials are to be employed in the shipment of plant pests. Approved packing materials for the movement of plant pests under this part will be prescribed in administrative instructions or approved in specific cases by the Director. Such actions will be coordinated with and may supplement any requirements of the Post Office Department governing packing and packaging of any materials for movements covered by the postal laws and regulations. All containers shall be stoutly constructed so as to prevent breakage in transit and danger of plant pest dissemination and shall be labelled in accordance with § 330.211. The Director may allow the movement of host materials with plant pests under permits when they must necessarily accompany the pests, although such movement is otherwise barred under the Plant Quarantine Act.

§ 330.210a Administrative instructions listing approved packing materials for plant pests.

(a) The following materials are approved as packing materials for use with any shipment of plant pests in accordance with § 330.210:

(1) Absorbent cotton or processed cotton padding free of cottonseed.
(2) Cellulose materials.
(3) Excelsior.
(4) Felt.
(5) Ground peat (peat moss).
(6) Paper or paper products.
(7) Phenolic resin foam.
(8) Sawdust.
(9) Sponge rubber.
(10) Thread waste; twine; or cord.
(11) Vermiculite.

(b) Advance approval for the use of any other packing material for any specific movement should be obtained from the Director.

§ 330.211 Labelling of plant pests for movement under permits.

(a) *Interstate movement.* For interstate movements of plant pests a label shall be attached to each parcel containing the pests as evidence that the movement of the plant pests is authorized. Such label shall also disclose the contents of the parcel.

(b) *Movement into or through the United States from places outside thereof by mail or cargo.* (1) When a permit authorizing the movement of plant pests into the United States from any place outside thereof is issued to an applicant under this part, it will be accompanied by distinctive labels, with instructions for their use by the foreign shipper. Such labels will be issued in quantity sufficient to permit attaching one to each parcel to be moved. The labels will direct the parcels to specified inspection stations of the Division, or other designated points, for clearance. The stations will be notified by the Director in advance of the expected arrival of the plant pests. Plant pests so moved by mail may be refused entry unless the containers thereof bear such labels. Cargo shipments of plant pests so moved may be refused entry unless they bear such labels or are otherwise plainly marked to identify the contents.

(2) Any labelling requirements with respect to the movement of plant pests through the United States will be included in shipping instructions issued as conditions of the permits.

(c) *Misuse of labels.* No labels unused in accordance with the terms of the permit may be used for the movement of any other plant pest. The Federal Plant Pest Act provides a penalty [2] for the misuse of labels under this part. Any unauthorized movement of plant pests under a label shall be refused by the inspector, and the plant pests so moved may be destroyed or otherwise dealt with as set out in § 330.106 if deemed necessary as an emergency measure under that section.

§ 330.212 Movement of plant pests by baggage.

Persons proposing to move plant pests into or through the United States from any place outside thereof, or from any Territory or possession into

[2] Section 108 of the Federal Plant Pest Act provides: "Any person who violates section 103 of this act, or any regulation promulgated under this act, or who forges, counterfeits, or without authority from the Secretary uses, alters, or defaces any permit or other document provided for by this act or the regulations thereunder, shall be guilty of a misdemeanor and shall be punished by a fine not exceeding $500, or by imprisonment not exceeding one year, or both."

or through any other Territory or possession, or the Continental United States, by baggage, shall show the permit authorizing the movement to the inspector upon arrival at the port where the baggage is inspected. The conditions specified for the movement must be observed. The inspector will insure that the movement is handled in accordance with the terms of the permit. If it is necessary to move the plant pest to another place for clearance, the owner will be responsible for all costs incidental to such forwarding. Pending forwarding, the inspector will specify and supervise the application of safeguards against danger of plant pest dissemination and may retain custody of the pests until forwarded.

Subpart—Movement of Soil, Stone, And Quarry Products

§ 330.300 Soil from foreign countries or Territories or possessions.

No soil shall be moved into or through the United States from any place outside thereof or from any Territory or possession into or through any other Territory or possession or the Continental United States, whether the soil is moved as such or incidentally adhering to means of conveyance or other articles, except as authorized in § 318.60, § 319.37–16a, or § 319.69 of this chapter, or this subpart. However this section shall not apply to the movement of soil from Mexico through Mexican Border ports, which movement is subject to the requirements in Part 320 of this chapter and, as applicable, §§ 319.37–16a and 319.69 of this chapter.

(a) *Permits authorized.* The Director may issue permits under this section for movements of soil not governed by § 318.60, § 319.37–16a, or § 319.69, or Part 320 of this chapter, for research, analytical, religious, ceremonial, patriotic, or similar purposes, or such other purposes as he shall deem consistent with the objectives of this part, specifying in the permit or in the related correspondence, the safeguards, including methods of treatment, or other conditions which he deems necessary for the purpose of preventing the dissemination of plant pests into the United States or interstate. Whenever it is possible to formulate a general rule specifying such conditions, it shall be promulgated in administrative instructions and the applicable provisions thereof may be incorporated into a permit by citation, but shall be applicable whether or not so cited.

(b) *Application for permits.* Only persons resident in the United States may apply for permits under this section to move soil into the United States from any place outside thereof, or from any Territory or possession into or through any other Territory or possession or the Continental United States. Persons resident in the United States contemplating such movements, or any persons contemplating movement through the United States, of soil under this section shall first make application for permits authorizing such movement by submitting to the Division the form provided therefor by the Division or by submitting, in the form of a letter or other written communication, the following information: Origin of the shipment, destination, quantity, method of shipment, proposed port of first arrival in the United States, port of export (if applicable), approximate date of arrival in the United States, intended use, measures to be employed to prevent danger of plant pest dissemination, method of final disposition, and the number of parcels expected to be moved. In acting upon the application for permits for such movement of soil, the Director will follow the procedures outlined in § 330.202 for the consideration of applications for permits to move plant pests insofar as they are applicable.

(c) *Issuance of permits; conditions of permits.* Upon the approval of an application for a permit authorizing the movement of soil under this section, the permit will be issued. The permit may contain any conditions which are necessary, in the opinion of the Director, to prevent dissemination of plant pests into the United States or interstate, including conditions with respect to routing, packing, and labeling of the soil. The Director may require the applicant to agree in writing to such conditions prior to the issuance of the permit. The importer will receive, as a part of the permit, information on the manner in which the importation is to be made. A permit without conditions may be issued orally.

(d) *Containers; labels.* All containers for soil moved under this section shall be stoutly constructed so as to prevent breakage in transit and danger of plant pest dissemination and shall be appropriately labeled as to contents. If the soil is moved by mail, special mailing labels will be issued to the importer, with instructions for their use, which he is to send to the foreign shipper. The quantity of mailing labels issued will be sufficient for the foreign shipper to attach one to each parcel moved by mail. Such mailing labels will indicate to the postal and the plant quarantine officials that the movement is authorized under the conditions specified in the permit. Importations arriving by mail without labels will be subject to refusal of entry into the United States, or interstate movement, by the inspector unless treated, at the expense of the owner, in a manner to remove danger of plant pest dissemination. The Director may issue mailing labels for movement into or through the United States from any place outside thereof, or from any Territory or possession into or through any other Territory or possession or the continental United States, of earth other than soil when the movement might otherwise be impeded because of the similarity to soil subject to this section.

§ 330.300a Administrative instructions exempting soil from Canada from certain restrictions.

Soil of Canadian origin may be moved into or through the United States from Canada free from the permit requirements of §330.300 and the release requirements of § 330.105 but subject to inspection under § 330.105 and disposal under § 330.106 if the inspection discloses any plant pest new to or not theretofore widely prevalent or distributed within and throughout the United States. Such soil is also subject to all applicable requirements under Part 319 of this chapter.[1]

§ 330.301 Stone and quarry products from certain areas in Canada.

Stone and quarry products from areas in Canada infested with the gypsy moth may be moved from Canada into or through the United States only into or through areas regulated by the gypsy moth and browntail moth quarantine and regulations in §§ 301.45, 301.45–1 et seq. of this chapter; or into or through other areas in the United States under conditions paralleling the requirements of said quarantine and regulations for movement of stone and quarry products from said regulated areas into such other areas of the United States.

§ 330.302 Domestic movements of earth (including soil), stone, etc.

The interstate movement from regulated areas in the Continental United States of earth (including soil), stone, quarry products, and similar substances is regulated in §§ 301.45, 301.48, 301.72, 301.77, 301.78, 301.79, 301.80, and 301.81 of this chapter and may be made only in accordance with the requirements of these sections. Any such movement of earth, stone, quarry products and similar substances which may hereafter be regulated in Part 301 of this chapter may likewise be made only in accordance with the requirements of said part. The interstate movement of such materials of United States origin, from any place in the Continental United States, is not regulated by this part.

Subpart—Garbage

§ 330.400 Garbage.

Garbage on or from any means of conveyance arriving in the United States from any place outside thereof, or arriving in the Continental United States from any Territory or possession, or in any Territory or possession from any other Territory or possession, shall be subject to general surveillance by the inspectors to prevent the dissemination of plant pests. The Division will cooperate with other Federal, State, and municipal agencies in enforcing other statutes and regulations governing disposal of garbage to the end that such disposal shall be adequate to prevent the dissemination of plant pests. The inspectors, in maintaining surveillance over garbage movements and disposal, shall coordinate their activities with the activities of representatives of the other Federal, State, and local agencies also having jurisdiction over such garbage. Any additional requirements for the disposal of garbage arriving in the United States from any place outside thereof or in the continental United States from any Territory or possession or in any Territory or possession from any other Territory or possession, found necessary in order to prevent plant pest dissemination, may be prescribed in administrative instructions.

[1] Sod from Canada is regulated by § 319.37–5 of this chapter.

PART 351 — IMPORTATION OF PLANTS OR PLANT PRODUCTS BY MAIL

Sec.
351.1 Joint treatment generally.
351.2 Location of inspectors.
351.3 Procedure on arrival.
351.4 Records.
351.5 Return or destruction.
351.6 Packages in closed mail dispatches.
351.7 Regulations governing importation by mail of plant material for immediate export.

AUTHORITY: §§ 351.1 to 351.7, issued under sec. 9, 37 Stat. 318; 7 U. S. C. 162. Interpret or apply secs. 1, 5 and 7, 37 Stat. 315, as amended, 316, 317, 7 U.S.C. 154, 159, 160.

CROSS REFERENCE: For customs regulations governing importation of plants and plant products, see 19 CFR Part 12.

§ 351.1 Joint treatment generally.

Under various orders, quarantines, and regulations promulgated by the Secretary of Agriculture under authority of the Plant Quarantine Act of August 20, 1912 (37 Stat. 315, 7 U. S. C. 154) as amended, the entry into the United States of certain plants and plant products is prohibited or restricted. As an aid in enforcing these or subsequent orders, quarantines, and regulations, provisions have been made by the Plant Quarantine Division of the United States Department of Agriculture, concurrently with the Postal and Customs Services, to insure closer inspection of such importations.

§ 351.2 Location of inspectors.

Inspectors of the Plant Quarantine Division and customs officers are stationed at the following post offices:

Atlanta, Ga.	Mobile, Ala.
Baltimore, Md.	Naco, Ariz.
Blaine, Wash.	New Orleans, La.
Boston, Mass.	Newport News, Va.
Brownsville, Tex.	New York, N. Y.
Buffalo, N. Y.	Nogales, Ariz.
Calexico, Calif.	Norfolk, Va.
Charleston, S. C.	Pensacola, Fla.
Chicago, Ill.	Philadelphia, Pa.
Del Rio, Tex.	Port Arthur, Tex.
Detroit, Mich.	Port Everglades, Fla.
Douglas, Ariz.	Portland, Oreg.
Eagle Pass, Tex.	Presidio, Tex.
El Paso, Tex.	Roma, Tex.
Galveston, Tex.	St. Albans, Vt.
Hidalgo, Tex.	St. Paul, Minn.
Honolulu, T. H.	San Diego, Calif.
Houston, Tex.	San Juan, P. R.
Jacksonville, Fla.	San Francisco, Calif.
Key West, Fla.	San Ysidro, Calif.
Laredo, Tex.	Savannah, Ga.
Los Angeles, Calif. (including San Pedro)	Seattle, Wash.
	Tampa, Fla.
	Washington, D. C.
Miami, Fla.	West Palm Beach, Fla.

§ 351.3 Procedure on arrival.

All parcel post or other mail packages from foreign countries which, either from examination or external evidence, are found to contain plants or plant products shall be dispatched for submission, or actually submitted, to the plant-quarantine inspector (19 CFR 9.12 (b)) at the most accessible place. The inspector shall pass upon the contents under the plant quarantine act and with the cooperation of the customs and postal officers either (a) release the package from further plant-quarantine examination and indorse his decision thereon; or (b) divert it to Washington, D.C., Hoboken, N.J., San Francisco, Calif., or Seattle, Wash., for disposition. If so diverted, the plant-quarantine inspector shall attach to the package the yellow-and-green special mailing tag addressed to the proper quarantine station. If the package is diverted, it shall be accompanied by customs card Form 3511 and transmitted in accordance with the appropriate provisions of article 372(a) (JR 12a) of the Customs Regulations of 1937 (19 CFR, 1938 ed., 7.9 (a)). Envelopes containing customs card Form 3511 addressed to the collector of customs, New York, N. Y., shall contain a notation that the material is to be referred to the Plant Quarantine Division, Hoboken, N.J.

§ 351.4 Records.

The customs officers at Washington, D.C., San Francisco, Calif., Seattle, Wash., and New York, N.Y., shall keep a record of such packages as may be delivered to representatives of the Department of Agriculture, and upon the return thereof shall prepare a mail entry to accompany the dutiable package and deliver it to the postmaster for delivery or onward dispatch or in appropriate cases subject the shipment to formal customs entry procedure.

§ 351.5 Return or destruction.

Where the plant-quarantine inspector requires the entire shipment to be returned to the country of origin as a prohibited importation (in which event he shall indorse his action thereon) and delivers the shipment to the collector of customs, the collector shall in turn deliver it to the postmaster for dispatch to the country of origin. If, upon examination, the plant material is deemed dangerous to plant life, the collector of customs shall permit the plant-quarantine inspector to destroy immediately both the container and its contents. In either case the plant-quarantine inspector shall notify the addressee of the action taken and the reason therefor. If the objectionable plant material forms only a portion of the contents of the mail package and in the judgment of the inspector the package can safely be delivered to the addressee, after removing and destroying the objectionable material, such procedure is authorized. In the latter case the inspector shall place in the package a memorandum (BEPQ Form 387) informing the addressee of the action taken by the inspector and describing the matter which has been seized and destroyed and the reasons therefor. Mail packages received at San Juan, P. R., and Honolulu, T. H., shall be accorded treatment as herein prescribed at those two ports and not diverted to Washington, D. C., Hoboken, N. J., San Francisco, Calif., or Seattle, Wash.

§ 351.6 Packages in closed mail dispatches.

The foregoing instructions shall be followed in the treatment of packages containing plants or plant products received in closed mail dispatches made up for transmission directly to a post office located at a customs port at which no plant-quarantine inspector is stationed. Such packages (accompanied by customs card Form 3511) shall be forwarded by the collector of customs through the postmaster to the most accessible post office listed in § 351.2 for appropriate treatment in the manner hereinbefore provided for. This procedure shall also be followed in respect of such packages which are forwarded to unlisted post offices from the post office of original receipt, without having received plant-quarantine examination. Packages discovered at post offices where no customs officer is located shall be forwarded by the postmaster under his official penalty envelope addressed to the collector of customs at the most accessible post office listed for appropriate treatment as prescribed herein.

§ 351.7 Regulations governing importation by mail of plant material for immediate export.

To collectors of customs and others concerned: Shipments of plant material may be imported by mail for immediate exportation by mail, free of duty, subject to the following regulations, which have been approved by the Department of Agriculture and the Post Office Department:

(1) Each shipment shall be dispatched in the mails from abroad, accompanied by a yellow and green special mail tag bearing the serial number of the permit for entry for immediate exportation or immediate transportation and exportation, issued by the United States Department of Agriculture, and also the postal form of customs declaration.

(2) Upon arrival, the shipment shall be detained by, or redispatched to, the postmaster at Washington, D. C., San Francisco, Calif., Seattle, Wash., Honolulu, T. H., or San Juan, P. R., as may be appropriate, according to the address on the yellow and green tag, and there submitted to the customs officer and the Federal quarantine inspector (T. D. (Customs) 40363).[1] The merchandise shall under no circumstances be permitted to enter the commerce of the United States.

(3) After inspection by the customs and quarantine officers, and with their approval, the addressee, or his authorized agent, shall repack and readdress the mail parcel under customs supervision; affix to the parcel the necessary postage, and comply with other mailing requirements, after which the parcel shall be delivered to the postmaster for exportation by mail pursuant to 19 CFR 9.11. The contents of the original parcel may be subdivided and exported in separate parcels in like manner.

(4) Each parcel imported shall be subject to the payment of the regular 10-cent customs clearance fee and the 5-cent delivery fee exacted by the postal service.

(5) It will not be necessary to issue customs mail entry (Form 3419) nor to require formal entry of the shipments. Copies of Customs Form 7513 shall be furnished the Comptroller and the Section of Customs Statistics at New York, respectively.

(b) The mail shipments referred to shall be accorded special handling only

[1] Not filed with the Division of the Federal Register.

at the five points specified in paragraph (a) (2) of this section.

(c) The foregoing procedure shall not affect the movement of plant material in the international mails in transit through the United States.

PART 352—TREATMENT OF RESTRICTED OR PROHIBITED PLANTS OR PLANT PRODUCTS TEMPORILY IN THE UNITED STATES

ORDER

Sec.

352.1 Safeguarding plants and plant products.

REGULATIONS

352.2 Definitions.
352.3 Permits for landing or unloading for exportation or for transportation and exportation.
352.4 Application for permit.
352.5 Issuance of permits.
352.6 Notice of arrival.
352.7 Conditions governing landing for exportation.
352.8 Disposal of restricted or prohibited plants and plant products, the entry or landing of which is not intended, or for which entry is refused, while they are within the territorial limits of the United States.
352.9 Oranges, tangerines, and grapefruit from Mexico in transit to foreign countries via the United States.

AUTHORITY: §§ 352.1 to 352.9 issued under sec. 9, 37 Stat. 318; 7 U. S. C. 162. Interpret or apply secs. 1, 5 and 7, 37 Stat. 315, as amended, 316, 317; 7 U.S.C. 154, 159, 160.

ORDER

§ 352.1 Safeguarding plants and plant products.

(a) Under the authority conferred upon the Secretary of Agriculture by the Plant Quarantine Act of August 20, 1912 (37 Stat. 315; 7 U. S. C. 151–167), as amended, it is ordered that on and after December 1, 1932, the unloading, landing, movement, or possession within the territorial limits of the United States of plants and plant products the importation of which is now or may hereafter be restricted or prohibited by plant quarantines or orders, when they shall fall in the following categories, shall be permitted only when danger of pest escape is not involved and shall be subject to compliance with the regulations supplemental hereto:

(1) Are unloaded or landed for transshipment and exportation.

(2) Are unloaded or landed for transportation and exportation.

(3) Are brought in for temporary stay where unloading or landing is not intended.

(4) Are intended for importation but are refused entry.

(b) Such plants and plant products found to have been landed, unloaded, or brought within the territorial limits of the United States in contravention of the provisions of this order may be seized, destroyed, or otherwise disposed of, as authorized by section 10 of the act (45 Stat. 468; 7 U.S.C. 164a).

(c) Any person attempting to bring, land, or unload or move or maintain such plants and plant products within the territorial limits of the United States, except as provided in the regulations supplemental hereto, shall be liable upon conviction to the penalties prescribed by the said act.

(d) Whenever the Director of the Plant Quarantine Division shall find that existing conditions as to pest risk involved in the handling of plants and plant products temporarily in the United States, make it safe to modify, by making less stringent, the restrictions contained in any of such regulations, he shall publish such findings in administrative instructions, specifying the manner in which the regulations shall be made less stringent, whereupon such modification shall become effective; or he may, when the public interests will permit, with respect to the handling of such plants and plant products in Guam, upon request in specific cases, authorize such procedure under conditions, specified in the permit to carry out the purposes of this subpart, that are less stringent than those contained in the regulations.

(e) As used in this part, unless the context otherwise requires, the term "United States" means the States, the District of Columbia, Alaska, Guam, Hawaii, Puerto Rico, and the Virgin Islands of the United States.

REGULATIONS

§ 352.2 Definitions.

For the purposes of the regulations in this part the following words, names, and terms shall be construed, respectively, to mean:

(a) *Plants and plant products.* Nursery stock, other plants, plant parts, roots, bulbs, seeds, fruits, nuts, vegetables, other plant products, and any plant product constituted, in whole or in part, of plant material which has not been so manufactured or processed as to eliminate pest risk.

(b) *Restricted.* Importation into the United States allowed only in accordance with regulations issued under plant quarantines or orders.

(c) *Prohibited.* Importation into the United States forbidden by plant quarantines or orders.

(d) *Immediate (export), immediate (transportation and exportation).* The period which, in the judgment of the inspector, is the shortest practicable interval of time between the arrival of an incoming vessel, aircraft, or land vehicle, and the departure of the outgoing vessel, aircraft, or land vehicle transporting a consignment of restricted or prohibited plants and plant products.

(e) *Vessel.* Any craft in which plants and plant products may be transported by water.

(f) *Aircraft.* Any vehicle in which plants and plant products may be transported by air.

(g) *Vehicle.* Any contrivance which may be used for the transportation of plants and plant products on land.

(h) *Safeguard.* So to handle, maintain, or dispose of plants and plant products falling within the categories to which the regulations in this part apply as to minimize or to eliminate pest risk which the said plants and plant products may involve.

(i) *Inspector.* Any employee of the United States Department of Agriculture authorized by the Secretary of Agriculture to enforce the provisions of the Plant Quarantine Act and furnished with and wearing a suitable identifying badge.

(j) *Person.* Imports both the singular and the plural, as the case demands, and shall include corporations, companies, societies, and associations (sec. 11 of the act).

(k) *Act.* The Plant Quarantine Act of August 20, 1912 (37 Stat. 315; 7 U. S. C. 151–167), as amended.

§ 352.3 Permits for landing or unloading for exportation or for transportation and exportation.

The landing or unloading for exportation, or for transportation and exportation, of plants and plant products, whose entry is now, or may hereafter be, restricted or prohibited, shall not be allowed, except under permit and at such port of entry and over such route as shall be designated in the permit.

§ 352.4 Application for permit.

Persons contemplating the landing or unloading of restricted or prohibited plants and plant products for exportation, or for transportation and exportation, should apply to the Plant Quarantine Division, Department of Agriculture, Washington 25, D.C., for a permit, stating:

(a) Exact nature and quantity of the plants and plant products.

(b) Country[1] and locality in which grown or produced.

(c) Name and address of foreign shipper.

(d) Foreign port of departure.

(e) Name of transportation line (water, air, rail, vehicular) bringing the plants and plant products to the United States.

(f) Port of arrival in the United States.

(g) Proposed routing to United States port of exit.

(h) Proposed United States port of exit.

§ 352.5 Issuance of permits.[2]

Upon receipt of an application and upon approval by an inspector a permit will be issued specifying the conditions of entry and the port of entry to carry out the purposes of this subpart, and a copy will be supplied to the importer.

§ 352.6 Notice of arrival.

Immediately upon the arrival at a port of the United States of restricted or prohibited plants or plant products intended for exportation or for transportation and exportation, the permittee shall submit to the Plant Quarantine Division, through the United States Collector of Customs, or, in the case of Guam, through the Customs officer of the Government of Guam,

[1] This is not necessarily the same as the country in which the foreign port of departure is located. The need is emphasized of indicating the country in which the products were actually grown.

[2] Entries of this character are usually handled by customs brokers or by forwarding agents to whom a permit will be issued upon approval of an application.

a notice of arrival on the form provided for that purpose, furnishing, in addition to the information required by the application for permit:

(a) Name of transportation line (water, air, rail, vehicular), and

(b) Name of vessel, aircraft, or land vehicle (if by rail, the car numbers should be furnished) to which the said plants and plant products will be transshipped or transferred for exportation or for transportation and exportation.

(c) United States port of exit.

(d) Name and address of foreign consignee.

(e) Date of arrival at port of entry.

(f) Present location of the shipment.

§ 352.7 Conditions governing landing for exportation.

(a) Restricted or prohibited plants and plant products for which a permit has been issued shall not be landed or unloaded for transfer or transshipment for exportation or transportation and exportation, except under the supervision of the United States Collector of Customs, and in accordance with the applicable Customs regulations in 19 CFR Part 18, or, in the case of Guam, under the supervision of the Customs officer of the Government of Guam.

(b) The landing or unloading and the transfer or transshipment of such restricted or prohibited plants and plant products shall be effected by such methods and under such safeguards as shall be required by an inspector of the Plant Quarantine Division.

(c) It is required that all restricted or prohibited plants and plant products for which landing or unloading for exportation or for transportation and exportation is provided in this order shall be exported from the United States within the shortest practicable time after being landed or unloaded. The terms "exportation" and "transportation and exportation", as employed in the regulations in this part, shall be understood to mean "immediate exportation" and "immediate transportation and exportation." If immediate exportation or immediate transportation and exportation are not effected as required, the said plants and plant products shall be subject to seizure and to destruction or other disposal, as authorized by section 10 of the act (45 Stat. 468; 7 U. S. C. 164a).

§ 352.8 Disposal of restricted or prohibited plants and plant products, the entry or landing of which is not intended, or for which entry is refused, while they are within the territorial limits of the United States.

(a) If, in the judgment of the Secretary of Agriculture or his authorized agent, it is necessary to safeguard restricted or prohibited plants and plant products arriving at a port of the United States where entry or landing is not intended, or for which entry is refused, and they can not be adequately safeguarded, they shall be seized, destroyed, or otherwise disposed of, as provided in section 10 of the act.

(b) If, in the judgment of the Secretary of Agriculture or his authorized agent, it is necessary to safeguard such restricted or prohibited plants and plant products, and they can be adequately safeguarded, he shall prescribe the necessary measures and shall advise, in writing, the master, captain, pilot, driver, or other person in charge or possession of the vessel, aircraft, or land vehicle of the safeguards so prescribed. If the said restricted or prohibited plants and plant products are not safeguarded in accordance with the prescribed measures, they shall be seized, destroyed, or otherwise disposed of, as provided in section 10 of the act (45 Stat. 468; 7 U. S. C. 164a).

§ 352.9 Oranges, tangerines, and grapefruit from Mexico in transit to foreign countries via the United States.

(a) *Entry via ports on the Mexican border*—(1) *Permits.* The forwarding agent or other representative of the consignee or consignor in the United States, of oranges, tangerines, and grapefruit from Mexico, shall in advance of shipment procure a permit from the Import and Permit Section, Plant Quarantine Division, 209 River Street, Hoboken, N.J., or from the local office of that Division at the Mexican border port through which the shipment will be imported. The application for permit shall indicate the proposed routing of shipment. Separate permits must be procured for each port of entry and for each country of destination, but permits as issued may be continuing for shipments over the approved routes designated therein.

(2) *Origin of oranges, tangerines, and grapefruit.* Oranges, tangerines, and grapefruit from any state in Mexico may enter at approved ports in accordance with the provisions of this section.

(3) *Authorized ports of entry.* Oranges, tangerines, and grapefruit may enter at Naco and Nogales, Arizona; and Brownsville, Eagle Pass, El Paso, and Laredo, Texas.

(4) *Period of entry.* The entry of oranges, tangerines, and grapefruit from any State in Mexico is authorized throughout the year.

(5) *Notice of arrival.* Prior to entry, a notice of arrival, in duplicate, shall be submitted to the collector of customs at the port of entry, on a form provided for that purpose, giving the initials and number of the railroad car and the authorized routing, together with other information called for by the form.

(6) *Containers.* Transportation and exportation entry of oranges, tangerines, and grapefruit from any point in Mexico is contingent upon the fruit being packed in containers of the approximate size customarily used by the trade for marketing such fruit in the United States.

(7) *Inspection.* Each shipment shall be subject to inspection at the port of entry to determine the nature of the contents.

(8) *Disinfection.* Each car shall be subject to such treatment at the port of entry as the inspector shall require.

(9) *Type of railway car to be used and icing practices in transportation and exportation of oranges, tangerines, and grapefruit.* (i) Refrigerator cars of United States or Canadian ownership only shall be used for transportation and exportation to Canada of oranges, tangerines, and grapefruit from Mexico.

(ii) All refrigerator cars transporting oranges, tangerines, and grapefruit from States in Mexico other than Sonora shall be iced prior to crossing at Brownsville, Eagle Pass, El Paso, and Laredo, Texas, and shall be re-iced if necessary south of Little Rock, Arkansas, or a line drawn east and west therefrom. North of such a line no further icing is required. Icing, insofar as these regulations require, may be omitted if all openings leading from the car to the ice bunkers are covered with a 14-mesh fly screen in a manner satisfactory to the inspector. All such cars must move through the United States with all doors closed and sealed.

(10) *Authorized bonded rail movement.* (i) All such shipments in refrigerator cars of United States or Canadian ownership shall move by direct, authorized rail routing in bond under customs seal without diversion from the port of entry to the port of exit, as follows:

(ii) Fruit may be entered at Nogales or Naco, Arizona, only for direct rail routing to El Paso, Texas, after which it as well as all other enterable fruit shall traverse only the territory bounded on the west by a line drawn from El Paso, Texas, to Salt Lake City, Utah, and Portland, Oregon, and on the east by a line drawn from Brownsville, Texas, through Houston, Texas, to Memphis, Tennessee, on to Louisville, Kentucky, and due east therefrom, such territory to include railroad routes from Brownsville to Houston and direct northward routes therefrom. Fruit may enter the United States from Mexico for direct eastward rail routing and reentry into Mexico provided such entry and reentry are accomplished along that part of the Mexican border between and including Nogales and El Paso.

(11) *Cleaning of cars prior to return to the United States.* Cars that have been used to transport Mexican citrus fruit through the United States to Canada shall be carefully swept and freed from all fruit, as well as boxes and other rubbish, by the railroad company involved prior to reentry into the United States.

(b) *Entry via North Atlantic Ports*—(1) *General requirements.* The requirements of paragraphs (a) (1), *Permits*; (a) (4), *Period of entry*; (a) (5), *Notice of arrival*; (a) (7), *Inspection*; and (a) (11), *Cleaning of cars prior to return to United States*, of this section, shall be adapted to oranges, tangerines, and grapefruit transported from Mexico to foreign countries via North Atlantic ports.

(2) *Origin of oranges, tangerines, and grapefruit.* Oranges, tangerines, and grapefruit from any State in Mexico may move by the routing authorized in subparagraph (4) of this paragraph.

(3) *Authorized ports of entry.* Oranges, tangerines, and grapefruit may enter at New York and Boston and such other northern ports as may be named in the permit.

(4) *Authorized routing.* All shipments entering via North Atlantic ports shall move by direct water-route to New York or Boston, or to such other northern ports as may be named in the permit, for immediate direct export by water route or for immediate transportation and exportation in bond by direct approved rail

route to Canada. Shipments may also enter at Brownsville, Texas, for exportation involving water routes.

PART 353—SANITARY EXPORT CERTIFICATION

Sec.
353.1 Definitions.
353.2 Administration.
353.3 Where service is offered.
353.4 Products covered.
353.5 Application for certification.
353.6 Inspection.
353.7 Certificates.

AUTHORITY: §§ 353.1 to 353.7 issued under sec. 102, 58 Stat. 735, as amended; 7 U. S. C. 147a.

§ 353.1 Definitions.

(a) Words used in this part in the singular form shall be deemed to import the plural, and vice versa, as the case may demand.

(b) For the purpose of this part, unless the context otherwise requires, the following terms shall be construed, respectively, to mean:

(1) *The act.* The act of Congress entitled "Department of Agriculture Organic Act of 1944," approved September 21, 1944 (58 Stat. 734), section 102 (b) (c).

(2) *Division.* The Plant Quarantine Division of the United States Department of Agriculture.

(3) *Products.* Domestic plants and plant products.

(4) *Inspector.* An inspector of the Plant Quarantine Division, United States Department of Agriculture, or other person authorized by the Secretary of Agriculture to inspect and certify to shippers and other interested parties, as to the sanitary condition of the products inspected under the act.

(5) *Office of inspection.* The office of an inspector of products covered by this part.

(6) *Certificate.* A certificate of the sanitary condition of the products concerned, based on inspection of representative samples, issued by an inspector under the act.

(7) *Consignment.* Any shipment of products assembled and inspected at one place at one time and covered by one application, or any mail shipment consigned to one consignee.

§ 353.2 Administration.

The Director of the Division is charged with the supervision of the performance of all duties arising in the administration of the act.

§ 353.3 Where service is offered.

Certification may be made at the following ports, where inspectors of the Division are located:

Agana, Guam.
Atlanta, Ga.
Baltimore, Md.
Blaine, Wash.
Boston, Mass.
Brownsville, Tex.
Buffalo, N. Y.
Calexico, Calif.
Charleston, S. C.
Chicago, Ill.
Cleveland, Ohio
Dallas, Tex.
Del Rio, Tex.
Denver, Colo.
Detroit, Mich.
Douglas, Ariz.
Eagle Pass, Tex.
El Paso, Tex.
Fort Worth, Tex.
Galveston, Tex.
Great Falls, Mont.
Hidalgo, Tex.
Hoboken, N. J.
Honolulu, Hawaii
Houston, Tex.
Jacksonville, Fla.
Kansas City, Mo.
Key West, Fla.
Laredo, Tex.
Los Angeles, Calif.
Louisville, Ky.
Memphis, Tenn.
Miami, Fla.
Mobile, Ala.
Naco, Ariz.
New Orleans, La.
New York, N. Y.
Nogales, Ariz.
Norfolk, Va.
Omaha, Nebr.
Pensacola, Fla.
Philadelphia, Pa.
Pittsburgh, Pa.
Port Arthur, Tex.
Port Everglades, Fla.
Portland, Oreg.
Presidio, Tex.
Roma, Tex.
Saint Louis, Mo.
Saint Paul, Minn.
San Antonio, Tex.
San Diego, Calif.
San Francisco, Calif.
San Juan, P. R.
San Pedro, Calif.
San Ysidro, Calif.
Savannah, Ga.
Seattle, Wash.
Tampa, Fla.

§ 353.4 Products covered.

Domestic plants and plant products when offered for export.

§ 353.5 Application for certification.

(a) A written application shall be made on forms provided for the purpose setting forth such information as is called for as far in advance as possible, and shall be filed in the office of inspection at the port of certification.

(b) Each application shall be deemed filed when delivered to the proper office of certification. When such application is filed, a record showing the date and time of filing shall be made in such office.

§ 353.6 Inspection.

(a) The applicant shall cause the product for which inspection is requested to be made accessible for inspection and identification and to be so placed as to permit efficient inspection for insects and plant diseases of representative samples of all grades or kinds of such product.

(b) All labor involved in the inspection, including the moving, opening, and closing of containers, shall be furnished by the applicant.

(c) Certificates may be refused for failure to carry out fully any of the foregoing provisions.

(d) No inspector shall inspect any products in which he or a member of his family is directly or indirectly financially interested.

§ 353.7 Certificates.

(a) For each consignment of products for which certification is requested, the inspector shall sign and issue a separate certificate based on the findings of the inspection.

(b) The original certificate shall immediately upon its issuance be delivered or mailed to the applicant or a person designated by him.

(c) One copy of each certificate shall be filed in the office of certification, and one forwarded to the Director of the Division.

(d) The Director of the Division may authorize inspectors to issue certificates on the basis of inspections made by cooperating Federal and State agencies under requirements and conditions approved by him.

(e) Inspectors may issue new certificates on a basis of inspections for previous certifications when the previously issued certificates can be canceled before they have been accepted by the phytopathological authorities of the country of destination involved.

PART 354—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS

Sec.
354.1 Overtime work at border ports, seaports, and airports.
354.2 Administrative instructions prescribing commuted travel time.

AUTHORITY: §§ 354.1 and 354.2 issued under 64 Stat. 561; 5 U. S. C. 576.

§ 354.1 Overtime work at border ports, seaports, and airports.

(a) Any person, firm, or corporation having ownership, custody or control of plants, plant products, or other commodities or articles subject to inspection, certification, or quarantine under this chapter, and who requires the services of an employee of the Plant Quarantine Division on a holiday or at any other time outside the regular tour of duty of such employee, shall sufficiently in advance of the period of overtime request the Division inspector in charge to furnish inspection, quarantine or certification service during such overtime period, and shall pay the Government therefor at the rate of $5.40 per man-hour per employee as follows: A minimum charge of two hours shall be made for any unscheduled overtime duty performed by an employee on a day when no work was scheduled for him or which is performed by an employee on his regular work day beginning either at least one hour before his scheduled tour of duty or at least one hour after he has completed his scheduled tour of duty, and has left his place of employment. In addition, each period of unscheduled overtime work which requires an employee to perform additional travel for which he would otherwise not be compensated, and each period of holiday duty, may include a commuted travel time period, not in excess of three hours. The amount of this period shall be prescribed in administrative instructions to be issued by the Director of the Plant Quarantine Division for the ports, stations, and areas in which the employees are located, and shall be established as nearly as may be practicable to cover the time necessarily spent in reporting to and returning from the place at which the employee performs such overtime duty if such travel is performed solely on account of such overtime duty. It will be administratively determined from time to time which days constitute holidays.

(b) The Division inspector in charge, in honoring a request to furnish inspection, quarantine, or certification service, shall assign employees to such overtime or holiday duty with due regard to the work program and availability of employees for such duty.

§ 354.2 Administrative instructions prescribing commuted travel time.

Each period of overtime duty, as prescribed in § 354.1 shall, in addition, include a commuted travel time period for the respective ports, stations, and areas in which employees are located, if such travel is performed solely on account of overtime or holiday service, as follows:

ONE HOUR

Aguadilla, P. R. (served from Ramey Air Force Base).
Barbers Point Station, T. H. (when served from Barbers Point Station, T. H.)
Baton Rouge, La.
Blaine, Wash.
Brownsville, Tex.
Buffalo, N. Y.
Calexico, Calif.
Charlotte Amalie, American Virgin Islands.
Christiansted, American Virgin Islands.
Cleveland, Ohio.
Del Rio, Tex.
Douglas, Ariz.
Dover Air Force Base, Dover, Del.
Eagle Pass, Tex.
El Paso, Tex.
Frederiksted, American Virgin Islands (served from Christiansted).
Galveston, Tex.
Hidalgo, Tex.
Hilo, T. H.
Kahului, Maui, T. H.
Key West, Fla.
Laredo, Tex.
Los Angeles Harbor, San Pedro, Calif.
Memphis, Tenn.
Nassau, Bahamas.
Nogales, Ariz.
Omaha, Nebr.
Pensacola, Fla.
Port Arthur, Tex.
Port Everglades, Fla.
Presidio, Tex.
Progreso, Tex.
Ramey Air Force Base, P. R.
Roma, Tex.
St. Albans, Vt.
St. Paul, Minn.
San Antonio, Tex.
San Juan, P. R.
San Luis, Ariz.
San Ysidro, Calif.
Texas City, Tex. (served from Galveston, Tex.).
West Palm Beach, Fla.
Wilmington, N. C.

TWO HOURS

Arlington, Va.
Atlanta, Ga.
Barbers Point Station, T. H. (when served from Honolulu, T. H.).
Beaumont, Tex. (served from Port Arthur).
Bellingham, Wash. (served from Blaine, Wash.).
Burnside, La. (served from Baton Rouge).
Charleston, S. C.
Corpus Christi, Tex.
Dallas, Tex.
Harlingen Air Force Base, Tex. (served from Brownsville, Tex.).
Honolulu, T. H.
Houston, Tex.
Jacksonville, Fla.
La Feria, Tex. (served from Hidalgo, Tex.).
Lantana Airport, Lantana, Fla. (served from West Palm Beach, Fla.).
Lihue, Kauai, T. H.
Long Beach Harbor and Airport (served from San Pedro, Calif.).
Marathon, Fla. (served from Key West).
McGuire Air Force Base, Fort Dix, N. J.
Miami, Fla.
Mobile, Ala.
Moore Air Field (served from Hidalgo, Tex.).
Niagara Falls, N. Y. (served from Buffalo, N. Y.).
Norfolk-Newport News, Va.
Offutt Air Base (served from Omaha, Nebr.).
Orange, Tex. (served from Port Arthur, Tex.).
Port Isabel, Tex. (served from Brownsville, Tex.).
Portland, Oreg.
St. Helens, Oreg.
St. Louis, Mo.
San Francisco, Calif.
Savannah, Ga.
Seattle, Wash., and Sea-Tac Airport.
Sumas, Wash. (served from Blaine, Wash.).
Tampa, Fla.
Vancouver, Wash.

THREE HOURS

Akron, Ohio (served from Cleveland, Ohio).
Anacortes, Wash. (served from Blaine, Wash.).
Apalachicola, Fla. (served from Pensacola).
Astoria, Oreg. (served from Portland, Oreg.).
Baltimore, Md.
Baytown, Tex. (served from Houston, Tex.).
Beaufort, S. C. (served from Charleston, S. C.).
Boca Grande, Fla. (served from Tampa, Fla.).
Boston, Mass.
Brunswick, Ga. (served from Savannah, Ga.).
Cape Canaveral, Fla. (served from West Palm Beach).
Carswell Field (Fort Worth), Tex. (served from Dallas, Tex.).
Cherry Point, S. C. (served from Charleston, S. C.).
Chicago, Ill.
Coos Bay, Oreg. (served from Portland, Oreg.).
Detroit, Mich.
Elgin Air Force Base, Fla. (served from Pensacola).
England Air Force Base, Alexandria, La. (served from Baton Rouge).
Everett, Wash. (served from Seattle, Wash.).
Fort Meyers, Fla. (served from Tampa, Fla.).
Fort Pierce, Fla. (served from West Palm Beach).
Foster Air Force Base, Victoria, Tex. (served from Corpus Christi).
Freeport, Tex. (served from Houston, Tex.).
Friday Harbor, Wash. (served from Seattle, Wash.).
Georgetown, S. C. (served from Charleston, S. C.).
Glynnce Naval Air Station, Ga. (served from Savannah, Ga.).
Grays Harbor, Wash. (served from Seattle, Wash.).
Gulfport, Miss. (served from Mobile, Ala.).
Hopewell, Va. (served from Norfolk-Newport News, Va.).
Keesler Air Force Base, Biloxi, Miss. (served from Mobile, Ala.).
Lake Charles, La. (served from Port Arthur, Tex.).
Longview, Wash. (served from Portland, Oreg.).
Marfa Air Force Base (served from Presidio, Tex.).
Mayaguez, P. R. (served from Ramey Air Force Base).
McChord Air Force Base, Wash. (served from Seattle, Wash.).
McCoy Air Force Base, Orlando, Fla. (served from Tampa).
Morehead City and other North Carolina ports served from Wilmington, N. C.
Nashville, Tenn.
New Orleans, La.
New York, N. Y. (metropolitan area).
Olympia, Wash. (served from Seattle, Wash.).
Panama City, Fla. (served from Pensacola, Fla.).
Patrick Air Force Base, Fla. (served from West Palm Beach).
Patuxent, Md. (served from Arlington, Va.).
Philadelphia, Pa.
Pittsburgh, Pa.
Port Angeles, Wash. (served from Seattle, Wash.).
Port Lavaca, Tex.
Port St. Joe, Fla. (served from Pensacola).
Port Townsend, Wash. (served from Seattle, Wash.).
Put-in-Bay and other Ohio ports (served from Cleveland, Ohio).
Rainier, Oreg. (served from Portland, Oreg.).
Richmond, Va. (served from Norfolk-Newport News, Va.).
Rochester, N. Y. (served from Buffalo, N. Y.).
Roosevelt Roads, P. R. (served from San Juan, P. R.).
St. Albans, Vt. (ports served from, but not including St. Albans).
St. Marys, Ga. (served from Jacksonville, Fla.).
Sanford Naval Air Station, Fla. (served from Tampa).
Tacoma, Wash. (served from Seattle, Wash.).
Tucson, Ariz. (served from Nogales, Ariz.).
Walker Air Force Base (served from El Paso, Tex.).
Willapa Bay, Wash. (served from Seattle, Wash.).
Youngstown, Ohio (served from Cleveland, Ohio).

PART 362—REGULATIONS FOR THE ENFORCEMENT OF THE FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT

GENERAL

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362.111 Interpretation with respect to shipments for experimental use; permit requirements.
362.113 Interpretation with respect to liquid and pressurized household insecticides acceptable for generalized application (primarily nondeposit forming).
362.115 Interpretation with respect to labeling of weed killers containing 2,4-D, 2, 4, 5-T, and MCPA.
362.116 Interpretation with respect to warning, caution, and antidote statements required to appear on labels of economic poisons.
362.117 Interpretation with respect to labeling of household insecticides containing chlordane.
362.118 Interpretation concerning noneconomic poison claims and directions for use, and economic poisons subject to requirements of other statutes.
362.119 Interpretation concerning labeling claims for germicides, disinfectants, and sanitizers recommended for use in hard water areas.

AUTHORITY: §§ 362.1 to 362.119 issued under sec. 6, 61 Stat. 168; 7 U. S. C. 135d.

GENERAL

§ 362.1 Words in singular form.

Words used in the singular form in §§ 362.1 to 362.18 shall include the plural, and vice versa, as the case may require.

§ 362.2 Terms defined and construed.

All terms used in §§ 362.1 to 362.18 shall have the meaning set forth for such terms in the act. In addition, such terms shall be construed as follows:

(a) *Act.* "Act" means the Federal Insecticide, Fungicide, and Rodenticide Act.

(b) *Director.* "Director" means the Director of the Plant Pest Control Division, Agricultural Research Service, United States Department of Agriculture, or any officer or employee to whom he has heretofore lawfully delegated or to whom he may hereafter lawfully delegate the authority to act in his stead.

(c) *Economic poison.* "Economic poison" includes insecticides, fungicides, rodenticides and herbicides. A product shall be deemed to be an economic poison regardless of whether intended for use as packed or after dilution or mixture with other substances, such as carriers or baits. Products intended only for use after further processing or manufacturing, such as grinding to dust form or more extensive operations, shall not be deemed to be economic poisons. Substances which have recognized commercial uses other than uses as economic poisons shall not be deemed to be economic poisons unless such substances are (1) specially prepared for use as economic poisons, or (2) labeled, represented, or intended for use as economic poisons, or (3) marketed in channels of trade where they will presumably be purchased as economic poisons.

(d) *Fungicide.* "Fungicide" includes but is not limited to:

(1) Plant fungicides, seed fungicides, fungicidal wood preservatives, and mildew and mold preventatives,

(2) Disinfectants, antiseptics and sterilizers, except those for use only on or in living man or other animals.

The term "fungicide" shall not include algaecides.

(e) *Active ingredient.* An "active ingredient" is an ingredient which:

(1) Is capable in itself, and when used in the same manner and for the same purposes as directed for use of the product, of preventing, destroying, repelling, or mitigating insects, fungi, rodents, weeds or other pests; and

(2) Is present in the product in an amount sufficient to add materially to its effectiveness; and

(3) Is not antagonistic to the activity of the principal active ingredient:

Provided, however, That the Director may require an ingredient to be designated as an active ingredient if, in his opinion, it sufficiently increases the effectiveness of the economic poison to warrant such action.

(f) *Rodent.* "Rodent" means any animal of the order Rodentia, including, but not limited to, rats, mice, rabbits, gophers, prairie dogs and squirrels.

(g) *Official investigator.* "Official investigator" means any employee or agent of the Department of Agriculture or the Treasury Department authorized by the Director or by the Secretary of the Treasury to make investigations in connection with enforcement of the act.

§ 362.3 Administration.

The Director is authorized to take such action as, in his discretion, may be necessary in the administration and enforcement of the act and the regulations in this part.

§ 362.4 Language to be used.

All statements, words and other information required by the act or the regulations in this part to appear on the label or labeling of any economic poison shall be in the English language: *Provided,* That in the case of articles intended solely for distribution to points outside the continental United States the appropriate foreign language may be used in lieu of the English language.

§ 362.5 Omission of label or labeling.

The omission of a label or labeling from any economic poison shall not affect any provision under the act or the regulations in this part with respect to any statement required to appear on such label or labeling.

§ 362.6 Label.

(a) *Contents of label.* The label of every economic poison must show, clearly and prominently, the name of the product; the name and address of the manufacturer, the registrant, or person for whom manufactured; the net contents; the ingredient statement; and a warning or caution statement which may be necessary to prevent injury to living man and other vertebrate animals, useful vegetation and useful invertebrate animals. The label of any economic poison which is highly toxic to man must also contain the skull and crossbones, and the word "poison" in red on a contrasting background and the antidote statement in immediate proximity thereto. The antidote statement shall include directions to call a physician immediately. The label of every economic poison, if necessary to prevent injury to living man and other vertebrate animals, useful vegetation and useful invertebrate animals, must contain an appropriate warning or caution statement as required in § 362.9.

(b) *Name and address of manufacturer.* An unqualified name and address given on the label shall be considered as the name and address of the manufacturer. If the registrant's name appears on the label and the registrant is not the manufacturer, or if the name of the person for whom the economic poison was manufactured appears on the label, it must be qualified by appropriate wording such as "Packed for * * *," "Distributed by * * *," or "Sold by * * *," to show that the name is not that of the manufacturer. When a person manufactures an economic poison in two or more places or in a place different from the manufacturer's principal office, the actual place of manufacture of each particular package need not be stated on the label except when, under the special circumstances existing, the failure to name it may be misleading to the public. The address of the manufacturer, registrant or person for whom manufactured shall include the street address, if any, unless the street address is shown in a current city directory or telephone directory.

(c) *Name, brand or trademark of economic poison.* The name, brand or trademark of the economic poison appearing on the label shall be that under which the economic poison is registered.

(d) *Net content.* (1) The net content shall be exclusive of wrappers or other material, and shall be deemed to be average content unless stated as a minimum quantity.

(2) Net content shall be stated in the terms of weight or measure in general use by consumers and users of the economic poison to give accurate information as to the quantity of the economic poison. If there is no general use, the net content statement shall be in terms of liquid measure if the product is a liquid, and in terms of weight if it is a solid, semi-solid, viscous, or a mixture of liquid and solid. Statements of liquid measure shall be in terms of the United States gallon, quart, pint, and fluid ounce, at 68° F. The statements of weight shall be in terms of avoirdupois pound and ounce. All statements of net content shall be in terms of the largest unit present.

(3) If the contents are stated as a minimum quantity, variation below is not permissible and variation above shall not be unreasonably large.

(4) If the contents are not stated as a minimum quantity, variation shall be permitted only to the extent that it represents deviations unavoidable in good packing practice. The average quantity in the packages in a shipment shall not fall below the average quantity stated, nor shall there be any unreasonable variation from the average in the contents of any package.

§ 362.7 Ingredient statement.

(a) *Location of ingredient statement.* The ingredient statement must appear on that part of the label displayed under

customary conditions of purchase except in cases where the Director determines that, due to the size or form of the container a statement on that portion of the label is impractical, and permits such statement to appear on another side or panel of the label. When so permitted, the ingredient statement must be in larger type and more prominent than would otherwise be possible. The ingredient statement must run parallel with other printed matter on the panel of the label on which it appears and must be on a clear contrasting background not obscured or crowded.

(b) *Names of ingredients.* The well-known common name of the ingredient must be given or, if the ingredient has no common name, the correct chemical name. If there is no common name and the chemical composition is unknown or complex, the Director may permit the use of a new or coined name which he finds to be appropriate for the information and protection of the user. If the use of a new or coined name is permitted, the Director may prescribe the terms under which it may be used. A trademark or trade name may not be used as the name of an ingredient except when it has become a common name.

(c) *Percentages of ingredients.* Percentages of ingredients shall be determined by weight and the sum of the percentages of the ingredients shall be 100. Sliding scale forms of ingredient statements shall not be used.

(d) *Designation of ingredients.* (1) Active ingredients and inert ingredients shall be so designated, and the term "inert ingredients" shall appear in the same size type and be equally as prominent as the term "active ingredients."

(2) If the name but not the percentage of each active ingredient is given, the names of the active and inert ingredients shall, respectively, be shown in the descending order of the percentage of each present in each classification and the name of each ingredient shall be given equal prominence.

(e) *Active ingredient content.* As long as an economic poison is subject to the act the percentages of active ingredients declared in the ingredient statement shall be the percentages of such ingredients in the economic poison.

§ 362.8 Economic poisons highly toxic to man.

The Secretary hereby finds that economic poisons which fall within any of the following categories when tested on the laboratory animals, mice, rats and rabbits, are highly toxic to man or contain substances or quantities of substances highly toxic to man within the meaning of the act:

(a) *Oral toxicity.* Those which produce death in half or more than half the animals of any species at a dosage of 50 milligrams at a single dose, or less, per kilogram of body weight when administered orally to ten or more such animals of each species.

(b) *Toxicity on inhalation.* Those which produce death in half or more than half of the animals of any species at a dosage of 200 parts or less by volume of the gas or vapor per million parts by volume of air when administered by continuous inhalation for one hour or less to ten or more animals of each species, provided such concentration is likely to be encountered by man when the economic poison is used in any reasonably foreseeable manner.

(c) *Toxicity by skin absorption.* Those which produce death in half or more than half of the animals (rabbits only) tested at a dosage of 200 milligrams or less per kilogram of body weight when administered by continuous contact with the bare skin for 24 hours or less to ten or more animals: *Provided, however,* That the Director may, upon application and after opportunity for hearing, exempt any economic poison which meets the above standard but which is not in fact highly toxic to man, from the requirements of the act and the regulations in this part with respect to economic poisons highly toxic to man.

§ 362.9 Warning or caution statement.

(a) The warning or caution statement, when necessary to prevent injury to living man and other vertebrate animals, useful vegetation and useful invertebrate animals, must appear on the label in a place sufficiently prominent to warn the user, and must state clearly and in non-technical language the particular hazard involved in the use of the economic poison, e. g., ingestion, skin absorption, inhalation, inflammability or explosion, and the precautions to be taken to avoid accident, injury, or damage.

(b) The word "Poison" in red on a contrasting background in immediate proximity to the skull and crossbones and an antidote, including directions to call a physician immediately, shall appear on all economic poisons highly toxic to man.

§ 362.10 Registration.

(a) *Eligibility.* Any manufacturer, packer, seller, distributor or shipper of an economic poison is eligible as a registrant and may register such economic poison.

(b) *Effect of registration.* If an economic poison is registered under the act no further registration under the act is required: *Provided,* That,

(1) The product is in the manufacturer's or registrant's original unbroken immediate container; and

(2) The claims made for it and the directions for its use do not differ in substance from the representations made in connection with registration.

(c) *Procedure for registration.* Applications for registration should be addressed to Plant Pest Control Division, Agricultural Research Service, United States Department of Agriculture, Washington 25, D. C. Application forms will be furnished upon request. Applications should be submitted as far in advance as possible and at least 30 days before the time when it is desired that registration take effect. No fees are charged for registration.

(d) *Effective date of registration.* Registration of an economic poison shall become effective on the date the notice of registration is issued.

(e) *Responsibility of a registrant.* The registrant is responsible for the accuracy and completeness of all information submitted in connection with his application for registration of an economic poison.

(f) *Changes in labeling or formulae.* (1) Changes in substance in the labeling or changes in the formula of a registered economic poison must be submitted in advance to the Plant Pest Control Division, Agricultural Research Service, United States Department of Agriculture, Washington 25, D. C. The registrant must describe the exact changes desired and the proposed effective date and, upon request, shall submit a description of tests which justify such changes.

(2) After the effective date of a change in labeling or formula the product shall be marketed only under the new claims or formula, except that a reasonable time may be permitted by the Director to dispose of properly labeled stocks of old products.

(g) *Claims must conform to registration.* Claims made for an economic poison must not differ in substance from representations made in connection with registration, including representations with respect to effectiveness, ingredients, directions for use, or pests against which the product is recommended.

(h) *Duration of registration.* Unless canceled in accordance with the provisions of section 4. c. of the act or with the acquiesence of the registrant, or unless continued in effect in accordance with the provisions of paragraph (i) of this section, the registration of an economic poison shall be canceled at the end of a period of five years following the date of registration of such economic poison or following the date of any subsequent registered change in formula or labeling or following the date of any continuance of registration pursuant to paragraph (i) of this section: *Provided, however,* That prior to any such cancellation the Plant Pest Control Division shall send to the registrant a notice of intent to cancel, and, in the event such notice is not sent to the registrant 30 days prior to the expiration of the five year period, the registration shall remain in effect until 30 days following the date such notice has been sent to the registrant at his latest address submitted to the Plant Pest Control Division.

(i) *Continuance of registration.* If a registrant desires to continue the registration in effect, he shall notify the Plant Pest Control Division in writing and it shall be continued in effect under the same terms as the original registration: *Provided, however,* That if, on the basis of information available at the time, it appears that the product or its labeling fails to comply with the act the registrant shall be so notified and an opportunity given to make the necessary corrections. If the corrections are not made, continued registration without protest may be refused but registration under protest as provided in section 4. c. of the act shall be issued if requested in writing by the registrant.

§ 362.11 Guarantee of economic poisons.

(a) *By whom given.* Any manufacturer, distributor, wholesaler, or other person residing in the United States may furnish to any person to

whom he sells an economic poison a guarantee that the economic poison was lawfully registered at the time of sale and delivery to such person, and that the economic poison complies with all the requirements of the act and of the regulations in this part.

(b) *Reference to guarantee.* No reference to or suggestion that a guarantee of registration has been given shall be made in the labeling of any economic poison.

(c) *Contents of guarantee.* In order to afford effective protection, each guarantee must:

(1) Be signed by and contain the name and address of the person giving it; and

(2) State that the economic poison was lawfully registered at the time of sale and delivery and that it complies with all other requirements of the Federal Insecticide, Fungicide, and Rodenticide Act.

(d) *Scope of guarantee.* A guarantee may be (1) limited to a specific shipment or other delivery of a product, in which case it may be a part of or attached to the invoice or bill of sale covering such shipment or delivery, or (2) general and continuing, in which case, in its application to any shipment or other delivery of a product, it shall be considered to have been given at the date when such product was shipped or delivered by the person giving the guarantee.

(e) *Expiration of guarantee.* Any guarantee shall expire when the product is repacked or relabeled by the purchaser or when it becomes otherwise in violation of the act or the regulations in this part after shipment or other delivery by the person who gave such guarantee.

(f) *Forms of guarantee.* The following are suggested forms of guarantee:

(1) Limited form for use on invoice or bill of sale.

---------- hereby guarantees
Name of guarantor
that the economic poison herein listed is lawfully registered with the Secretary of Agriculture and that the same complies with all requirements of the Federal Insecticide, Fungicide, and Rodenticide Act.

Signature and postoffice address of guarantor

Date

(2) General and continuing form.

The economic poisons comprising each shipment or other delivery hereafter made by ----------, to or on the
Name of guarantor
order of ----------
Name and address of person receiving guarantee
are hereby guaranteed to be lawfully registered with the Secretary of Agriculture and to comply with all requirements of the Federal Insecticide, Fungicide, and Rodenticide Act, as of the date of such shipment or delivery.

Signature and postoffice address of guarantor

Date

§ 362.12 Coloration and discoloration.

The white economic poisons hereinafter named shall be colored or discolored in accordance with this section. The hues, values, and chromas specified are those contained in the Munsell Book of Color, Munsell Color Company, 10 East Franklin Street, Baltimore, Maryland.

(a) *Coloring agent.* The coloring agent must produce a uniformly colored product not subject to change in color beyond the minimum requirements specified in the regulations in this part during ordinary conditions of marketing or storage, and must not cause the product to be ineffective or result in its causing damage when used as directed.

(b) *Arsenicals and barium fluosilicate.* Standard lead arsenate, basic lead arsenate, calcium arsenate, magnesium arsenate, zinc arsenate, zinc arsenite, and barium fluosilicate shall be colored any hue, except the yellow-reds and yellows, having a value of not more than 8 and a chroma of not less than 4, or shall be discolored to a neutral lightness value not over 7.

(c) *Sodium fluoride and sodium fluosilicate.* Sodium fluoride and sodium fluosilicate shall be colored blue or green having a value of not more than 8 and a chroma of not less than 4, or shall be discolored to a neutral lightness value not over 7.

(d) *Exception.* Notwithstanding the provisions of paragraphs (b) and (c) of this section the Director, after opportunity for hearing, may permit other hues to be used for any particular purpose if the prescribed hues are not feasible for such purpose and if such action will not be injurious to the public.

§ 362.13 Adulteration; valuable constituent.

(a) A valuable constituent will be considered as wholly abstracted whenever the designation or representation of the product imports its presence therein and such constituent has been wholly omitted therefrom in the preparation of the product or has been wholly removed from the completed product.

(b) A valuable constituent will be considered as partly abstracted whenever the designation or representation of the product imports its presence therein, and such constituent is not present in the usual or customary amount or in the amount indicated in the labeling.

§ 362.14 Misbranding.

(a) *False or misleading statements.* Among representations in the labeling of an economic poison which render it misbranded are the following:

(1) A false or misleading statement concerning composition of the product.

(2) A false or misleading statement concerning the effectiveness of the product as an economic poison or device.

(3) A false or misleading statement about the value of the product for purposes other than as an economic poison or device.

(4) A false or misleading comparison with other economic poisons or devices.

(5) A false or misleading representation as to the safety of the economic poison or of its ingredients including a statement such as "non-poisonous", "non-injurious", or "non-hazardous" unless the product is in fact safe under all conditions.

(6) Any statement directly or indirectly implying that the economic poison or device is recommended or endorsed by any agency of the Federal Government.

(7) The name of an economic poison which contains two or more ingredients if it suggests the name of one or more but not all such ingredients, even though the names of the other ingredients are stated elsewhere in the labeling: *Provided, however,* That it is permissible, when the percentage of each active ingredient is given in the name, to omit reference in the name to the inert ingredients.

(8) Prominent reference in the labeling to one or more active ingredients without giving their percentages in immediate proximity thereto or without giving equal prominence to the other active ingredients or to the presence of inert ingredients.

(9) A true statement used in such a way as to give a false or misleading impression to the purchaser.

(b) *Justification of false and misleading statements not permitted.* (1) The use of any false or misleading statement on any part of the labeling, given as the statement or opinion of any person or based upon such statement or opinion shall not be justified, nor may such statement be justified by the fact that the statement or opinion is actually that of such person.

(2) The use of a false or misleading statement in the labeling cannot be justified by an explanatory statement.

§ 362.15 Enforcement.

(a) *Collection of samples.* Samples of economic poisons and devices shall be collected by official investigators or by any employee of the Federal Government, or of a State, territory, or political subdivision who has been duly designated by the Director.

(b) *Examination of samples.* Methods of examination of samples shall be those adopted and published by the Association of Official Agricultural Chemists, where applicable, and such other methods as may be necessary to determine whether the product complies with the law.

(c) *Notice of apparent violation.* (1) If from an examination or analysis an economic poison or device appears to be in violation of the act, a notice in writing shall be sent to the person against whom criminal proceedings are contemplated, giving him an opportunity to offer such written explanation as he may desire. The notice shall state the manner in which the sample fails to meet the requirements of the act and the regulations.

(2) Any such person may, in addition to his reply to such notice, file within 20 days of its receipt a written request for an opportunity to present his views orally in connection therewith.

(3) No notice or hearing shall be required prior to the seizure of any economic poison or device.

§ 362.16 Notice of judgment.

Publication of judgments of the courts in cases arising under the criminal or seizure provisions of the act shall be made in the form of notices, circulars, or bulletins as the Director may direct.

§ 362.17 Shipments for experimental use.

(a) *Articles for which no permit is required.* (1) A substance or mixture of substances being put through tests in which the purpose is only to determine its value for economic poison purposes or to determine its toxicity or other properties, and where the user does not expect to receive any benefit in pest control from its use is not considered an economic poison within the meaning of section 2a of the act and § 362.2 (c). Therefore, no permit under the act is required for its shipment.

(2) An economic poison shipped or delivered for experimental use by or under the supervision of any Federal or State agency authorized by law to conduct research in the field of economic poisons shall not be subject to the provisions of the act and the regulations in this part.

(b) *Articles for which permit is required.* (1) An economic poison shipped or delivered for experimental use by other qualified persons but not under the supervision of a Federal or State agency authorized by law to conduct research in the field of economic poisons, shall be exempt from the provisions of the act and of the regulations in this part: *Provided*, That a permit for such shipment or delivery is obtained prior thereto. Permits will be of two types, specific and general. A specific permit will be issued to cover a particular shipment on a specified date to a named person. A general permit will be issued to cover more than one shipment over a period of time to different persons.

(2) If an economic poison is to be tested for a use which is likely to result in a residue on or in food or feed, a permit for shipment or delivery will be issued only when:

(i) The food or feed product will not be used for food or feed except for laboratory or experimental animals, or

(ii) Convincing evidence is submitted by the applicant that the proposed use will not result in an amount of residue which would be hazardous to man or other animals.

(3) A permit for shipment or delivery of any experimental economic poison for testing in any place likely to be frequented by people will be granted only if it is clearly shown in the application for such permit that the applicant's instructions for use reasonably assure the avoidance of injury to all persons concerned.

(4) All applications for permits covering shipments for experimental use shall be filed in duplicate and must be signed by the shipper or the person making the delivery and must contain the following:

(i) Name and address of the shipper and place or places from which the shipment will be made.

(ii) Proposed date of shipment or proposed shipping period not to exceed one year.

(iii) A statement of the composition of material to be covered by the permit which should apply to a single material or group of closely allied formulations of the material.

(iv) A statement of the approximate quantity to be shipped.

(v) Available data or information or reference to available data or information on the acute toxicity of the economic poison.

(vi) A statement of the nature of the proposed experimental program, including the type of pests or organisms to be experimented with, the crops or animals for which the economic poison is to be used, the areas where it is proposed to conduct the program, and including the results of previous tests where necessary to justify the quantity requested.

(vii) When food or feed is likely to be contaminated, either a full statement of action which will be taken to prevent the food or feed from being consumed, except by laboratory or experimental animals, or convincing evidence that the proposed experiment will not result in injury to man or useful animals.

(viii) The percentage of the total quantity specified under subdivision (iv) of this subparagraph which will be supplied without charge to the user.

(ix) A statement that the economic poison is intended for experimental use only.

(x) Proposed labeling which must bear (*a*) the prominent statement "For Experimental Use Only" on the container label and any accompanying circular or other labeling, (*b*) a warning or caution statement which may be necessary and if complied with adequate for the protection of those who may handle or be exposed to the experimental formulations, (*c*) the name and address of the applicant for the permit, (*d*) the name or designation of the formulation, and (*e*), if the economic poison is to be sold, a statement of the names and percentages of the principal active ingredients in the product.

(5) The Director may limit the quantity of economic poison covered by a permit to such less quantity than requested as he may determine if the available information on effectiveness, toxicity or other hazards is not sufficient to justify the scope of experimental use proposed in the application, or make such other limitations in the permit as he may determine to be necessary for the protection of the public.

(6) An economic poison intended for experimental use shall not be offered for general sale by a retailer or others, or advertised for general sale.

(c) *General permit for economic poisons for experimental use which are also subject to the new drug requirements of the Federal Food, Drug, and Cosmetic Act.* (1) Notwithstanding the provisions of paragraph (b) of this section, a general permit is hereby issued under section 7a (4) of the act to the manufacturers and shippers of economic poisons for experimental use only, to ship such economic poisons: *Provided*, (1) That the product is a "new drug" within the meaning of the Federal Food, Drug, and Cosmetic Act (21 U. S. C. 355), (2) that it is subject to, and the manufacturer or shipper complies with, the provisions of section 505 (i) of said act (21 U. S. C. 355(i)) and § 130.3 of the regulations (21 CFR 130.3) thereunder, as presently in effect and (3) that the documents referred to in said § 130.3 shall be made available for inspection upon the request of any officer or employee of the Agricultural Research Service of the United States Department of Agriculture at any reasonable time within three years after the introduction of the product into interstate commerce.

(2) The general permit referred to in subparagraph (1) of this paragraph shall apply only insofar as the experimental uses are for drug purposes within the meaning of the Federal Food, Drug, and Cosmetic Act. It shall not apply to other experimental uses even though the product may be intended for both drug and non-drug uses.

(d) *Cancellation of permits.* Any permit for shipment for experimental use may be cancelled at any time for any violation of the terms thereof or if it shall appear to the Director that the permit should be cancelled for the protection of the public.

§ 362.18 Exemptions.

(a) Any economic poison specified in § 362.12 which is intended solely for use by a textile manufacturer or commercial laundry, cleaner or dyer as a mothproofing agent, which would not be suitable for such use if colored and which will not come into the hands of the public except when incorporated into a fabric shall be exempt from the requirements of section 3(a)(4) of the act and § 362.12.

(b) The economic poison sodium fluoride shall be exempt from the requirements of section 3 (a) (4) of the act and § 362.12 (c) when (1) it is intended for use as a fungicide solely in the manufacture or processing of rubber, glue, or leather goods; (2) coloration of said economic poison in accordance with said requirements will be likely to impart objectionable color characteristics to the finished goods; (3) said economic poison will not be present in such finished goods in sufficient quantities to cause injury to any person; and (4) said economic poison will not come into the hands of the public except after incorporation into such finished goods.

IMPORTS

§ 362.30 Definitions.

All terms used in §§ 362.30 to 362.36, inclusive, shall have the meaning set forth for such terms in the Federal Insecticide, Fungicide, and Rodenticide Act and § 362.2 of the regulations promulgated by the Secretary of Agriculture thereunder. In addition the term "Collector of Customs" means any person authorized under the customs laws and regulations to perform the duties of a collector of customs.

CROSS REFERENCE: For regulations of the Bureau of Customs, Department of the Treasury, see 19 CFR Chapter 1.

§ 362.31 Registration.

All economic poisons are required to be registered under the provisions of section 4 of the act, and § 362.10 of the regula-

tions promulgated by the Secretary of Agriculture thereunder before being permitted entry into the United States.

§ 362.32 Declaration.

All invoices of economic poisons and devices imported into the United States shall be accompanied by a declaration of the shipper as follows:

I, _____, the undersigned, do hereby declare that I am the _____ of the merchandise herein mentioned, which consists of economic poisons or devices or both. None of this merchandise is adulterated or misbranded or otherwise violates the prohibitions set forth in the Federal Insecticide, Fungicide, and Rodenticide Act in any respect, or is dangerous to the health of the people of the United States, or is of a kind forbidden entry into, or forbidden to be sold or restricted in sale in the country in which it is made, or from which it is exported. The merchandise was manufactured in _____ by _____ and is exported from _____ consigned to _____.

(Name in full)
(Manufacturer or shipper)
(Country) (Name of manufacturer)
(City)
(City)

Dated at _____ this _____ day of _____, 19____.

_____
(Signature)

§ 362.33 Notice of shipments for importation.

The Collector of Customs shall notify the Director of all shipments of economic poisons and devices being imported into the United States and shall detain all such shipments until notified by the Director that the shipment may be released.

§ 362.34 Drawing of samples of import shipments.

The Collector of Customs shall, upon request by the Director, draw samples of import shipments of economic poisons and devices, and deliver them together with a copy of the labeling, and all accompanying circulars and advertising matter pertaining to such merchandise to the designated laboratory of the Agricultural Research Service, United States Department of Agriculture.

§ 362.35 Bond for release of imports pending examination.

Consignments of economic poisons and devices offered for importation into the United States may be detained pending examination to determine whether or not they comply with the requirements of the act, or they may be released to the consignee prior to such examination upon the execution of a customs single-entry or term bond in the appropriate form and in the amount prescribed in regulations of the Bureau of Customs, United States Treasury Department, in force on the date of entry, and containing a provision for the redelivery of the merchandise or any part thereof upon the demand of the Collector of Customs at any time. The bond shall be filed with the Collector of Customs, who, in case of default, shall take appropriate action to effect the collection of all liquidated damages provided for in the bond.

§ 362.36 Procedure after examination.

(a) If, upon examination or analysis of a sample from an import consignment of economic poisons or devices, such sample is found not to be in violation of the act, the Director shall notify the Collector of Customs that the shipment may be released. However, if, upon examination or analysis of the sample and consideration of other evidence in the case such sample is found to be in violation of the act, the owner or consignee shall be notified promptly by the Director of the nature of the violation and be given a reasonable time, not to exceed sixty days, to submit written material or, at his option, to appear before the Director and introduce testimony, to show cause why the shipment should not be destroyed or refused entry.

(b) If, after consideration of all of the evidence in the case, it still appears that the consignment may not lawfully be admitted into the United States, the Director shall notify the Collector of Customs that the merchandise is in violation of the act and the nature of the violation, and thereupon the Secretary of the Treasury (1) shall refuse delivery to the consignee and, under such regulations as he may prescribe, shall cause the destruction of any merchandise not exported by the consignee within 3 months from the date of notice of such refusal of entry or (2) if the shipment has been released to the consignee under bond, shall take action to enforce the terms of said bond.

INTERPRETATIONS

§ 362.100 Interpretation as to applicability of act and regulations to operations of pest control operators.

(a) The question has arisen as to whether the requirements of the Federal Insecticide, Fungicide, and Rodenticide Act and the regulations promulgated thereunder are applicable to the situation in which a commercial pest control operator, as a part of his service operation, carries his own economic poisons from one State to another for application by him in his work, the material remaining in his sole and actual possession until applied. There would seem to be no question but that the substances carried by the operator are economic poisons within the literal wording of the act and the regulations. However, the purpose of the act and the regulations in requiring proper registration and labeling of the regulated substances is to protect the purchaser or user of such substances. In the situation in question, there is no purpose of sale of the substances as such or the use thereof by others. The operator is hired to control pests and as a part of his service work applies the substances. Under these circumstances it would seem that so long as the economic poisons remain in the operator's sole and actual custody, nothing would be accomplished by requiring the registration of the substances and their proper labeling, including ingredient statements, directions for use, poison indicia, warning statements, etc. The substances are applied presumably by experts who are familiar with the nature of such substances and the risks involved. It would not appear that the activities of a commercial pest control operator, outlined above, fall within the spirit or intent of the registration and labeling provisions of the act or the regulations. Of course, any substances sold by such an operator or left by him unapplied would be subject to the act and the regulations.

(b) While the requirements of the act and the regulations as to registration and labeling appear to have been intended primarily for the protection of purchasers and users of economic poisons, the requirements as to coloring or discoloring of economic poisons appear to be largely for the protection of the public generally, which might come in contact with the economic poisons in unmixed form either before or after use. This being so, it is considered that requirements as to coloring or discoloring are applicable to commercial pest control operations, and the interstate transportation of economic poisons in connection with such operations without complying with these requirements would constitute a violation of the act.

§ 362.101 Interpretation of terms included in definition of economic poison.

(a) *Economic poison.* (1) The term "economic poison" includes all substances and preparations intended for use as insecticides, fungicides (including disinfectants except those for use only on or in living man or other animals), rodenticides and herbicides.

(2) A preparation is considered to be an economic poison if it is intended for use as an economic poison after dilution or after mixture with other substances, such as carriers or baits. These procedures are ordinarily very simple and can be done by the user of the economic poison or by a small operator with little or no special equipment. Examples of this type of economic poison include pyrethrum extract which is intended to be used as a fly spray after dilution with deodorized kerosene, lime sulfur solution intended to be diluted with water before use, calcium arsenate which may be mixed with hydrated lime before being applied as a dust, alpha naphthyl thiourea (antu) which may be mixed with a bait for use against brown rats, and numerous others.

(b) *Insecticide.* The term "insecticide" includes any preparation intended for use in the control of insects including closely allied classes such as spiders, mites, ticks, centipedes and wood lice. It includes not only those preparations which kill or destroy insects, but also those which repel insects—that is, drive them away. Typical examples of insecticides are those for the control of insects infesting plants, insects infesting soil, and insects infesting stored products such as grain, feeds, other foods, tobacco, or woolens; for killing or repelling insects attacking man, including mosquitoes, flies, lice, chiggers and scabies; for killing or repelling any insects attacking animals, including cattle grubs, mange mites, and bots; and for the control of insects which attack wood or other structural materials. Products intended solely for use against snails, slugs, earth

worms, nemas, and worms infesting animals are not insecticides since these animals are not insects within the meaning of the law and they have not been declared to be pests.

(c) *Fungicide.* (1) The term "fungicide" includes any product intended for the killing or control of any fungi except those on or in bodies of living man or other animals. The term "fungi" includes all such organisms as rusts, smuts, mildews, molds, yeasts and bacteria with the exception as already indicated of those on or in living man or other animals. Typical examples of fungicides are preparations intended to protect plants against fungous diseases; to treat seed for the destruction of fungous diseases; for disinfecting premises to prevent the spread from such premises of diseases of man or animals; for disinfecting dishes, food-handling equipment, surgical instruments, barber and beauty shop utensils, and other inanimate surfaces or objects; for reducing bacteria count in water supplies as by the use of chlorine (not including flocculating materials which are intended to remove bacteria mechanically); to act as preservatives by preventing the growth of bacteria, yeasts, molds, etc.; to prevent rot or decay of wood by preventing the growth of organisms causing rot or decay.

(2) Products intended solely for use against bacteria or other fungi on or in the bodies of living man or other animals are not fungicides within the meaning of the law and are not covered by it. Also, paints which protect surfaces solely by forming an impervious coating, and not by destroying or preventing growth of bacteria and other fungi, are not considered as fungicides under the act. Paints applied to tree wounds, which act by destroying or stopping growth of fungi, and wood preservatives which may be applied by a brush treatment are fungicides.

(d) *Rodenticide.* The term "rodenticide" includes all preparations intended to kill or repel rodents but does not apply to preparations for use against other vertebrate animals since no other vertebrate animal has been declared by the Secretary to be a pest. Rodents include all Rodentia such as rats, mice, rabbits, gophers, prairie dogs, and squirrels. Typical rodenticides are preparations for killing rats, mice, or squirrels, or for repelling rabbits or squirrels. The rodenticides for killing rats, mice, etc., may be used either in baits, as tracking poisons (that is, in poisons which may be taken up by the rodents' feet), in rodents' drinking water, or as fumigants. Preparations intended for use against birds, moles, dogs, wolves, and mountain lions are not rodenticides at this time, but would be rodenticides should the Secretary declare the animals named to be pests.

(e) *Herbicide.* The term "herbicide" includes all preparations intended for use in destroying or preventing growth of plants which grow where they are not wanted. It is not held to include preparations intended to prevent the drop of fruit, or cotton or potato defoliators.

(f) *Intent.* A substance or preparation is or is not an economic poison depending upon the purposes for which it is intended. Determination of intent in the marketing or distribution of the article is, therefore, highly important. This determination will depend upon the facts in the particular case which tend to show intent or lack of intent. In general, if the result which follows a certain act is that which a reasonable person would expect, it is considered to be the intended result. The intention may be either expressed or unexpressed. The distributor of the product is assumed to be an intelligent person and, except in those cases where the uses are kept secret from him, to have general information as to the purposes for which his product is being used. Some of the conditions under which a substance will be construed as being intended for use as an economic poison follow:

(1) The intent may be expressed in one or more ways, as for example:

(i) Claims or directions for economic poison uses in the label or labeling.

(ii) Claims or recommendations for use in collateral advertising such as that in periodical publications, in advertising literature which does not accompany the article, or over the radio.

(iii) Statements either verbal or in writing by representatives of the manufacturer, shipper or distributor of the goods.

(2) In the absence of express statements, intent may also be shown by the circumstances surrounding the marketing of the article.

(i) When an article is used principally or only as an economic poison, it is considered to be intended as an economic poison unless there is a definite showing of intent for other purposes. Examples of products of this kind are pyrethrum powder, lead arsenate, calcium arsenate, preparations containing dichloro diphenyl trichloroethane (DDT), lime sulphur solution, bordeaux mixture, liquor cresolis saponatus, and many others.

(ii) Many products are sold for both economic poison and non-economic poison uses. For example, a rat and mouse killer may also be recommended for use against moles, a coal-tar disinfectant may also be recommended for use as a deodorant, a sodium hypochlorite disinfectant may also bear directions for use as a bleach, a fungicidal treatment for shoes may also be recommended for treatment of the feet for athlete's foot. In all such cases, even when most of the claims are for non-economic poison uses, the product is subject to the law. If the product is intended for one or more uses as an insecticide, fungicide, rodenticide, or herbicide, it is an economic poison and must comply in all respects with the provisions of the act, including the provision that it must not bear any false or misleading statement concerning any of its uses.

(iii) When an article has both economic poison and non-economic poison uses, it is considered to be an economic poison if it is prepared in a special form for use as an economic poison. Thus, sulfur ground to a very fine form and treated with a conditioning agent to make it suitable for use in dusting plants, formaldehyde paste prepared in a vessel equipped with a burner to volatilize it for fumigation, strychnine which has been impregnated into a bait for rodents and similar materials are intended as economic poisons.

(iv) When an article has both economic poison and noneconomic poison uses, it is considered to be an economic poison if it is marketed in channels of trade where it will presumably be purchased as an economic poison. This provision is to be interpreted reasonably and in the light of market conditions in the particular places where the product is to be sold. It is not the purpose to require a product to be registered and labeled as an economic poison merely because a few persons, on their own initiative, purchase an insignificant portion of the product distributed through the particular channel of trade, for economic poison uses. On the other hand, if it is known to the distributor or is common knowledge that a considerable portion of the product in the channel of trade concerned is actually being used as an economic poison, it will be considered as being intended for use as an economic poison.

(3) Examples of circumstances which will determine intent are as follows:

(i) Tartar emetic has been used in considerable amounts in some parts of the country to control thrips. When sold through supply houses in these sections where it will go to the agricultural trade, it is an economic poison. In other parts of the country, it has little or no economic poison use and when marketed in these sections, it would not be considered an economic poison.

(ii) Caustic soda (sodium hydroxide) is sold in large drums or in solution in tank cars for use in paper making, in the rayon industry, or in other chemical industries. When marketed in this manner, it is not an economic poison. However, it is sometimes recommended for use as a disinfectant and when sold through channels where it is likely to be used as a disinfectant, it is an economic poison.

(iii) Stoddard solvent is used primarily as a cleaning fluid, but it has also been found to be a weed killer for use on young carrots. Where the preparation is only used for cleaning, it is not an economic poison and need not be registered. It will be considered as an economic poison only in those cases where there is reason to believe it will be used for weed killing or some other economic poison use.

(iv) Kerosene, as such, is used to some extent for the control of bedbugs and for certain other insecticidal uses. However, the amount used is only an insignificant proportion of that marketed. Except in those cases where there is some specific indication of intent for use as an economic poison, kerosene will not be considered an economic poison.

(v) Phenol is used in large quantities in the plastic industry. When so used, it is not an economic poison. It is also marketed as a disinfectant primarily through drug houses. When sold where considerable amounts of it are likely to be used for disinfecting, it is an economic poison.

(g) *Specific products not considered as economic poisons.* The following products concerning which questions have been raised are not economic poisons within the meaning of the act:

(1) Deodorants, bleachers, and cleaners.

(2) Products intended to kill or repel moles, wolves, birds, or dogs.

(3) Disinfectants for use on or in the living body of man or other animals.

(4) Embalming fluids.

(5) Preparations intended to prevent fouling of ships' bottoms by barnacles or other marine animals.

(6) Lime when sold for the preparation of lime-sulfur solution or bordeaux mixture.

(7) Preparations intended for use against nemas, earthworms, garden slugs or snails.

(8) Building materials which have been treated with insect repellent materials to prevent their being attacked by insects.

(9) Woolens which have been treated with mothproofing materials to prevent their destruction by clothes moths.

(10) Plant hormones (except when they are intended for weed killing or other economic poison purposes).

(h) *Products being tested experimentally.* A product is considered not to be an economic poison and, therefore, not to be subject to the act when it is only being tested to determine its value for economic poison purposes, or its toxicity or other properties, and when the user does not expect to receive any benefit in pest control. This would include all products shipped to pharmacological laboratories to determine their toxicity to animals so as to discover what cautions or warnings are necessary, and products used on small plots of crops where the plots are grown solely to make the tests. Products intended to be used on larger scale tests, especially where the product is sold to the user, are likely to come within the provisions of the law since in these cases the user expects to obtain benefit in pest control. When the economic poison is being subjected to larger scale efficacy tests, where the user expects to obtain benefit from its use, it will be subject to the "permit" provision of the act.

(i) *Products which require further processing.* A product is not considered to be an economic poison when it is intended for economic poison use only after further processing or manufacturing such as grinding to dust form or more extensive operations. A product which requires additional manufacturing process is not considered to be a completed product.

(j) *Economic poisons which are also drugs.* The act covers all products intended for use against insects wherever they occur. Mange is commonly understood to be a disease. It occurs in both man and animals. It is, however, caused by a mite, which is an insect within the meaning of the law. Therefore, products intended to destroy the causative organisms of mange or scabies, whether in man or animals, are insecticides within the meaning of the Federal Insecticide, Fungicide, and Rodenticide Act.

To avoid any conflict in the application of this act to products also covered by the Federal Food Drug and Cosmetic Act liaison has been set up between the Plant Pest Control Division and the Food and Drug Administration with frequent consultations.

§ 362.102 Interpretation with respect to names of products.

(a) *Permissible names.* (1) The act does not prohibit the use of any name for an economic poison which is not false or misleading in any particular.

(2) Names which give clear, nonmisleading information as to the composition of the product are permissible. Thus the names "standard lead arsenate," "lime sulfur solution," "pyrethrum powder and lead arsenate," "sodium salt of 2,4-D," "bordeaux mixture," "nicotine dust" and "paris green" may be used for the products mentioned. If a product contains two or more ingredients, it is permissible to name only one of the ingredients if the ingredient named is present in sufficient proportion itself to make the product effective for the purposes for which it is intended and if the name clearly indicates the presence of other constituents; or if the ingredient is present in sufficient proportion to be of value and its percentage is clearly shown in the name. Examples of acceptable names of this type are "Brown Rat Killer with Antu," "5% Antu for brown rats," or "Antu 5% for brown rats," for a preparation containing 5% antu; "5% nicotine dust" or "Dust containing nicotine" for a preparation containing 5% nicotine and recommended for uses where this amount of nicotine is an adequate control; "1% DDT spray" (but not "spray containing DDT") for a preparation containing DDT among other constituents but insufficient DDT to be effective in and of itself for all of the purposes for which the product is intended.

(3) If a product consists of a principal active ingredient together with other ingredients which may be either active or inert and the principal active ingredient is present in sufficient amount to be effective for all of the purposes for which the product is intended, it may bear the name of the principal active ingredient followed by the term "dust," "spray," "mixture," "insecticide," "fungicide" or similar term, in type of equal prominence, without other qualification. However, if this form of name is used, the ingredient statement following the first option and, in case of use of such terms as "insect killer," the types of pests to be controlled must appear prominently on the front panel of the label.

Examples: Nicotine dust
Rotenone dust
DDT spray

(b) *Conditions under which a name is considered to be false or misleading.* (1) A descriptive or partially descriptive name may be false or misleading by reason of its giving a wrong impression of the composition of the product. This may be done in a number of ways. For example, (i) the product may consist of several ingredients but the name may specify only one of them, thus giving the impression that the product consists of only the one ingredient; (ii) the lettering used in the name of the product indicating the presence of one of the ingredients may be in large type or in a different color than the rest of the name so that it is unduly emphasized; or (iii) an ingredient mentioned in the name may be present in such a small amount that it is of no practical value in the product.

(2) A name may also be false or misleading because it claims or implies effectiveness for the product which it does not possess. Claims may be false because the name contains a direct misstatement as, for example, "roach killer" for a product which does not kill sufficient roaches to be an adequate control for them, or "moth repellent" for a preparation which is not repellent to moths, or they may be objectionable because they are too broad. Examples of objectionable broad names when used without qualification are "Insect Killer" for a household insecticide consisting of pyrethrum extract and deodorized kerosene; "Ant Killer" for a preparation which will attract and kill only sweet-preferring ants; "Rat Killer" for a preparation dependent upon antu for its effectiveness; and "Weed Killer" for a preparation dependent upon 2,4-D for effectiveness. The false impression created by such names as these can frequently be overcome by naming the pests to be controlled, prominently and in close proximity to the name of the product on the front panel of the label, as, for example, "5% Antu Rat Killer for brown rats" or "Insect Killer for flies, mosquitoes, roaches and bedbugs," assuming, of course, that the product is effective for the pests named. In the case of products sold as "Weed Killer containing 2,4-D," "Insect Spray" or "Insect Dust," the names of the particular weeds or insects to be controlled need not be contained on the front panel of the label if they are placed prominently on the back panel, since it is believed that most users would not be misled by this procedure.

(3) A coined name may be misleading because it gives a misleading impression of the composition or the effectiveness of the product. Such names are as much in violation of the law as if the misleading impression were given by a direct statement. A name such as "Para-Camph" for a moth killer would indicate a mixture of paradichlorobenzene and camphor, the former being present in the larger amount. "Para-pur" would imply straight paradichlorobenzene. The use of variations of the terms "sterile" in the name of a disinfectant is likely to imply sterilization.

(c) *Names registered as trade-marks.* In determining whether or not to register a trade-mark, the Patent Office makes no determination of its legality under the Federal Insecticide, Fungicide and Rodenticide Act. Therefore, such registration cannot be accepted as evidence that a name is legal under the act. If a name is false or misleading, it is in violation of the act whether or not it has been registered as a trade-mark. Sometimes the misleading impression can be overcome by clearly and prominently indicating in the name that the name is only a brand name and by

clearly stating the limitations of the product.

§ 362.103 Interpretation with respect to ingredients and ingredient statements.

(a) *Labels must bear ingredient statements.* (1) The label of each economic poison must bear either:

(i) A statement of the name and percentage of each active ingredient and the total percentage of the inert ingredients, or

(ii) A statement of the names of each of the active ingredients in the descending order of the amount of each present, followed by a statement of the names of each of the inert ingredients, if any, in the descending order of the amount of each, and the total percentage of the inert ingredients.

(2) If the economic poison is highly toxic to man, the first form of ingredient statement must be used.

(3) In addition to one of the above forms of ingredient statement the label of an economic poison containing arsenic must state the percentages of total and water soluble arsenic, each calculated as elemental arsenic.

(4) The active ingredients must be designated by the term "active ingredients" and the inert ingredients by the term "inert ingredients," or the singular forms of these terms when appropriate. These terms shall be in the same size type and equally prominent. It is preferable, but not required, that these designations be set over well to the left, and that the names of the ingredients be indented.

(5) In the ingredient statement for a product which contains 100 percent of active ingredients, the statement "Inert Ingredients, none" is not required.

(6) Unless the ingredient statement is a complete analysis of the economic poison, the term "analysis" should not be used as a heading for the ingredient statement.

(b) *Definition of "ingredient."* (1) Ingredients are the simplest constituents of the economic poison which can reasonably be determined and reported. A mixture of ingredients is not to be reported as a single ingredient except in those cases where it is not practical to separate them. A solution is a mixture of ingredients, and not a single ingredient.

(2) In the case of the simpler economic poisons which consist of mixtures of readily determinable chemical compounds, the actual compounds present are the ingredients. For example, the following are ingredients of economic poisons: lead arsenate, copper sulfate pentahydrate (in blue vitriol), copper sulfate monohydrate, tricalcium arsenate, copper acetoarsenite (in paris green), water, ethyl alcohol, sulfur, alpha naphthylthiourea, and sodium salt of 2,4-dichlorophenoxyacetic acid. It should be borne in mind that the compounds present in the economic poison may differ from those put into it. When copper sulfate pentahydrate, for example, is dissolved in water, the result is a solution of copper sulfate. The water of crystallization will have become merely water of solution, and will no longer be part of the active ingredient. When sodium hydroxide (lye) and fatty acids are added together in suitable proportions, the result is soap.

(3) In the case of the more complex economic poisons, it may not be practical to determine the actual chemical compounds present. In such cases, the statement of ingredients as actual compounds is not feasible, and some other method of statement which will be both practical and informative to the purchaser must be used. Examples of this type of ingredient are kerosene, tobacco other than nicotine (for the inert portion of powdered tobacco), and copper (stating the form in which it is present) in indefinite compounds such as basic copper carbonate or basic copper sulfate.

(4) If the manufacturer is in doubt as to what constituents of his economic poison are to be considered ingredients, he may furnish the Plant Pest Control Division full information as to its formulation, the results of chemical analysis and any other pertinent data, and the Division will aid him insofar as possible to determine which constituents should be considered ingredients.

(c) *Active ingredients.* (1) The active ingredients of an economic poison are those which are capable, in themselves, of preventing, destroying, repelling, or mitigating insects, fungi, rodents, weeds, or other pests when used in the same manner and for the same purposes as those for which the economic poison is intended. An ingredient which is antagonistic to the activity of the principal active ingredients cannot be considered active because it actually decreases the effectiveness of the economic poison.

(2) If an ingredient is present in such a small proportion that it does not add materially to the effectiveness of the product, it is misleading to name it as an active ingredient.

(3) If an economic poison is intended for two or more economic poison purposes (for example, as a combined insecticide and fungicide), each of the ingredients which is active for one or more of the intended economic poison uses shall be considered as an active ingredient.

(4) The Director may require an ingredient to be designated as an active ingredient if, in his opinion, it sufficiently increases the effectiveness of the economic poison to warrant such action. Sesamin, which is not itself an effective insecticide, but which greatly increases the effectiveness of pyrethrins in deodorized kerosene, is considered an active ingredient in such mixtures.

(d) *Inert ingredients.* All ingredients which are not "active" as defined in the preceding section are inert within the meaning of the law. This includes the following types of ingredients (except when they have economic poison effectiveness of their own): solvents such as water; baits such as sugars, starches, meat scraps, etc.; dust carriers such as talc and clay; fillers; wetting and spreading agents; propellants in aerosol dispensers; emulsifiers; and other. The fact that these ingredients are necessary in the practical application of the economic poison does not make them active ingredients.

(e) *Position of ingredient statement.* (1) The ingredient statement is, in general, required to appear on that part of the immediate container of the retail package which is presented or displayed under customary conditions of purchase—that is, on the front panel. If there is an outside container or wrapper through which the ingredient statement cannot be clearly read, the ingredient statement must also appear on such outside container or wrapper.

(2) If the size or form of the package makes it impractical to place the ingredient statement on the front panel of the label, permission may be granted for the ingredient statement to appear on some other panel of the label. If the package contains not more than one pound of a solid or one pint of a liquid, the ingredient statement may appear on the side or back panel.

(3) In case the ingredient statement is unusually long, permission may be granted to place it on a side or back panel of packages containing not more than 2½ pounds of a solid or 3 pints of a liquid.

(f) *Prominence of the ingredient statement.* (1) The ingredient statement must be placed prominently on the label and with such conspicuousness as to render it likely to be read by the ordinary individual under customary conditions of purchase. To fulfill this requirement the statement must:

(i) Run parallel with the other printed matter on the panel on which it appears; and

(ii) Be on a clear contrasting background; and

(iii) Not be obscured or crowded—that is, it must have a reasonable amount of clear space around it and not be placed in the body of reading matter; and

(iv) Be in type large enough so that it is likely to be read. It is not possible to state a minimum size of type which will be applicable to all packages. In general, the type used should be at least as large as that used for the directions or other wording in close proximity to the ingredient statement. In some cases, it may have to be larger to achieve the requisite prominence. In any case it should be large enough to be easily read by an individual with normal eyesight without the aid of glasses.

(g) *Names to be used in the ingredient statement.* (1) It is the purpose of the act that the names used in the ingredient statement shall be as informative as possible to the persons purchasing the economic poison and other interested persons, such as official advisors as to the use of economic poisons (county agents, extension entomologists, plant pathologists, agronomists, and rodent control officials), and to physicians when necessary for the preparation of antidotes. The name used for the ingredient shall be the well-known common name, if there is such a name. If there is no common name, and the chemical name is known, it should be used when it will be properly informative. A trade-mark or trade name may not be used as the name of an ingredi-

ent except when it has become a common name.

(2) In many cases there is no well-known common name and no chemical name. In such cases, the name used for the ingredient should be as informative as possible. It may be a descriptive name, such as derris resins or tobacco other than nicotine.

(3) In some cases where there is no common name, the chemical composition may be unknown or so complex that use of the chemical name would not be practical. In such cases, the Director may permit the use of a new or coined name for the ingredient if this will simplify the ingredient statement and not hide information.

(i) A new or coined name will normally refer to a single chemical compound, or at least to a definitely defined material. Its adoption usually entails discussion with interested groups, such as representatives of the chemical, entomological, medical, and plant pathological scientific groups, as well as with the manufacturers of the material. The purpose is to obtain a name which is easy to use and informative to the public. The new or coined name must not be covered by private trademark and must be free for general use.

(ii) Since new or coined names will not be common names when first used, they should at first be accompanied by the chemical or other descriptive name of the ingredient. As an example, if a new or coined name were adopted for a chemical which was the only active ingredient in an economic poison, the ingredient statement would be in the following form:

Active ingredient:	Percent
Coined name [1]	-----
Inert ingredients	-----
Total	100

[1] Consists of (full name of chemical compound).

It is necessary to include the name of the compound since cases of poisoning may occur and the coined name alone will not be sufficiently informative for the attending physician.

(h) *Statement of percentages.* (1) The percentages of ingredients shall be stated in terms of weight. Statements in terms of percentage by volume or on a so-called "Weight-volume" basis do not fulfill the requirements of the law, but may be used as additional statements, if they will be informative to the purchaser and not misleading. For example, in addition to the ingredient statement in terms of percentage by weight, the label of a DDT solution in kerosene may bear a correct statement such as "Contains ___ oz. of DDT per gallon of product," the correct value to be inserted in the blank space. In many cases such a procedure is desirable.

(2) The sum of the percentages of the active and the inert ingredients shall be 100.

(3) Sliding scale forms of percentage statements, such as "22–25", shall not be used.

(i) *Accuracy of statement of percentages.* (1) The percentages given for the active and inert ingredients should be as nearly correct as possible in good manufacturing practice. In case there is a small unavoidable variation in the percentage of the active ingredients in different batches of an economic poison, the value stated shall be the lowest percentage of the active ingredient which may be present, so that the purchaser can always depend upon receiving a product of at least the strength promised him. However, the variation above the value stated should not be unreasonably large. Actual figures for permissible variation will depend upon the facts in the particular case. Percentages should not be stated to a greater degree of accuracy than the facts warrant.

(2) Inert impurities which are present in substantial amounts in active ingredients, are to be considered as inert ingredients in the ingredient statement. If the impurities are present in less than substantial amounts and their presence does not reduce the effectiveness of the product, their presence may be neglected. What constitutes substantial amounts will depend upon the special circumstances in the particular case, but, as a general rule, if the total proportion of impurities in the product is less than one percent and if they do not substantially reduce the effectiveness of the product, they may be neglected. Thus a technical sodium fluoride containing 95 percent of actual sodium fluoride and 5 percent of sodium chloride, sodium sulfate, and sodium carbonate would be required to declare the 5 percent of inert ingredients but a boric acid containing 99.1 percent of actual boric acid could be considered as consisting entirely of boric acid.

(j) *Economic poisons which deteriorate.* (1) Economic poisons must be effective for the purposes intended and have the proportions of active ingredients claimed as long as they are subject to the act.

(2) If the product is one which loses strength on standing, this should be taken into account in preparing the ingredient statement and marketing the product. In such cases, the product should be marketed in such a way that it will all be used before appreciable deterioration has taken place, or allowance should be made for deterioration of the product in preparing the ingredient statement. For example, if an economic poison will lose 10 percent of its strength in six months, its ingredient statement may show the strenth that it will have at the end of six months, and then it may be marketed so that it will all be used up by that time. However, it must be effective for the purposes claimed even at the lower strength.

(3) If the product is one which is intended to attract insects or rodents and will lose its attractiveness after a time, it should not be marketed after that time. A prominent statement, "Not to be used after _____," is allowable.
(Date)

(k) *Acceptable forms of ingredient statement.* Some acceptable forms of ingredient statement follow: (1) For commercial calcium arsenate and other calcium compounds:

Active ingredient:	Percent
Tricalcium arsenate	-----
Inert ingredients	-----
Total	100

Total arsenic calculated as elemental arsenic, _____%. Water-soluble arsenic calculated as elemental arsenic not more than _____%.

(2) For bordeaux mixture:

Active ingredient:	Percent
Copper (in bordeaux mixture)	-----
Inert ingredients	-----
Total	100

(3) For fly spray containing pyrethrum extract and deodorized kerosene:

Active ingredients:	Percent
Pyrethins	-----
Petroleum distillate	-----
Total	100

or

Active ingredients:	Percent
Petroleum distillate	-----
Pyrethrins	-----
Total	100

(4) For pine oil disinfectant made of pine oil, soap, and water:

Active ingredients:	Percent
Pine oil	-----
Soap	-----
Inert ingredients	-----
Total	100

or

Active ingredients:	Percent
Pine oil	-----
Soap	-----
Inert ingredient, water	-----
Total	100

(5) For brown rat bait consisting of alpha naphthyl thiourea (Antu) and bait materials:

Active ingredient:	Percent
Alpha naphthyl thiourea	-----
Inert ingredients	-----
Total	100

(6) For a weed killer containing the sodium salt of 2,4-dichlorophenoxyacetic acid (2,4–D):

Active ingredient:	Percent
Sodium salt of 2,4-dichlorophenoxyacetic acid [1]	-----
Inert ingredients	-----
Total	100

[1] Equivalent to 2,4-dichlorophenoxyacetic acid, _____%.

The correct values for the percentages should in each case be inserted in the blank spaces.

§ 362.104 Interpretation with respect to statement of net contents.

(a) *Requirement of the act.* The act requires that the label of each economic poison bear a statement of the net weight or measure of the contents.

(b) *Terms of weight or measure.* (1) If there are terms of weight or measure in general use for a particular economic poison which will give accurate information to users as to the quantity of content, such terms shall be used on the label.

(2) When there is no general usage in the trade with respect to the terms of

weight or measure of a particular economic poison, the content must be stated in terms of liquid measure if the product is a liquid, and in terms of weight if it is a solid, semisolid, viscous, or a mixture of liquid and solid.

(i) Liquids include all substances which flow freely like water and thus can be readily measured. Oils of low viscosity such as kerosene, creosote oil and pine oil are liquids. Emulsions with low viscosity are liquids, but emulsions of high viscosity such as mayonnaise, or viscous tars are not liquids within the meaning of this definition.

(ii) The terms solid, semisolid, viscous and mixture of liquid and solid include all products other than liquids.

(3) Statements of liquid measure must be in terms of the United States gallon, quart, pint and fluid ounce at 68° F.; statements of weight must be in terms of avoirdupois pound and ounce.

(4) Some liquid economic poisons are usually sold by weight. Examples are nicotine sulfate solution containing 40 percent of nicotine and U. S. P. formaldehyde solution. The content of these liquid economic poisons must be stated in terms of weight.

(5) In a few cases economic poisons are sold in gelatine capsules and the contents of such capsules stated in terms of fluid drams. Where such usage has been general, the net content must be given in terms of the number of capsules each containing a stated number of fluid drams.

(6) Some disinfectants are made up in tablet form. When so prepared, objection will not be raised to giving the number of tablets and the weight of each.

(c) *Units of weight or measure.* Statements of net content must be in terms of the largest unit present, but in the case of added fractions of the largest unit, the fractional portion may be expressed in terms of a smaller unit. Thus, 3½ pounds may be stated as "3½ pounds" or "3 pounds, 8 ounces"; 5½ gallons may be stated as "5½ gallons" or "5 gallons, 2 quarts"; 3¾ quarts may be stated as "3¾ quarts," "3 quarts, 1½ pints," or "3 quarts, 1 pint, 8 fl. oz." It is not permissible to state net contents such as 128 fluid ounces, 32 fluid ounces, 6 pints, 8 quarts, or 24 ounces since in each case the statement is not in terms of the largest unit present.

(d) *Permissible variations.* (1) If the contents are stated as a minimum quantity, the package must contain at least the quantity claimed. No variation below this quantity is permitted and any variation above the contents stated must not be unreasonably large.

(2) The net content is considered to be the average net content unless stated as a minimum quantity. Where average net content is used:

(i) The average content of the packages in any shipment must not fall below the quantity stated and variation above the quantity stated is permitted only to the extent that it represents deviations unavoidable in good packing practice.

(ii) There must be no unreasonable variation from the average in the content of any package.

(e) *Allowance for loss.* A statement of net content "when packed" does not comply with the requirements of the act. The statement must be such that it will be correct as long as the economic poison is subject to the law. Thus, if a product such as borax may lose weight by drying out when stored in paper bags, it must be packed and labeled in such a way that the statement of net content will be correct when the product is purchased.

(f) *Location and prominence of net content statement.* (1) The net content statement must appear on the label of the container. It is not required to appear on the front panel of the label but it must be prominently placed with such conspicuousness as to render it likely to be read by the purchaser under customary conditions of purchase and use. In the case of drums or bags the net content may be plainly and conspicuously stenciled on the drum or bag. If a single label is printed for use on several different sizes of containers, the net content may be plainly inserted on each label with a rubber stamp or by any other methods which gives the information clearly.

(2) When the retail package contains smaller unit packets as, for example, for single doses, the net contents must appear on the retail package but need not appear on the individual packets. Thus, if a rodenticide is made up into individual baits enclosed in cellophane, and these baits are packed in a retail package, the net contents should be shown on the retail container but need not be shown on the individual baits. However, if the individual baits are at any time marketed separately, they must bear the net content statement as well as other required information.

§ 362.105 Interpretation of requirements with respect to directions for use.

(a) *Requirement of the act.* The act requires that the labeling accompanying each economic poison must contain directions for use which are necessary and, if complied with, adequate for the protection of the public.

(b) *When directions are required.* Directions for use are required whenever they are necessary for the protection of the public. The public includes not only users of economic poisons, but also those who handle them or may be affected by their use, handling, or storage. Directions for use are considered necessary in the case of most small retail containers which go into the hands of users, and in the case of larger containers with the following exceptions:

(1) Directions may be omitted where the economic poison is sold in containers of 50-pounds or more of a solid or 20 gallons or more of a liquid: *Provided:*

(i) The economic poison is a well-known substance or mixture of substances for economic poison purposes and is intended only for the use to which it is ordinarily applied, and

(ii) Is not a proprietary article—that is, one sold under a trade name and

(iii) Bears an ingredient statement giving the names and percentages of each of the active ingredients.

Examples of such products are 100-pound drums of naphthalene to be used against clothes moths, 50-pound bags of sulfur intended for spraying fruit trees, and 200-pound drums of calcium arsenate for dusting cotton. It may be presumed that purchasers of economic poisons in large amounts, such as those indicated, will be familiar with their uses and that no directions will be necessary.

(2) Directions may be omitted if the economic poison is to be used by manufacturers of products other than economic poisons in their regular manufacturing processes: *Provided:*

(i) Option 1 for the ingredient statement is followed, and

(ii) The label clearly shows that the product is intended for use only in manufacturing processes.

When a manufacturing process requires use of an antiseptic or disinfectant, the manufacturer may have to determine by tests with his own particular process how the antiseptic or disinfectant should be applied. Similar considerations may apply, for example, to the application of a mothproofing preparation in woolen finishing processes.

(3) Directions may be omitted if the economic poison is sold only to physicians or veterinarians, provided option 1 for the ingredient statement is followed.

(4) Directions may be omitted if the economic poison will be dispensed only on prescription of a physician or veterinarian: *Provided:*

(i) Option 1 for the ingredient statement is followed, or

(ii) The proportion of each of the active ingredients is clearly stated in addition to the ingredient statement as specified in option 2.

(5) Directions may be omitted if the economic poison is sold to distributors for dilution or mixing with carriers to prepare economic poisons for sale to the public: *Provided:*

(i) Option 1 for the ingredient statement is followed, and

(ii) The economic poison is a well-known substance or mixture of substances, and

(iii) There is readily available general knowledge of the composition, methods of use, and effectiveness of the product for economic poison purposes.

For example, the usual 20 to 1 pyrethrum extract is sold to mixers to prepare finished fly sprays. Its uses are well recognized and when its label bears the ingredient statement giving the percentages of pyrethrins and petroleum distillate, the mixer should know how to prepare his product without further instructions. On the other hand, if the concentrate has a new or unusual composition and if its properties are not well-known, it will be necessary that the mixer be furnished directions for use on the labeling.

(c) *Where directions shall appear.* The directions, when required, shall appear on the labeling accompanying the article. The term "labeling" includes the actual label on the retail package and all circulars or leaflets accompanying it. The directions for use may, therefore, appear either on the label or on a circular

or leaflet accompanying the economic poison.

(1) If the directions are placed on the label, they may be on the front, side or back panel, and they must appear with such conspicuousness and in such terms as to make them likely to be read and understood. Directions printed on the back of a front panel label of a bottle, so that they must be read through the bottle and its contents, are not ordinarily sufficiently conspicuous to fulfill this requirement of the law.

(2) If the directions are on a circular or leaflet, this circular or leaflet must accompany each retail package so that each purchaser will receive a copy of it. The circular or leaflet should be enclosed with, or securely attached to the retail container. Circulars or leaflets which are insecurely attached, as for example, by means of a rubber band, are likely to be lost. If the economic poison is packed in a bottle or other container enclosed in a wrapper or carton, the circular may be placed in the wrapper or carton with the immediate container of the economic poison. If the economic poison is a dry powder packed in a bag or other container, the circular may be placed in the top of the bag or other container, where it will come to the purchaser's attention when he first opens the container. In this case, it is preferable to place on the label a statement such as "See directions on enclosed circular."

(d) *Adequacy of directions.* (1) The directions for use must be sufficient to protect the public. This means that the purchaser, if he follows them, will obtain the results promised him in the labeling, or which he may properly exepect to obtain by use of the product, without injury to person or property. It does not mean that the directions need be exhaustive in every case. Some of the common economic poisons are intended for use against a large number of insects, plant diseases or weeds. Frequently the methods of control in different parts of the country vary and they may vary in a single place from year to year, depending on weather conditions. It would be manifestly impractical to include all directions for use on the labeling.

(2) The need for detailed directions for use will be greater in the case of the small user who is not in position to be well versed in the use of economic poisons than it will in the case of a large user who is likely to make a study of the properties of economic poisons and also to rely on local agricultural authorities for advice. The need is also greater in the case of new economic poisons or those of unusual composition than it is in the case of older, standardized materials.

(3) The following general considerations apply:

(i) Directions for use of economic poisons which are likely to be applied by householders or small gardeners, cattle raisers, etc., should be sufficiently detailed to give full information on usage. They should include methods of application, time of application, dilutions, if any, and when necessary they should provide for repeated treatments. The directions for use should be consistent with the caution or warning statement on the label.

(ii) Directions for use of well-known, standardized economic poisons which will be applied by professional pest control operators, may be more general in nature, giving instructions for use for some of the more important purposes and, when desirable, referring to local agricultural authorities for further information.

(iii) Directions for use of new or unusual economic poisons should be given in full detail so that the purchaser will know how the product is to be used. He will ordinarily have no other source of advice on the use of the product.

(e) *Applicability of directions.* Directions for use in the labeling of economic poisons are considered to apply in all parts of the country in which the product is marketed unless the labeling makes a direct statement to the contrary. It has been found that some pests are more easily controlled in certain parts of the country than in others. If an economic poison has a nationwide distribution, the directions for use should apply to all parts of the nation. However, if work by the state experiment stations in certain sections of the country shows, for example, that a weaker dilution of the product will be effective against a certain insect in those particular sections than is required in other sections, objection is not raised to recommendation of the weaker dilution in the particular sections involved or to a reference to agricultural authorities in those sections for information as to usage there. If the product is marketed only in the sections where the weaker dilution has been found effective, the weaker dilution may be recommended without reference to the dilution required elsewhere. However, a statement to that effect should accompany the application for registration.

(f) *Clarity of directions.* The directions for use should be stated in such terms and with such clearness that they will be readily understood by the purchaser. It should be clearly indicated which directions are applicable to the control of each pest which the product is intended to control.

(g) *Broad claims.* The directions for use must not contain unjustified broad claims. Such claims, which are not acceptable in most cases, include the following:

(1) Broad references to insects, vermin, or a list of insects followed by the abbreviation "etc." which are likely to be interpreted as implying that the product will kill or control any or all insects or vermin.

(2) Claims for extermination of insects. (Objection is not raised to claims to kill or control particular kinds of insects if the product will give a reasonable control of such insects under the conditions of use.)

(3) Claims for sterilization when the product will not kill resistant spores under the specified conditions of use.

(4) General claims for the "control of plant diseases" or a list of plant diseases followed by the abbreviation "etc." which will give the impression that the product will protect against any or all plant diseases. (Objection is not raised to naming the specific plant diseases against which the product will furnish protection when used as directed.)

(5) Broad claims indicating killing or control of all weeds unless the product will kill or control all weeds under the specified conditions of use.

(6) Broad claims for use against rats or rodents if the preparation is not effective against all rats or rodents.

(7) Claims implying effectiveness of the economic poison under all conditions of use if it is not effective under all such conditions. When a product is not effective under certain conditions, as for example, in the presence of dirt, at low temperatures, or in the presence of other chemicals, the directions should make it clear that such conditions are to be avoided.

(h) *Responsibility for claims.* The shipper or guarantor of an economic poison is responsible for all claims made for it, including the directions for use. He should give only such directions as have been shown, when followed, to give an effective control of the pests involved without injury to persons or desired plants or animals.

§ 362.106 Interpretation with respect to registration requirements.

(a) *Products which must be registered.* (1) Registration is required for all economic poisons that are distributed, sold or offered for sale in the District of Columbia or the territories, shipped or delivered for shipment in interstate commerce, exported, or imported from abroad, except economic poisons which are intended solely for experimental use. (These, however, may be subject to the permit requirements of the law.)

(2) Custom mixes (special mixtures of economic poisons prepared on the order of and according to the specifications of the purchaser), are subject to the act and must be registered. When rush shipment of such mixtures is required, special attention will be given to expediting the registration. When requested, telegraphic notification of registration at the expense of the registrant will be given.

(b) *Products for which registration is not required.* (1) Economic poisons which are made and used in the same state without entering interstate commerce need not be registered under the act since they are not subject thereto. However, registration will not be denied them since it is possible they may be shipped out of the state.

(2) Economic poisons which are delivered for shipment to any foreign country need not be registered when they are prepared or packed in accordance with the specifications or directions of the foreign purchaser.

(3) Registration will not be issued for devices or other products which are not economic poisons.

(c) *Who may register an economic poison.* (1) Any manufacturer, packer, seller, distributor, or shipper of an economic poison may register it.

(2) If the manufacturer of an economic poison ships it in interstate or foreign commerce or distributes it in the District of Columbia or the Territories,

he will normally register it himself since it must be registered before such shipment or distribution. This is true whether the manufacturer ships it under his own label or under a label bearing the distributor's name.

(3) If the manufacturer sells to a distributor in the same state, the manufacturer may or may not register the product, but if he has not, registration by the distributor will be required before the product is shipped in interstate commerce.

(4) If a distributor has an economic poison made for him by two or more manufacturers following exactly the same formula and labeled with identical labels which bear his name as distributor but make no reference to the actual manufacturer, the distributor may register the product, obtaining a single registration to cover the material from all sources of manufacture. On the other hand, each manufacturer may register the product which he furnishes to the distributor, but in this case the manufacturer can register his own product only and it will be necessary for each manufacturer to have a separate registration.

(d) *The effect of registration.* (1) Registration is a device to bring the economic poison to the attention of the Department of Agriculture and to furnish an opportunity to correct obvious faults in labeling. It does not place the responsibility for correct labeling upon the Department though the Department does advise relative to revision of labeling, on the basis of available information. The shipper of the goods or the guarantor is responsible for the compliance of his labeling with legal requirements. Before placing the article on the market, he should have it thoroughly tested by experimentors competent to judge its effectiveness and make only such claims as are justified by the results of their tests. If it is likely to cause injury to human beings, or desirable plants or animals, its limitations from these standpoints should be determined and adequate cautions placed on the label. Determination should be made as to whether it is highly toxic within the meaning of the act and regulations and, if so, the label must bear the statements required with respect to highly toxic products. It is the purpose of the act to protect the public before injury occurs rather than to subject the public to the dangers of experimentation and take action only after injury has occurred.

(2) Registration is not to be understood as indicating the Department of Agriculture's approval or recommendation of the economic poison.

(3) Federal registration does not remove the requirements for state registration in those states which require registration.

(4) When the economic poison has been registered, no further registration under the act is required if the product is in the manufacturer's or registrant's original unbroken immediate container, and if the claims made for it and the directions for its use do not differ in substance from the representations made in connection with the registration.

(e) *Multiple products.* A single registration applies only to a single economic poison, that is, to a product having the same composition, usually manufactured by the same person, and the labeling of which is identical with and bears the same claims as those covered by the registration. If a single registration is to cover the same product sold under other trade names and bearing the names and addresses of the distributors, statements showing such other names and labels shall be filed with the Plant Pest Control Division. Thus, when a manufacturer prepares an economic poison under a stock label which does not bear his name but on which he prints names of the product and names and addresses of distributors, who obtain the product from him, the manufacturer may register the product under his name and file an additional statement showing the trade names under which the product will be sold and the names and addresses which will appear on the label. These additional statements may be filed at any time before the goods become subject to the law.

(f) *Procedure for registration.* (1) Applications for registration should be sent to the Plant Pest Control Division, Agricultural Research Service, United States Department of Agriculture, Washington 25, D. C. No fee is required. Application forms may be obtained from the Plant Pest Control Division by request. Applications should be submitted as far in advance as possible and at least 30 days before it is desired that the registration take effect. In special cases, the Department will try to issue registrations in less than 30 days, but dependence should not be placed on obtaining registration in a shorter period except for real emergencies.

(2) As many products may be submitted for registration as desired with one application form. If there is not room on the form to name all of the products, their names may be continued on a separate plain sheet of paper attached to it.

(3) The blank spaces on the form should be filled in and the form signed by the proposed registrant or, if the registrant is a firm, by a responsible officer.

(4) With the filled-in application for registration there should be submitted two "data sheets" for each product which it is desired to register. The "data sheet" should be 8½ inches by 11 inches in size. A sheet of heavy typewriter paper is satisfactory. On each data sheet should be clearly stated the name of the product, the name and address of the registrant and, if it does not appear on the label, a statement giving the name and percentage of each active ingredient in the product and any pertinent information about the inert ingredients. To each data sheet there should be attached a specimen of the label for the product and specimens of any leaflets, circulars, or other advertising material accompanying the product. If the same label, except for statement of net contents, is used for several sizes of the product, information as to the different sizes should be given and the label for only the smallest size need be submitted. All labels bearing different claims should be submitted. Before attaching the labels and other material to the "data sheet," the applicant should make sure that they include the required information which is as follows:

On the label:

(i) The name and address of the manufacturer, registrant, or person for whom manufactured,

(ii) The name under which the product is sold,

(iii) The ingredient statement,

(iv) The net weight or measure of content,

(v) Any caution or warning statement which may be necessary and, if complied with, will be adequate to prevent injury to living man and other vertebrate animals, and useful vegetation and invertebrate animals,

(vi) In the case of highly toxic materials, the word "Poison" in red, the skull and crossbones and the antidote statement.

On the label, or on circulars, etc. accompanying the economic poison: Adequate directions for use when necessary for the proper use of the product.

(5) If the proposed registrant has doubt as to the legality of his labeling or proposed corrections for it, he may first submit a rough draft form for comment. After he has received the comment, he may revise and print the labeling and submit it in duplicate for registration.

(6) If the product is being recommended for any uses, or if any claims are being made for it, other than those on the labeling submitted, these should be shown on the data sheet. It is not desired, however, that the complete script of radio broadcasts, periodical advertising and other advertising material which does not accompany the economic poison be submitted.

(7) When the application is received in the Plant Pest Control Division, it is examined to determine whether the composition of the product appears to be such as to warrant the proposed claims for it and whether the product, its labeling, and other material submitted appear to comply with the requirements of the act.

(8) If the information submitted is not sufficient to furnish a basis for action, the applicant may be asked to furnish additional information such as the complete formula for the product and a full description of the tests upon which the claims for the product are based. If the article or its labeling does not appear to comply with legal requirements, the applicant is notified wherein it fails to comply and given an opportunity to make corrections.

(g) *Effective period of registration.* (1) The registration becomes effective on the date that the notice of registration is issued.

(2) A registration extends for five years unless canceled for cause or at the request of the registrant.

(3) The Department can, at any time, cancel a registration and issue a registration under protest, if such action is found necessary to protect the public.

(4) The Department can cancel the registration of an economic poison at the

end of five years following the registration or at the end of any five-year period thereafter, unless the registrant, prior to the expiration of the five-year period, requests that such registration be continued in effect.

(5) A registration will be cancelled at any time on request of the registrant.

(h) *Changes in labeling or formulas.* (1) If changes in substance in the labeling of a registered product or changes in its formula are to be made, a statement of the contemplated changes must be submitted to the Department in advance so that an amended registration or new registration may be issued, if such registration is justified.

(2) The statement should show or describe the exact changes to be made, describe any tests which justify the changes, and state the proposed effective date of the changes.

(3) The material submitted will be considered in the same manner as is an original submission. If new or amended registration appears justified, notification to that effect will be sent the registrant. Among reasons for which the new or amended registrations under the same name may be refused would be a reduction in strength or effectiveness of the product which would make it misleading to sell the new material under the old name.

(4) After the effective date of the new or amended registration the product shall be marketed only under the new claims or the new formula except that, upon request, a reasonable period of time may be allowed for the disposal of properly labeled old stocks. If the registrant desires to avail himself of this privilege, he should notify the Plant Pest Control Division at the time of change of registration how much stock he has and when he expects it will be used up. Consideration will then be given to permitting its disposal.

(i) *Registration under protest.* (1) If upon receipt of a notice that his economic poison does not appear to warrant the claims made for it or that the article or its labeling does not appear to comply with the provisions of the act, the proposed registrant insists that corrections are unnecessary and requests in writing that it be registered as submitted, the economic poison shall be registered under protest. The notice of registration under protest will be accompanied by a warning in writing of the apparent failure to comply with the law.

(2) In the case of conviction for an offense concerning which he has been warned in connection with the issuance of a registration under protest, the act provides that the registrant shall be fined not more than $1000 or imprisoned for not more than one year, or both fined and imprisoned, and the registration of the article shall terminate.

(3) Registration under protest should only occur when there is serious disagreement between the registrant and Department officials concerning the efficacy of, or labeling required for, an economic poison. Disagreements may in some cases be due to misunderstandings as to requirements. When they arise, it is the purpose of the Department to cooperate with the proposed registrant in an attempt to clear them up. It appears desirable that registration under protest be requested and issued only as a last resort.

§ 362.107 Interpretation with respect to advertising which does not accompany an economic poison.

(a) *Requirement of the act.* Section 3(a) of the act prohibits shipment or distribution of an economic poison if any of the claims made for it or any of the directions for its use differ in substance from the representations made in connection with its registration. It has been held that this includes any representations made by the manufacturer or registrant anywhere and by any means, including periodical and radio advertising.

(b) *Claims made in advertising.* Section 4a (3) of the act provides that the applicant for registration shall file a statement of all claims to be made for the economic poison including the directions for use. All claims for the economic poison or directions for its use, regardless of where made, must be filed. It is not required, nor is it desired, that all radio script, periodical advertising, etc., be submitted to the Department, but claims made over the radio or in periodicals, etc., which differ in substance from those made in the labeling, must be filed.

(c) *Co-operation with Federal Trade Commission.* Advertising in periodicals or over the radio is also subject to the laws enforced by the Federal Trade Commission. It will be the policy to cooperate with the Federal Trade Commission to insure that the Federal Insecticide, Fungicide, and Rodenticide Act will be administered in a manner to result in reducing to the absolute minimum any possibility of conflict with, or overlapping of the administration of, acts administered by the Federal Trade Commission. In furtherance of this policy there has been established a liaison, which is now in operation, for constant cooperation and coordination between the Federal Trade Commission and the Department Agriculture in the enforcement of the Federal Insecticide, Fungicide, and Rodenticide Act, and the Federal Trade Commission Act as they apply to economic poisons. In general, the policy will be for advertising, other than labeling, to be handled as in the past by the Federal Trade Commission. In the application of the above policy it is to be understood, however, that both agencies reserve the right to the full use of their respective powers when such use is necessary to protect the public interest.

§ 362.108 Interpretation with respect to labels for large containers.

(a) *Requirement of the act.* The act requires labels on all containers of economic poisons which come within the scope of the act. It makes no exemption in the case of large containers such as tank cars, tank trucks, or drums. Therefore, all such containers must be labeled.

(b) *Where label must appear.* (1) In the case of tank cars, the label may be attached to the panel borne by such cars for the purpose of attaching notices, or it may be placed directly on any conspicuous portion of the tank.

(2) In the case of tank trucks, a label attached to the tank would be technical compliance with the act. However, if a tank truck is used merely to deliver the economic poison to the user and the truck does not remain in the users' hands, a label attached to the tank would not be informative to him. In such cases it is considered permissible under the act to attach the label to the delivery receipt which is carried by the driver of the truck and left with the purchaser at the time of delivery of the goods.

(3) In the case of drums, the label may be a printed label attached to the drum or it may be stenciled on the drum. In either case it must be one which can be easily read.

(c) *What must appear on the label.* The following information must appear on the label:

(1) The name of the product. This must be the name under which it is registered with the United States Department of Agriculture.

(2) The name and address of the manufacturer, registrant, or person for whom manufactured.

(i) If the name is other than that of the manufacturer, the label should indicate this fact.

(ii) If the name is not that of the registrant, it must be the name of some other person or firm which has been added by a supplemental registration statement under the provisions of section 4a of the act.

(3) The net contents of the container, or in the case of a label attached to a delivery receipt of tank truck delivery, the net amount delivered.

(4) The ingredient statement.

(5) Any warning or caution statement which may be necessary to prevent injury to living man and other vertebrate animals, useful vegetation, and useful invertebrate animals. This statement is particularly important on large containers, since leakage may occur and result in injury to persons or property unless they are warned to take adequate precautions.

(6) In the case of an economic poison highly toxic to man, the skull and crossbones, the word "Poison" prominently in red, and an antidote statement.

(d) *Directions for use.* (1) Ordinarily large containers will be sold only to large users who are in better position to know how the economic poison is to be used than is the smaller user. Therefore, in the case of common materials such as creosote oil, lime sulfur solution, naphthalene, and Stoddard solvent, where the composition is clearly indicated on the label, it will not be necessary that any directions for use be given on the label or labeling of tank cars, tank trucks, 50-gallon or larger drums, or 200-pound or larger barrels of the economic poisons.

(2) In the case of products whose full composition is not shown by the label, directions for use must accompany the product.

(e) *Acceptable types of labeling.* (1) For creosote oil, free of water or free carbon.

Creosote Oil
ACTIVE INGREDIENT 100%

John Doe and Company
New York, N. Y.

Net contents ------ gallons

CAUTION: Avoid prolonged or repeated contact with the skin or breathing of the vapors.

(2) For naphthalene Flakes in a 200-pound barrel.

Naphthalene
ACTIVE INGREDIENT 100%

John Doe and Company
New York, N. Y.

Net weight 200 lbs.

§ 362.109 Interpretation with respect to the guaranty of an economic poison.

(a) *Purpose of the guaranty.* (1) The manufacturer of an economic poison is presumed to know the composition of his product and he will ordinarily be the one who registers it with the Department of Agriculture. He will, therefore, be in position to determine whether or not its shipment or distribution is legal.

(2) The distributor who purchases it from him will not be in a position to determine its composition except as he has it analyzed in a chemical laboratory and he will not know, except as his supplier may inform him, whether the product is registered, and what representations were made in connection with the registration. It will, therefore, be difficult for him to determine whether or not its shipment or distribution is legal.

(3) In order that the distributor may protect himself the act specifies that the penalties provided for violations of section 3a shall not apply to any person who establishes a guaranty, signed by and containing the name and address of the registrant or person residing in the United States from whom he purchased and received in good faith the article in the same unbroken package, to the effect that the article was lawfully registered at the time of sale and delivery and that it complies with the other requirements of the act, giving the name of the act in full. When the distributor holds such a guaranty, the guarantor is responsible for any violation involved in the shipment of the goods. However, the distributor, to avoid responsibility, must be able definitely to show that the economic poison in question is covered by a specific guaranty.

(b) *Who may give guaranty.* A guaranty may be given by any manufacturer, distributor, wholesaler, or any other person residing in the United States, who sells an economic poison to anyone else.

(c) *Scope and form of guaranty.* A guaranty may be either limited to a specific shipment or it may be general and continuing in nature. The following forms of guaranty are suggested:

(1) Limited form for use on invoice or bill of sale.

---------- hereby guarantees
Name of guarantor
that the economic poisons herein listed are lawfully registered with the U. S. Secretary of Agriculture and comply with all requirements of the Federal Insecticide, Fungicide, and Rodenticide Act.

Signature and postoffice address of guarantor

Date

(2) General and continuing form.

The economic poisons comprising each shipment or other delivery hereafter made by ---------- to or on the order of
Name of guarantor,

Name and address of
---
person receiving guarantee
are hereby guaranteed to be lawfully registered with the U. S. Secretary of Agriculture and to comply with all requirements of the Federal Insecticide, Fungicide, and Rodenticide Act, as of the date of such shipment or delivery.

Signature and postoffice address of guarantor

Date

(3) In some cases an invoice may cover shipment of both economic poisons covered by permit for experimental use and registered economic poisons. The guaranty cannot apply to the economic poisons shipped under permit. Therefore, the above forms of guaranty must be modified to be applicable to such procedure. It is suggested that in such cases the name of the experimental economic poison as shown on the invoice or bill of sale be immediately followed by the word "Experimental." Then the first form of guaranty should be changed to read:

---------- hereby guarantees
Name of guarantor
that the economic poisons herein listed (except such as are designated "experimental") are lawfully registered with the Secretary of Agriculture and that they comply with all requirements of the Federal Insecticide, Fungicide, and Rodenticide Act.

Signature and post office address of guarantor

Date

A similar change should be made in the second form of guaranty.

(d) *Reference to guaranty.* No reference to the guaranty may be made on the label or in the labeling of the product since such reference would be likely to give the purchaser an unwarranted sense of security.

(e) *Limitation of guaranty.* The guaranty applies only so long as the economic poison remains unchanged in the manufacturer's or registrant's unbroken immediate container bearing his label. It expires when the immediate package is opened, when the material is repacked or relabeled, or when it has been otherwise changed so as to be in violation of the law after shipment or delivery by the person giving the guaranty. For example, a product may deteriorate when stored for any considerable length of time. It may have been in strict compliance with the law when shipped by the guarantor but a year later, when shipped by the distributor, it may have deteriorated and become worthless. In this case, the guaranty would not apply to the shipment a year later.

§ 362.110 Interpretation with respect to the analyzing and testing of economic poisons.

(a) *Analyzing and testing of economic poisons; functions of the Department.* Insofar as the Federal Insecticide, Fungicide and Rodenticide Act is concerned, the functions of the Department of Agriculture are those of a law enforcement agency. The Department analyzes and tests economic poisons subject to the act to determine whether or not they are in violation of the provisions thereof. Its analytical and testing work is limited to official samples collected by official investigators or others who have been duly designated by the Director of the Plant Pest Control Division. It cannot undertake such work to help a manufacturer prepare his labeling. It is the manufacturer's responsibility to have such work carried out, which may be done by commercial laboratories or by other qualified persons. The Department is, however, willing to comment on proposed labeling submitted by manufacturers, based on available information.

The Department has no authority to recommend or to approve any specific commercial laboratory or person engaged in doing analytical or testing work on economic poisons.

§ 362.111 Interpretation with respect to shipments for experimental use; permit requirements.

(a) *Shipments for experimental use by certain Federal and State agencies.* The penalties provided for violation of section 3a of the act do not apply to the manufacturer or shipper of an economic poison intended only for experimental use by or under the supervision of any Federal or State agency authorized by law to conduct research in the field of economic poisons. This means that a manufacturer may freely ship economic poisons for experimental use by or under the supervision of the agencies indicated without registration or any other compliance with section 3a of the act. No Federal permits for these shipments are required.

(b) *Shipments for experimental use by others.* In the case of shipments of economic poisons for experimental use only, to parties other than Federal or State agencies authorized by law to conduct research in the field of economic poisons or to those working under their supervision, the same exemption from the penalties set forth for violation of section 3a of the act exists: *Provided,* That a permit has been obtained from the Department before shipment of the goods. This provision of the act is intended to apply primarily to shipments of products which have already been found to have economic poison value, but which are being tested further, usually on a larger scale, to determine their limitations. The information about their effectiveness is usually not sufficient to enable the preparation of adequate directions for use and adequate warning statements and, therefore, suitable labeling for registration cannot be prepared without further experimentation. This experimental work may be carried out on a large scale, including treatment of

many acres of crops in various sections of the country. However, it must be carried out in such a way as to avoid injury to humans and useful animals. If the economic poison is to be tested for a use which is likely to result in contamination of food or feed the affected food or feed must be disposed of without allowing it to be consumed by humans, or by useful animals except those used for toxicity tests, unless there is convincing evidence that the proposed use will not result in injury to them.

(c) *Sale of the product.* The economic poison may be sold to the user or may be supplied to him without charge. If it is not furnished without charge the label must bear, in addition to other required material, a statement of the names and percentages of the principal active ingredients in the product. This is intended to include the names and percentages of the ingredients commonly known as toxicants but not necessarily the names and percentages of ingredients which act primarily as solvents, emulsifiers, carriers or in a similar manner. The experimental work must be carried out by persons qualified to evaluate the results obtained. Offering the product for sale to anyone who wishes to purchase it is not considered marketing for experimental use only, and is prohibited. Products so offered will be subject to registration and all other requirements of the law.

(d) *Types of products and labeling.* (1) An economic poison shipped for experimental use may be one which has not previously been used as an economic poison, or it may be one which has had other economic poison uses and is now being tested for a new use.

(2) The labeling of all economic poisons shipped under permit must bear the following:

(i) The prominent statement "For Experimental Use Only" on the container label and any accompanying circular or other labeling.

(ii) A warning or caution statement if it is necessary for the protection of those who may handle or be exposed to the economic poison.

(iii) The name and address of the applicant for the permit.

(iv) The name of the formulation; and,

(v) If the economic poison is to be sold, the names and percentages of its principal active ingredients.

(e) *Specific and general permits.* (1) If a manufacturer desires to make a single shipment of an economic poison for experimental use, he may obtain a permit for that specific shipment; or

(2) If he desires to make more than one shipment of a single economic poison or closely allied economic poisons for experimental use, he may apply for a general permit. A general permit will be subject to the following limitations and may be cancelled at any time for any violation of its terms:

(i) It will be good only for a specified period of time, in no case exceeding one year.

(ii) It will be subject to the truthfulness of the representations made in the application for the permit.

(iii) It will apply only to one economic poison or closely allied group of such products. This provision is intended to include under one permit different formulations of the same material which are being tested to determine the best formulation for the particular use, but is not intended to include under one permit entirely different chemicals used as economic poisons.

(f) *Application for permits.* An application for a permit for shipment for experimental use should be made in duplicate on forms which may be obtained from the Plant Pest Control Division, Agricultural Research Service, United States Department of Agriculture, Washington 25, D. C., giving in full the following information:

(1) Name and address of the shipper and place or places from which the shipment will be made.

(2) Proposed date of shipment or proposed shipping period not to exceed one year.

(3) A statement of the composition of material to be covered by the permit which should apply to a single material or group of closely allied formulations of the material.

(4) A statement of the approximate quantity to be shipped.

(5) Available data or information or reference to available data or information on the acute toxicity of the economic poison.

(6) A statement of the nature of the proposed experimental program, including the type of pests or organisms to be experimented with, the crops or animals for which the product is to be used, the areas where it is proposed to conduct the program, and including the results of previous tests where necessary to justify the quantity requested.

(7) When food or feed is likely to be contaminated, either a full statement of action which will be taken to prevent the food or feed from being consumed, except by laboratory or experimental animals, or convincing evidence that the proposed experiment will not result in injury to man or useful animals.

(8) The percentage of the total quantity specified under subparagraph (4) of this paragraph which will be supplied without charge to the user.

(9) A statement that the economic poison is intended for experimental use only.

(10) Proposed labeling for the product.

Applications will be considered as rapidly as possible. In special cases the manufacturer may request telegraphic notification at his expense of the issuance of the permit.

(g) *Limitation of quantity of economic poison permitted for experimental use.* When the available information on the effectiveness, toxicity or other hazards inherent in a proposed experimental use of an economic poison is not sufficient to assure that it is safe under the conditions of the experiment, the full quantity requested may not be permitted or other limitations may be placed upon the permit if necessary for the protection of the public. This is intended to apply particularly if the material is to be handled and applied by people who have not been especially trained in the use of poisons or if its use on a scale as broad as that requested is likely to constitute an unwarranted hazard.

(h) *Cancellation of permits.* A permit for shipment of an economic poison for experimental use may be cancelled at any time for any violation of its terms. It may also be cancelled if it appears upon further consideration that distribution of the product under the terms of the permit constitutes a hazard to the public.

(i) *Custom mixes.* Permits will not be issued for so-called custom mixes which are ordinarily economic poisons prepared to the special formula of the user. These are not intended for experimental use, but are special economic poisons intended for special uses. When shipped in interstate commerce, they are subject to the registration and other provisions of the law.

(j) *Shipment of products not classified as economic poisons.* Section 362.17 (a) (1) provides that a product is not an economic poison when it is being put through tests in which the purpose is only to determine its value for economic poison purposes or to determine its toxicity or other properties, and when the user does not expect to receive any benefit in pest control. This will, in general, include products being put through so-called screening tests or preliminary tests to determine whether further tests with them are worth while; products shipped to toxicological laboratories to determine their toxicity; products sent to chemical laboratories for chemical investigation; and products shipped for tests by testing laboratories which maintain test plots solely to evaluate the effectiveness of the product and not for the value of the crops obtained. Permits are not required for shipments of products of this type and they are not subject to the provisions of the act in any way. There is no requirement for any report concerning them to the Department, except when it is necessary to report the results of the tests to support claims when they are later submitted for registration or when an application for a permit for shipment for experimental use is submitted. However, confidential progress reports will be valuable to the Department.

§ 362.113 Interpretation with respect to liquid and pressurized household insecticides acceptable for generalized application (primarily non-deposit forming).

(a) *Composition.* These products are ordinarily marketed as solutions, emulsions, suspensions, or pressurized products and are designed for use in undiluted form by the consumer. In a few cases, concentrated products requiring dilution are marketed. These products usually have a petroleum distillate base, together with such auxiliary solvents as may be necessary to keep the formulation as a solution under conditions of relatively low temperature. Water is sometimes used in the liquid formulations. Auxiliary solvents such as methylated napthalenes, methylated aromatic petro-

leum solvents, and methylene chloride are frequently used, although the latter is more common in pressurized products. The propellants commonly encountered are known as Propellant 11 (trichloro monofluoro methane) and Propellant 12 (dichloro difluoro methane). Propellant 12 may be used alone or in various proportions with Propellant 11, methylene chloride, or methyl chloroform. This interpretation is not intended to cover products intended primarily to be used in such a manner as to deposit substantial quantities of insecticides on treated surfaces.

(b) *Acceptable ingredients.* The following chemicals are frequently encountered in household-type insecticides of this class. The percentage figures given are the maximums which are ordinarily encountered in this class of products. An asterisk indicates that the percentage specified is the maximum being accepted. The other percentage figures should not be regarded as maximum at the present time, even though further information may necessitate modification of these figures and the use of additional asterisks. All percentage figures are expressed in terms of weight. Ingredient statement requirements are discussed in paragraph (c) of this section.

Pesticidal chemical	Percentage in liquid space and contact sprays	Percentage in aerosol mist sprays
Allethrin (allyl homolog of cinerin I) —%	0.5	0.6
Beta-butoxy-beta'-thiocyanodiethyl ether —% (Lethane 384)	[1] 3.5	[1] 4.0
Beta-thiocyanoethyl esters of mixed fatty acids containing 10 to 18 carbon atoms —%. Beta-butoxy-beta'-thiocyanodiethyl ether —% (Lethane 384 Special)	[1] 3.5	[1] 1.0
Butoxypolypropylene glycol —%	10.0	5.0
Dichloro diphenyl dichloroethane —% (TDE)	*6.0	None
Dichloro diphenyl trichloroethane —% (DDT)	*6.0	*5.0
Diethyl diphenyl dichloroethane [or 1,2-dichloro-2,2-bis (4-ethylphenyl) ethane] —% (95% of the total amount of technical ingredient present). Related compounds —% (5% of the total amount of technical ingredient present) (Perthane)	*5.0	*3.0
Gamma isomer of benzene hexachloride from lindane —%	*0.1	None
Isobornyl thiocyanoacetate —% (82% of the total amount of technical ingredient present). Related compounds —% (18% of the total amount of technical ingredient present) (Thanite)	3.5	*3.0
Malathion —% [2]	2.0	*5.0
Pyrethrins —%	0.2	0.6
Rotenone —%. (Usually "Other Cube Resins," another active ingredient, is also present in formulations containing this ingredient)	0.1	0.33
Technical methoxychlor —% [3]	5.0	*3.0
Terpenepolychlorinates (66% chlorine) —% and an additional statement: "Chlorinated Camphene, Pinene, and Related Terpenes." (Strobane)	*2.0	*2.5
Toxaphene —% [4]	*2.5	*2.5

[1] Thiocyanate.
[2] 0,0-dimethyl dithiophosphate of diethylmercaptosuccinate.
[3] Equivalent to —% (88% of the first percentage) 2,2-bis(p-methoxyphenyl) 1,1,1-trichloroethane and —% (12% of the first percentage) other isomers and reaction products.
[4] Technical chlorinated camphene (67% to 69% chlorine).

Pesticidal chemical	Percentage in liquid space and contact sprays	Percentage in aerosol mist sprays
Synergists		
Di-n-propyl maleate isosafrole condensate —% (Propyl isome)	2.0	2.0
N-octyl-bicycloheptene dicarboximide —%	2.5	2.0
Octyl sulfoxide of isosafrole —% (Sulfoxide)	2.0	4.0
Sesame oil extractives —% [5]	1.5	8.0
Technical piperonyl butoxide —% [6]	1.5	2.0

[5] Containing sesamin —%.
[6] Equivalent to —% (80% of the first percentage) (butylcarbityl) (6-propylpiperonyl) ether —% related compounds (20% of the first percentage).

These products frequently contain a combination of pesticidal ingredients, together with synergized pyrethrins and thiocyanates. These ingredients may be used in any combinations desired except that when combinations of phosphates and/or chlorinated hydrocarbons are proposed, concentrations of these ingredients should be proportionately reduced. The following is illustrative of a mixture of DDT and malathion which would be acceptable:

Insecticidal mixture:	*Maximum percentage by weight in liquid products*
DDT	3 percent.
plus	plus
Malathion	1 percent.

DDT when used alone may be present to the extent of 6 percent. Malathion when used alone may be present to the extent of 2 percent. When combinations of these ingredients are used the quantities of each must be proportionately reduced as in the above illustration. A finished liquid formulation containing 1.0 percent malathion plus 1.5 percent DDT would also be accepted. There would be no objection to any separately acceptable amounts of the thiocyanates or synergized pyrethrins being added to a liquid formulation.

(c) *Ingredient statement.* The following form of ingredient statement would fulfill legal requirements for a hypothetical liquid mixture containing pyrethrins, petroleum distillate, piperonyl butoxide, perthane, and malathion:

Active ingredients:	*Percent*
Pyrethrins	---
Malathion [1]	---
Technical piperonyl butoxide [2]	---
Diethyl diphenyl dichloroethane	---
Petroleum distillate	---
Total	100

[1] 0,0=dimethyl dithiophosphate of diethylmercaptosuccinate.
[2] Equivalent to __ percent (butyl carbityl) (6 propyl piperonyl) ether and __ percent related compounds.

The correct figures should, of course, be entered in the blank spaces. As an alternative, the names of the ingredients may be listed in the descending order of their respective percentages. In such cases the heading "Active Ingredients 100%" should be used. The term "100%" may be omitted when actual percentage figures are given for each active ingredient. An illustration of this alternative form of ingredient statement appears elsewhere for a hypothetical pressurized formulation.

The following forms of ingredient statements would fulfill legal requirements for a pressurized product containing pyrethrins, piperonyl butoxide, and DDT:

Active ingredients:	*Percent*
Pyrethrins	---
Technical piperonyl butoxide [1]	---
Dichloro diphenyl trichloroethane	---
Petroleum distillate	---
Inert ingredients	---
Total	100

or

Active ingredients:	*Percent*
Petroleum distillate	---
Dichloro diphenyl trichloroethane	---
Technical piperonyl butoxide [2]	---
Pyrethrins	---
Inert ingredients:	
Methylene chloride	---
Dichloro difluoro methane	---

[1] Equivalent to __ percent (butyl carbityl) (6 propyl piperonyl) ether and __ percent related compounds.
[2] Consists of (butyl carbityl) (6 propyl piperonyl) ether and related compounds.

In all cases, the correct percentages should be entered in the blank spaces. The tabulation of pesticidal chemicals appearing in paragraph (b) of this section gives appropriate suggestions for the naming of ingredients. Except for explanatory parenthetical wording, the information given in paragraph (b) of this section is suitable for use in label ingredient statements. Interpretation 5 gives further information on the preparation of correct ingredient statements. The ingredient statement should in all cases accurately reflect the complete composition of the product. The names given for the various ingredients must be the common names, if they have common names. Otherwise, the chemical names as specified above should be used. Trademarked names should not be used in the ingredient statement.

(d) *Basic insecticidal value*—(1) *Petroleum distillate sprays.* Liquid spray products of this class should have as a minimum the insecticidal value of a petroleum distillate solution of pyrethrins containing 114.8 mg. of this ingredient per 100 cc. of solution. For practical purposes, this reference standard should have the same biological value as the current Official Test Insecticide which is prepared and distributed under the supervision of the Chemical Specialties Manufacturers Association, 50 East 41st Street, New York 17, New York. Any testing procedure which accurately compares the toxicity of the standard mixture to the liquid product being evaluated, will be considered. The testing procedures published as "The Peet-

Grady Method" and the "Cockroach Spray Test Method" by the above-mentioned association will be considered as satisfactory for flies and roaches, respectively. These methods will not be regarded as interchangeable, since they only evaluate the comparative toxicity of liquid insecticides against the pests named. These methods are given in the 1959 edition of the Blue Book and Catalogue edition of Soap and Chemical Specialties, published by the MacNair-Dorland Company, 254 West 31st Street, New York City. These testing procedures may not be considered as adequate or applicable when new or unusual pesticidal chemicals are included in the formulation or if claims and directions for killing insects other than roaches or flies are proposed. If such products are intended to be used for killing household pests other than flies or roaches, special attention will be given to assessing the toxicity of the pesticide for the purposes which are proposed. Full information on the proposed claims and directions should be submitted in each case. It will be necessary for the applicant to submit data to establish the safety of any new or unusual chemical or pesticidal treatment that is proposed. It is the usual practice to consult with the Public Health Service of the Department of Health, Education, and Welfare on such matters.

(2) *Aerosol-type products.* Pressurized formulations classified as "aerosols" are usually marketed in dispensers ranging from a few ounces to 5 pounds. However, most of the items designed for mass distribution are packaged in sizes of 12 ounces and 16 ounces. These products contain 80 percent or 85 percent of propellant gas, usually a combination of Propellant 11 and Propellant 12. Methylene chloride or methyl chloroform is frequently substituted in whole or in part for Propellant 11. As a minimum, these products should have the knockdown and insecticidal value of a product containing 85 percent of a 50–50 mixture of Propellant 11 and Propellant 12, and 15 percent of petroleum solvent containing sufficient pyrethrum extract and DDT to yield 0.4 percent pyrethrins and 2 percent DDT in the total formulation. The reference standard should have the same biological value as the current Official Test Aerosol dispenser of the Chemical Specialties Manufacturers Association. These dispensers may be obtained from the Association at 50 East 41st Street, New York 17, New York. Any testing procedure which accurately compares the knockdown and toxicity of the test aerosol with the reference standard will be considered. The official method of the Association, published in the 1959 edition of the Blue Book and Catalogue, as previously noted, will be accepted, provided the results demonstrate that the product is no less effective in 5-minute, 10-minute and 15-minute knockdown and 24-hour mortality intervals than the comparison formulation when tested against house flies at the same dosage or less. This method of testing may not be considered as adequate if claims and directions for killing insects other than flies are proposed or if new or unusual ingredients or insecticidal usage are involved. In any test, the spray from aerosol dispensers should be in a finely divided form, in which 80 percent or more of the individual spray particles have a mean diameter of 30 microns or less and none of the spray particles have a diameter of more than 50 microns. Products which do not have the necessary biological activity when tested by the specified methods or which dispense a coarser type spray should not be represented as being "aerosols." Full information on the proposed claims and directions should be filed in all such cases. It will be necessary for the applicant to submit data to establish the safety of any new or unusual chemical ingredient or pesticidal treatment that is proposed. It is the usual practice to consult with the Public Health Service of the Department of Health, Education, and Welfare on such matters.

(3) *Pressurized space and contact sprays.* Products of this class are less common, and differ from the aerosol-type products in that their biological performance is of a lower order and usually somewhat slower in effect on the insects which are sprayed. These products deliver mist sprays intermediate between aerosol-type sprays and those which are intended to deposit an insecticidal residue of a chemical. They should have the biological performance of the reference standard specified for the aerosol-type product when a dosage of no more than twice that used for the same reference standard has been applied. Also, for these purposes the testing procedure may be modified to omit comparisons of the knockdown at the 5-minute and 10-minute intervals. The comparisons in such cases will be only at the 15-minute knockdown and 24-hour mortality intervals. The product will be regarded as having sufficient insecticidal value if the average 15-minute knockdown and 24-hour mortality figures are no more than 5 percentage points under the comparable figures for the reference product. If claims and directions for killing insects other than flies are included, or if new or unusual chemicals are included in the formulation, individual consideration will be given to the proposed claims and directions on a separate basis. It will, of course, be necessary to submit data to establish the safety of any new or unusual ingredient or pesticidal usage. It is the usual practice to consult with the Public Health Service of the Department of Health, Education, and Welfare on such matters.

(e) *Directions for use*—(1) *General.* In all cases, the labeling should bear adequate directions for use against all of the insects named in the labeling. Although these products are commonly referred to as "fly sprays," "aerosols," or "pressurized products," they are usually recommended for use against a number of household insects, including house flies, mosquitoes, roaches (water bugs), bed bugs, ants, carpet beetles, brown dog ticks, and clothes moths. These products are primarily contact insecticides and in order to be effective must hit or wet the individual insect with the spray mist. Since the habits and life cycles of different insect pests vary considerably, the directions must in each case be adapted to the particular variety of insect which is causing annoyance and the type of structure or building in which the product is used.

(2) *Particular insects*—(i) *Flies and mosquitoes.* Directions for use against these pests should provide for closing the doors and windows and thoroughly spraying all parts of the room, particularly toward the ceiling, so as to fill the room with a fine mist. The room should be kept closed for 10 to 15 minutes and the fallen insects swept up and destroyed. However, when strong formulations are used, containing substantial amounts of rapidly acting paralytic agents, it is simply necessary to ascertain that the various insects have been thoroughly enveloped in the spray mist. Pressurized aerosol formulations and pressurized sprays may also be used in a manner quite similar to the liquid products. Dosages of aerosol and pressurized formulations are sometimes expressed in terms of seconds of discharge with appropriate adjustments for low and high delivery rate dispensers. These dosages usually are in the range of 4 to 5 grams of aerosol mixture in mist form per 1000 cubic feet of space.

(ii) *Household ants and roaches.* The directions for use against these pests should provide for thorough spraying into all parts of the room suspected of harboring these pests. Special attention should be paid to cracks and hidden surfaces around sinks or food storage areas where these insects may be hiding. It is necessary in all cases that the insects be contacted directly with the spray. Treatment around doors and windows is desirable in connection with directions for use against ants. Pressurized formulations may also be used, but since liberality of application is essential, small pressurized dispensers may not give as good results in some cases. Repeated applications should be specified in all cases. Special care should be taken to use these products in such a manner that food and food utensils will not be contaminated. If any spray contaminates cooking utensils, silverware, or dishes, they should be thoroughly cleaned.

(iii) *Bed bugs.* The directions for use against these pests should provide for thorough spraying of the bed, the springs, and the mattress, as well as the baseboards and wall cracks about the bedroom. Repeated applications are usually necessary for good results against these pests. In the case of malathion, the maximum acceptable concentration for this use is a 1 percent spray, which in any case is to be applied lightly to the mattress.

(iv) *Clothes moths and carpet beetles.* The directions for use against these pests should provide for cleaning all articles to be protected and for thorough spraying, particularly of seams and folds. The interior of trunks, closets, cupboards, and other storage containers should also be thoroughly sprayed. Unless the sprayed articles are to be stored immediately in moth-tight containers, the directions should provide for repeating the treatment at least once a month. In the case of upholstered furniture, the directions should provide for spraying the interior of the furniture, as well as the

outer surfaces, unless the furniture can be fumigated to kill any hidden infestation of these pests. Rugs and carpets that are to be treated may also be sprayed, not only on the top surfaces, but also on the under side. However, when carpet beetles are a serious problem, it is usually desirable to use a residual type insecticidal treatment. Pressurized products, including aerosols, may be used on the same terms, but are less suitable, since small dispensers do not ordinarily permit the liberality of treatment which is usually necessary for good results.

(v) *Fleas and brown dog ticks in buildings.* Directions for use against these pests should provide for liberal applications to floor areas, cracks and crevices, sleeping quarters of animals, behind pictures, and wherever these insects may be suspected of harboring. Liberal and repeated applications directly to the individual pests are desirable in all cases.

(vi) *Mosquitoes and small flying insects outdoors.* Liquid and pressurized products of the types described can often be used effectively as mist spray applications for tall grass, shrubbery and around lawns where these pests may hover or harbor. This usage is suitable only in still air and requires frequent reapplication to kill additional insects that may be drifting into the area. It is not suitable for coping with any large influx of insects. Care should be taken to avoid wetting vegetation since many of these formulations are phytotoxic. Only mist spray application should be directed.

(f) *Caution and warning statements*—(1) *General.* All economic poisons are required to bear warning or caution statements which are necessary to protect the public from injury, and acceptable directions for use must be consistent with these requirements. These cautions and directions are quite variable, depending on the composition of the product and the manner of use which is intended. The detailed precautions, especially for operator protection during use of most of the various pesticidal ingredients, are given in the current revision of Interpretation 18. Cautions to protect food and food-handling equipment from contamination are often required and are appropriate in any case. These products should ordinarily be kept out of reach of children and pets.

(2) *Liquid household insecticides.* In all cases where petroleum distillate or other combustible formulations are involved, warning against spraying in the presence of open flame or sparks is required.

(3) *Pressurized household insecticides.* Since many of these products contain significant amounts of petroleum distillates, other combustible substances, and/or halogenated hydrocarbons yielding irritant substances in the presence of open flame or heated surfaces, and since bursting or leakage of contents may occur at high temperatures, all pressurized products (except as specified hereafter) should bear the following warning or its practical equilavent:

WARNING: Contents under pressure. Do not puncture. Do not use or store near heat or open flame. Exposure to temperatures above 130° Farenheit may cause bursting. Never throw container into fire or incinerator.

Pressurized products which have extreme flammability or explosive hazards will be considered separately and additional precautionary labeling prescribed. Methods for determining the need for such additional precautionary labeling may be obtained from the Director, Plant Pest Control Division, Agricultural Research Service, U.S. Department of Agriculture, Washington 25, D.C. It is the responsibility of the registrant to provide precautionary labeling which will be adequate, if complied with, to prevent injury to persons using or handling his product.

(g) *Deterioration.* Petroleum distillate sprays containing pyrethrins, if exposed too long to light in ordinary glass bottles, or stored for long periods of time, may lose their efficiency due to deterioration of the active ingredients. Also, certain types of packaging may permit deterioration. All products should maintain their active ingredients at the levels declared on the label and represented at the time of registration as long as they remain in unopened containers in channels of trade.

(h) *Grade classification.* The grade classifications given in Commercial Standard CS 72–54 apply to liquid fly sprays and should be used only to classify such products. If a claim for grade classification is made for a fly spray, it should be only such a grade as may be fully justified by the killing action and knockdown effect of the product when tested against house flies. Except for fly sprays, there is no generally recognized grade classification for household insecticides and no such claims should be made other than for fly sprays.

(i) *Unwarranted claims.* These products are not effective against all household insects, and claims for effectiveness against insects generally or all insects, are unwarranted and should not be made. These products, as customarily marketed, are not effective against termites and cannot be relied upon to kill any insect which cannot be reached directly by the spray. This applies also to the eggs of many insects, which are often placed in inaccessible cracks or hidden surfaces. Claims for extermination are not warranted and should not be made. Products of this type are injurious under certain conditions to both men and animals and may contaminate food when improperly used. Therefore, their labels must ordinarily not bear any unqualified claims such as "Non-Toxic," "Non-Poisonous," "Non-Injurious," or "Harmless to Man and Animals." Such products are of no value in disinfecting and will not prevent diseases, and claims to that effect should not be made.

(j) *Registration.* All applications for registration should include duplicate copies of all labels, circulars, or other literature which may be associated with or accompany the product at any time. Complete information concerning the composition of the product should also be furnished with the application. If the product does not conform to a conventional pattern of pesticidal usage against household pests, data should be furnished to demonstrate the practical value of the product for the various pests which are named in the labeling. Consultation with applicants is solicited at all times, in order to eliminate possible misunderstanding.

§ 362.115 Interpretation with respect to labeling of weed killers containing 2,4–D, 2,4,5–T, and MCPA.

(a) *Composition.* In this interpretation, 2,4–D is a designation for 2,4-dichlorophenoxyacetic acid; 2,4,5–T is a designation for 2,4,5-trichlorophenoxyacetic acid; and MCPA is a designation for 2-methyl-4-chlorophenoxyacetic acid. These designations will also represent the salts and esters of these acids when they are used as weed killers. The acids themselves are not very soluble in water and ordinarily are not used alone; they may be mixed with an alkali, such as sodium carbonate, so that the sodium salt will be formed when the mixture is added to water, but they are commonly used as amine salts, as volatile esters, including the ethyl, butyl, propyl, and amyl series, or as low-volatile esters, including butoxy ethanol, polyethanol glycol butyl ether, tetrahydrofurfuryl, ethoxy ethoxy propyl, butoxy ethoxy propyl, iso-octyl, and others.

(b) *Ingredient statement.* (1) The active ingredients in a weed killer containing 2,4–D, 2,4,5–T, or MCPA will be the actual compounds of the acids which are present. In a powder containing 2,4–D acid and sodium carbonate, for example, the active ingredient would be the 2,4-dichlorophenoxyacetic acid; in a product containing the anhydrous sodium salt of 2,4–D, however, the active ingredient would be the anhydrous sodium salt of 2,4-dichlorophenoxyacetic acid; the ethanol amine salt of 2,4-dichlorophenoxyacetic acid would be the active ingredient in a product containing it; and any specific esters of 2,4-dichlorophenoxyacetic acid present would be declared as the active ingredients in products containing them. The same principle would be followed for the various formulations containing 2,4,5–T or MCPA.

(2) Since the herbicidal action of products containing 2,4–D, 2,4,5–T, or MCPA has been reported on the basis of the equivalent content of their respective acids, it is desirable that the equivalent amount of the acid be given in the ingredient statement. However, it should be borne in mind that some compounds, particularly the esters, act differently from others and it is not safe, therefore, to base judgment entirely on the equivalent acid content.

(3) When sodium 2,4-dichlorophenoxyacetate monohydrate is present in a dry mixture, it should be considered the active ingredient. In water solutions, the convention has been adopted of declaring only the anhydrous forms of the dissolved solids as active ingredients; thus, in a water solution of sodium 2,4-dichlorophenoxyacetate monohydrate, the active ingredient would be declared as "anhydrous sodium 2,4-dichlorophenoxyacetate."

(4) The following forms of ingredient statements for 2,4–D are acceptable

for the types of materials indicated. In each case, correct values should be inserted in the blank spaces.

(i) A dry mixture of 2,4-dichlorophenoxyacetic acid, sodium carbonate, and other inert ingredients:

Active Ingredient:	Percent
2,4-dichlorophenoxyacetic acid	---
Inert Ingredients	---
Total	100

(ii) A mixture of the anhydrous sodium salt of 2,4-dichlorophenoxyacetic acid and inert materials:

Active Ingredient:	Percent
Sodium salt of 2,4-dichlorophenoxyacetic acid [1]	---
Inert Ingredients	---
Total	100

[1] Equivalent to 2,4-dichlorophenoxyacetic acid --- percent.

(iii) Isopropyl amine salt of 2,4-dichlorophenoxyacetic acid and inert ingredients:

Active Ingredient:	Percent
Isopropyl amine salt of 2,4-dichlorophenoxyacetic acid [1]	---
Inert Ingredients	---
Total	100

[1] Equivalent to 2,4-dichlorophenoxyacetic acid --- percent.

(iv) Butyl ester of 2,4-dichlorophenoxyacetic acid and inert ingredients:

Active Ingredients:	Percent
Butyl ester of 2,4-dichlorophenoxyacetic acid [1]	---
Inert Ingredients	---
Total	100

[1] Equivalent to 2,4-dichlorophenoxyacetic acid --- percent.

The above examples of ingredient statements would also apply to similar formulations of 2,4,5–T and MCPA.

Tables of equivalent percentages of the salts, amine salts, and esters of 2,4-D, 2,4,5–T, and MCPA, for use in computing the equivalent percentages of the acids, may be obtained from the Pesticides Regulation Branch, Plant Pest Control Division, Agricultural Research Service, U.S. Department of Agriculture, Washington 25, D.C.

(c) *Directions for use.* (1) 2,4-D weed killers have been used successfully to control broad leaf weeds, such as plantain, dandelion, henbit and chickweed in lawns and golf courses, to destroy certain weeds in drainage ditches and streams (but in this case caution must be exercised not to contaminate water used for irrigation or domestic purposes), and to treat rice, flax, sugar cane, oats, barley, wheat and corn fields. Such uses are not without danger to other plants, however, the danger being especially great when dusts and esters are applied.

(2) 2,4,5–T is more effective against hard-to-kill weeds and woody plants, such as deep-rooted perennial weeds, brambles, sagebrush, and trees and shrubs growing in non-cropped or other waste areas, fence and hedge rows, under utility lines, along railroads and highways, around air fields, buildings, and lumber yards, and along ditchbanks and water ways. It is also used to control weeds in rice. Caution should be exercised to avoid contaminating waters used for irrigation or domestic purposes.

(3) MCPA is commonly used in Europe as a weed killer and is being used successfully in this country to control common broad leaf weeds in grains and other crops. It is particularly useful on oats, flax and peas, to which crops it is less injurious than 2,4–D.

(4) It is the responsibility of the manufacturer to prepare adequate directions for use which, when followed, will render the product effective against the weeds it is intended to control without causing injury to persons, valuable plants, or animals. The following points should be given consideration:

(i) Time and place of application (for most effective weed control with minimum injury to valuable plants).

(ii) Method of application.

(iii) Dosage (pounds of acid equivalent per acre is commonly used).

(iv) Dilution (if product is to be used as a water or oil spray).

(d) *Caution or warning statement to avoid injury to valuable plants.* (1) Herbicides containing 2,4–D, 2,4,5–T, MCPA, or their salts or esters, when used as selective weed killers, have been found to cause damage to valuable crops and plants under many conditions. Such crops as tomatoes, cotton, and grapes are severely damaged by small amounts of 2,4–D or related compounds. When used in a dust form, the pesticide may drift for miles. Dusting by airplane particularly is likely to cause damage by such drifting, and for this reason, dust formulations should not be applied by airplane. Ester formulations of these herbicides are volatile, and the so-called "low-volatile" ester formulations are known to be volatile under conditions of higher temperatures. These herbicides should not be applied near plants they are likely to kill. All weed killers containing 2,4–D or related compounds should be stored where they will not contaminate seeds, fertilizers, insecticides, or fungicides. Dusting or spraying equipment in which 2,4–D and related compounds have been used should be thoroughly cleaned with a suitable alkaline chemical, or with activated charcoal before being used for other purposes.

(2) Suggested caution or warning statements for labeling agricultural spray materials containing 2,4–D, 2,4,5–T, MCPA, or their salts or esters, are as follows:

CAUTION: Avoid spray drift to susceptible plants as this product many injure cotton, beans, peas, grapes, ornamentals, etc. (coarse sprays are less likely to drift). Thoroughly clean spray equipment with a suitable chemical cleaner before using for other purposes (or do not use same spray equipment for other purposes). Do not store near fertilizers, seeds, insecticides, or fungicides.

(3) Suggested caution or warning statements for labeling agricultural dust preparations containing 2,4–D, 2,4,5–T, MCPA, or their salts or esters, are as follows:

CAUTION: Before using, consult agricultural authorities in your State. This dust may drift for miles, even on quiet days, and cause damage to susceptible plants such as cotton, beans, grapes, peas, etc. Do not apply by airplane. Use only where there is no hazard of drift. Do not store near fertilizers, seeds, insecticides, or fungicides. After use of this dust, do not use same equipment for insecticides or fungicides (or give directions for cleaning the equipment).

(4) In addition to the above statements, preparations containing esters should bear a warning against the hazards due to their vapors, such as:

Vapors from this product may injure susceptible plants in the immediate vicinity.

(5) Other wording for the caution or warning statement may be used provided it is equally informative and effective.

(6) Herbicides containing 2,4–D, 2,4,5–T, or MCPA prepared in small packages for home garden and lawn use should contain adequate caution or warning statements on their labels to warn of the hazards in their use. When recommended for use on grass lawns, golf courses and cemeteries, the label should warn of possible injury to bentgrass, St. Augustine grass, Dichondria and carpetgrass, and damage to grass seedlings on newly seeded ground. The hazards of the drift of spray and dust should be noted by a statement such as: "Avoid drift of spray mist (dust) onto vegetables, flowers, ornamental trees and shrubs, and other desirable crop plants."

(e) *Caution or warning statement to avoid injury to man or animals.* Available information does not indicate that herbicides containing 2,4–D, 2,4,5–T or MCPA are highly toxic to man. Therefore, their labels are not required to bear the word "Poison," the skull and crossbones, or an antidote statement. However, they may cause irritation to the skin and eyes, and products containing the free acids, or inorganic salts of 2,4–D, 2,4,5–T or MCPA, in concentrations of 20 percent and above, should bear caution statements such as: "Avoid inhaling dust. Avoid contact with skin, eyes, or clothing." Organic esters or amine salts of these herbicides require a caution such as, "Avoid contact with skin, eyes or clothing."

(f) *Products not intended for economic poison use.* Products containing 2,4–D, 2,4,5–T or MCPA which are intended for use solely to delay fruit drop, or for other non-economic poison uses are not subject to the Act and need not comply with its provisions.

§ 362.116 Interpretation with respect to warning, caution, and antidote statements required to appear on labels of economic poisons.

(a) *Requirements of the act.* Section 2. u. (2) (d) of the act provides that an economic poison is misbranded if its label does not contain a warning or caution statement which may be necessary and if complied with adequate to prevent injury to living man and other vertebrate animals, vegetation, and useful invertebrate animals. Section 3. a. (3) of the act requires that any economic poison which contains any substance or substances in quantities highly toxic to man must bear on the label the skull and crossbones, the word "Poison" (in red) on a contrasting background, and an antidote statement.

(b) *Categories of toxicity and general provisions as to statements required for*

economic poisons therein. (1) Four general categories of toxicity of economic poisons are recognized. The first is the highly toxic class as defined in § 362.8. The second is the class immediately below the highly toxic, and in general includes formulations having toxicities down to one-tenth those of the highly toxic class. The third group embraces products having hazards below class two but to a degree which still requires some cautions and usually includes toxicities down to about one-tenth of those in class two. The fourth class is comparatively free from danger.

(2) Products in the categories specified in subparagraph (1) of this paragraph are to be distinguished from each other by the following general scheme:

(i) Highly toxic products are required by the act to be labeled with the skull and crossbones, the word "Poison" (in red) on a contrasting background, and an antidote statement. The antidote statement should include the sentence "Call A Physician Immediately." In addition, the label should carry the word "Warning" and instructions for handling to reduce chances of injury in use.

(ii) Labels of products which fall in the second category should carry warning statements equivalent to those required for highly toxic materials, but they do not need to bear the skull and crossbones, the word "Poison," or an antidote statement.

(iii) Labels of products in the third category should carry the word "Caution" and statements indicating the means of avoiding the principal hazards of use. Use of the skull and crossbones, the word "Poison," and antidote statements are not necessary for these products.

(iv) No warning, caution, or antidote statements are required for the few formulations in the fourth category, although unqualified claims for safety are usually not justified.

(c) *Miscellaneous provisions.* (1) Warning or caution statements on the labels of economic poisons must give concise and easily understood warnings as to the hazards associated with the use of the products, together with instructions to be followed to insure adequate protection. Precautionary labeling should warn against the hazards associated with the formulation both as it is sold and as used by the customer, whether it is suitable for use directly or must be diluted or mixed prior to application.

(2) The precautionary labeling detailed in this interpretation for specific economic poisons is directed primarily toward the avoidance of hazard to the persons handling or applying the economic poison and to persons or animals exposed to the economic poison incident to its handling or use. The manufacturer should recognize the possibility of injury of other types associated with the use of his product and the label should bear suitable directions for the avoidance of such injury. When an economic poison is intended for use on or around feed or food products and contamination with harmful residues may occur, the label should bear specific statements adequate to avoid danger of contaminating such feed or foodstuffs. For some formulations, the residues of which may be readily removed by washing or mechanical means without damage to the product, a statement such as "Remove residues at harvest by ____ (stating an effective method of removal) ____" will be acceptable. For formulations whose residues cannot be readily removed or where the product would be damaged in the process of removal, but where the residues disappear progressively, directions such as "Do not apply within ____ (stating a period adequate to reduce residues to a safe level) ____ days of harvest" will be acceptable. For still other formulations whose residues cannot readily be removed without damage to the product and do not disappear within a reasonable time, a statement such as "Do not apply after edible parts begin to form" may be required. When directions for use of sprays in food handling establishments are otherwise acceptable, a statement such as "Cover or remove all exposed food, utensils, and containers before spraying" may be required. In order to avoid contamination of milk or meat, certain economic poisons must bear directions against application in dairy barns, to dairy animals, or animals being finished for slaughter, or to forage crops to be used as feed for dairy animals or animals being finished for slaughter. Products which would be used in a manner likely to destroy beneficial insects should bear appropriate directions, such as proper timing of application to avoid destruction of pollinating insects. Products which might be injurious to fish and wildlife after extensive use or indiscriminate disposal of excess material or spray-tank washings, and which bear directions for widespread use in areas where contamination of waterways would be possible, should bear directions such as "To protect fish and wildlife, do not contaminate streams, lakes, or ponds with this material." Herbicides which might be used in a manner likely to cause injury to beneficial vegetation should carry directions warning against the danger of drifting of dusts, spray mist, or vapors from volatile ingredients.

(3) In general, the presence on the label of either the skull and crossbones and the word "Poison" or the warning "May Be Fatal If Swallowed" will substitute for such precautionary statements as "Avoid contamination of food" and "Keep away from children and domestic animals."

(4) Fire hazard cautions shall be based on the flash point of the particular products. The manufacturer of a formulation should determine the flash point of his product and label it accordingly. For formulations having flash points at or below 20° F. by the Tagliabue Open-Cup Method, a statement such as "Danger—Extremely flammable! Keep away from fire, sparks, and heated surfaces" should be used. For flash points above 20° F. but not over 80° F., "Warning—Flammable! Keep away from heat and open flame" would be appropriate. For flash points above 80° F. but not over 150° F., the caution "Do not use or store near heat or open flame" would be acceptable.

(5) Antidote statements must contain emergency first aid instructions suitable for use by a layman. In most cases they should require only materials which are readily available.

(6) It is permissible and usually advisable for a manufacturer of an economic poison to submit facsimiles of proposed labeling to the Pesticides Regulation Branch, Plant Pest Control Division, Agricultural Research Service, United States Department of Agriculture, Washington 25, D. C., for review and tentative acceptance before he invests in new printed labels.

(d) *Acceptable warning, caution and antidote statements for economic poisons containing specified ingredients.* The following subparagraphs set forth or indicate acceptable warning, caution and antidote statements for economic poisons containing the ingredients specified therein. The exact wording used in the suggested statements is not obligatory, although the substance of all such statements will be required, unless under special conditions of handling or use it is unnecessary. The manufacturer is obligated to use any added warning, caution or antidote statements which any special characteristics or uses of his formulation indicate to be necessary. Where the notation (H. P.) for "household package" appears following a precautionary statement, it indicates that the warning will be required only on packages commonly stored or used in the household where there is greater danger of accidents involving children or pets. The insignia

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always refers to the skull and crossbones and the word "Poison" (in red) on a contrasting background. The fire hazard caution prescribed in this paragraph in each case is based on the flash point of the chemical named.

(1) *Acetone—50% and above.*

Danger: Extremely Flammable! Keep away from fire, sparks, and heated surfaces. Avoid prolonged breathing of vapor. Avoid prolonged or repeated contact with skin.

Note: For formulations containing low percentages the signal word and flammability warning may be reduced on the basis of actual flash point determinations.

(2) *Acrylonitrile.*

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Antidote: Carry victim to fresh air. Have him lie down. Remove contaminated clothing, but keep victim warm. Start treatment immediately. Call a Physician Immediately!

If inhaled. Break an amyl nitrite pearl in a cloth and hold lightly under nose for 15 seconds; repeat five times at about 15 second intervals. Give artificial respiration if breathing has stopped.

If swallowed. Break an amyl nitrite pearl in a cloth and hold lightly under nose for 15 seconds. If victim is conscious, or when consciousness returns, give one tablespoonful of salt in a glass of warm water, and repeat until vomit fluid is clear. Repeat amyl nitrite five times at about 15 second intervals. Give artificial respiration if breathing has stopped.

Never Give Anything by Mouth to an Unconscious Person!

Warning: Poisonous Liquid and Vapor! Flammable! Do not breathe vapor. Do not get in eyes, on skin, or on clothing. Keep

away from heat and open flame. Keep container closed.

Note: Directions for use should include instructions for appropriate respiratory protection.

(3) *Aldrin (95% hexachloro hexahydro-endo, exo-dimethano naphthalene)*—(i) *60% and above.*

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Antidotes: If swallowed. Give a tablespoonful of salt in a glass of warm water and repeat until vomit fluid is clear. Have victim lie down and keep quiet. Call A Physician Immediately!

If on skin. Wash immediately with soap and water.

Warning: Poisonous If Swallowed, Inhaled or Absorbed Through Skin! In case of contact, immediately remove contaminated clothing and flush skin or eyes with plenty of water; for eyes, get medical attention. Wash thoroughly with soap and water after handling and before eating or smoking; wear clean clothing. During commercial or prolonged exposure in spray-mixing and loading operations, wear clean synthetic rubber gloves and a mask or respirator of a type passed by the U. S. Department of Agriculture for aldrin protection. Do not apply or allow to drift to areas occupied by unprotected humans or beneficial animals. To protect fish and wildlife, do not contaminate streams, lakes or ponds with this material.

(ii) *10% to below 60%.*

Warning: Hazardous If Swallowed, Inhaled, or Absorbed Through Skin! In case of contact, immediately remove contaminated clothing and flush skin or eyes with plenty of water; for eyes, get medical attention. Wash thoroughly with soap and water after handling and before eating or smoking; wear clean clothing. During commercial or prolonged exposure in spray-mixing and loading operations, wear clean synthetic rubber gloves and a mask or respirator of a type passed by the U. S. Department of Agriculture for aldrin protection. Do not apply or allow to drift to areas occupied by unprotected humans or beneficial animals. To protect fish and wildlife, do not contaminate streams, lakes or ponds with this material.

(iii) *Below 10%.*

Caution: Avoid prolonged or repeated inhalation or contact with skin. Avoid contamination of feed and foodstuffs. In case of contact with skin or eyes, flush with plenty of water; for eyes, get medical attention. Wash with soap and water after handling and before eating or smoking; wear clean clothing. Do not apply or allow to drift to areas occupied by unprotected humans or beneficial animals. To protect fish and wildlife, do not contaminate streams, lakes, or ponds with this material.

(iv) *Fertilizer formulations below 2%.*

Caution: Avoid prolonged or repeated inhalation of dust or contact with skin. Wash thoroughly after handling. To protect fisn and wildlife, do not use where runoff will contaminate streams, lakes, or ponds.

(4) *Alpha naphthyl thiourea*—(i) *30% and above.*

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Antidote: Give a tablespoonful of salt in a glass of warm water and repeat until vomit fluid is clear. Have victim lie down and keep quiet. Call a Physician Immediately!

Warning: Keep dogs, cats, hogs and chickens away from baited areas.

(ii) *Below 30%.*

Warning: Keep away from children and domestic animals. Avoid contamination of feed and foodstuffs.

(5) *Ammonium sulfamate.* To be acceptable for registration for the usual uses, no precautionary labeling is required on the basis of this ingredient alone.

(6) *Antimony potassium tartrate (tartar emetic)*—(i) *10% and above.*

Warning: May be fatal if swallowed. Do not breathe dust. Wash thoroughly after handling.

(ii) *Below 10%.*

Caution: Keep away from children and domestic animals. Avoid contamination of feed and foodstuffs.

(7) *Arsenic compounds.* Inorganic insoluble including calcium arsenate, lead arsenate, magnesium arsenate, paris green, london purple. Inorganic soluble including arsenous oxide, sodium arsenate, sodium arsenite.

(i) Inorganic insoluble 50% and above. Inorganic soluble 5% and above.

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Antidote: Give a tablespoonful of salt in a glass of warm water and repeat until vomit fluid is clear. Then give 2 tablespoonfuls of Epsom Salt or Milk of Magnesia in water, and plenty of milk and water. Have victim lie down and keep quiet. Call a Physician Immediately!

Warning: Avoid contact with skin, eyes, or clothing. Wash thoroughly after using. Avoid breathing dust or spray mist.

(ii) Inorganic insoluble 10% to 50%. Inorganic soluble 1% to 5%.

Warning: May be Fatal if Swallowed! Avoid contact with skin, eyes, or clothing. Wash thoroughly after using. Avoid breathing dust or spray mist.

(iii) Inorganic insoluble below 10%. Inorganic soluble below 1%.

Caution: Avoid prolonged breathing of dust or spray mist. Avoid contamination of feed and foodstuffs. Keep away from children and domestic animals.

(iv) Formulations for use as herbicides require an additional statement:

Warning: Keep livestock off treated areas.

(v) Formulations containing low percentages of arsenic intended solely for use as rodenticides or ant baits need not carry cautions against inhalation.

(8) *Azobenzene.*

Caution: Harmful if swallowed or inhaled! Avoid prolonged breathing of fumes or dust. Avoid contamination of feed and foodstuffs. Keep away from children and domestic animals.

(9) *Benzene—15% and above.*

Danger: Extremely flammable! Keep away from fire, sparks, and heated surfaces. Avoid prolonged breathing of vapor. Avoid prolonged contact with skin.

Note: For formulations containing low percentages the signal word and flammability warning may be reduced on the basis of actual flash point determinations.

(10) *Benzene hexachloride (hexachlorocyclohexane, BHC)*—(i) *BHC and dry formulations 25% and above.*

Warning: Harmful If Swallowed! May be Absorbed Through Skin! May produce irritation of skin and eyes. Do not breathe dust or spray mist. Avoid contact with skin and eyes. Wash thoroughly after handling. Avoid contamination of feed and foodstuffs.

(ii) *BHC, dry formulations below 25%.*

Caution: Avoid prolonged breathing of dust or spray mist. Avoid contact with skin and eyes. Wash thoroughly after handling. Avoid contamination of feed and foodstuffs.

(iii) *Solutions and emulsions of BHC 25% and above.*

Warning: Harmful If Swallowed! May be Absorbed Through Skin! May produce irritation of skin or eyes. Do not breathe spray mist. Avoid contact with skin or eyes. In case of contact, wash immediately with soap and water; for eyes, flush with water and get medical attention. Avoid contamination of feed and foodstuffs. Do not use on household pets or humans.

(iv) *Solutions and emulsions below 25%.*

Caution: May be absorbed through skin. Avoid inhalation and skin contact. In case of contact, wash immediately with soap and water. Avoid contamination of feed and foodstuffs. Do not use on household pets or humans.

(11) *Borax and boric acid—20% and above.*

Caution: Avoid contamination of feed and foodstuffs. Keep away from children and domestic animals.

(12) *Cadmium formulations, each to be considered on own merits*—(i) *If found "highly toxic" under the act.*

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Antidote: Give a tablespoonful of salt in a glass of warm water and repeat until vomit fluid is clear. Then give 2 tablespoonfuls of Epsom Salt or Milk of Magnesia in water and plenty of milk or water. Have victim lie down and keep warm. Call a Physician Immediately!

Warning: May Be Fatal If Swallowed! Do not get in eyes or on skin. Wash thoroughly after handling.

(ii) *If formulation is not "highly toxic" under the act.* Appropriate warnings must be used.

(13) *Calcium cyanamide—25% and above.*

Caution: Harmful if swallowed! Irritating dust.

(14) *Captan (n-trichloromethylmercapto-2-cyclohexenedicarboximide).*

Caution: Avoid contamination of feed and foodstuffs. Avoid inhalation of dust or spray mist. Avoid prolonged or repeated contact with skin.

(15) *Carbon disulfide*—(i) *90% and above.*

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Antidote: If inhaled. Get victim into fresh air immediately and give artificial respiration if breathing has stopped. Call a Physician Immediately!

If swallowed. Give ½ cupful medicinal mineral oil. Give large quantities of warm water, and hot tea or coffee. Call a Physician Immediately!

Danger: Extremely Flammable! Keep away from fire, sparks or heated surfaces. Store in a cool place. Keep container closed.

Do not breathe vapor. Do not get in eyes, on skin, or on clothing.

(ii) *10% to 90%.*

Danger: Extremely Flammable! May Be Fatal If Inhaled Or Swallowed! Keep away from fire, sparks or heated surfaces. Store in a cool place. Keep container closed. Do not breathe vapor or mist. Avoid prolonged or repeated contact with eyes, skin or clothing.

(iii) *Below 10%.*

Danger: Extremely Flammable! Harmful by swallowing, inhalation or skin contact. Keep away from fire, sparks or heated surfaces. Store in a cool place. Keep container closed.

(16) *Carbon tetrachloride—10% and above.*

Warning: Harmful Vapor! Harmful if swallowed. Do not breathe vapor. Avoid prolonged or repeated contact with skin.

(17) *Chlordane (octachloro-4,7-methano tetrahydroindane)*—(i) *For technical chlordane and wettable powders above 25%.*

Caution: Harmful if swallowed. Contact with skin causes toxic symptons. Avoid contamination of feed and foodstuffs. Avoid breathing spray mist.

(ii) *For emulsifiable and petroleum oil solutions for agricultural and industrial use.*

Caution: Harmful if swallowed. Contact with skin can cause toxic symptoms. Avoid breathing spray mist. In case of contact with skin, wash with soap and water. Avoid contamination of feed and foodstuffs.

(iii) *For emulsifiable and petroleum oil solutions and self-propelled wetting sprays for household use.*

Caution: Harmful if swallowed. Repeated or prolonged contact with skin can cause toxic symptoms. Avoid breathing spray mist. In case of contact with skin, wash with soap and water. Avoid contamination of feed and foodstuffs. Keep out of reach of children.

Note: See also Interpretation 19 (§ 362.117).

(iv) *For emulsifiable and self-propelled sprays for use on animals.*

Caution: Wash hands thoroughly with soap and warm water after handling the concentrate or using the diluted product on animals.

Note: See also subparagraph (55) (ii).

(v) *For dust and powder formulations 25% and below.*

Caution: Avoid excessive inhalation. Avoid contamination of feed and foodstuffs.

Note: See also Interpretation 19 (§ 362.117).

(18) *Chloroform—10% and above.*

Warning: Harmful Vapor! Harmful if swallowed. Avoid prolonged breathing of vapor. Avoid prolonged or repeated contact with skin.

(19) *Chloro isopropylphenyl carbamate (chloro-IPC)—50% and above.*

Caution: Harmful If Swallowed!

(20) *p-Chlorophenyl dimethylurea.*

Caution: May cause irritation of eyes, nose, throat and skin. Avoid breathing dust or spray mist. Avoid contact with skin, eyes, and clothing.

(21) *p-Chlorophenyl-p-chlorobenzene sulfonate*—(i) *For a 50% wettable powder.*

Caution: May cause skin irritation. Avoid prolonged or repeated contact with skin. Avoid inhaling dust or spray mist.

(ii) *For an aerosol, 10%, with methyl chloride as propellent.*

Warning: Flammable! May Be Fatal If Inhaled! Do not use or store near heat or open flame. Use only while using a full-face mask with canister approved by the U. S. Bureau of Mines for organic vapors. Wash hands, arms and face immediately after using.

(22) *p-Chlorophenyl phenyl sulfone*—(i) *Wettable powder containing 28% named compound and 12% related compounds.*

Caution: Avoid prolonged or repeated inhalation of dust. Avoid contamination of feed and foodstuffs.

(23) *Chloropicrin.*

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Antidote: If inhaled. Get victim into fresh air. Have him lie down and keep warm and quiet. Give artificial respiration if breathing has stopped. Call a Physician Immediately!

Warning: Poisonous Vapor! Do not breathe vapor. Do not get in eyes, on skin, or on clothing. In case of contact, immediately flush skin or eyes with plenty of water for at least 15 minutes; for eyes, get medical attention. Remove and wash clothing before reuse.

Note: Directions for use should include directions for appropriate respiratory protection.

(24) *Coal tar creosote—containing less than 5% phenols.*

Caution: May cause skin irritation. Avoid prolonged or repeated contact with skin. Avoid prolonged breathing of vapor.

(25) *Coal tar disinfectants.* Treat on the basis of percentage of phenols.

(26) *Copper compounds—10% and above (based on the percentage of elemental copper present).*

Caution: Harmful if swallowed!

(27) *Cresols and cresylic acids.* Refer to phenols.

(28) *Citronella, oil of.*

Caution: Harmful if swallowed. Keep out of reach of children.

(29) *Cryolite (sodium fluoaluminate).* To be acceptable for registration for the usual uses, no precautionary labeling is required on the basis of this ingredient alone.

(30) *Cyanide*—(i) *Calcium cyanide, 5% and above.*

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Antidote: Carry victim to fresh air. Have him lie down. Remove contaminated clothing but keep victim warm. Start treatment immediately. Call a Physician Immediately!

If inhaled. Break an amyl nitrite pearl in a cloth and hold lightly under nose for 15 seconds. Repeat five times at about fifteen second intervals. Give artificial respiration if breathing has stopped.

If swallowed. Break an amyl nitrite pearl in a cloth and hold lightly under nose for 15 seconds. If victim is conscious or when consciousness returns, give a tablespoonful of salt in a glass of warm water and repeat until vomit fluid is clear. Repeat inhalation of amyl nitrite five times at 15 second intervals. Give artificial respiration if breathing has stopped.

Never give anything by mouth to an unconscious person!

Warning: Liberates Poison Gas! Do not breathe vapor or dust. Do not get in eyes or on skin. Keep away from acids. Wash thoroughly after handling.

Note: Directions for indoor use should include appropriate mask protection.

(ii) *Inorganic cyanides (except Ca $(CN)_2$ and liquid HCN) 5% and above.*

☠ Poison ☠

Antidote: Carry victim to fresh air. Have him lie down. Remove contaminated clothing but keep victim warm. Start treatment immediately. Call a Physician Immediately!

If inhaled. Break an amyl nitrite pearl in a cloth and hold lightly under nose for 15 seconds. Repeat five times at about 15 second intervals. Give artificial respiration if breathing has stopped.

If swallowed. Break an amyl nitrite pearl in a cloth and hold lightly under nose for 15 seconds. If victim is conscious or when consciousness returns, give a tablespoonful of salt in a glass of warm water and repeat until vomit fluid is clear. Repeat inhalation of amyl nitrite five times at 15 second intervals. Give artificial respiration if breathing has stopped.

Never give anything by mouth to an unconscious person.

Warning: Contact with Acid Liberates Poison Gas! Do not breathe vapor or dust. Do not get in eyes or on skin. Wash thoroughly after handling.

Note: Directions for indoor use should include appropriate mask protection.

(iii) *Inorganic cyanides below 5%.*

Warning: Contact with Acid Liberates Poison Gas! May be fatal if inhaled or swallowed. Do not breathe vapor or dust. Wash thoroughly after using.

(iv) *Liquid HCN (hydrocyanic acid).*

☠ Poison ☠

Antidote: Carry victim to fresh air. Have him lie down. Remove contaminated clothing but keep victim warm. Start treatment immediately. Call a Physician Immediately.

If inhaled. Break an amyl nitrite pearl in a cloth and hold lightly under nose for 15 seconds. Repeat five times at about 15 second intervals. Give artificial respiration if breathing has stopped.

If swallowed. Break an amyl nitrite pearl in a cloth and hold lightly under nose for 15 seconds. If victim is conscious or when consciousness returns, give a tablespoonful of salt in a glass of warm water and repeat until vomit fluid is clear. Repeat inhalation of amyl nitrite five times at 15 second intervals. Give artificial respiration if breathing has stopped.

Never give anything by mouth to an unconscious person.

Warning: Poison Gas! Flammable! Do not breathe gas. Do not get in eyes, on skin, or on clothing. In case of contact remove contaminated clothing and wash thoroughly. Keep away from heat and open flame.

Note: Directions for use should include appropriate gas mask protection.

(31) *Dichloro diphenyl dichloroethane.* Treat on same basis as DDT.

(32) *Dichloro diphenyl trichloroethane (DDT)*—(i) *Technical DDT and wettable powders above 25%.*

Caution: Harmful if swallowed. Avoid skin contact with solutions. Avoid breath-

ing dust and spray mist. Avoid contamination of feed and foodstuffs.

(ii) *Emulsifiable or petroleum oil solutions for agricultural and industrial use.*

Caution: Avoid contact with skin. In case of skin contact, wash with soap and water. Avoid breathing spray mist. Avoid contamination of feed and foodstuffs.

(iii) *Emulsifiable or petroleum oil solutions for household use.*

Caution: Harmful if swallowed. Avoid repeated or prolonged contact with skin. Avoid breathing spray mist. Wash with soap and water after using. Avoid contamination of feed and foodstuffs. Keep out of reach of children.

(iv) *Aerosols.*

Caution: Do not spray on skin, or animals. In case of skin contact, wash with soap and water. Avoid contamination of feed and foodstuffs. Remove birds, pets and fish bowls from rooms being sprayed. Avoid prolonged inhalation of aerosol mist.

(v) *Dust and powder formulations 25% and below.*

Caution: Avoid breathing dust. Avoid contamination of feed and foodstuffs.

(33) *Dichloroethyl ether*—(i) *10% and above.*

Warning: May Be Fatal If Inhaled, Swallowed, or Absorbed Through Skin! Do not breathe vapor or spray mist. In case of contact remove contaminated clothing and wash immediately with soap and water.

(ii) *Below 10%.*

Caution: Harmful if inhaled, swallowed, or absorbed through skin! Avoid inhalation of vapor or spray mist. Avoid contact with skin or clothing and wash thoroughly after using. Keep away from children and domestic animals (H. P.).

(34) *2,4-Dichlorophenoxyacetic acid (2,4-D)*—(i) *2,4-D acid and inorganic salts—20% and above.*

Caution: Avoid inhaling dust. Avoid contact with skin, eyes or clothing.

(ii) *Organic esters and amine salts.*

Caution: Avoid contact with skin, eyes or clothing.

Note: Added warning statements regarding danger to crops through drifting dusts, sprays or vapors should be used on all labels of 2,4-D formulations.

(35) *Dichlorophenyl dimethylurea.*

Caution: May cause irritation of eyes, nose, throat and skin. Avoid breathing dust or spray mist. Avoid contact with skin, eyes, and clothing.

(36) *2,4-Dichlorophenyl ester of benzene sulfonic acid—50% emulsifiable concentrate.*

Caution: Avoid inhalation of spray mist. Avoid contact with skin.

(37) *Di-(p-chlorophenyl) methyl carbinol*—(i) *25% and above.*

Caution: Harmful if swallowed! Avoid prolonged breathing of vapor or spray mist. Do not get in eyes or on skin. Wash thoroughly after using. Do not contaminate feed and foodstuffs. Keep away from children and domestic animals.

(ii) *Below 25%.*

Caution: Harmful if swallowed! Avoid contact with skin or eyes. Wash thoroughly after using. Avoid contamination of feed and foodstuffs.

(38) *Dieldrin (85% hexachloro epoxy octahydro-endo, exo-dimethano naphthalene)*—(i) *60% and above.* Treat as aldrin.

(ii) *10% to below 60%.* Treat as aldrin.

(iii) *Below 10% for agricultural use.* Treat as aldrin.

(iv) *Fertilizer formulations below 2%.* Treat as aldrin.

(v) *0.5% in petroleum solvent and 1.0% dusts for household use.*

Caution: Avoid prolonged or repeated inhalation or contact with skin. Do not contaminate food, utensils, dishes or drinking water. Do not apply to humans, pets or birds, or near fish bowls. Keep out of reach of children.

Note: If the flash point of the formulation is between 80° F and 150° F, add: "Do not use or store near heat or open flame."

(39) *O, O-Dimethyl-O, p-nitrophenyl thiophosphate.* Treat on same basis as parathion.

(40) *Dinitro ortho cresol*—(i) *10% and above.*

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Antidote: Give a teaspoonful of baking soda in a glass of warm water and repeat until vomiting occurs. Call a Physician Immediately.

Warning: Poisonous If Swallowed Or Absorbed Through Skin! Do not breathe vapor, dust or spray mist. Do not get in eyes, on skin, or on clothing. In case of contact, remove clothing and wash thoroughly with soap and water; for eyes, flush with water and get medical attention.

(ii) *From 2% to 10%.*

Warning: May Be Fatal If Swallowed Or Absorbed Through Skin! Do not breathe vapor or spray mist. Do not get in eyes, on skin, or on clothing. In case of contact, remove clothing and wash thoroughly with soap and water; for eyes, flush with water and get medical attention.

(iii) *Below 2%.*

Caution: Harmful if swallowed. Avoid breathing vapor or spray mist. Avoid contact with skin, eyes, or clothing. Wash thoroughly after using.

(41) *Di-n-propyl maleate isosafrole condensate (n-propyl isome).* To be acceptable for registration for the usual uses, no precautionary labeling is required on the basis of this ingredient alone.

(42) *Endrin (hexachloro-epoxy-octahydro-endo, endo-dimethano naphthalene)*—(i) *2.5% and above.*

☠ Poison ☠

Antidotes: If swallowed. Give a tablespoonful of salt in a glass of warm water and repeat until vomit fluid is clear. Have victim lie down and keep quiet. Call a Physician Immediately!

If on skin. Wash immediately with soap and water.

Warning: Poisonous by Skin Contact, Inhalation, Or Swallowing! Rapidly Absorbed Through Skin! Do not get in eyes, on skin or on clothing. In case of contact, immediately remove all contaminated clothing and flush skin or eyes with plenty of water for at least 15 minutes; for eyes, get medical attention. Do not breathe dust or spray mist. Wash thoroughly with soap and water after handling and before eating or smoking; wear clean clothing. Do not apply or allow to drift to areas occupied by unprotected humans or beneficial animals. To protect fish and wildlife, do not contaminate streams, lakes or ponds with this material.

(ii) *Below 2.5%.*

Warning: Hazardous By Skin Contact, Inhalation, or Swallowing! Do not get in eyes, on skin or on clothing. In case of contact with skin or eyes, flush with plenty of water; for eyes, get medical attention. Wash thoroughly with soap and water after handling and before eating or smoking; wear clean clothing. Do not apply or allow to drift to areas occupied by unprotected humans or beneficial animals. To protect fish and wildlife, do not contaminate streams, lakes or ponds with this material.

(43) *Ethyl bromide—10% and above.*

Caution: Harmful Vapor! Avoid prolonged breathing of vapor. Do not use or store near heat or open flame.

(44) *Ethylene dibromide—10% and above.*

Caution: Harmful by inhalation, swallowing or skin contact. Avoid breathing vapor. Do not get in eyes, on skin, or on clothing. In case of contact immediately remove clothing, including shoes, and flush skin or eyes with plenty of water for at least 15 minutes; for eyes, get medical attention. Wash clothing and air shoes thoroughly before re-use.

(45) *Ethylene dichloride—10% and above.*

Warning: Flammable! Harmful if inhaled or swallowed! Keep away from heat and open flame. Avoid breathing vapor. Avoid contact with skin, eyes, and clothing.

(46) *O - (2 - [Ethylmercapto]ethyl) O,O-diethyl thiophosphate*—(i) *2% and above.*

☠ Poison ☠

Antidotes: If swallowed. Give a tablespoonful of salt in a glass of warm water and repeat until vomit fluid is clear. Have victim lie down and keep quiet. Call a Physician Immediately!

If on skin. Remove contaminated clothing and wash skin immediately with soap and water.

Warning: Poisonous If Swallowed, Inhaled, Or Absorbed Through Skin! Rapidly Absorbed Through Skin! Do not get in eyes or on skin. Wear protective clothing, natural rubber gloves, and goggles. In case of contact, remove contaminated clothing and wash skin immediately with soap and water. Do not breathe fumes, dust, or spray mist. Wear a mask or respirator of a type passed by the U. S. Department of Agriculture for protection against this material. Do not contaminate feed or foodstuffs. Keep all unprotected persons out of the operating area or vicinity where there may be danger of drift. Vacated areas should not be re-entered until the drifting insecticide and volatile residues have dissipated. Wash hands, arms, and face thoroughly with soap and warm water before eating or smoking. Wash all contaminated clothing with soap and hot water before re-use.

(ii) *Below 2%.*

Warning: May Be Fatal If Swallowed, Inhaled, or Absorbed Through Skin! Rapidly Absorbed Through Skin! Do not get in eyes or on skin. Wear protective clothing, natural rubber gloves, and goggles. In case of contact, remove contaminated clothing and wash skin immediately with soap and water. Do not breathe fumes, dust, or spray mist. Wear a mask or respirator of a type

passed by the U. S. Department of Agriculture for protection against this material. Do not contaminate feed or foodstuffs. Keep all unprotected persons out of the operating area or vicinity where there may be danger of drift. Vacated areas should not be re-entered until the drifting insecticide and volatile residues have dissipated. Wash hands, arms, and face thoroughly with soap and water before eating or smoking. Wash all contaminated clothing with soap and water before re-use.

(47) *Ferbam (ferric dimethyl dithiocarbamate)—3% and above.*

Caution: May cause irritation of eyes, nose, throat and skin! Avoid breathing dust or spray mist. Avoid contact with eyes, skin or clothing. In case of contact, flush with plenty of water; for eyes, get medical attention.

Note: For dust mixtures 50% and above, add: Keep away from fire and sparks.

(48) *Fluorides*—(i) *Inorganic, water soluble fluorides 10% and above.*

Warning: May Be Fatal If Swallowed! Do not breathe dust. Do not contaminate feed and foodstuffs. Keep out of reach of children and domestic animals.

(ii) *Inorganic, water soluble fluorides, below 10%.*

Caution: Harmful if Swallowed! Avoid prolonged breathing of dust. Avoid contamination of feed and foodstuffs. Keep away from children and domestic animals.

(iii) *Fluosilicates, 5% and above.*

Caution: Harmful if Swallowed! Avoid prolonged breathing of dust or spray mist. Avoid contamination of feed and foodstuffs. Keep away from children and domestic animals.

(49) *Formaldehyde solutions*—(i) *4% and above.*

☠ Poison ☠

Antidote: Give a tablespoonful of salt in a glass of warm water and repeat until vomit fluid is clear. Give milk, or white of egg beaten with water. Call a Physician Immediately!

Warning: Causes Irritation of Skin, Eyes, Nose and Throat! Do not breathe vapor. Avoid contact with skin, eyes or clothing. In case of contact, flush with plenty of water; for eyes, get medical attention.

(ii) *Below 4%.*

Caution: Avoid prolonged breathing of vapor.

(50) *Heptachlor*—(i) *10% and above.*

Warning: May Be Fatal If Swallowed! Do not breathe vapor, dust, or spray mist. Do not get on skin. In case of contact wash immediately with soap and water. Do not contaminate feed and foodstuffs.

(ii) *Below 10%.*

Caution: Harmful if swallowed. Avoid inhalation of dust or spray mist. Avoid skin contact, and wash hands, arms, and face with soap and water after using. Avoid contamination of feed and foodstuffs.

(51) *Hexaethyl tetraphosphate.* Treat on basis of content of tetraethyl pyrophosphate.

(52) *Hydrochloric acid—10% and above (as hydrogen chloride).*

Caution: Harmful if Swallowed! Do not breathe vapor or fumes. Do not get in eyes, on skin or on clothing.

Note: Hydrochloric acid and any preparation containing free or chemically unneutralized hydrochloric and (HCl) in a concentration of 10% or more are subject to the provisions of the Federal Caustic Poisons Act, and labels for containers "suitable for household use" should comply with those provisions. When so labeled the products will be marked acceptably under the Federal Insecticide, Fungicide, and Rodenticide Act.

(53) *Hypochlorites (sodium and potassium hypochlorite solutions)—10% and above.*

Caution: Harmful if Swallowed!

Note: Hypochlorous acid, either free or combined and any preparation containing the same in a concentration so as to yield 10% or more by weight of available chlorine, excluding calx chlorinata, bleaching powder, and chloride of lime, are subject to the provisions of the Federal Caustic Poisons Act, and labels for containers "suitable for household use" should comply with those provisions. When so labeled the products will be marked acceptably under the Federal Insecticide, Fungicide, and Rodenticide Act.

(54) *Isopropylphenyl carbamate (IPC)—50% and above.*

Caution: Harmful if Swallowed!

(55) *Kerosene sprays (or similar formulations containing other petroleum distillates)*—(i) *When sold for household use.*

Caution: Harmful if Swallowed! Keep out of reach of children. Do not use or store near heat or open flame.

(ii) *When recommended for use on animals.*

Caution: Avoid wetting the hides of animals. Do not use or store near heat or open flame.

(56) *Lime-sulfur solutions.*

To be acceptable for registration for the usual uses, no precautionary labeling is required on the basis of this ingredient alone.

(57) *Lindane (gamma isomer of benzene hexachloride 99% and above)*—(i) *Lindane and dry formulations 25% and above.*

Warning: May Be Fatal If Swallowed! May Be Absorbed Through Skin! Do not breathe dust or spray mist. Avoid contact with skin and eyes. Wash thoroughly after handling. Avoid contamination of feed and foodstuffs.

(ii) *Dry formulations below 25%.*

Caution: Avoid prolonged breathing of dust or spray mist. Avoid contact with skin and eyes. Wash thoroughly after handling. Harmful if swallowed (H. P.). Keep out of reach of children (H. P.).

(iii) *Solutions and emulsions 25% and above.*

Warning: May Be Fatal If Swallowed! May Be Absorbed Through Skin! Do not breathe spray mist. Avoid contact with skin or eyes. In case of contact, wash immediately with soap and water; for eyes, flush with water and get medical attention. Avoid contamination of feed and foodstuffs. Do not use on household pets or humans.

(iv) *Solutions and emulsions below 25%.*

Caution: May be absorbed through skin. Avoid inhalation and skin contact. In case of contact, wash immediately with soap and water. Avoid contamination of feed and foodstuffs. Do not use on household pets or humans. Harmful if swallowed (H. P.). Keep out of reach of children (H. P.).

(v) *Emulsions and dusts suitable for use on animals.*

Caution: May be absorbed through skin. Wash hands thoroughly with soap and warm water after handling the concentrate or applying the diluted product to animals. Harmful if swallowed (H. P.). Keep out of reach of children (H. P.).

(58) *Malathion (O,O-Dimethyl dithiophosphate of diethylmercaptosuccinate).*

Caution: Harmful if swallowed. Avoid prolonged breathing of dust or spray mist. Avoid prolonged or repeated contact with skin; wash thoroughly after using. Avoid contamination of feed and foodstuffs. Keep out of reach of children.

Note: For dusts and wettable powders below 20% the caution "Harmful if swallowed" may be omitted.

(59) *Maleic hydrazide.* To be acceptable for registration for the usual uses, no precautionary labeling is required on the basis of this ingredient alone.

(60) *Maneb (manganese ethylenebisdithiocarbamate)—10% and above.*

Caution: May Cause Irritation Of Nose And Throat! Do not breathe dust or spray mist.

Note: For dust mixtures 50% and above, add: Keep away from fire and sparks.

(61) *Mercury compounds*—(i) *Inorganic salts (except calomel)—20% and above (based on the percentage of elemental mercury present).*

☠ Poison ☠

Antidote: Give milk or white of egg beaten with water, then a tablespoonful of salt in a glass of warm water and repeat until vomit fluid is clear. Repeat milk or white of egg beaten with water. Call A Physician Immediately!

Warning: Do not breathe dust. Do not get in eyes, on skin or on clothing. Wash thoroughly after handling.

(ii) *Inorganic salts—below 20% (based on the percentage of elemental mercury present).*

Warning: May Be Fatal If Swallowed! Do not breathe dust. Do not get in eyes, on skin or on clothing. Wash thoroughly after handling.

(iii) *Organic salts.* Due to wide variation in characteristics, each product must be considered individually. See also phenyl mercuric acetate.

(62) *Mercury, metallic (in ointments)*— (i) *20% and above.*

☠ Poison ☠

Antidote: Give milk, or white of egg beaten with water, then a tablespoonful of salt in a glass of warm water and repeat until vomit fluid is clear. Repeat milk or white of egg beaten with water. Call A Physician Immediately!

Warning: May produce irritation of skin and eyes. Application to large areas of skin may cause serious mercury poisoning.

(ii) *Below 20%.*

Warning: May cause irritation of skin and eyes. Application to large areas of skin may cause serious mercury poisoning.

(63) *Methoxychlor (2,2-bis[p-methoxyphenyl]-1,1,1-trichloroethane).* To be acceptable for registration for the usual uses, no precautionary labeling is required on the basis of this ingredient alone.

(64) *Methyl bromide.*

☠ Poison ☠

Antidote: Remove victim to fresh air immediately. Keep victim lying down and warm. Give artificial respiration if breathing has stopped. Call a Physician Immediately!

Warning. Poisonous Liquid and Vapor! Contact with liquid may produce burns. Do not breathe vapor. Do not get in eyes, on skin or on clothing. In case of contact, immediately remove all contaminated clothing including shoes. Wash skin thoroughly with soap and water and flush eyes with water for at least 15 minutes. Get medical attention. Do not re-use shoes or clothing until free of all contamination.

Note: Directions for use should include instructions for appropriate respiratory protection.

(65) *Methyl chloride.*

Warning: Flammable! May Be Fatal If Inhaled. Contact with liquid may produce burns. Do not breathe vapor. Do not get in eyes or on skin. Do not use or store near heat or open flame.

(66) *2-Methyl,4-chlorophenoxyacetic acid—(i) Acid and salts—20% and above.*

Caution: Avoid inhaling dust. Avoid contact with skin, eyes or clothing.

(ii) *Organic esters and amine salts.*

Caution: Avoid contact with skin, eyes or clothing.

Note: Added warning statements regarding danger to crops through drifting dusts, sprays or vapors should be used on all labels of 2-Methyl,4-chlorophenoxyacetic acid formulations.

(67) *Methylene chloride.*

Caution: Harmful if swallowed! Avoid prolonged or repeated breathing of vapor. Avoid prolonged or repeated contact with skin.

(68) *N–1 Naphthyl phthalamic acid.* To be acceptable for registration for the usual uses, no precautionary labeling is required on the basis of this ingredient alone.

(69) *Nicotine and its salts—(i) 5% and above.*

☠ Poison ☠

Antidote: Give a tablespoonful of salt in a glass of warm water and repeat until vomit fluid is clear. Have victim lie down and keep warm. Give strong tea or coffee. Give artificial respiration if breathing has stopped. Call a Physician Immediately!

Warning: Poisonous by Swallowing, Inhalation or Skin Contact! Do not breathe vapor, dust or spray mist. Do not get in eyes, on skin or on clothing. In case of contact, immediately flush skin or eyes with plenty of water for at least 15 minutes; for eyes, get medical attention. Remove and wash clothing before re-use.

Note: Directions for use should include instructions for appropriate respiratory protection.

(ii) *1% to 5% solutions, and 2% to 5% dusts.*

Warning: May Be Fatal If Swallowed, Inhaled or Absorbed Through Skin! Do not breathe vapor, dust or spray mist. Avoid contact with eyes, skin or clothing. In case of contact, flush with plenty of water; for eyes, get medical attention.

Note: Directions for use should include instructions for appropriate respiratory protection.

(iii) *Solutions below 1%.*

Caution: Harmful If Swallowed! Avoid breathing vapor, or spray mist. Avoid contact with eyes, skin, or clothing. Avoid contamination of feed and foodstuffs. Keep away from children.

(iv) *Dusts below 2%.*

Caution: Irritating Dust!

(70) *Nitrobenzene (oil of Mirbane)—(i) 25% and above.*

☠ Poison ☠

Antidotes: If swallowed. Give a tablespoonful of salt in a glass of warm water and repeat until vomit fluid is clear.

External. Wash thoroughly with soap and warm water. Call A Physician Immediately!

Warning: Poisonous If Swallowed Or Absorbed Through Skin! Do not breathe vapor, fumes or spray mist. Do not get in eyes, on skin or on clothing.

(ii) *Below 25%.*

Warning: May Be Fatal If Swallowed Or Absorbed Through Skin! Do not breathe vapor, fumes or spray mist. Do not get in eyes, on skin or on clothing. Wash thoroughly after handling.

(71) *2-Nitro-1, 1-bis (p-chlorophenyl) butane or 2-Nitro-1, 1-bis (p-chlorophenyl) propane, or mixtures of these—(i) 25% and above.*

Warning: May Cause Irritation Of Skin And Eyes! May Be Absorbed Through Skin! In case of contact, wash skin thoroughly with warm water and soap; for eyes, wash with running water for 15 minutes and get medical attention. Avoid contamination of feed and foodstuffs.

(ii) *Below 25%.*

Caution: May cause irritation of skin and eyes! May be absorbed through skin! Avoid prolonged breathing of dust or spray mist. Avoid contamination of feed and foodstuffs. Wash thoroughly after using.

(72) *Octyl-bicyclo-heptene-dicarboximide.* To be acceptable for registration for the usual uses, no precautionary labeling is required on the basis of this ingredient alone.

(73) *N-Octylsulfoxide of isosafrole.* To be acceptable for registration for the usual uses, no precautionary labeling is required on the basis of this ingredient alone.

(74) *Orthodichlorobenzene—10% and above.*

Caution: Avoid prolonged breathing of vapor. Avoid contact with eyes, skin, or clothing. Wash thoroughly after using.

(75) *Paints, containing insecticides, fungicides, etc.* Treat as oil solutions or emulsions of the pesticide.

(76) *Parathion (O,O-Diethyl O,p-nitrophenyl thiophosphate)—(i) Above 2% (except aerosols; see below).*

☠ Poison ☠

Antidote: If swallowed. Give a tablespoonful of salt in a glass of warm water and repeat until vomit fluid is clear. Have victim lie down and keep quiet. Call a Physician Immediately!

If on skin. In case of contact, remove contaminated clothing and immediately wash skin with soap and water.

Warning: Poisonous If Swallowed, Inhaled, or Absorbed Through Skin! Rapidly Absorbed Through Skin! Do not get in eyes or on skin. Wear natural rubber gloves, protective clothing and goggles. In case of contact, wash immediately with soap and water. Wear a mask or respirator of a type passed by the U. S. Department of Agriculture for parathion protection. Keep all unprotected persons out of operating areas or vicinity where there may be danger of drift. Vacated areas should not be re-entered until drifting insecticide and volatile residues have dissipated. Do not contaminate feed and foodstuffs. Wash hands, arms and face thoroughly with soap and water before eating or smoking. Wash all contaminated clothing with soap and hot water before re-use.

(ii) *Dusts, 2% and below.*

Warning: May Be Fatal If Swallowed, Inhaled, or Absorbed Through Skin! Rapidly Absorbed Through Skin! Do not get in eyes or on skin. Wear natural rubber gloves, protective clothing and goggles. In case of contact wash immediately with soap and water. Wear a mask or respirator of a type passed by the U. S. Department of Agriculture for parathion protection. Keep all unprotected persons out of operating areas or vicinity where there may be danger of drift. Vacated areas should not be re-entered until drifting insecticide and volatile residues have dissipated. Do not contaminate feed and foodstuffs. Wash hands, arms and face thoroughly with soap and water before eating or smoking. Wash all contaminated clothing with soap and hot water before re-use.

(iii) *Aerosols—greenhouse use.*

☠ Poison ☠

Antidotes: Internal. Give a tablespoonful of salt in a glass of warm water and repeat until vomit fluid is clear. Have victim lie down and keep quiet. Call a Physician Immediately!

If on skin. Wash thoroughly with soap and water.

Warning: Poisonous If Inhaled or Absorbed Through Skin! Use only while wearing a full-face mask of a type passed by the U. S. Department of Agriculture for parathion protection. Replace canister as directed. Avoid contact with skin. Wear protective clothing and natural rubber gloves. Wash hands, arms and face with soap and water after using the bomb. Wash contaminated clothing with soap and hot water before reuse. Do not contaminate feed and foodstuffs.

(77) *Pentachlorophenol—(i) 5% and above (except oil solutions or emulsions).*

Warning: Harmful if inhaled or swallowed! Do not breathe dust. Avoid contact with eyes, skin or clothing. Wash thoroughly after handling.

(ii) *Oil solutions or emulsions 3% and above.*

Warning: Harmful if swallowed or absorbed through skin! Causes skin irritation! Do not breathe vapor or spray mist. Do not get in eyes, on skin or on clothing. Wash thoroughly after handling.

(iii) *Sodium pentachlorophenate—3% and above.*

Warning: Causes skin irritation. Harmful if swallowed. Do not breathe dust or spray mist. Do not get in eyes, on skin or on clothing. Wash thoroughly after handling.

(78) *Peracetic acid—For a 40% aqueous solution.*

Danger: Oxidizing Agent! May Be Fatal If Swallowed! May produce severe burns.

Store in a cool place away from combustible material. Avoid inhalation of vapor or contact of the undiluted material with the skin. Wear rubber gloves when handling the concentrate. In case of contact, wash thoroughly with plenty of water.

(79) *Phenols (including phenol, cresol, cresylic acid).* The following will be considered as minimum precautionary labeling except that, where there is adequate evidence of presence of alkyl substitutions greater than one methyl group, lower requirements may be permitted on the basis of evidence submitted as to reduced toxicity—(i) *10% and above.*

Warning: May Be Fatal If Swallowed or Absorbed Through Skin! May Produce Severe Burns! Do not get in eyes, on skin, or on clothing. Wash thoroughly after handling.

(ii) *2% to 10%.*

Caution: Harmful if Swallowed! Avoid contact with skin, eyes, and clothing. Avoid contamination of feed and foodstuffs. (H. P.) Keep away from children and domestic animals.

(iii) *Chlorophenyl phenol and sodium o-phenyl phenate 5% and above.*

Caution: Harmful if Swallowed!

Note: Phenol and any preparation containing phenol in a concentration of 5% or more, are subject to the Federal Caustic Poisons Act and labels for containers "suitable for household use" should comply with these provisions. When so labeled, the products will be marked acceptably under the Federal Insecticide, Fungicide, and Rodenticide Act.

(80) *Phenylmercuric acetate*—(i) *5% and above.*

☠ Poison ☠

Antidotes: If swallowed. Give milk or white of egg beaten with water, then a tablespoonful of salt in a glass of warm water, and repeat until vomit fluid is clear. Repeat milk or white of egg beaten with water. Call a Physician Immediately!

If on skin. Wash immediately with soap and warm water.

If in eyes. Flush with water for at least 15 minutes, and get medical attention.

Warning: May Produce Delayed Chemical Burns! Do not breathe dust or spray mist. Do not get in eyes, on skin or on clothing. Wash thoroughly after handling.

(ii) *Below 5%.*

Warning: May Be Fatal If Swallowed! May Produce Delayed Chemical Burns! Do not breathe dust or spray mist. Do not get in eyes, on skin or on clothing. In case of contact, wash skin with soap and water; for eyes, flush with water for at least 15 minutes; and get medical attention.

(81) *Phosphorus (white or yellow)*—(i) *1% and above.*

☠ Poison ☠

Antidote: Internal. Give one tablespoonful of salt in a glass of warm water and repeat until vomit fluid is clear. Follow by eight tablespoonfuls of medicinal mineral oil. (Not salad or vegetable oils.) Have victim lie down and keep warm. Call a Physician Immediately!

Warning: Do not get in eyes, on skin or on clothing. Wash thoroughly after handling. Do not breathe fumes.

(ii) *Below 1%.*

Warning: May Be Fatal If Swallowed! Do not get in eyes, on skin or on clothing. Wash thoroughly after handling. Do not breathe fumes. Keep away from children and domestic animals.

(82) *Pine oil.* To be acceptable for registration for the usual uses, no precautionary labeling is required on the basis of this ingredient alone.

(83) *Piperonyl butoxide.* To be acceptable for registration for the usual uses, no precautionary labeling is required on the basis of this ingredient alone.

(84) *Piperonyl cyclonene.* To be acceptable for registration for the usual uses, no precautionary labeling is required on the basis of this ingredient alone.

(85) *2-Pivalyl-1,3-indandione*—(i) *Above 3%.*

☠ Poison ☠

Antidote: Give a tablespoonful of salt in a glass of warm water and repeat until vomit fluid is clear. Call A Physician Immediately!

Warning: Keep away from humans, domestic animals and pets. If swallowed by humans, domestic animals, or pets, this material may reduce the clotting ability of the blood and cause bleeding. In such case, intravenous and oral administration of Vitamin K combined with blood transfusions are indicated as in the case of hemorrhage caused by overdoses of bihydroxycoumarin.

(ii) *Concentrations from 0.1% to 3%.*

Caution: Keep away from humans, domestic animals and pets. If swallowed by humans, domestic animals, or pets, this material may reduce the clotting ability of the blood and cause bleeding. In such case, intravenous and oral administration of Vitamin K combined with blood transfusions are indicated as in the case of hemorrhage caused by overdoses of bishydroxycoumarin. Directions for use should include a statement directing placement of baits so as to protect children, pets, and domestic animals.

(iii) *Finished baits.* The only requirement is the statement directing placement of baits so as to protect children, pets, and domestic animals; however, voluntary use of precautionary labeling similar to that required under subdivision (ii) of this subparagraph would not be objectionable.

(86) *Pyrethrum.* To be acceptable for registration for the usual uses, no precautionary labeling is required on the basis of this ingredient alone.

(87) *Quaternary ammonium compounds*—(i) *2% and above alkyl (C_8H_{17}-$C_{18}H_{37}$) dimethyl benzyl ammonium chloride, alkyl trimethyl ammonium bromide and allied substances.*

Caution: Avoid contamination of food.

(ii) *Formulations having hazards requiring more caution statements.* Quaternary formulations having hazards requiring more caution statements than those indicated in subdivision (i) of this subparagraph must be considered individually.

(88) *Red squill powder and extracts; any effective concentrations.*

Caution: Avoid contamination of feed and foodstuffs. Keep away from children and domestic animals.

(89) *Rotenone.* To be acceptable for registration for the usual uses, no precautionary labeling is required on the basis of this ingredient alone.

(90) *Sabadilla powder.*

Caution: Avoid breathing dust.

(91) *Selenites and selenates*—(i) *3% and above.*

☠ Poison ☠

Antidote: Give a tablespoonful of salt in a glass of warm water and repeat until vomit fluid is clear. Have victim lie down and keep warm. Call a Physician Immediately!

Warning: Do not breathe dust or spray mist. Do not use on or around plants to be used for food. Keep away from children and domestic animals.

(ii) *Below 3%.*

Warning: May Be Fatal If Swallowed! Do not breathe dust or spray mist. Keep away from children and domestic animals. Do not use on or around plants to be used for food.

(92) *Sesamin.* To be acceptable for registration for the usual uses, no precautionary labeling is required on the basis of this ingredient alone.

(93) *Sodium fluoroacetate (1080); any concentration.*

☠ Poison ☠

Antidote: If swallowed. Speed is essential. Immediately give a tablespoonful of salt in a glass of warm water and repeat until vomit fluid is clear. Then give two tablespoonfuls of Epsom Salt in water. Have victim lie down and keep warm and quiet. Call a Physician Immediately!

Warning: For Use By Trained Operators Only! Poisonous If Swallowed! May cause secondary poisoning in other animals, so pick up and burn or bury deeply all carcasses of pests killed by 1080. Burn all surplus bait or bait containers. Keep pets and domestic animals confined away from baited areas. Do not contaminate feed and foodstuffs. Keep out of reach of children.

(94) *Sodium isopropyl xanthate—50% and above.*

Caution: Irritating dust. Avoid breathing dust. Avoid contact with skin and eyes.

(95) *Sodium o-phenyl phenate.* See under phenols.

(96) *Sodium trichloroacetate.*

Caution: May cause burns. Avoid breathing spray mist. Avoid contact with skin, eyes, and clothing. In case of contact, immediately wash skin with plenty of water; for eyes, wash with water for at least 15 minutes and get medical attention.

(97) *Strychnine and its salts.*

☠ Poison ☠

Antidote: If less than ten minutes has passed since the poison was taken, give a tablespoonful of salt in a glass of warm water. Have victim lie down in a quiet, darkened room and keep him warm. Call a Physician Immediately!

Warning: Convulsive Poison! Do not contaminate feed and foodstuffs. Keep away from children and domestic animals.

(98) *Sulfur.* To be acceptable for registration for the usual uses, no precautionary labeling is required on the basis of this ingredient alone.

(99) *2-(p-Tertiary-butyl phenoxy)-isopropyl-2-chloroethyl sulfite*—(i) *For 15% wettable powder.*

Caution: Avoid inhalation of dust and spray mist. Do not get in eyes.

(ii) *For 30% emulsifiable concentrate.*

Caution: Harmful if swallowed. Avoid inhalation of spray mist. Do not get in eyes.

(100) *Tetraethyl dithionopyrophosphate.* Treat on same basis as tetraethyl pyrophosphate.

(101) *Tetraethyl pyrophosphate*—(i) *1% and above.*

☠ Poison ☠

Antidote: If swallowed. Give a tablespoonful of salt in a glass of warm water and repeat until vomit fluid is clear. Have victim lie down and keep warm and quiet. Call a Physician Immediately!

If on skin. Wash with large amounts of soap and water.

Warning: Poisonous If Swallowed, Inhaled, or Absorbed Through Skin or Eyes! Avoid skin or eye contact with concentrated spray, inhalation of spray mist or prolonged contact with diluted spray. Wear a mask or respirator of a type passed by the U. S. Department of Agriculture for tetraethyl pyrophosphate protection. Wear natural rubber gloves, protective clothing and goggles. Keep all unprotected persons out of operational area or vicinity where there may be danger of drift until one hour after spraying or dusting is completed.

(ii) *Below 1%.*

Warning: May Be Fatal If Swallowed, Inhaled, or Absorbed Through Skin or Eyes! Avoid skin or eye contact with concentrated spray, inhalation of spray mist, or prolonged contact with diluted spray. Wear protective clothing, goggles, and a mask or respirator of a type passed by the U. S. Department of Agriculture for tetraethyl pyrophosphate protection. Remove outer garments and wash face, hands, and arms with soap and water before eating or smoking. Keep all unprotected persons out of operational area or vicinity where there may be danger of drift, until one hour after spraying or dusting is completed.

(102) *Thiram (Tetramethylthiuram-disulfide)—20% and above.*

Caution: May cause skin irritation. Do not inhale dust. Do not get in eyes or on skin. Wash thoroughly after handling.

(103) *Thallium compounds*—(i) *1% and above.*

☠ Poison ☠

Antidote: Give a tablespoonful of salt in a glass of warm water and repeat until vomit fluid is clear. Have victim lie down and keep warm. Call a Physician Immediately!

Warning: Cumulative Poison! Absorbed through the skin. Do not get in eyes, on skin or on clothing. Wash thoroughly after handling. Keep children and domestic animals away from baited areas and burn all pests killed.

(ii) *Below 1%.*

Warning: May Be Fatal If Swallowed or Absorbed Through Skin! Do not get in eyes, on skin or on clothing. Wash thoroughly after handling. Do not contaminate feed and foodstuffs. Keep children and domestic animals away from baited areas and burn all pests killed.

(104) *Thiocyanates*—(i) *B-butoxy, B'-thiocyano diethyl ether—25% concentrate.*

Warning: Harmful if swallowed or absorbed through skin. Do not get in eyes, on skin or on clothing. Wash thoroughly after handling. Do not breathe spray mist.

(ii) *B-butoxy, B'-thiocyano diethyl ether—3% to 25% concentrate.*

Caution: Avoid prolonged contact with skin. Avoid prolonged inhalation of spray mist. Avoid contamination of feed and foodstuffs. (H. P.)

(iii) *B-thiocyano ethyl esters of mixed fatty acids averaging 10 to 18 carbon atoms, 13.2% of B-butoxy B'-thiocyano diethyl ether—25% concentrate.*

Caution: Avoid prolonged contact with skin. Avoid prolonged inhalation of spray mist. Avoid contamination of feed and foodstuffs. (H. P.)

(105) *Toxaphene (chlorinated camphene)*—(i) *Dry formulations 25% and above.*

Warning: May Be Fatal If Swallowed! Do not breathe dust or spray mist. Do not get in eyes, on skin or on clothing. Wash thoroughly after using. To protect fish and wildlife, do not contaminate streams, lakes or ponds with this material.

(ii) *Dry formulations below 25%.*

Caution: Harmful If Swallowed! Avoid prolonged breathing of dust or spray mist. Avoid contact with eyes, skin and clothing. Wash thoroughly after using. Avoid contamination of feed and foodstuffs. To protect fish and wildlife, do not contaminate streams, lakes or ponds with this material.

(iii) *Solutions and emulsions.* Labels should bear precautionary statements covering the combined hazards of toxaphene and solvent.

(106) *Trichloroacetic acid.*

Warning: Causes Burns! Harmful if swallowed. Avoid breathing spray mist. Avoid contact with eyes, skin, and clothing. In case of contact, immediately wash skin with plenty of soap and water; for eyes, wash with water for at least 15 minutes and get medical attention.

(107) *2,4,5 - Trichlorophenoxyacetic acid (2,4,5-T)*—(i) *2,4,5-T acid and inorganic salts—20% and above.*

Caution: Avoid inhaling dust. Avoid contact with skin, eyes or clothing.

(ii) *Organic esters and amine salts.*

Caution: Avoid contact with skin, eyes or clothing.

Note: Added warning statements regarding danger to crops through drifting dusts, sprays or vapors should be used on all labels of 2,4,5-T formulations.

(108) *Warfarin (3-[alpha-acetonylbenzyl]-4-hydroxycoumarin)*—(i) *Above 3%.*

☠ Poison ☠

Antidote: Give a tablespoonful of salt in a glass of warm water and repeat until vomit fluid is clear. Call a Physician Immediately!

Warning: Keep away from humans, domestic animals and pets. If swallowed by humans, domestic animals, or pets, this material may reduce the clotting ability of the blood and cause bleeding. In such case, intravenous and oral administration of Vitamin K combined with blood transfusions are indicated as in the case of hemorrhage caused by overdoses of bishydroxycoumarin.

(ii) *Concentrations from 0.1% to 3%.*

Caution: Keep away from humans, domestic animals and pets. If swallowed by humans, domestic animals, or pets, this material may reduce the clotting ability of the blood and cause bleeding. In such case, intravenous and oral administration of Vitamin K combined with blood transfusions are indicated as in the case of hemorrhage caused by overdoses of bishydroxycoumarin.

Directions for use should include a statement directing placement of baits so as to protect children, pets, and domestic animals.

(iii) *Finished baits.* The only requirement is the statement directing placement of baits so as to protect children, pets, and domestic animals; however, voluntary use of precautionary labeling similar to that required under subdivision (ii) of this subparagraph would not be objectionable.

(109) *Zinc phosphide*—(i) *10% and above.*

☠ Poison ☠

Antidote: Give a tablespoonful of salt in a glass of warm water and repeat until vomit fluid is clear. Have victim line down and keep warm. Call a Physician Immediately!

Warning: Do not breathe dust or fumes. Do not contaminate feed and foodstuffs. Keep away from children and domestic animals.

(ii) *2% to 10%.*

Warning: May Be Fatal If Swallowed! Do not breathe dust or fumes. Do not contaminate feed and foodstuffs. Keep away from children and domestic animals.

(iii) *Below 2%.*

Caution: Harmful If Swallowed! Avoid contamination of feed and foodstuffs. (H. P.). Keep away from children and domestic animals.

(110) *Zinc salts—not elsewhere included—(considered as zinc, not as anions)—5% and above.*

Caution: Harmful if swallowed.

(111) *Zineb (zinc ethylene bisdithiocarbamate)—10% and above.*

Caution: May Cause Irritation of Nose and Throat! Do not breathe dust or spray mist.

Note: For dust mixtures 50% and above, add: Keep away from fire and sparks.

(112) *Ziram (zinc dimethyl dithiocarbamate)*—(i) *3% and above.*

Caution: May Be Harmful If Swallowed or Inhaled! May cause irritation of nose, throat and skin. Avoid contact with eyes, skin or clothing. Avoid breathing dust or spray mist. In case of contact, flush with plenty of water; for eyes, get medical attention.

Note: For dust mixtures 50% and above, add: Keep away from fire and sparks.

§ 362.117 Interpretation with respect to labeling of household insecticides containing chlordane.

In determining whether household insecticides containing chlordane comply with the requirements of the Federal Insecticide, Fungicide, and Rodenticide Act, the following principles will apply:

(a) *Permissible uses.* Products containing chlordane intended for use in and around human dwellings shall not be deemed to comply with the act unless their labeling shows that where they are intended for use inside of premises, they are to be used only against one or more of the following pests: roaches, waterbugs, silverfish, ants, brown dog ticks, carpet beetles, houseflies, wasps, mosquitoes, box elder bugs, crickets, scorpions, and clothes moths (under restricted directions as hereinafter stipulated), or such other pests as the Director may find to be controlled effectively by one or more of the specified formulations when applied in a manner otherwise compatible with proper usage.

(b) *Permissible formulations.* (1) Most household insecticides containing chlordane fall into the following four general classes:

(i) Petroleum distillate (kerosene) solutions which may or may not contain limited quantities of other chlorinated hydrocarbon insecticides and certain paralytic agents.

(ii) Water emulsions which do not ordinarily contain any other insecticidal ingredients and which are to be used undiluted, or emulsifiable concentrates to be used after suitable dilutions with water.

(iii) Dry powder formulations based on talc, pyrophyllite or other suitable diluents, which sometimes contain limited quantities of other insecticides.

(iv) Pressurized dispensers usually of the 12-ounce size which ordinarily contain 2 percent of chlordane by weight and may not contain more than 3 percent by weight. Other chlorinated hydrocarbon insecticides may be substituted for a part of the chlordane as long as the relative hazard to human health of the mixture is no greater than that of one containing 3 percent chlordane by weight. Acceptable self-propelled sprays must deliver a coarse, wet spray.

In addition, there are a few other special products which contain chlordane.

(2) Petroleum distillate spray formulations frequently contain 2 percent chlordane by weight without any other residual toxicant. Under certain circumstances less than 2 percent chlordane by weight may be used. However, the chlordane content of these formulations shall not exceed 3 percent by weight. If other chlorinated hydrocarbon insecticides are present which have additive toxicities, the hazard of the mixed formulation shall not exceed that of one containing a maximum of 3 percent chlordane by weight as the only chlorinated hydrocarbon insecticide present.

(3) Water emulsion formulations when diluted for use shall not contain more than 3 percent chlordane by weight without any other chlorinated residual toxicant. Under certain circumstances less than 2 percent chlordane by weight may be used. However, the chlordane content in these formulations shall not exceed 3 percent by weight. If other chlorinated hydrocarbon insecticides are present which have additive toxicities, the hazard of the mixed formulation shall not exceed that of one containing a maximum of 3 percent chlordane by weight.

(4) Dry powder formulations of chlordane based on talc, pyrophyllite or other suitable dry diluents shall not contain more than 6 percent chlordane by weight. If other chlorinated hydrocarbon insecticides are present which have additive toxicities, the hazard of the mixed dry powder shall not exceed that of one containing a maximum of 6 percent chlordane by weight.

(5) Self-propelled sprays must comply with all provisions outlined under subparagraph (1) (iv) of this paragraph.

(6) All formulations referred to above to be accepted must be fully effective when used in accordance with the directions specified on the label.

(c) *Directions for use*—(1) *General.* The directions for liquid formulations and pressurized sprays shall under all circumstances provide for application as a coarse, wet spray or by the use of a paint brush or similar means. Directions for liquid formulations, dry powders, and any other properly formulated mixtures which contain chlordane, either alone or in combination with other toxicants, shall prescribe application in a manner which will treat only infested cracks, surfaces or other areas where the insects rest, run or hide. Directions for use against clothes moths shall set forth the necessary treatment of fabrics. The residual effectiveness of chlordane is dependent on its deposition on desired surfaces or in fabrics. There shall be no claims for spraying in the air or for the use of fine mist sprayers. There shall be no claims or directions which might lead to contamination of foods. There shall be no claims for safety or nontoxicity.

(2) *Particular insects*—(i) *Roaches and waterbugs.* The directions, for control of roaches and waterbugs shall provide for thorough spraying, painting or dusting of infested cracks and other hiding places and of adjacent exposed surfaces where roaches and waterbugs will crawl when they come out of hiding. The directions shall indicate that the application should be repeated as often as necessary to maintain effective control.

(ii) *Silverfish.* The directions for control of silverfish shall provide for thorough spraying, painting or dusting of baseboards, areas behind shelving, book cases and storage areas. The directions shall indicate that the application should be repeated as often as necessary to maintain effective control.

(iii) *Ants.* The directions for control of ants shall provide for thorough spraying, painting or dusting of ant trails and areas around door sills and window frames where the pests may enter. The directions should also indicate that it is frequently desirable to treat the openings around water pipes, heat ducts, electrical outlets and baseboards where ants come into rooms from wall spaces and partitions, and that the application should be repeated as often as necessary to maintain effective control.

(iv) *Brown dog ticks.* The directions for control of brown dog ticks shall provide for thorough spraying, painting or dusting of infested areas around baseboards, window and door frames, wall cracks, sleeping quarters of household pets and localized areas of floors and floor coverings. The directions shall indicate that the frequency and extent of applications necessary will depend upon the source and intensity of the infestation. The directions shall also indicate that fresh bedding should be placed in animal quarters following treatment, and that pets or other animals should not be treated with household formulations. Water emulsions not exceeding 0.5 percent chlordane concentration by weight are acceptable for direct application to dogs once in two weeks, or once weekly in the case of water emulsions not exceeding 0.25 percent chlordane concentration by weight.

(v) *Carpet beetles.* The directions for the control of carpet beetles shall provide for a thorough spray, paint, or dust application to infested areas of carpets, localized areas of floors and baseboards, and into cracks and under carpets where these pests may be found. Localized treatments of areas on floors, baseboards and shelves of closets may also be indicated. The directions shall also provide that the application should be repeated as often as necessary to maintain effective control.

(vi) *Houseflies, wasps and mosquitoes.* The directions for the killing of houseflies, wasps, and mosquitoes indoors shall provide for thorough and repeated spraying, painting or dusting of selected surfaces such as doors, around windows and areas frequented by these insects. The directions for killing houseflies, wasps and mosquitoes outdoors and for preventing the entry of these insects into human dwellings should provide for thorough spraying, painting or dusting of screens, window frames, doorsills and selected areas of porches where these insects tend to alight or congregate. The directions should provide also for repeated applications as necessary to obtain the maximum value against these pests since insecticidal residues on the outside of buildings tend to deteriorate quite rapidly. In the case of wasps, directions may be given to spray or dust the nest with a strong formulation after dark when all of the insects have returned to the nest.

(vii) *Box elder bugs.* The directions for preventing annoyance by box elder bugs should provide for thorough painting, spraying or dusting around doorsills, window frames or wherever these pests may enter the home. The directions should also provide for the direct spraying of any congregation of these insects as soon as it is observed. The directions may indicate that thorough spraying or dusting of areas where these insects crawl or congregate on porches or sides of houses will aid in preventing annoyance by these pests on the outside of dwellings and that effective results against these pests can often be obtained by spraying the infested box elder tree or other host plant with a suitable insecticide.

(viii) *Crickets.* The directions for the control of crickets shall provide for thorough spraying, painting or dusting of baseboards, floors of closets and storage places and other hiding places. The directions shall also indicate that the application should be repeated as often as necessary to maintain effective results.

(ix) *Spiders and centipedes.* The directions for the control of these pests shall provide for thorough spraying or dusting of infested baseboards and corners and of pipes, storage localities and other infested areas in basements. The directions shall indicate that the application should be repeated as often as necessary to maintain effective control.

(x) *Scorpions.* The directions for preventing the entry of scorpions shall provide for thorough spraying, painting or dusting of strong formulations around doorsills, window frames or other areas where these insects may enter the premises. These directions may include limited interior treatment at the places of possible entry. Directions may be given that liberal spraying or dusting of

surfaces over which these pests may crawl will aid in controlling these pests in garages and buildings other than human dwellings. The directions should indicate that frequent repeated applications may be necessary, particularly on exterior surfaces exposed to the weather.

(xi) *Clothes moths.* The directions for the protection of clothing, blankets and other woolens from injury by clothes moths should provide for spraying with 2 percent chlordane solution to thoroughly dampen all surfaces. Such directions should also provide that treated articles should be dried and immediately thereafter placed in storage, and that all articles should be dry cleaned before allowing them to be used as clothing or as bedding. Formulations which contain smaller amounts of chlordane may also contain other suitable moth proofing insecticides provided the hazard of the mixed formulation does not exceed that of one containing the maximum concentration of chlordane permitted for such use.

(d) *Ingredient statement provisions.* The following forms of ingredient statements would fulfill the requirements of the Act as to ingredient statements for the four general classes of formulations of household insecticides containing chlordane. These suggested forms of statements assume that chlordane is the only toxicant present and that petroleum distillate in the form of deodorized kerosene is the only other active ingredient.

(1) *Kerosene solutions.*

		Percent
(i)	Active ingredients:	
	Technical chlordane [1]	-----
	Petroleum distillate	-----
	Total	100
(ii)	Active ingredients:	
	Petroleum distillate	-----
	Technical chlordane [2]	-----
	Total	100

(2) *Water emulsions or dry powders.*

(i)	Active ingredients:	
	Technical chlordane [1]	-----
(ii)	Inert ingredients	-----
	Total	100

(3) *Self-propelled sprays.*

(i)	Active ingredients:	
	Technical chlordane [1]	-----
	Petroleum distillate	-----
(ii)	Inert ingredients	-----
	Total	100

[1] Equivalent to __ percent octachloro-4,7-methano tetrahydroindane and __ percent of related compounds.

[2] Consists of octachloro-4,7-methano tetrahydroindane and related compounds.

The correct percentages should be given in the blank spaces and the sum of the percentage of octachloro-4,7-methano tetrahydroindane and the percentage of related compounds stated should be equal to the percentage of technical chlordane in the product.

(e) *Precautionary labeling provisions.* Precautionary labeling shall conform to the patterns set forth in Interpretation 18, Revision 1, for the various formulations involved. With respect to fire hazard cautions, the following will be acceptable:

Fire hazard. (For use on petroleum distillate solutions only.)

Caution. Do not spray into or near fire or open flame. Do not smoke while spraying.

§ 362.118 Interpretation concerning noneconomic poison claims and directions for use, and economic poisons subject to requirements of other statutes.

(a) Certain products are sold for both "economic poison" and "noneconomic poison" uses and the labeling of these products bears directions for use and claims which relate to both economic poison and noneconomic poison uses. For example, a product may be sold as a weed killer and also as a spray for potatoes to prevent sprouting. If such article were recomended only for use on potatoes to prevent sprouting, it would not be subject to the requirements of the act. The product, however, becomes subject to the requirements of the act by being recommended for use as an economic poison. The question has arisen concerning the extent to which the requirements of the act and regulations apply to the noneconomic poison claims and directions for use.

(b) A product which is subject to the act as an economic poison is subject to the act in all respects. Therefore, any statement relative to the article or its ingredients, including a statement relative to the noneconomic poison use of the product, which is false or misleading will result in the product being considered as misbranded under the act. Likewise, the directions for use, including directions for noneconomic poison use, must be such that no injury to the public will result if such directions are followed. For example, a product may be intended to be used as an economic poison under the Federal Insecticide, Fungicide, and Rodenticide Act and as a drug within the meaning of the Federal Food, Drug, and Cosmetic Act. If the directions for use of the product as a drug are such that injury will result to the user, the product will not be considered to be in compliance with the requirements of the Federal Insecticide, Fungicide, and Rodenticide Act, even though the directions for use of the product as an economic poison appear to be adequate and safe.

(c) The situation may also arise where economic loss or other injury might result from either a noneconomic poison or an economic poison use of a product by virtue of the application of another statute. In the first example mentioned above, the use of the product to prevent potato sprouting might result in a residue being left in the potatoes. Furthermore, economic poisons are frequently used on or about foods other than in their production as, for example, to reduce decay of fruits during transportation or storage, thus contaminating the food with a residue of economic poison. Even though such a residue might not be hazardous to man or other animals, it might be that it would be considered as an added poisonous or deleterious substance that is not required in the production of the food or that could be avoided by good manufacturing practice, resulting in the food being adulterated within the meaning of the Federal Food, Drug, and Cosmetic Act. Economic loss could result to the user of the product if such a determination were made and seizure action instituted against the food. Likewise, the shipper of the food might be subject to criminal prosecution for introducing into interstate commerce a food considered to be adulterated under the Federal Food, Drug, and Cosmetic Act. However, in such a situation, the action would be contingent upon independent determination by another Federal agency; that is, an interpretation of another Federal statute would have to be made and positive action taken by another agency. Consequently, this Department could not say whether injury to the user would result if the directions for use were followed.

(d) Therefore, if the proposed usage of the economic poison conforms to good practice but results in contamination of food or feed which is, however, not injurious to human or animal health, the possibility of legal action by other administrative agencies of the Government against such food or feed, or the shipper of the food or feed, will not be taken into consideration in determining whether the economic poison, its labeling and the other material required to be submitted comply with the Federal Insecticide, Fungicide, and Rodenticide Act.

(e) The registration of an economic poison intended for use on or about food or feed is not to be construed as implying that the treated material will be in compliance with the Federal Food, Drug, and Cosmetic Act or other applicable laws.

§ 362.119 Interpretation concerning labeling claims for germicides, disinfectants, and sanitizers recommended for use in hard water areas.

(a) There is some evidence which indicates that naturally occurring hard waters can act to slow down the rate of germicidal activity in certain products presently registered under the Federal Insecticide, Fungicide, and Rodenticide Act, such as germicides, disinfectants and sanitizers recommended for dairy and restaurant use, so that they may not perform satisfactorily in all hard water areas when speed of action is a primary requisite to effectiveness. Pending compilation of additional data which will clearly indicate the limiting effects of different naturally occurring hard waters on the various products presently registered, labeling which does not include specific directions for use in hard water areas will continue to be accepted for registration. On the other hand, if a manufacturer or distributor submits labeling which contains specific claims and directions for use in hard water areas, such labeling will be accepted for registration only if adequate experimental data is submitted to justify the claims and representations proposed.

(b) To be acceptable for registration, all claims proposed in this connection must be specific. Broad, general, and indefinite claims are likely to be misleading and cannot be accepted.

(c) Since there is considerable variation in natural hard waters, the precise

evaluation of the effects of water hardness on germicides, disinfectants, and sanitizers can best be accomplished by the establishment of acceptable chemical standards of reference for hard water. Therefore, all products for which claims for effectiveness in hard waters are made in connection with registration, and all regulatory samples which may be collected in connection with the enforcement of the act will be evaluated in waters prepared according to the following procedure:

(1) Two stock solutions are prepared. One, solution A, is made by dissolving 31.74 grams of $MgCl_2$ and 73.99 grams of $CaCl_2$ in boiled distilled water and adjusting to a one liter volume. The other, solution B, is made by dissolving 56.03 grams of $NaHCO_3$ in boiled distilled water and adjusting to a one liter volume. Solution A may be heat sterilized. Solution B cannot be heat sterilized, but can be sterilized by filtration. The required amount of solution A is added to a sterile one liter flask and at least 600 mls. of sterile distilled water added. Then 4 mls. of solution B is added and the volume brought to one liter with sterile distilled water. Each ml. of solution A used will give the water a hardness equivalent to approximately 100 p. p. m. of hardness calculated as $CaCO_3$ using the formula:

Total hardness as p. p. m. of $CaCO_3 = 2.495 \times$ p. p. m. of $Ca + 4.115 \times$ p. p. m. of Mg.

(d) In preparing waters in accordance with the procedure mentioned in paragraph (c) of this section, the pH of all test waters up to 2,000 p. p. m. of hardness should fall between 7.6 and 8.0. Chemicals of reagent grade should be employed. If the hydrate of $MgCl_2$ is used, substitutions should be made on an equimolar basis. All synthetic hard waters prepared for use by this procedure should be checked chemically for hardness at the time the tests are made employing a procedure or procedures described in the 10th Edition Standard Methods for The Examination of Water and Sewage.

(e) In evaluating effectiveness claims for products to be used in waters of specified degrees of hardness according to the standard outlined in this section, a bacteriological test, such as the method described by Chambers in the publication Journal Milk and Food Technology, Vol. 19, No. 7, pp. 183–187 (1956), will be employed.

(f) Except as otherwise provided in this section, to be acceptable for registration, label claims relating to dairy, restaurant, and food plant utensil use must be based upon effective results, within 30 seconds, using the test named in paragraph (e) of this section in water of the degree of hardness indicated in the label claims and having a temperature of 70°–75° F. Results, to be considered effective, must meet the standard of effectiveness specified in the Chambers Method; that is, a 99.999 percent reduction in the count of the number of organisms. Results obtained by other testing procedures can be accepted as a basis for registration only after the specific procedure employed has been found to be acceptable by the Department after consultation with the U. S. Public Health Service. Supplemental claims for effectiveness at longer intervals of time or at elevated temperatures in dairy, restaurant, and food plant utensil use, or in other specified applications, will be given consideration, but should not be made in a manner to confuse the basic recommendation by the manufacturer. Labeling bearing any claims relative to effectiveness in hard water in any type of application must bear an equally prominent declaration based on the procedure specified above if any reference whatsoever is made thereon relative to dairy, restaurant, or food plant utensil use.

(g) To avoid misleading the consumer, claims for effectiveness in waters above 100 p. p. m. of hardness should be made in increments no less than 50 p. p. m. of hardness calculated as $CaCO_3$. For example, evidence of effectiveness in waters of 478 p. p. m. of hardness should be construed as supporting a claim for effectiveness in waters of 450 p. p. m. of hardness, and evidence of effectiveness in waters of 510 p. p. m. should be construed as supporting a claim for effectiveness in waters up to 500 p. p. m. of hardness.

(h) Section 362.14 of the regulations defines misbranding to include "any statement directly or indirectly implying that the economic poison or device is recommended or endorsed by any agency of the Federal Government." Therefore, any label claims relating to endorsement or recommendation of a specific product by the Department or the U. S. Public Health Service will not be accepted for registration. However, a claim such as "This product fulfills the criteria of Appendix F as revised March 12, 1956, of the Milk Ordinance and Code, 1953 Recommendations of the U. S. Public Health Service in waters up to ____ p. p. m. of hardness calculated as $CaCO_3$ when tested by the Method outlined by Chambers" may be accepted. In all statements of this type, it is necessary to be specific as to titles, dates, and methods upon which the claim is based.

PART 363—CERTIFICATION OF USEFULNESS OF PESTICIDE CHEMICALS

Sec.

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AUTHORITY: §§ 363.1 to 363.12 issued under sec. 3, 68 Stat. 511; 21 U. S. C. 346a.

§ 363.1 Words in the singular form.

Words in this part in the singular form shall be deemed to import the plural, and vice versa, as the case may demand.

§ 363.2 Definitions.

Unless the context otherwise requires, the following terms shall be construed, respectively, to mean:

(a) "Act" means the Federal Food, Drug, and Cosmetic Act (21 U. S. C. 301 et seq.), as amended by Public Law 518, 83d Congress, 2d Session, "An Act to amend the Federal Food, Drug, and Cosmetic Act with respect to residues of pesticide chemicals in or on raw agricultural commodities" (68 Stat. 511).

(b) "Director" means the Director of the Plant Pest Control Division, Agricultural Research Service, United States Department of Agriculture, Washington, D.C.

(c) "Department" means the United States Department of Agriculture.

(d) "Pesticide chemical" and "raw agricultural commodity" shall have the same meanings as they have in paragraphs (q) and (r), respectively, of section 201 of the act.

(e) "Economic poison" shall have the same meaning as it has under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U. S. C. 135–135k) and the regulations issued thereunder (Part 362 of this chapter).

(f) "Person" means individuals, partnerships, corporations, and associations.

(g) "Certification" means a certification by the Director to the Department of Health, Education, and Welfare that a pesticide chemical is useful for the purpose for which a tolerance or exemption is sought under the act.

(h) "Petition" means a petition filed with the Secretary of Health, Education, and Welfare pursuant to section 408 (d) (1) of the act.

§ 363.3 Administration.

The Director is authorized to take such action as, in his discretion, may be necessary to carry out the provisions of sections 408 (i) and 408 (l) of the act and the regulations in this part.

§ 363.4 Filing of requests for certification.

All requests for a certification shall be made in writing to the Director. Action upon such a request will not be undertaken unless (a) the person making the request has, pursuant to the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act, registered or submitted an application for the registration of an economic poison consisting of or containing the pesticide chemical for which the certification is sought and (b) the request is accompanied by a copy of the petition. The person requesting certification may at any time withdraw such request for certification.

§ 363.5 Material in support of the request for certification.

In addition to the data required by section 408 (d) (1) of the act to be included in the petition, the request for certification should be supported by the following material, to the extent it is relied upon by the petitioner:

(a) A complete report of the results of any experimental work by the petitioner on the effectiveness of the pesticide chemical for the purposes intended;

(b) Data relating to the usefulness of the pesticide chemical obtained by other qualified investigators;

(c) Any other material which the petitioner believes will justify a finding of usefulness.

If such material is fully shown in the petition, it need not be set forth separately in the request for certification.

§ 363.6 Certification limited to economic poison uses.

If the product for which a certification is sought is intended for both economic poison and noneconomic poison uses, any certification relative to the usefulness of such product will refer only to economic poison uses. No action will be taken with respect to the noneconomic poison uses of such product.

§ 363.7 Factors considered in determining usefulness.

In determining whether a pesticide chemical is useful for the purposes for which a tolerance or exemption is sought, consideration will be given, among other things, to:

(a) The results of any experimental work by the petitioner on the effectiveness of the pesticide chemical for the purposes intended.

(b) Data relating to the usefulness of the pesticide chemical obtained by other qualified investigators.

(c) Reports of other experimental work before the Director in publications, the official files of the Department, or otherwise.

(d) Opinions of experts qualified in the fields involved.

§ 363.8 Basis for determination of usefulness.

Usefulness of a pesticide chemical for the purposes intended will be determined upon the basis of its practical pesticidal, or biological, effectiveness. Pesticidal effectiveness may be established in terms of percentage reduction or control of pests or, when appropriate, increase in yield or quality of crop following application of the specified pesticide under the conditions prescribed, compared with the results from adequate controls. Consideration may also be given to other economic gain or practical benefit, including: Economy or ease of production, harvest, or storage of crop; flexibility as regards the time of planting or harvest, even at the possible sacrifice of yield; and general benefit to livestock, plants, or human welfare.

§ 363.9 Proposed certification; notice; request for hearing.

(a) If, upon the basis of the data before him, it appears to the Director that the pesticide chemical is not useful for the purpose or purposes for which a tolerance or exemption is sought, or is useful for only some of the purposes for which a tolerance or exemption is sought, the Director shall notify the person requesting the certification of his proposal to so certify to the Department of Health, Education, and Welfare. Notice of such proposed certification will be given by registered mail.

(b) Within one week after receipt of such notice of proposed certification the person requesting the certification may, by filing a request with the Director, (1) request that the certification be made on the basis of the proposed certification; (2) request a hearing on the proposed certification or the parts objected to; (3) request both such certification and such hearing; or (4) withdraw the request for certification as provided for in § 363.10. If no such request or withdrawal is filed with the Director within such time, the certification will be made as proposed.

§ 363.10 Withdrawal of request for certification pending clarification or completion.

In some cases it may be necessary for the Director to notify the petitioner of his proposal to certify that the pesticide chemical does not appear to be useful for some or all of the purposes for which a tolerance or exemption is sought only because the data submitted by the petitioner are not sufficiently clear or complete to justify a finding of usefulness. In such cases the petitioner may withdraw his request for certification pending its clarification or the obtaining of additional data, and no further action will be taken with respect to the making of the certification until the request for certification is resubmitted. Upon the resubmission of the request for certification, the time limitation within which final certification is required to be made will begin to run anew from the date of the resubmission.

§ 363.11 Registration under the Federal Insecticide, Fungicide, and Rodenticide Act.

(a) Since in most cases where a pesticide chemical may leave a residue in or on a raw agricultural commodity there can be no determination of the adequacy of the directions for use or the warning or caution statements appearing on the labeling of an economic poison until a tolerance or exemption has been established for the pesticide chemical which is, or is a part of, such economic poison, it will not ordinarily be possible to register the economic poison under the Federal Insecticide, Fungicide, and Rodenticide Act until such tolerance or exemption has been established.

(b) Factors other than pesticidal, or biological, effectiveness are considered in the granting of registration under the Federal Insecticide, Fungicide, and Rodenticide Act. Therefore, the criteria for registration are not all applied in considering the certification of usefulness, and the fact that such a certification has been made does not mean that the economic poison can be registered for the uses concerned.

§ 363.12 Opinion as to residue.

(a) In forming an opinion whether the tolerance or exemption proposed by the petitioner reasonably reflects the amount of residue likely to result when the pesticide chemical is used in the manner proposed, consideration will be given, among other things, to:

(1) Data furnished by the petitioner showing (i) the results of tests to ascertain the amount of residue remaining, including a description of the analytical methods used, and (ii) practicable methods for removing residue which exceeds any proposed tolerance;

(2) Reports of other experimental work before the Director in publications, the official files of the Department, or otherwise;

(3) Opinions of experts qualified in the fields involved.

(b) If a tolerance proposed by the petitioner is reasonably to reflect the amount of residue likely to result when a pesticide chemical is used, it must be large enough to include all residue which is likely to result when the pesticide chemical is used in the manner proposed by the petitioner, but not larger than needed for this purpose. The tolerance proposed by the petitioner may take into account reduction of residue by washing, brushing, or other applicable method.

(c) If there is insufficient information before the Director to support an opinion as to whether the tolerance proposed by the petitioner reasonably reflects the amount of residue likely to result, the opinion will so state.

[F.R. Doc. 59-10993; Filed, Dec. 28, 1959; 8:45 a.m.]

Chapter IV—Federal Crop Insurance Corporation, Department of Agriculture

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1961 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNATED FOR BARLEY CROP INSURANCE

Pursuant to authority contained in § 401.1 of the above-identified regulations, the following counties have been designated for barley crop insurance for the 1961 crop year.

CALIFORNIA

Kern.
Los Angeles.
Monterey.
San Luis Obispo.
Tulare.

COLORADO

Larimer.
Morgan.
Phillips.
Sedgwick.
Weld.

IDAHO

Bonneville.
Cassia.
Fremont.
Idaho.
Latah.
Lewis.
Madison.
Minidoka.
Nez Perce.
Twin Falls.

MARYLAND

Kent.
Queen Annes.

MINNESOTA

Becker.
Clay.
Grant.
Kittson.
Marshall.
Norman.
Pope.
Stearns.
Stevens.
Traverse.
West Polk.
West Otter Tail.
Wilkin.

MONTANA

Cascade.
Chouteau.
Fergus.
Judith Basin.
Pondera.
Teton.

NORTH DAKOTA

Barnes.
Benson.
Cass.
Cavalier.
Dickey.
Eddy.
Foster.
Grand Forks.
Griggs.
La Moure.
Nelson.
Pembina.
Ramsey.
Ransom.
Richland.
Sargent.
Steele.
Stutsman.
Towner.
Traill.
Walsh.
Wells.
Williams.

OREGON

Gilliam.
Jefferson.
Linn.
Malheur.
Morrow.
Sherman.
Umatilla.
Union.
Wallowa.
Wasco.

PENNSYLVANIA

Chester.
Lancaster.
Lebanon.

SOUTH DAKOTA

Beadle.
Brown.
Clark.
Codington.
Day.
Grant.
Hamlin.
Kingsbury.
Marshall.
Roberts.
Spink.

WASHINGTON

Adams.
Asotin.
Benton.
Columbia.
Douglas.
Franklin.
Grant.
Garfield.
Klickitat.
Lincoln.
Spokane.
Walla Walla.
Whitman.

WISCONSIN

Fond du Lac.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] F. N. MCCARTNEY,
Manager,
Federal Crop Insurance Corporation.

[F.R. Doc. 59-11075; Filed, Dec. 28, 1959; 8:51 a.m.]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1961 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNATED FOR WHEAT CROP INSURANCE

Pursuant to authority contained in § 401.1 of the above-identified regulations, the following counties have been designated for wheat crop insurance for the 1961 crop year.

CALIFORNIA

Kern.
Los Angeles.
Monterey.
San Luis Obispo.
Tulare.

COLORADO

Adams.
Arapahoe.
Cheyenne.
Elbert.
Kit Carson.
Larimer.
Lincoln.
Logan.
Morgan.
Phillips.
Sedgwick.
Washington.
Weld.
Yuma.

Benewah.
Bonneville.
Camas.
Cassia.
Fremont.
Idaho.
Kootenai.
Latah.

IDAHO

Lewis.
Madison.
Minidoka.
Nez Perce.
Oneida.
Power.
Teton.
Twin Falls.

ILLINOIS

Adams.
Bond.
Cass.
Christian.
Clinton.
Douglas.
Effingham.
Fayette.
Fulton.
Greene.
Jasper.
Jersey.
McDonough.
McLean.
Macoupin.
Madison.
Marion.
Mason.
Menard.
Monroe.
Montgomery.
Morgan.
Pike.
St. Clair.
Sangamon.
Schuyler.
Scott.
Shelby.
Tazewell.
Vermilion.
Washington.

INDIANA

Allen.
Blackford.
Boone.
Carroll.
Clay.
Clinton.
Decatur.
De Kalb.
Delaware.
Fountain.
Howard.
Huntington.
Jackson.
Johnson.
Kosciusko.
Madison.
Marshall.
Miami.
Montgomery.
Noble.
Pulaski.
Randolph.
Ripley.
Rush.
Shelby.
Sullivan.
Vigo.
Wayne.
Wells.
Whitley.

KANSAS

Atchison.
Barber.
Barton.
Bourbon.
Brown.
Butler.
Cheyenne.
Cherokee.
Clark.
Clay.
Cloud.
Cowley.
Decatur.
Dickinson.
Edwards.
Ellis.
Ellsworth.
Finney.
Franklin.
Ford.
Gove.
Graham.
Grant.
Gray.
Greeley.
Hamilton.
Harper.
Harvey.
Haskell.
Hodgeman.
Jackson.
Kearny.
Kingman.
Kiowa.
Lane.
Lincoln.
Linn.
Logan.
McPherson.
Marion.
Marshall.
Meade.
Mitchell.
Montgomery.
Morris.
Nemaha.
Ness.
Norton.
Osborne.
Ottawa.
Pawnee.
Phillips.
Pratt.
Rawlins.
Reno.
Republic.
Rice.
Rooks.
Rush.
Russell.
Saline.
Scott.
Sedgwick.
Seward.
Sheridan.
Sherman.
Smith.
Stafford.
Stanton.
Stevens.
Sumner.
Thomas.
Trego.
Wallace.
Washington.
Wichita.

KENTUCKY

Christian.
Kent.

MARYLAND

Queen Annes.

MICHIGAN

Bay.
Branch.
Calhoun.
Clinton.
Eaton.
Gratiot.
Hillsdale.
Huron.
Ingham.
Ionia.
Jackson.
Kalamazoo.
Lenawee.
Monroe.
Saginaw.
St. Clair.
St. Joseph.
Sanilac.
Shiawassee.

MINNESOTA

Becker.
Big Stone.
Clay.
Grant.
Kittson.
Mahnomen.
Marshall.
Norman.
Otter Tail, West.
Polk, East.
Polk, West.
Traverse.
Wilkin.

MISSOURI

Andrew.
Audrain.
Bates.
Buchanan.
Callaway.
Carroll.
Cass.
Chariton.
Cooper.
Franklin.
Gentry.
Henry.
Holt.
Howard.
Jasper.
Johnson.
Lafayette.
Lawrence.
Macon.
Marion.
Nodaway.
Pettis.
Pike.
Ralls.
St. Charles.
Saline.
Shelby.
Vernon.

MONTANA

Blaine.
Cascade.
Chouteau.
Daniels.
Dawson.
Fergus.
Hill.
Judith Basin.
Liberty.
McCone.
Petroleum.
Phillips.
Pondera.
Richland.
Roosevelt.
Sheridan.
Teton.
Valley.
Yellowstone.

NEBRASKA

Banner.
Box Butte.
Butler.
Cass.
Chase.
Cheyenne.
Dawes.
Deuel.
Dodge.
Frontier.
Furnas.
Gage.
Garden.
Gosper.
Hamilton.
Harlan.
Hayes.
Hitchcock.
Jefferson.
Keith.
Kimball.
Lancaster.
Morrill.
Nemaha.
Pawnee.
Perkins.
Phelps.
Red Willow.
Richardson.
Saline.
Saunders.
Scotts Bluff.
Seward.
Thayer.
Washington.
York.

NORTH CAROLINA

Cleveland.
Iredell.
Lincoln.
Mecklenburg.
Rutherford.

NORTH DAKOTA

Adams.
Barnes.
Benson.
Bottineau.
Bowman.
Burke.
Burleigh.
Cass.
Cavalier.
Dickey.
Divide.
Dunn.
Eddy.
Emmons.
Foster.
Golden Valley.
Grand Forks.
Grant.
Griggs.
Hettinger.
Kidder.
La Moure.
Logan.
McHenry.

NORTH DAKOTA—Continued

McIntosh.	Rolette.
McKenzie.	Sargent.
McLean.	Sheridan.
Mercer.	Sioux.
Morton.	Slope.
Mountrail.	Stark.
Nelson.	Steele.
Oliver.	Stutsman.
Pembina.	Towner.
Pierce.	Traill.
Ramsey.	Walsh.
Ransom.	Ward.
Renville.	Wells.
Richland.	Williams.

OHIO

Allen.	Medina.
Ashland.	Mercer.
Auglaize.	Montgomery.
Clinton.	Morrow.
Delaware.	Paulding.
Erie.	Pickaway.
Fayette.	Preble.
Greene.	Putnam.
Hancock.	Sandusky.
Hardin.	Seneca.
Henry.	Stark.
Highland.	Tuscarawas.
Huron.	Union.
Knox.	Van Wert.
Licking.	Wayne.
Marion.	Williams.

OKLAHOMA

Alfalfa.	Harmon.
Beckham.	Harper.
Blaine.	Jackson.
Caddo.	Kay.
Canadian.	Kingfisher.
Comanche.	Kiowa.
Cotton.	Logan.
Custer.	Major.
Dewey.	Noble.
Ellis.	Texas.
Garfield.	Tillman.
Grant.	Washita.
Greer.	Woods.

OREGON

Baker.	Sherman.
Gilliam.	Umatilla.
Jefferson.	Union.
Linn.	Wallowa.
Morrow.	Wasco.
Malheur.	

PENNSYLVANIA

Chester.	Lebanon.
Lancaster.	

SOUTH CAROLINA

Anderson.

SOUTH DAKOTA

Beadle.	Jones.
Bennett.	Kingsbury.
Brown.	Lyman.
Campbell.	McPherson.
Clark.	Marshall.
Codington.	Mellette.
Corson.	Perkins.
Day.	Potter.
Dewey.	Roberts.
Edmunds.	Spink.
Faulk.	Sully.
Grant.	Tripp.
Hamlin.	Walworth.
Hand.	

TENNESSEE

Obion.	Robertson.

TEXAS

Baylor.	Gray.
Castro.	Grayson.
Collin.	Hale.
Cooke.	Jones.
Denton.	Lipscomb.
Floyd.	Potter.
Foard.	Wilbarger.

UTAH

Box Elder.	Cache.

WASHINGTON

Adams.	Grant.
Asotin.	Klickitat.
Benton.	Lincoln.
Columbia.	Spokane.
Douglas.	Walla Walla.
Franklin.	Whitman.
Garfield.	

WYOMING

Goshen.	Platte.
Laramie.	

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] F. N. MCCARTNEY,
Manager,
Federal Crop Insurance Corporation.

[F.R. Doc. 59-11076; Filed, Dec. 28, 1959; 8:52 a.m.]

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

[Amdt. 1]

PART 711—MARKETING QUOTA REVIEW REGULATIONS

Composition

Basis and purpose. The purpose of this amendment is to provide for the establishment of two or more review committees for an area of venue where the anticipated volume of applications for review would make expeditious disposition of all applications for review by a single review committee difficult. The amendment contained herein is issued pursuant to the Agricultural Adjustment Act of 1938, as amended (52 Stat. 31, as amended; 7 U.S.C. 1281 et seq.).

The amendment contained herein is procedural in nature and will benefit farmers in areas of venue where substantial numbers or applications for review are filed by permitting prompt handling of such applications. Accordingly, it is hereby determined and found that compliance with the notice and public procedure requirements and the 30-day effective date requirement of section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U.S.C. 1003) is impracticable and contrary to the public interest and this amendment shall be effective upon filing of this document with the Director, Office of the Federal Register.

Section 711.6 of the marketing quota review regulations (21 F.R. 9365, 9716) is amended to read as follows:

§ 711.6 Composition.

Three regular members shall act as a review committee for the prescribed area of venue established pursuant to the regulations in this part. In the absence of the chairman the vice-chairman shall perform the duties and exercise the powers of the chairman, and in the absence of both the chairman and vice-chairman the other regular member shall, as acting chairman, perform the duties and exercise the powers of the chairman. Two or more review committees may be appointed at any time to act for an area of venue whenever the Secretary determines that the anticipated volume of applications for review in such area of venue requires more than one review committee, taking into consideration the need for prompt handling of applications for review, transportation problems and the limit of 30-day service by review committeemen during their term of office. The State Administrative Officer shall schedule hearings for each review committee and shall designate for each review committee the alternate members to serve in the event of the absence of regular members, in case of vacancies, or in case alternate members are deemed to be better qualified to serve in a particular case, but not more than two alternate members may serve concurrently on any review committee. The State Administrative Officer shall arrange for notifying review committeemen of the schedule of hearings. No regular or alternate member shall serve in any case in which a quota will be reviewed for a farm in which such member, any of his relatives, or business associates is interested, nor shall any regular or alternate member serve where he had acted as State, county, or community committee member on a quota to be reviewed by the review committee.

(Sec. 375, 52 Stat. 66, as amended; 7 U.S.C. 1375. Interpret or apply sec. 363, 52 Stat. 63, as amended; 7 U.S.C. 1363)

Done at Washington, D.C., this 22d day of December 1959.

TRUE D. MORSE,
Acting Secretary.

[F.R. Doc. 59-11040; Filed, Dec. 28, 1959; 8:49 a.m.]

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

SUBCHAPTER B—SUGAR REQUIREMENTS AND QUOTAS

[Sugar Reg. 812]

PART 812—SUGAR REQUIREMENTS AND QUOTAS; HAWAII AND PUERTO RICO

Calendar Year 1960

By virtue of the authority vested in the Secretary of Agriculture by the Sugar Act of 1948, as amended (61 Stat. 922, as amended, hereinafter called the "act") and the Admiinstrative Procedure Act (60 Stat. 237), these regulations are hereby made, prescribed, and published to be in force and effect for the calendar year 1960 or until amended or superseded by regulations hereafter made during the calendar year 1960.

Basis and purpose. The determinations and the sugar quotas set forth below have been made and established pursuant to section 203 of the act. The act provides for the Secretary of Agriculture to make such determinations and establish such quotas for the calendar year 1960 during December 1959. The deter-

minations of the sugar requirements have been based insofar as required by section 201 of the act, on official statistics of the Department of Agriculture and statistics published by other agencies of the Federal Government. The purpose of such determinations is to provide the amounts of sugar needed to meet the requirements of consumers in Hawaii and in Puerto Rico for the calendar year 1960. The determinations provide the basis for the establishment of sugar quotas for such year for local consumption therein pursuant to section 203 of the act.

Prior to the issuance of these regulations, notice was given (24 F.R. 7878) that the Secretary of Agriculture was preparing, among other things, to determine the 1960 calendar year sugar requirements and quotas for local consumption in Hawaii and Puerto Rico and that any interested person might present any data, views or arguments with respect thereto in writing not later than December 4, 1959. Due consideration has been given to the data, views and arguments submitted in accordance with the Administrative Procedure Act.

Since the act provides that the Secretary of Agriculture determine sugar requirements and establish quotas for local consumption in Hawaii and in Puerto Rico during December 1959 to be applicable for the calendar year 1960, it is impracticable and not in the public interest to comply with the 30-day effective date requirements of the Administrative Procedure Act. Accordingly, these regulations shall be effective January 1, 1960.

§ 812.1 Sugar requirements and quota, Hawaii 1960.

It is hereby determined, pursuant to section 203 of the act, that the amounts of sugar needed to meet the requirements of consumers in Hawaii for the calendar year 1960 is 45,000 short tons, raw value, and a quota of 45,000 short tons, raw value, is hereby established for Hawaii for local consumption.

§ 812.2 Sugar requirements and quota, Puerto Rico, 1960.

It is hereby determined, pursuant to section 203 of the act, that the amount of sugar needed to meet the requirements of consumers in Puerto Rico for the calendar year 1960 is 115,000 short tons, raw value, and a quota of 115,000 short tons, raw value, is hereby established for Puerto Rico for local consumption.

§ 812.3 Restrictions on marketing.

Pursuant to section 209 of the act, for the calendar year 1960 all persons are hereby prohibited from marketing, pursuant to Part 816 of this chapter (23 F.R. 1943), in Hawaii or in Puerto Rico, for consumption therein, any sugar or liquid sugar after the quota for the area for the calendar year 1960 has been filled. Pursuant to section 211(c) of the act, the quota for each area may be filled only with sugar produced from sugarcane grown in the respective area.

STATEMENT OF BASES AND CONSIDERATIONS

Pursuant to section 203 of the act, the provisions of section 201 of the act deemed applicable to the determination of the amounts of sugar needed to meet the requirements of consumers in Hawaii and in Puerto Rico relate to (1) the quantities of sugar distributed for local consumption in Hawaii and in Puerto Rico during the twelve-month period ended October 31, 1959, (2) deficiencies or surpluses in inventories of sugar, and (3) changes in consumption because of changes in population and demand conditions.

The quantities of sugar distributed for consumption in Hawaii and Puerto Rico, including that which was lost in refining after charge to the local quotas, during such twelve-month period were approximately 40,000 short tons of sugar, raw value, and 110,000 short tons of sugar, raw value, respectively.

No official estimate of total population for either of these areas for 1959 or 1960 is available. Previous trends indicate a small annual increase in population may be expected.

The industrial use of sugar makes up a substantial portion of the total consumption of sugar in Hawaii. There are no indications that inventories of industrial users will be enlarged in 1959. The demand for sugar for industrial use varies enough to make it a significant factor in the total sugar requirements. Therefore, it is possible that requirements may be higher in 1960 than in the twelve months ended October 31, 1959, when distribution for local consumption was approximately 40,000 short tons, raw value.

In Puerto Rico during the first ten months of 1959, local distribution plus refining losses totaled 93,444 short tons, raw value. The rate of distribution during this period suggests that inventories of sugar held by wholesalers, retailers and industrial users of sugar have been maintained at minimum levels. Therefore, it is possible that 1960 requirements for local consumption could exceed the approximately 110,000 tons required for the twelve-month period ended October 31, 1959.

Circumstances prevailing in the utilization of quota for local consumption in Hawaii and Puerto Rico are such that no special problems arise nor are the objectives of the act jeopardized if the 1960 local quota is not completely filled. It is, therefore, desirable to establish the 1960 requirements and quotas sufficiently high initially so that later adjustments may be avoided.

In accordance with the above, the quotas for local consumption in Hawaii and Puerto Rico for 1960 have been established at 45,000 and 115,000 short tons, raw value, respectively.

(Sec. 403, 61 Stat. 932; 7 U.S.C. 1153. Interprets or applies secs. 201, 203, 209, 210; 61 Stat. 923, as amended, 925, 928; 7 U.S.C. 1111, 1113, 1119, 1120)

Done at Washington, D.C., this 22d day of December 1959.

TRUE D. MORSE,
Acting Secretary.

[F.R. Doc. 59-11074; Filed, Dec. 28, 1959; 8:51 a.m.]

Title 6—AGRICULTURAL CREDIT

Chapter III—Farmers Home Administration, Department of Agriculture

SUBCHAPTER F—SECURITY SERVICING AND LIQUIDATIONS

[FHA Instructions 465.11 and 465.12]

PART 372—REAL ESTATE SECURITY

PART 373—FARM HOUSING LOANS

Supersedure of Part

Part 373, Title 6, Code of Federal Regulations (17 F.R. 4281, 19 F.R. 3539, 6849) is superseded by Subpart A, Part 372, Title 6, Code of Federal Regulations.

(Sec. 510, 63 Stat. 437; 42 U.S.C. 1480; Order of Acting Sec. of Agr., 19 F.R. 74, 22 F.R. 8188)

Dated: December 21, 1959.

H. C. SMITH,
Acting Administrator,
Farmers Home Administration.

[F.R. Doc. 59-11041; Filed, Dec. 28, 1959; 8:49 a.m.]

Title 10—ATOMIC ENERGY

Chapter 1—Atomic Energy Commission

PART 3—RULES OF PROCEDURE IN CONTRACT APPEALS

On February 3, 1959, the Commission published a revision of Part 3, "Rules of Procedure in Contract Appeals," under which the Atomic Energy Commission Hearing Examiner was substituted for the Advisory Board on Contract Appeals with respect to appeals under disputes articles in Commission contracts and subcontracts. All cases pending before the Advisory Board have now been completed.

Commission study of the procedural problems involved in contract appeals, including the rules of the Armed Services Board of Contract Appeals, has resulted in the revised rules of procedure which follow. The Commission will continue to study the problems involved in these rules with a view to making such further changes as may from time to time appear to be desirable. Members of the bar, contractors, and others are invited to submit any further comments and suggestions they may have to the Commission, Attention: General Counsel, Washington 25, D.C.

Because of the procedural nature of these rules, the Atomic Energy Commission has found that general notice of proposed rule making and public procedure thereon are unnecessary, and that good cause exists why these rules should be made effective without the customary period of prior notice.

Pursuant to the Administrative Procedure Act, the following rules are published as a document subject to codification, to be effective upon publication thereof in the FEDERAL REGISTER:

GENERAL PROVISIONS

Sec.
3.1 Purpose.
3.2 Scope.
3.3 Definitions.
3.4 Pleadings.
3.5 Computation of time.
3.6 Service of papers, methods, proof.
3.7 Representation.
3.8 Security.

PRELIMINARY PROCEEDINGS

3.10 Initial determination.
3.11 Appeal.
3.12 Notice of appeal.
3.13 Complaint.
3.14 Transmittal of notice of appeal.
3.15 Notification of parties by hearing examiner.
3.16 Answer.
3.17 Admissions.
3.18 Amendments of pleadings.
3.19 Motions.
3.20 Pre-hearing conferences.
3.21 Request for hearing by answering parties.
3.22 Decision by hearing examiner without hearing.

HEARINGS

3.30 Notice of hearing.
3.31 Place of hearing.
3.32 Absence of parties or counsel.
3.33 Official reporter; transcript.
3.34 Conduct of hearings.
3.35 Trial briefs.
3.36 Subpenas.
3.37 Depositions.
3.38 Discovery and production of documents and things for inspection, copying, or photographing.
3.39 Requests for withholding documents from public record.

DECISIONS

3.40 Briefs.
3.41 Record for decision.
3.42 Decision.

COMMISSION REVIEW

3.50 Commission review.

MISCELLANEOUS

3.60 Effective date.

APPENDICES

A. Notice of appeal.
B. Complaint.

AUTHORITY: §§ 3.1 to 3.60 issued under sec. 161, 68 Stat. 948, 42 U.S.C. 2201. Dated at Germantown, Md., this 21st day of December 1959.

GENERAL PROVISIONS

§ 3.1 Purpose.

(a) Contracts entered into by the AEC usually contain a disputes article providing that disputes arising under the contract which are not disposed of by mutual agreement shall be decided in the first instance by the contracting officer. Many subcontracts under AEC cost-type contracts contain similar articles. The typical disputes clause further provides that the contractor or subcontractor may make an appeal in writing to the designated representative or representatives of the Commission, whose decision shall be final.

(b) The rules of procedure contained in this part are designed to provide an orderly and expeditious means for handling contract appeals. The AEC Hearing Examiner is the designated representative to hear, consider, and initially decide, an appeal from the decision of a contracting officer in a dispute arising, or alleged to arise, under a Commission contract and subcontract. Subject to the provisions of 41 U.S.C. sections 321 and 322, his decision is final unless one of the parties to the proceeding requests review thereof by petition and the Commission grants the petition and orders the record and decision submitted to the members thereof for further decision.

§ 3.2 Scope.

The rules contained in this part set forth the procedure which will be followed by the parties and by the Hearing Examiner in arriving at his decision, and by the Commission in the review, if any, of such decision, as to the disposition of an appeal from a decision of a contracting officer in a dispute arising, or alleged to arise, under a contract or subcontract.

§ 3.3 Definitions.

(a) "AEC" means the agency established by the Atomic Energy Act of 1954, as amended, comprising the members of the Commission and all officers, employees, and representatives authorized to act in the case or matter whether clothed with final authority or not.

(b) "Contracting Officer" shall mean the representative of the Commission who, under the contract or subcontract, has the responsibility for determining the dispute in the first instance and from whose decision appeal may be taken.

(c) "Contractor" shall include a subcontractor, and "contract" shall include a subcontract, as the case may be.

(d) "Commission" means the commission of five members or a quorum thereof sitting as a body, as provided by section 21 of the Atomic Energy Act of 1954, as amended.

(e) "Hearing examiner" shall mean the AEC officer designated by the Commission to conduct assigned hearings in accordance with regulations of the Commission under the Atomic Energy Act of 1954, as amended, including the rules set forth in this part.

(f) "Party" or "parties" shall mean (1) the prime contractor and the contracting officer, if the dispute arises, or is alleged to arise, under a prime contract; or (2) the contractor and subcontractor if the dispute arises, or is alleged to arise, under a subcontract: *Provided, however,* The AEC Hearing Examiner may, upon good cause shown, permit the AEC to participate as a party to the appeal.

§ 3.4 Pleadings.

(a) All pleadings shall be simple, concise, and direct. They shall be so construed as to do substantial justice.

(b) All pleadings of the contractor and the notice of appeal provided in § 3.12 shall be dated and shall be signed by the contractor if an individual, by an officer thereof if a corporation, by a partner thereof if a partnership, by a joint venturer if a joint venture, or by the duly authorized attorney-at-law thereof.

(c) All pleadings of the contracting officer or AEC shall be dated and signed by the AEC counsel therefor.

§ 3.5 Computation of time.

The provisions of § 2.701 of this chapter (the AEC Rules of Practice) shall be applicable to proceedings under this part.

§ 3.6 Service of papers, methods, proof.

The provisions of § 2.703 of this chapter (the AEC Rules of Practice) shall be applicable to proceedings under this part.

§ 3.7 Representation.

(a) The parties may represent themselves or may be represented in the proceeding by an attorney-at-law in good standing admitted to practice before any court of the United States, the District of Columbia, or the highest court of any state, territory or possession of the United States.

(b) Notice of appearance by an attorney-at-law, including AEC counsel, shall be given by filing with the Hearing Examiner a statement that the representative is an attorney-at-law in good standing admitted to practice before any court of the United States, the District of Columbia, or the highest court of any state, territory, or possession of the United States. Thereafter, any service of notice or papers upon the authorized representative shall constitute service upon the party, but a copy of all notices and papers served upon the party shall also be sent to the duly authorized representative.

§ 3.8 Security.

All proceedings under this part shall be so conducted as to insure compliance with the security regulations and requirements of the Commission, and the contracting officer, the hearing examiner, and the Commission may take appropriate steps to insure said compliance in accordance with the provisions of the Atomic Energy Act of 1954, as amended, and the regulations issued thereunder, including §§ 2.800 to 2.814 of this chapter (the AEC Rules of Practice).

PRELIMINARY PROCEEDINGS

§ 3.10 Initial determination.

Where a dispute arising, or alleged to arise, under a contract cannot be disposed of by mutual agreement, the contracting officer shall, in all cases and as expeditiously as possible, prepare and serve in writing upon the contractor his specific findings of fact with respect to such dispute, his decision thereon, and a copy of the rules contained in this part and Part 2 of this chapter (the AEC Rules of Practice).

§ 3.11 Appeal.

An appeal from the decision of the contracting officer shall be taken by the contractor by serving upon the contracting officer, from whose decision the appeal is taken, a notice of appeal, together with three copies thereof, within sixty days after service upon the contractor of such decision or within such other period as may be provided by the contract under which the dispute has arisen or is alleged to arise. The complaint provided for in § 3.13 may be filed with the notice of appeal.

§ 3.12 Notice of appeal.

The notice of appeal shall be in writing; shall indicate that an appeal is thereby intended; shall identify (a) the contract, by number, under which the dispute has arisen, or is alleged to arise, and (b) the decision of the contracting officer from which the appeal is taken and the date thereof; and may request that a hearing be held. A suggested form of notice of appeal is set forth in Appendix A, but the notice of appeal may be in such other form as shall conform to the requirements of this section.

§ 3.13 Complaint.

(a) The contractor shall serve an original and three copies of a complaint with respect to the dispute which is the subject of the decision of the contracting officer (1) upon the contracting officer, if the complaint is filed with the notice of appeal; or (2) upon the hearing examiner, if the complaint has not been filed with the notice of appeal, within twenty days after the service of the notice of appeal upon the contracting officer or within such other period of time as may be ordered by the hearing examiner, upon application therefor with due notice to the other party or parties to the dispute.

(b) The complaint shall (1) identify the contract, by number, with respect to which the dispute has arisen, or is alleged to arise; (2) set forth the article or articles of the contract pertaining to disputes thereunder; (3) identify other articles of the contract relevant to the dispute; (4) identify the decision of the contracting officer from which the appeal is taken; (5) describe the portion or portions of such decision which the contractor claims to be erroneous, with a brief statement therefor; and (6), if the contractor desires an oral hearing before the hearing examiner, contain a request that such hearing be held. A suggested form of complaint is set forth in Appendix B, but the complaint may be in such other form as shall conform to the requirements of this section.

(c) Documentary evidence in support of the allegations of the complaint may be filed as exhibits thereto, subject to a motion to strike by an adverse party at the hearing or, if no hearing is requested or ordered, at the time the answer is filed.

§ 3.14 Transmittal of notice of appeal.

When the contracting officer has been served with a notice of appeal, or with a notice of appeal and complaint, as the case may be, he shall forthwith endorse the date of such receipt on the original and copies thereof and within ten days thereafter forward to the hearing examiner (a) the original and two copies of such notice of appeal or of such notice of appeal and complaint, as the case may be, and (b) three copies of the contract, the findings of fact and decision of the contracting officer, and supporting data, correspondence, or other documents relative to the dispute, together with a list thereof. The contracting officer shall simultaneously serve one copy of each document (except the contract), together with a copy of the list of all such documents, upon the appellant.

§ 3.15 Notification of parties by hearing examiner.

Upon receipt thereby of the material referred to in § 3.14, the hearing examiner shall forthwith docket the appeal and so notify the parties.

§ 3.16 Answer.

(a) Within twenty days after service of the complaint, or within such other period of time as may be ordered by the hearing examiner upon application therefor with due notice to the other party or parties, the contracting officer or other adverse party, as the case may be, shall prepare and serve an original and two copies of an answer to such complaint upon the hearing examiner.

(b) The answer shall state in short and plain terms the defense to each claim asserted and shall admit or deny averments upon which the appellant relies. If the answering party is without knowledge or information sufficient to form a belief as to the truth of an averment, the answer shall so state, and this has the effect of a denial. Affirmative defenses shall be stated separately in the answer.

(c) Lack of jurisdiction of the hearing examiner to hear the appeal and failure to state a claim upon which relief can be granted may be asserted in the answer or may be raised by appropriate motion, as provided in § 3.19.

(d) Documentary evidence in support of defenses contained in the answer may be filed as exhibits thereto, subject to a motion to strike at the hearing or, if no hearing is requested or ordered, within ten days after service of the answer.

§ 3.17 Admissions.

The provisions of § 2.739 of this chapter (the AEC Rules of Practice) shall be applicable to proceedings under this part.

§ 3.18 Amendments of pleadings.

(a) At any time before hearing or before submission of a case by the parties without hearing, the hearing examiner in his discretion may permit a party, upon appropriate application and with notice to the other party or parties, to amend his complaint or answer. The hearing examiner may, upon his own initiative or upon application by a party, order another party to make a more definite statement of its complaint or answer, or to reply to an answer.

(b) When issues within the proper scope of the appeal but not raised by the complaint and answer are tried by express or implied consent of the parties, such issues shall be treated in all respects as if they had been raised in such complaint and answer. Such amendment of the complaint and answer as may be necessary to cause them to conform to the evidence may be made upon motion at any time, even after decision, but failure so to amend will not affect the result of the trial of such issues. If evidence is objected to at the hearing on the ground that it is not within the issues raised by the complaint and answer, the hearing examiner may allow the pleadings to be so amended within the proper scope of the appeal when the presentation of the merits of the action will be served thereby and the objecting party shall not be materially prejudiced in the presentation of his case: *Provided, however,* That the hearing examiner may grant, in appropriate circumstances, a continuance of the hearing to enable the objecting party to meet such evidence.

§ 3.19 Motions.

(a) Unless raised by the answer, lack of jurisdiction and failure to state a claim upon which relief can be granted must be raised by motion before the hearing on the merits. Such motions shall be heard and determined before hearing on the merits unless the hearing examiner orders that determination of the motion be deferred pending hearing on both the merits and the motion. The hearing examiner has the right at any time to recognize his lack of jurisdiction to proceed in a particular case.

(b) With respect to a motion to dismiss for failure to state a claim upon which relief can be granted, the hearing examiner, in his discretion, may permit a party to amend his complaint, within the proper scope of the appeal. If the hearing examiner thereafter finds that the complaint, with such amendments as may be offered and permitted, fails to state a claim upon which relief can be granted, the appeal shall be dismissed.

(c) The hearing examiner may, in his discretion, hear and grant any other proper motion filed by any party.

§ 3.20 Pre-hearing conferences.

The provisions of § 2.740 of this chapter (the AEC Rules of Practice) shall be applicable to proceedings under this part.

§ 3.21 Request for hearing by answering party.

If a hearing has not been requested by a party in the notice of appeal or complaint, another party may, not later than the filing date of the answer or in the answer, request that a hearing be held by the hearing examiner.

§ 3.22 Decision by hearing examiner without hearing.

If a hearing has not been requested by any party and the hearing examiner does not order a hearing on his own motion, briefs may be filed with the hearing examiner by each party within such period of time as may be allowed by the hearing examiner. Upon the filing of such briefs and of such reply briefs as he may by order permit, the hearing examiner shall proceed to a decision of the appeal on the basis of the record then before him.

HEARINGS

§ 3.30 Notice of hearing.

If a hearing has been requested by either party or ordered by the hearing examiner on his own motion, the hearing examiner shall fix the time when and the place where such hearing will be conducted and shall serve upon the parties at least thirty days' notice thereof in writing, unless the parties shall stipulate to a shorter time. In fixing a

time and place for hearing, the hearing examiner shall give due regard to the convenience and necessity of the parties or their representatives.

§ 3.31 Place of hearing.

Hearings ordinarily shall be held at the location of the AEC office administering the contract, but may be held at the AEC Headquarters Building at Germantown, Maryland, or such other place as shall be determined by the hearing examiner, on his own motion or upon appropriate application therefor by a party.

§ 3.32 Absence of parties or counsel.

The unexcused absence of a party or his authorized representative at the time and place set for the hearing shall not be the occasion for delay. In such event, the hearing shall proceed, and the appeal shall be deemed as having been submitted without oral testimony or argument on behalf of such absent party.

§ 3.33 Official reporter; transcript.

The provisions of § 2.743 of this chapter (the AEC Rules of Practice) shall be applicable to proceedings under this part.

§ 3.34 Conduct of hearings.

(a) The hearing shall be conducted as a trial de novo of (1) the issues of fact raised before the contracting officer with respect to the dispute which is the subject of the appeal, and (2) any relevant issue of law, and the appeal shall be considered by the hearing examiner as though such issues were first tried before him.

(b) The provisions of § 2.733, "Powers of Presiding Officers," and § 2.747, "Evidence," of this chapter (the AEC Rules of Practice) shall be applicable to proceedings under this part.

(c) Except as the hearing examiner shall otherwise order in the interests of justice, the party making a claim or claims which is or are the subject of the dispute shall have the burden of proof.

(d) Witnesses shall be examined orally under oath or affirmation, unless the testimony of such witness is stipulated or the hearing examiner shall otherwise order. Attention of the witness shall be invited to the penalties provided in 18 U.S.C. section 1001 or 18 U.S.C. section 1621, as appropriate.

§ 3.35 Trial briefs.

The hearing examiner in his discretion may order any party, prior to the commencement or during the course of the hearing, to file a trial brief, or to supplement or amend such brief, with respect to the issues of fact and law properly presented and tried at such hearing pursuant to the rules contained in this part.

§ 3.36 Subpenas.

The provisions of § 2.744 of this chapter (the AEC Rules of Practice) shall be applicable to proceedings under this part.

§ 3.37 Depositions.

The provisions of § 2.745 of this chapter (the AEC Rules of Practice) shall be applicable to proceedings under this part.

§ 3.38 Discovery and production of documents and things for inspection, copying, or photographing.

(a) Upon motion of any party showing good cause therefor and upon notice to all other parties, the hearing examiner may (1) order any party to produce and permit the inspection and copying or photographing, by or on behalf of the moving party, of any designated documents, papers, books, accounts, letters, photographs, objects, or tangible things, not privileged in the opinion of the hearing examiner, which are in such party's possession, custody, or control and which constitute or contain evidence (including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of relevant facts) regarding any matter that is relevant to the subject matter involved in the pending appeal, whether it relates to the claim or defense of a party; or (2) order any party to permit entry upon designated land or other property in his or its possession or control for the purpose of inspecting, measuring, surveying, or photographing the property or any designated object or operation thereon which is relevant as described in subparagraph (1) of this paragraph.

(b) It is not ground for objection to the motion that the evidence will be inadmissible at the trial if the evidence sought appears reasonably calculated to lead to the discovery of admissible evidence.

(c) The order shall specify the time, place, and manner of making the inspection and taking the copies and photographs and may prescribe such terms and conditions as are just. The hearing examiner may make an order that the inspection, copying, measuring, surveying, or photographing shall be limited to certain matters, or that secret processes, developments, or research need not be disclosed; or the hearing examiner may make any other order which justice requires to protect the party from annoyance, embarrassment, or oppression.

§ 3.39 Requests for withholding documents from public record.

(a) The hearing examiner may order withheld from the public record in any appeal any document or information therein if disclosure of its contents is not required in the public interest and would adversely affect the interest of the party concerned. Such withholding from the public record shall not, however, affect the right of persons properly and directly concerned to inspect the document.

(b) Any party requesting that any document or information therein be withheld from public disclosure shall make prompt application therefor to the hearing examiner, identifying the material and giving the reasons, with notice to the other parties. The hearing examiner may grant such request upon a finding that public disclosure is not required in the public interest and would adversely affect the interest of the party concerned.

DECISIONS

§ 3.40 Briefs.

The hearing examiner may order such briefs to be filed by each party after the conclusion of the hearing as he may provide and within such reasonable periods of time as he may allow.

§ 3.41 Record for decision.

The exclusive record for decision by the hearing examiner shall consist of (a) the findings of fact and decision of the contracting officer, (b) the notice of appeal, (c) the contract, supporting data, correspondence, and other documents transmitted by the contracting officer to the hearing examiner pursuant to § 3.14, (d) the pleadings, (e) the transcript of the hearing, if any, and (f) all other written motions, orders, briefs, and other documents of public record. No other evidence shall be considered by the hearing examiner.

§ 3.42 Decision.

(a) When an appeal is taken pursuant to a disputes clause in a contract which provides only for appeals from decisions on questions of fact, the hearing examiner shall consider and decide all questions of law necessary for the complete adjudication of all said questions of fact.

(b) The hearing examiner shall make specific findings of fact and conclusions of law in writing, supported by the substantial evidence of record in the proceeding, and shall render a decision based thereon.

(c) The decision of the hearing examiner shall constitute the final action of the Commission sixty days after the date thereof, unless any party shall within such period file a petition for review of such decision and the Commission, in its discretion, shall thereafter grant such petition.

COMMISSION REVIEW

§ 3.50 Commission review.

(a) The petition for review shall concisely and plainly state (1) the facts upon which the petitioner bases his claim that he has been adversely affected or aggrieved by the decision of the hearing examiner or that review thereof is required in the public interest under applicable statutes and rules, and (2) the relief or disposition of the appeal which the petitioner seeks by review.

(b) Ten copies of the petition for review and brief in support thereof shall be filed with the Secretary of the Commission, who shall forthwith serve upon each member of the Commission one copy of the petition and brief, together with a copy of the decision of the hearing examiner.

(c) Within twenty days after the filing of the petition for review and brief in support thereof, the respondent may file ten copies of an opposing brief with the Secretary of the Commission, who shall forthwith serve one copy thereof upon each member of the Commission.

(d) In their consideration of the petition for review and briefs filed with respect thereto, the Commission may

take into consideration, without limitation, (1) the propriety of the award on its face or the size of the award; (2) compliance by the contractor, contracting officer, and the hearing examiner with the requirements and standards of applicable statutes and rules and the contract involved; and (3) important questions of policy or administration presented by the record in the case.

(e) If the Commission denies the petition for review, the decision of the hearing examiner shall thereupon become the final action of the Commission. If the Commission grants the petition for review, it shall (1) direct the hearing examiner to forthwith certify the record of the case to the Commission and (2) issue an order for review which shall fix a time within which the parties may submit exceptions and briefs with reference to the decision of the hearing examiner.

(f) Each exception submitted pursuant to paragraph (e)(2) of this section shall be separately numbered, shall identify the part of the decision of the hearing examiner to which objection is made, shall designate by specific reference the portions of the record relied upon in support of the objections, and shall state the grounds for the exception, including the citation of authorities in support thereof. Any objection to a ruling, finding, or conclusion which is not made part of the exceptions shall be deemed to have been waived, and the Commission need not consider such objection.

(g) After the expiration of the time provided by Commission order pursuant to paragraph (e)(2) of this section, the Commission shall proceed to a final decision on the appeal, in the manner provided in §§ 2.750, 2.753(b), 2.754, 2.755, and 2.756 of this chapter (the AEC Rules of Practice).

(h) No AEC officer or employee, other than (1) a Commissioner, (2) a member of his immediate staff, or (3) Commission personnel who have not previously been involved, directly or indirectly, in the subject matter of the proceeding, in the proceeding itself, or in a factually related case, may participate or advise in the consideration of a petition for review or in the final decision of the Commission, except as a witness or counsel in the formal proceeding.

MISCELLANEOUS

§ 3.60 Effective date.

The revised rules contained in this part shall become prospectively effective, to the extent applicable, upon publication thereof in the FEDERAL REGISTER.

The rules contained in 10 CFR Part 3, "Rules of Procedure of United States Atomic Energy Commission Advisory Board on Contract Appeals", 15 F.R. 5834 (Aug. 30, 1955), are hereby repealed.

APPENDIX A

UNITED STATES ATOMIC ENERGY COMMISSION

Appeal of

(Contractor or subcontractor)

Under Contract (Subcontract) No. ---

Docket No. CA-

NOTICE OF APPEAL

Notice of appeal hereby is filed by ---
(Name
--- under its
of contractor or subcontractor)
Contract (or Subcontract) No. ---
dated --- with ---.
The decision(s) of the AEC Contracting Officer, ---, from
(Name and location)
which the appeal is taken, with the date(s) thereof is (are) as follows:

(Here insert by numbered paragraphs the decision or decisions, in substantially the following form:

1. The decision of the Contracting Officer dated November 4, 1958, that radiator valves must be furnished and installed on invectors.

2. The decision of the Contracting Officer dated November 4, 1958, denying the Contractor's claim for an equitable adjustment in contract price.)

(Name of contractor or subcontractor)
By: ---
Authorized officer of, or attorney for, appellant
Address: ---
Telephone No. ---
Dated: ---

APPENDIX B

UNITED STATES ATOMIC ENERGY COMMISSION

Appeal of

(Name of contractor or subcontractor)

Under Contract (Subcontract) No. ---

Docket No. CA- ---

COMPLAINT

The appellant states to the Commission as follows:

1. This appeal arises under Contract (or Subcontract) No. --- dated ---.

2. Said Contract (or Subcontract) contains a disputes article reading as follows:

3. Other articles of the Contract (or Subcontract) relevant to the dispute which is the subject of this appeal are as follows:

4. This appeal is taken from the decision(s) of the Contracting Officer, ---
--- dated ---.
(Name and title)

5. The portion or portions of said decision(s) which appellant claims to be erroneous, with reasons therefor, is (are) as follows:

6. The following document(s) is (are) submitted in support of the appeal:

NOTE: Here list, by exhibit number, a short description of the document(s) submitted, each copy of which should be marked, as follows:

Exhibit No. --- to Complaint of ---

(Name of Contractor or Subcontractor)
Docket No. CA- ---.

7. Appellant requests that an oral hearing on the appeal be held by the AEC Hearing Examiner (NOTE: This paragraph should be omitted where the right to hearing is waived).

Signed ---
(Authorized Officer or representative of Appellant)
Address ---

Telephone No. ---
Dated: ---

A. R. LUEDECKE,
General Manager.

[F.R. Doc. 59-10084; Filed, Dec. 28, 1959; 8:45 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter II—Civil Aeronautics Board

SUBCHAPTER B—ECONOMIC REGULATIONS

[Reg. ER-291]

PART 296—CLASSIFICATION AND EXEMPTION OF INDIRECT AIR CARRIERS

Applicability to State of Hawaii

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 23d day of December 1959.

The Board has provided separate exemption authority and regulations to govern the operations of indirect air carriers of property, depending upon whether they are engaged in interstate air transportation or in overseas and/or foreign air transportation. Part 296 of the Economic Regulations governs interstate air freight forwarder activities, and Part 297 provides the authority for freight forwarder activities in overseas and foreign air transportation. Thus indirect air carrier activities between Hawaii and the other States were governed by Part 297 as long as Hawaii was a Territory.

Pursuant to recent amendment to Part 297 the applicability of that Part to operations between the State of Hawaii and the other States will expire on March 9, 1960. The instant amendment to Part 296 makes it clear that operations between Hawaii and other States will henceforth be authorized under Part 296.

Operations of air freight forwarders and cooperative shippers associations conducted within Hawaii have also been authorized and regulated by the Board under Part 296. They will continue to be authorized and regulated in accordance with Part 296 pursuant to section 101(3) of the Federal Aviation Act. Purely intrastate operations of such indirect air carriers within Hawaii will continue to be authorized and regulated under Part 296 pursuant to section 15 of the Hawaii Statehood Act, Public Law 86-3.[1]

Accordingly, the Board will amend footnote 2 of Part 296 to express the applicability of said part to indirect air carrier operations between Hawaii, the other 49 States and the District of Columbia. The Board finds that the cir-

[1] Section 15 provides in pertinent part: * * * a Territorial law enacted by the Congress shall be terminated two years after the date of admission of the State of Hawaii into the Union or upon the effective date of any law enacted by the State of Hawaii which amends or repeals it, whichever may occur first. As used in this section, the term "Territorial laws" includes (in addition to laws enacted by the Territorial Legislature of Hawaii) all laws or parts thereof enacted by the Congress the validity of which is dependent solely upon the authority of the Congress to provide for the government of Hawaii prior to its admission into the Union, * * *.

cumstances which warranted the exemption granted to freight forwarders and cooperative shippers associations in the Air Freight Forwarder Investigation, Docket No. 5947 et al., and Part 296, apply equally to services to be performed by such indirect air carriers between the several States, or the District of Columbia, and the State of Hawaii, and continue to apply to their service within Hawaii. Since this amendment imposes no additional burden upon any person, notice and public procedure thereon are unnecessary and it may be made effective irrespective of the 30 days' notice requirement.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends Part 296 of the Economic Regulations (14 CFR Part 296), effective upon the date of the admission of the State of Hawaii to the Union, by amending footnote 2 which relates to the words "interstate air transportation" in paragraph (a) to § 296.1 to read as follows:

[2] "Interstate air transportation" shall have the meaning ascribed to it in section 101(21) of the Federal Aviation Act and the word "State" used therein shall include Alaska and Hawaii.

(Sec. 204(a), 72 Stat. 743. Interpret or apply secs. 101, 416, 72 Stat. 738, 771; 49 U.S.C. 1301, 1386; and sec. 15 of the Hawaii Statehood Act, Pub. Law 86-3)

By the Civil Aeronautics Board:

[SEAL] MABEL MCCART,
Acting Secretary.

[F.R. Doc. 59-11059; Filed, Dec. 28, 1959; 8:50 a.m.]

Chapter III—Federal Aviation Agency

SUBCHAPTER E—AIR NAVIGATION REGULATIONS

[Airspace Docket No. 59-WA-149; Amdt. 118]

PART 600—DESIGNATION OF FEDERAL AIRWAYS

Modification of Federal Airway

On September 12, 1959, a Notice of Proposed Rule-Making was published in the FEDERAL REGISTER (24 F.R. 7383) stating that the Federal Aviation Agency proposed to amend § 600.6005 of the regulations of the Administrator by modifying a segment of VOR Federal airway No. 5 between the Bowling Green, Ky., VOR and the Louisville, Ky., VORTAC via a VOR to be installed near New Hope, Ky.

As stated in the notice, Victor 5 presently extends from Jacksonville, Fla., to London, Ont., Canada. The modification of this airway segment between Bowling Green and Louisville via a VOR to be commissioned approximately December 1, 1959, at latitude 37°37'53" N., longitude 85°40'34" W., will provide more precise navigational guidance. (Subsequent to the publication of the notice, the commissioning date indicated therein was rescheduled.) This modification will result in this airway segment being designated from the Bowling Green VOR via the New Hope VOR to the Louisville VORTAC. The modification of Victor 5-E, as stated in the Notice, is being held in abeyance pending the issuance of a Notice of Proposed Rule-Making proposing a different alignment. The control areas associated with Victor 5 are so designated that they will automatically conform to the modified airway. Accordingly, no amendment relating to such control areas is necessary.

No adverse comments were received regarding the proposed amendment.

Interested persons have been afforded an opportunity to participate in the making of the rules herein adopted, and due consideration has been given to all relevant matter presented.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (24 F.R. 4530) § 600.6005 (14 CFR, 1958 Supp., 600.6005) is amended as follows:

In the text of § 600.6005 *VOR Federal airway No. 5 (Jacksonville, Fla., to London, Ont.)*, delete "intersection of the Bowling Green omnirange 048° True and the Louisville omnirange 189° True radials; Louisville, Ky., omnirange station, including an east alternate from the Bowling Green omnirange station to the Louisville omnirange station via the intersection of the Bowling Green omnirange 063° True and the Louisville omnirange 168° True radials;" and substitute therefor "New Hope, Ky., VOR, including an east alternate via the INT of the Bowling Green VOR 063° and the Louisville, Ky., VORTAC 168° radials; Louisville, Ky., VORTAC;".

This amendment shall become effective 0001 e.s.t. February 11, 1960.

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

Issued in Washington, D.C., on December 21, 1959.

JOHN H. HILTON,
Acting Director, Bureau of Air Traffic Management.

[F.R. Doc. 59-11017; Filed, Dec. 28, 1959; 8:47 a.m.]

[Airspace Docket No. 59-WA-204]

[Amdt. 141]

PART 600—DESIGNATION OF FEDERAL AIRWAYS

[Amdt. 174]

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

Revocation of Segment of Federal Airway and Associated Control Areas

On September 30, 1959, a Notice of Proposed Rule-Making was published in the FEDERAL REGISTER (24 F.R. 7880) stating that the Federal Aviation Agency was considering an amendment to §§ 600.213, 601.213 and 601.4213 of the regulations of the Administrator which would revoke the segment of Red Federal airway No. 13, and its associated control areas, which extends from Franklin, Mass., to Bedford, Mass.

As stated in the notice, Red 13 presently extends from Wilkes-Barre, Pa., to Boston, Mass. The Federal Aviation Agency IFR peak day survey during the period July 1, 1958, through June 30, 1959, showed less than eight aircraft movements on this segment of Red 13 between Franklin and Bedford. On the basis of this survey, the retention of this airway segment and its associated control areas is unjustified as an assignment of airspace and the revocation thereof is in the public interest. This action will result in Red 13 extending from Wilkes-Barre to Franklin. In addition, the caption to § 601.4213 relating to the associated reporting points is amended. Crystal Lake, Pa., the actual terminal of the airway is reflected in the captions of the amended sections in lieu of Wilkes-Barre, Pa.

No adverse comments were received regarding the proposed amendments.

Interested persons have been afforded an opportunity to participate in the making of the rules herein adopted, and due consideration has been given to all relevant matter presented.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (24 F.R. 4530) § 600.213 (14 CFR, 1958 Supp., 600.213, 24 F.R. 2227), § 601.213 (14 CFR, 1958 Supp., 601.213, 24 F.R. 2231), and § 601.4213 (24 F.R. 2232, 3873) are amended as follows:

1. Section 600.213 *Red Federal airway No. 13 (Wilkes-Barre, Pa., to Boston, Mass.)*.

(a) In the caption delete "*(Wilkes-Barre, Pa., to Boston, Mass.)*" and substitute therefor "*(Crystal Lake, Pa., to Franklin, Mass.)*."

(b) In the text delete "via the intersection of the north course of the Providence, R.I., radio range and the southwest course of the Boston, Mass., radio range to the intersection of a direct line between the intersection of the north course of the Providence radio range and the southwest course of the Boston radio range and the Bedford, Mass., nondirectional radio beacon (located at latitude 42°28'47", longitude 71°23'21") with the west course of the Boston, Mass., radio range." and substitute therefor "to the INT of the N course of the Providence RR and the SW course of the Boston, Mass., RR."

2. In the caption of § 601.213 *Red Federal airway No. 13 control areas (Wilkes-Barre, Pa., to Boston, Mass.)*, delete "*(Wilkes-Barre, Pa., to Boston, Mass.)*" and substitute therefor "*(Crystal Lake, Pa., to Franklin, Mass.)*."

3. In the caption of §601.4213 *Red Federal airway No. 13 (Wilkes-Barre, Pa., to Boston, Mass.)*, delete "*(Wilkes-Barre, Pa., to Boston, Mass.)*," and substitute therefor "*(Crystal Lake, Pa., to Franklin, Mass.)*."

These amendments shall become effective 0001 e.s.t. February 11, 1960.

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

Issued in Washington, D.C. on December 21, 1959.

JOHN H. HILTON,
Acting Director, Bureau of Air Traffic Management.

[F.R. Doc. 59-11023; Filed, Dec. 28, 1959; 8:47 a.m.]

[Airspact Docket No. 59-WA-202]

[Amdt. 137]

PART 600—DESIGNATION OF FEDERAL AIRWAYS

[Amdt. 168]

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

Revocation of Segment of Federal Airway, Associated Control Areas and Designated Reporting Point

On September 23, 1959, a Notice of Proposed Rule-Making was published in the FEDERAL REGISTER (24 F.R. 7651) stating that the Federal Aviation Agency was considering an amendment to §§ 600.220, 601.220 and 601.4220 of the regulations of the Administrator which would revoke the segment of Red Federal airway No. 20 which extends from Cleveland, Ohio, to Columbiana, Ohio.

As stated in the notice, Red 20 presently extends from Lansing, Mich., to Washington, D.C. The Federal Aviation Agency IFR peak day survey for the last half of the calendar year 1958, and the first half of the calendar year 1959, showed aircraft movements for the Cleveland to Akron, Ohio, segment of this airway as two and two, respectively; and for the Akron to Columbiana segment as four and three, respectively. On the basis of this survey, the retention of this segment and its associated control areas is unjustified as an assignment of airspace and the revocation thereof is in the public interest. This action will result in Red 20 extending from Lansing to Cleveland and from Columbiana to Washington. Concurrently with this action, § 601.4220 is amended to conform with the modified airway and the Akron, Ohio, RR is being revoked as a reporting point.

No adverse comments were received concerning the proposed amendments.

Interested persons have been afforded an opportunity to participate in the making of the rules herein adopted, and due consideration has been given to all relevant matter presented.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (24 F.R. 4530) § 600.220, 601.220 and 601.4220 (14 CFR, 1958 supp., 600.220, 601.220, 601.4220) are amended as follows:

1. Section 600.220 *Red Federal airway No. 20 (Lansing, Mich., to Washington, D.C.)*.

(a) In the caption, delete "*(Lansing, Mich., to Washington, D.C.)*" and substitute therefor, "*(Lansing, Mich., to Cleveland, Ohio, and Columbiana, Ohio, to Washington, D.C.)*".

(b) In the text, delete "Cleveland, Ohio, radio range station; Akron, Ohio, radio range station; the intersection of the southeast course of the Akron, Ohio, radio range and the northwest course of the Pittsburgh, Pa., radio range;" and substitute therefor, "to the Cleveland, Ohio, RR. From the INT of the S course of the Youngstown, Ohio, RR and the NW course of the Pittsburgh, Pa., RR via the".

2. In the caption of § 601.220 *Red Federal airway No. 20 control areas (Lansing, Mich., to Washington, D.C.)*, delete "*(Lansing, Mich., to Washington, D.C.)*" and substitute therefor, "*(Lansing, Mich., to Cleveland, Ohio, and Columbiana, Ohio, to Washington, D.C.)*".

3. Section 601.4220 *Red Federal airway No. 20 (Lansing, Mich., to Washington, D.C.)*.

(a) In the caption, delete "*(Lansing, Mich., to Washington, D.C.)*" and substitute therefor, "*(Lansing, Mich., to Cleveland, Ohio, and Columbiana, Ohio, to Washington, D.C.)*".

(b) In the text, delete "Akron, Ohio, radio range station".

These amendments shall become effective 0001 e.s.t. February 11, 1960.

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

Issued in Washington, D.C., on December 21, 1959.

JOHN H. HILTON,
Acting Director, Bureau of Air Traffic Management.

[F.R. Doc. 59-11022; Filed, Dec. 28, 1959; 8:47 a.m.]

[Airspace Docket No. 59-WA-41]

[Amdt. 144]

PART 600—DESIGNATION OF FEDERAL AIRWAYS

[Amdt. 177]

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

Modification of Federal Airway and Revocation and Redesignation of Reporting Points

On September 23, 1959, a Notice of Proposed Rule-Making was published in the FEDERAL REGISTER (24 F.R. 7652) stating that the Federal Aviation Agency was considering an amendment to §§ 600.6042 and 601.7001 of the regulations of the Administrator which would modify the segment of VOR Federal airway No. 42 between Cleveland, Ohio, and Imperial, Pa., and revoke the Atwater, Ohio, intersection as a reporting point.

As stated in the notice, Victor 42 presently extends from Flint, Mich., to Washington, D.C. The Federal Aviation Agency is modifying the segment of Victor 42 from the Cleveland VOR to the Imperial VOR. The realignment of this segment of the airway via an intermediate VOR to be commissioned approximately December 15, 1959, near Akron, Ohio, at latitude 41°06'28" N., longitude 81°12'10" W., will provide more precise navigational guidance for aircraft using this airway. This action will result in the airway segment being designated from the Cleveland VOR via the Akron VOR to the Imperial VOR. Concurrently, with this action, the Atwater, Ohio, Intersection, Domestic VOR reporting point, described as the point of intersection of the Youngstown, Ohio, omnirange 233° and the Cleveland, Ohio, omnirange 116° radials is revoked. The control areas associated with Victor 42 are so designated that they will automatically conform to the modified airway. Accordingly, no amendment relating to such control areas is necessary. Moreover, although not mentioned in the Notice, it is necessary to redescribe the Power Point, Ohio, intersection reporting point as the intersection of the Navarre, Ohio, VOR 084° and the Akron VOR 130° radials to coincide with the intersection of the modified Victor 42 and VOR Federal airway No. 276.

No adverse comments were received regarding the proposed amendments.

Interested persons have been afforded an opportunity to participate in the making of the rules herein adopted, and due consideration has been given to all relevant matter presented.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (24 F.R. 4530) § 600.6042 (24 F.R. 3226) and § 601.7001 (14 CFR, 1958 Supp., 601.7001) are amended as follows:

1. In the text of § 600.6042 *VOR Federal airway No. 42 (Flint, Mich., to Washington, D.C.)*, delete "point of INT of the Youngstown, Ohio, VOR 233° and the Cleveland, Ohio, 116° radials;" and substitute therefor "Akron, Ohio, VOR;".

2. In § 601.7001 *Domestic VOR reporting points:*

(a) In the text delete "Atwater intersection: The intersection of the Youngstown, Ohio, omnirange 233° True and the Cleveland, Ohio, omnirange 116° True radials."

(b) In the text amend Power Point intersection to read: "Power Point INT: The INT of the Navarre, Ohio, VOR 084° and the Akron, Ohio, VOR 130° radials."

These amendments shall become effective 0001 e.s.t. February 11, 1960.

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

Issued in Washington, D.C., on December 21, 1959.

JOHN H. HILTON,
Acting Director, Bureau of Air Traffic Management.

[F.R. Doc. 59-11018; Filed, Dec. 28, 1959; 8:47 a.m.]

[Airspace Docket No. 59-WA-150]

[Amdt. 87]

PART 600—DESIGNATION OF FEDERAL AIRWAYS

[Amdt. 97]

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

Modification of Federal Airway Designation and Redesignation of Reporting Points

The purpose of these amendments to §§ 600.6051 and 601.7001 of the regulations of the Administrator is to modify VOR Federal airway No. 51 between Crossville, Tenn., VOR and Louisville, Ky., VORTAC via a VOR to be installed near New Hope, Ky.

The segment of Victor 51 from Crossville to Louisville is presently designated direct station to station. The modification of the airway over an intermediate VOR to be commissioned approximately December 15, 1959, at latitude 37°37'53" N., longitude 85°40'34" W., will provide more precise navigational guidance. Such modification will result in this airway segment being designated from the Crossville VOR via the New Hope VOR to the Louisville VORTAC. The control areas associated with Victor 51 are so designated that they will automatically conform to the modified airway. Accordingly, no amendment relating to such control areas is necessary. Coincident with this action, § 601.7001 is amended by adding New Hope, as a reporting point and redesignating Highway intersection via the intersection of the Nashville VOR 064° and the Crossville VOR 343° radials. The redesignation of Highway intersection is necessary to provide a common intersection for Victor 51, 140 and 1518. Concurrently, Victor 140 and 1518 are being modified between Nashville, Tenn., and London, Ky., direct station to station in Airspace Docket 59-WA-153.

This action has been coordinated with the Army, the Navy, the Air Force, and interested civil aviation organizations. Accordingly, compliance with the Notice, and public procedures provisions of section 4 of the Administrative Procedure Act have, in effect, been complied with. However, since it is necessary that sufficient time be allowed to permit appropriate changes to be made on aeronautical charts, these amendments will become effective more than 30 days after publication.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (24 F.R. 4530), § 600.6051 (14 CFR, 1958 supp., 600.6051, 24 F.R. 1282, 2228, 3226); § 601.7001 (14 CFR, 1958 Supp., 601.7001) are amended as follows:

1. In the text of § 600.6051 *VOR Federal airway No. 51 (Key West, Fla., to Chicago, Ill.)*, delete "Louisville, Ky., VOR;" and substitute therefor "New Hope, Ky., VOR; Louisville, Ky., VORTAC;".

2. In § 601.7001 *Domestic VOR reporting points:*

(a) In the text, Highway intersection is amended to read: Highway INT: The INT of the Nashville, Tenn., VOR, 064° and the Crossville, Tenn., VOR 343° radials.

(b) In the text add: New Hope, Ky., VOR.

These amendments shall become effective 0001 e.s.t., February 11, 1960.

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

Issued in Washington, D.C., on December 21, 1959.

JOHN H. HILTON,
Acting Director, Bureau of Air Traffic Management.

[F.R. Doc. 59-11029; Filed, Dec. 28, 1959; 8:47 a.m.]

[Airspace Docket No. 59-WA-153]

[Amdt. 86]

PART 600—DESIGNATION OF FEDERAL AIRWAYS

[Amdt. 96]

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

Designation and Modification of Federal Airway and Associated Control Areas

The purpose of these amendments to §§ 600.6140, 600.6618 and 601.6140 of the regulations of the Administrator, is to modify VOR Federal airway No. 1518 and VOR Federal airway No. 140 including a north alternate and to designate a south alternate between Nashville, Tenn., VOR and London, Ky., VOR.

The segment of Victor 140 from Nashville to London is presently designated via the intersection of the Nashville VOR 059° and the London VOR 251° radials. Victor 140 N between Nashville and Highway intersection is presently designated via the intersection of the Nashville VOR 044° and the Bowling Green, Ky., VOR 101° radials. The modification of Victor 140 between Nashville and London is direct station to station including a south alternate. The modification of 140 N is via the intersection of the Nashville VOR 044° and the London VOR 260° radials. Victor 1518 which overlies Victor 140 between Nashville and London is modified concurrently with the modification of Victor 140. The modification of Victor 140 and Victor 1518 from Nashville direct to London will provide a direct route between these points and will improve the navigational guidance over this route segment. The designation of the south alternate to Victor 140 and the modification of the north alternate extending from Nashville to London will provide dual routes for traffic arriving, departing and overflying Nashville and London. Concurrently, the reporting point described as the intersection of the Bowling Green VOR 101° and the Crossville VOR 349° radials (Highway, Tenn., intersection) is being redesignated as the intersection of the Nashville VOR 064° an dthe Crossville VOR 343° radials in Airspace Docket No. 59-WA-150. The redesignated Highway intersection is a common intersection for VOR Federal airways No. 51, 140 and 1518. The control areas associated with Victor 140 are redesignated to include the south alternate between Nashville and London. Otherwise, the control areas associated with Victor 140 are so designated that they will automatically conform to the modified airway. Also, the control areas associated with Victor 1518 are so designated that they will automatically conform to the modified airway. Accordingly, no amendment relating to such control areas associated with Victor 1518 is necessary.

This action has been coordinated with the Army, the Navy, the Air Force, and interested civil aviation organizations. Accordingly, compliance with the Notice, and public procedures provisions of section 4 of the Administrative Procedure Act is unnecessary. However, since it is necessary that sufficient time be allowed to permit appropriate changes to be made on aeronautical charts, these amendments will become effective more than 30 days after publication.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (24 F.R. 4530) §§ 600.6140 and 600.6618 (14 CFR, 1958 Supp., 600.6140, 23 F.R. 10338, 24 F.R. 703; 600.6618, 23 F.R. 10340, 24 F.R. 2230, 24 F.R. 3871), and § 601.6140 (14 CFR, 1958 Supp., 601.6140) are amended as follows:

1. In the text of § 600.6140 *VOR Federal airway No. 140 (Amarillo, Tex., to New York, N.Y.)*, delete, "INT of the Nashville VOR 059° and the London VOR 251° radials, including a north alternate via the point of INT of the Nashville VOR 044° and the Bowling Green, Ky., VOR 101° radials; London, Ky., VOR;" and substitute therefor, "London, Ky., VOR, including a south alternate and also a north alternate via the INT of the Nashville VOR 044° and the London VOR 260° radials;".

2. In the text of § 600.6618 *VOR Federal airway No. 1518 (Los Angeles, Calif., to Washington, D.C.)*, delete, "intersection of the Nashville omnirange 059° True radial and the London VOR 251° radial;".

3. In the text of § 601.6140 *VOR Federal airway No. 140 control areas (Amarillo, Tex., to New York, N.Y.)*, delete, "including north alternates and a south alternate." and substitute therefor, "including north alternates and south alternates.".

These amendments shall become effective 0001 e.s.t. February 11, 1960.

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

Issued in Washington, D.C., on December 21, 1959.

JOHN H. HILTON,
Acting Director, Bureau of Air Traffic Management.

[F.R. Doc. 59-11021; Filed, Dec. 28, 1959; 8:47 a.m.]

[Airspace Docket No. 59-WA-63]

[Amdt. 115]

PART 600—DESIGNATION OF FEDERAL AIRWAYS

[Amdt. 142]

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

Extension of Federal Airway and Associated Control Areas

On September 12, 1959, a Notice of Proposed Rule-Making was published in the FEDERAL REGISTER (24 F.R. 7384) stating that the Federal Aviation Agency proposed to amend §§ 600.6178 and 601.6178 of the regulations of the Administrator which would extend VOR Federal airway No. 178 from the Paducah, Ky., VOR to the Lexington, Ky., VOR via the Central City, Ky., VOR and a new VOR to be installed near New Hope, Ky.

As stated in the Notice, Victor 178 presently extends from Farmington, Mo., to Paducah. The extension of Victor 178 to the Lexington VOR via the Central City VOR and the New Hope VOR, to be commissioned approximately December 15, 1959, at latitude 37°37'53" N., longitude 85°40'34" W., will provide a parallel east/west route from the Farmington VOR to the Lexington VOR for the high volume of traffic presently operating on VOR Federal airways No. 190 and No. 4, and will establish a bypass route for aircraft over-flying the Louisville, Ky., terminal area. Such action will result in the extension of Victor 178 and associated control areas being designated from the Paducah VOR via the Central City VOR, the New Hope VOR to the Lexington VOR.

No adverse comments were received regarding the proposed amendments.

Interested persons have been afforded an opportunity to participate in the making of the rules herein adopted, and due consideration has been given to all relevant matter presented.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (24 F.R. 4530) §§ 600.6178 and 601.6178 (14 CFR, 1958 Supp., 600.6178, 601.6178) are amended to read:

§ 600.6178 VOR Federal airway No. 178 (Farmington, Mo., to Lexington, Ky.).

From the Farmington, Mo., VOR via the Paducah, Ky., VOR, including a south alternate; Central City, Ky., VOR; New Hope, Ky., VOR; to the Lexington, Ky., VOR.

§ 601.6178 VOR Federal airway No. 178 control areas (Farmington, Mo., to Lexington, Ky.).

All of VOR Federal airway No. 178 including a south alternate.

These amendments shall become effective 0001 e.s.t. February 11, 1960.

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

Issued in Washington, D.C., on December 21, 1959.

JOHN H. HILTON,
Acting Director, Bureau of Air Traffic Management.

[F.R. Doc. 59-11019; Filed, Dec. 28, 1959; 8:47 a.m.]

[Airspace Docket No. 59-WA-406; Amdt. 169]

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

Revocation and Modification of Control Area Extensions

The purpose of this amendment to Part 601 and § 601.1161 of the regulations of the Administrator is to revoke the Chicago, Ill., control area extension No. 601.1157, and the Glenview, Ill., control area extension No. 601.1096 and to modify the Chicago, Ill., control area extension No. 601.1161.

The Chicago control area extension No. 601.1161 is presently described as that area within 30 mile radius of the Chicago Midway Airport and all that area within a 15 mile radius of the Chicago Heights, Ill., VOR including all that area east of the Chicago Midway Airport bounded on the northwest by Red Federal airway No. 28, on the east by Blue Federal airway No. 6 and on the south by Red Federal airway No. 12, and all that area southeast of the Chicago Midway Airport bounded on the north by Red Federal airway No. 12, on the east by Blue Federal airway No. 6, on the south by VOR Federal airway No. 8 and on the west by VOR Federal airway No. 7. The Chicago, Ill., control area extension No. 601.1157 is presently described as that airspace 5 miles either side of the O'Hare International Airport ILS localizer course extending from the outer marker to a point 20 miles northwest. The Glenview, Ill., control area extension No. 601.1096, is presently described as that airspace 5 miles either side of the northwest course of the Glenview radio range extending from the range station to a point 20 miles northwest.

The Federal Aviation Agency is modifying the Chicago control area extension No. 601.1161 by substituting Victor airways for the colored airways in the description of the control area extension. Moreover, since the airspace described in the Chicago control area extension No. 601.1157 and the Glenview control area extension No. 601.1096 lies wholly within the existing Milwaukee, Wis., control area extension No. 601.1188 and the Chicago control area extension No. 601.1161, these two control area extensions are being revoked. This action will result in the Chicago control area extension No. 601.1161 being described as all that area within a 30 mile radius of the Chicago Midway Airport and all that area within a 15 mile radius of the Chicago Heights VOR including all that area east and southeast of the Chicago Midway Airport bounded on the north by VOR Federal airway No. 100, on the east by VOR Federal airway No. 55, on the south by VOR Federal airway No. 8 and on the west by VOR Federal airway No. 7. The airspace encompassed by these modifications is essentially the same as that presently designated.

Since this amendment imposes no additional burden on the public, compliance with the notice, public procedure, and effective date requirements 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, § 601.1161 (14 CFR, 1958 Supp., Part 601, § 601.1161, 24 F.R. 7369; 7895) are amended as follows:

§ 601.1096 [Revocation]

1. Section 601.1096 *Control area extension (Glenview, Ill.)* is revoked.

§ 601.1157 [Revocation]

2. Section 601.1157 *Control area extension (Chicago, Ill.)* is revoked.

3. Section 601.1161 is amended to read:

§ 601.1161 Control area extension (Chicago, Ill.).

All that area within a 30 mile radius of the Chicago Midway Airport; all that area within a 15 mile radius of the Chicago Heights VOR; all that area E and SE of the Chicago Midway Airport bounded on the N by VOR Federal airway No. 100, on the E by VOR Federal airway No. 55, on the S by VOR Federal airway No. 8 and on the W by VOR Federal airway No. 7.

These amendments shall become effective 0001 e.s.t. February 11, 1960.

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

Issued in Washington, D.C., on December 21, 1959.

JOHN H. HILTON,
Acting Director, Bureau of Air Traffic Management.

[F.R. Doc. 59-11016; Filed, Dec. 28, 1959; 8:47 a.m.]

[Airspace Docket No. 59-KC-11a; Amdt. 170]

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

Revocation of Control Area Extension

On October 2, 1959, a Notice of Proposed Rule-Making was published in the FEDERAL REGISTER (24 F.R. 7967) stating that the Federal Aviation Agency was considering an amendment to Part 601 of the regulations of the Administrator which would revoke the Lone Rock, Wis., control area extension.

As stated in the notice, the Lone Rock control area extension is presently designated to include the airspace within a fifteen mile radius of the Lone Rock VOR, including the airspace within five miles either side of the 024° radial of the VOR extending from the VOR to a point twenty-five miles northeast. IFR air traffic operations records of the Chicago, Ill., Air Route Traffic Control Center disclose that only one instrument approach was conducted to the Lone Rock Airport during the calendar year 1958. In addition, the control areas associated with the Federal airways in the vicinity of Lone Rock are sufficient for the protection of IFR aircraft operations in this area. Therefore, the retention of this control area extension is unjustified as an assignment of airspace, and the revocation thereof is in the public interest.

No comments were received concerning the proposed amendment.

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

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 amended as follows:

Section 601.1100 *Control area extension (Lone Rock, Wis.)* is revoked.

This amendment shall become effective 0001 e.s.t. February 11, 1960.

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

Issued in Washington, D.C., on December 21, 1959.

JOHN H. HILTON,
Acting Director, Bureau of Air Traffic Management.

[F.R. Doc. 59-11015; Filed, Dec. 28, 1959; 8:47 a.m.]

[Reg. Docket No. 220; Amdt. 55]

PART 610—MINIMUM EN ROUTE IFR ALTITUDES

Miscellaneous Alterations

The minimum en route IFR altitudes appearing hereinafter have been coordinated with interested members of the industry in the regions concerned insofar as practicable. The altitudes are adopted without delay in order to provide for safety in air commerce. Pursuant to authority delegated to me by the Administrator (24 F.R. 5662), I find that a situation exists requiring immediate action 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 thirty days notice.

Part 610 is amended as follows:

Section 610.16 *Green Federal airway 6* is amended to read in part:

From Keesler AFB, Miss., LFR; to Mobile, Ala., LF/RBN; MEA 1,400.
From Alice, Tex., LFR; to Corpus Christi, Tex., LFR; MEA 1,800.

Section 610.103 *Amber Federal airway 3* is amended to read in part:

From Pueblo, Colo., LFR; to Parker INT, Colo.; MEA 8,900.
From Fountain, Colo., FM; to Pueblo, Colo., LFR, southbound only; MEA 7,000.
From Paker INT, Colo., to Denver, Colo., LFR; MEA 8,000.

Section 610.112 *Amber Federal airway 12* is amended to read in part:

From Hilo, Hawaii, LFR; to Kuku Point INT, Hawaii; MEA 3,000.

Section 610.212 *Red Federal airway 12* is deleted.

Section 610.217 *Red Federal airway 17* is amended to delete:

From Baltimore, Md., LFR; to INT E crs Baltimore and SW crs, Millville, N.J., LFR; MEA 1,500.

Section 610.222 *Red Federal airway 22* is amended to read:

From U.S.-Canadian Border; to Buffalo, N.Y., LFR; MEA 2,300.

Section 610.228 *Red Federal airway 28* is deleted:

Section 610.230 *Red Federal airway 30* is amended to read in part:

From Tallahassee, Fla., LFR; to Jacksonville, Fla., LFR; MEA 1,500.

Section 610.274 *Red Federal airway 74* is amended to read in part:

From Moss INT, Miss.; to Mobile, Ala., LF/RBN; MEA 1,400.

Section 610.287 *Red Federal airway 87* is amended to read in part:

From Kuku Point, INT, Hawaii; to Hilo, INT, Hawaii; MEA 8,000.
From Maui, Hawaii, LFR; to Breadfruit, INT, Hawaii; MEA 8,000.
From *Breadfruit INT, Hawaii; to Kuku Point, INT, Hawaii; MEA 5,000. *8,000—MCA Breadfruit INT, northwestbound.

Section 610.1001 *Direct Routes—U.S.* is amended to delete:

From Mobile, Ala., VOR; to Jackson, Miss., VOR; MEA *3,500. *2,000—MOCA.

Section 610.6005 *VOR Federal airway 5* is amended to read in part:

From Chattanooga, Tenn., VOR; to Summitville INT, Tenn.; MEA 4,000.
From Summitville INT, Tenn.; to Murfreesboro INT, Tenn.; MEA *3,000. *2,400—MOCA.

Section 610.6008 *VOR Federal airway 8* is amended to delete:

From Hector, Calif., VOR; to *Soda INT, Calif.; MEA 8,000. *14,000—MCA Soda INT, northeastbound.
From Soda INT, Calif.; to *Craters INT, Calif.; MEA **16,000. *15,000—MCA Craters INT, southwestbound. *12,000—MRA. **10,000—MOCA.
From Craters INT, Calif.; to Las Vegas, Nev., VORTAC; MEA 10,000.
From Las Vegas, Nev., VORTAC; to Mormon Mesa, Nev., VOR; MEA 8,000.
From Logandale, Nev., FM; to Las Vegas, Nev., VORTAC, southwestbound only; MEA 6,500.

Section 610.6008 *VOR Federal airway 8* is amended by adding:

From Hector, Calif., VOR; to Goffs, Calif., VOR; MEA 8,500.
From *Goffs, Calif., VOR; to **Lakeview INT, Nev.; MEA 8,000. *7,000—MCA Goffs VOR, northeastbound. **7,500—MCA Lakeview INT, southbound.
From Lakeview INT, Nev.; to Mormon Mesa, Nev.; MEA 7,000.

Section 610.6008 *VOR Federal airway 8* is amended to read in part:

From Dolphin INT, Calif.; to Ling INT, Calif.; MEA *4,000. *2,000—MOCA.
From Ling INT, Calif.; to Wilmington INT, Calif.; MEA *4,000. *3,000—MOCA.
From Wilmington INT, Calif.; to Long Beach, Calif., VORTAC; MEA *3,500. *2,000—MOCA.
From Long Beach, Calif., VORTAC; to *Ontario, Calif., VOR; MEA 5,000. *7,000—MCA Ontario VOR, northeastbound.
From *Long Beach, Calif., VORTAC, Via N alter.; to Covina INT, Calif., via N alter., northeastbound, MEA 12,000; southwestbound, MEA 4,000. *10,000—MCA Long Beach VORTAC, northeastbound.
From *Mormon Mesa, Utah, VOR via N alter.; to **Gunlock INT, Utah, via N alter.; MEA 10,000. *7,700—MCA Mormon Mesa VOR, northeastbound. **15,000—MRA.

Section 610.6009 *VOR Federal airway 9* is amended to read in part:

From Ramsey INT, Tenn., via E alter.; to *Driver INT, Ark., via E alter.; MEA **5,000. *3,000—MRA. **1,500—MOCA.

Section 610.6011 *VOR Federal airway 11* is amended to read in part:

From Ramsey INT, Tenn.; to *Driver INT, Ark.; MEA **3,000. *3,000—MRA. **1,700—MOCA.

Section 610.6014 *VOR Federal airway 14* is amended to read in part:

From Terre Haute, Ind., VOR; to Manhattan INT, Ind.; MEA 2,000.
From Manhattan INT, Ind.; to Indianapolis, Ind., VOR; MEA 2,200.
From Terre Haute, Ind., VOR via S alter.; to Cloverdale INT, Ind., via S alter.; MEA 2,000.
From Oklahoma City, Okla., VOR via N alter.; to Guthrie INT, Okla., via N alter.; MEA *3,000. *2,700—MOCA.

Section 610.6015 *VOR Federal airway 15* is amended by adding:

From Waco, Tex., VOR via W alter.; to Riovista INT, Tex., via W alter.; MEA *2,000. *1,900—MOCA.
From Riovista INT, Tex., via W alter.; to Joshua INT, Tex., via W alter.; MEA 2,100.
From Joshua INT, Tex., via W alter.; to Britton, Tex., VOR via W alter.; MEA 2,000.
From Britton, Tex., VOR via W alter.; to Waxie INT, Tex., via W alter.; MEA 2,600.

Section 610.6016 *VOR Federal airway 16* is amended to read in part:

From Big Horn INT, Ariz., via N alter.; to Hassayampa, Ariz., VOR via N alter., eastbound, MEA 5,000; westbound, MEA 6,000.

Section 610.6018 *VOR Federal airway 18* is amended to read in part:

From Monroe, La., VOR; to *Dunn INT, La.; MEA **2,000. *3,500—MRA. **1,700—MOCA.
From Dunn INT, La.; to *Redwood INT, Miss.; MEA **2,000. *3,600—MRA. **1,700—MOCA.
From Redwood INT, Miss.; to Jackson, Miss., VOR; *2,000. *1,700—MOCA.
From Homer INT, La., via N alter.; to Monroe, La., VOR via N alter.; MEA *2,000. *1,900—MOCA.

Section 610.6019 *VOR Federal airway 19* is amended to read in part:

From Cheyenne, Wyo., VOR via E alter.; to *Meadows INT, Wyo., via E alter.; MEA 7,500. *12,000—MRA.
From Meadows INT, Wyo., via E alter.; to Douglas, Wyo., VOR via E alter.; MEA 7,500.
From Truth or Consequences, N. Mex., VOR; to Socorro, N. Mex., VOR; MEA 9,000.
From Socorro, N. Mex., VOR; to Albuquerque, N. Mex., VOR; MEA 8,000.

Section 610.6021 *VOR Federal airway 21* is amended to read in part:

From Carp INT, Calif.; to Long Beach, Calif., VORTAC; MEA *4,000. *3,000—MOCA.
From Las Vegas, Nev., VORTAC, via E alter.; to Lakeview INT, Nev., via E alter.; MEA 6,000.
From Lakeview INT, Nev., via E alter.; to Mead INT, Nev., via E alter., westbound, 6,000; eastbound, MEA 7,000.
From Mead INT, Nev., via E alter.; to Mormon Mesa, Nev., VOR via E alter.; MEA 7,000.
From *Mormon Mesa, Nev., VOR; to **Gunlock INT, Nev.; MEA 10,000. *7,700—MCA Mormon Mesa VOR, northeastbound. **15,000—MRA.

Section 610.6025 *VOR Federal airway 25* is amended to read in part:

From Los Angeles, Calif., VOR; to Eel INT, Calif.; MEA *4,000. *2,000—MOCA.

Section 610.6026 *VOR Federal airway 26* is amended to read in part:

From Elk INT, S. Dak.; to *Keystone INT, S. Dak.; MEA 10,000. *8,600—MCA Keystone INT, westbound.
From Keystone INT, S. Dak.; to *Rapid City, S. Dak., VOR; MEA 6,000. *6,000—MCA Rapid City VOR, westbound.

Section 610.6027 *VOR Federal airway 27* is amended to read in part:

From Los Angeles, Calif., VOR; to Eel INT, Calif.; MEA *4,000. *2,000—MOCA.

Section 610.6037 *VOR Federal airway 37* is amended by adding:

From Erie, Pa., VOR; to U.S.-Canadian Border; MEA 3,000.

Section 610.6040 *VOR Federal airway 40* is amended to read in part:

From Navarre, Ohio, VOR; to Imperial, Ohio, VOR; MEA 2,500.
From Imperial, Ohio, VOR; to Pittsburgh, Pa., VOR; MEA 2,500.

Section 610.6042 *VOR Federal airway 42* is amended to read in part:

From U.S.-Canadian Border; to Cleveland, Ohio, VOR; MEA 2,000.

Section 610.6047 *VOR Federal airway 47* is amended to read in part:

From Bowling Green, Ky., VOR; to Mystic, Ky., VOR; MEA 2,500.
From Mystic, Ky., VOR; to Central INT, Ind.; MEA 2,600.
From Central INT, Ind.; to Nabb, Ind., VOR; MEA 5,000.

Section 610.6050 *VOR Federal airway 50* is amended to read in part:

From Terre Haute, Ind., VOR; to Manhattan INT, Ind.; MEA 2,000.
From Manhattan INT, Ind.; to Indianapolis, Ind., VOR; MEA 2,200.

Section 610.6066 *VOR Federal airway 66* is amended to read in part:

From Douglas, Ariz., VOR; to *Heath INT, Ariz.; MEA 9,000. *10,000—MCA Heath INT, northeastbound.
From Heath INT, Ariz.; to *Animas INT, N. Mex.; MEA 11,000. *11,000—MCA Animas INT, southwestbound.

Section 610.6075 *VOR Federal airway 75* is amended to delete:

From Petersburg INT, W. Va.; to Morgantown, W. Va., VOR; MEA 6,000.

Section 610.6076 *VOR Federal airway 76* is amended by adding:

From Llano, Tex., VOR via S alter.; to Austin, Tex., VOR via S alter.; MEA 3,000.

Section 610.6089 *VOR Federal airway 89* is amended to read in part:

From Chadron, Nebr., VOR; to Smithwick, S. Dak., VOR; MEA 5,900.
From Smithwick, S. Dak., VOR; to *Fairburn INT, S. Dak.; MEA 4,500. *7,000—MRA.
From Fairburn INT, S. Dak. Rapid City, S. Dak., VOR; 4,500.
From Chadron, Nebr., VOR via E alter.; to Rapid City, S. Dak., VOR via E alter.; MEA 5,900.

Section 610.6100 *VOR Federal airway 100* is amended to read in part:

From Keeler, Mich., VOR; to Jackson, Mich., VOR; MEA 2,300.
From Jackson, Mich., VOR; to Salem, Mich., VOR; MEA 2,400.

Section 610.6113 *VOR Federal airway 113* is amended by adding:

From Armonk INT, N.Y.; to Riverhead, N.Y., VOR; MEA 2,000.

Section 610.6116 *VOR Federal airway 116* is amended to read in part:

From Keeler, Mich., VOR; to Jackson, Mich., VOR; MEA 2,300.
From Jackson, Mich., VOR; to Salem, Mich., VOR; MEA 2,400.

Section 610.6117 *VOR Federal airway 117* is amended to read in part:

From Palm Springs INT, Calif.; to *Bullion INT, Calif.; MEA **16,000. *16,000—MCA Bullion INT, southbound. **12,000—MOCA.

Section 610.6156 *VOR Federal airway 156* is amended by adding:

From Richmond, Va., VOR; to Cape Charles, Va., VOR; MEA 2,000.

Section 610.6159 *VOR Federal airway 159* is amended to read in part:

From Orlando, Fla., VOR via W alter.; to Center Hill INT, Fla., via W alter.; MEA 1,700.
From Center Hill INT, Fla., via W alter.; to Ocala, Fla., VOR via W alter.; MEA *1,200. *1,100—MOCA.

Section 610.6169 *VOR Federal airway 169* is amended to read in part:

From Chadron, Nebr., VOR; to Smithwick, S. Dak., VOR; MEA 5,900.
From Smithwick, S. Dak., VOR; to *Fairburn INT, S. Dak.; MEA 4,500. *7,000—MRA.
From Fairburn INT., S. Dak., to Rapid City, S. Dak., VOR; MEA 4,500.
From Chadron, Nebr., VOR via E alter.; to Rapid City, S. Dak., VOR via E alter.; MEA 5,900.

Section 610.6192 *VOR Federal airway 192* is amended to read in part:

From Hickman INT, N. Mex.; to *Socorro, N. Mex., VOR; MEA **13,000. *10,000—MCA Socorro VOR, westbound. **11,000—MOCA.
From Socorro, N. Mex., VOR; to Corona, N. Mex., VOR; MEA 9,500.

Section 610.6193 *VOR Federal airway 193* is amended to read in part:

From Traverse City, Mich., VOR; to Pellston, Mich., VOR; MEA 2,400.
From Pellston, Mich., VOR; to Sault Ste. Marie, Mich., VOR; MEA 2,400.

Section 610.6201 *VOR Federal airway 201* is amended to read in part:

From Carp INT, Calif.; to *Los Angeles, Calif., VOR; MEA **4,000. *6,000—MCA Los Angeles VOR, northeastbound. **2,000—MOCA.

Section 610.60208 *VOR Federal airway 208* is amended to read in part:

From *Los Angeles, Calif., VOR; to Ling INT, Calif.; MEA **4,000. *2,000—MCA Los Angeles VOR, southbound. **3,000—MOCA.
From Ling INT, Calif.; to Bonita INT, Calif., northbound, MEA *4,000; southbound, MEA 6,000. *3,000—MOCA.
From Bonita INT, Calif.; to *Catalina INT, Calif.; MEA **6,000. *6,000—MCA Catalina INT, northbound. **4,000—MOCA.
From Catalina INT, Calif.; to Avalon INT, Calif.; MEA 4,000.

Section 610.6210 *VOR Federal airway 210* is amended to read in part:

From Dolphin INT, Calif.; to *Los Angeles, Calif., VOR; MEA **4,000. *9,000—MCA Los Angeles VOR, northeastbound. **2,000—MOCA.
From Terre Haute, Ind., VOR; to Manhattan INT, Ind.; MEA 2,000.
From Manhattan INT, Ind., to Indianapolis, Ind., VOR; MEA 2,200.
From Terre Haute, Ind., VOR via S alter.; to Cloverdale INT, Ind., via S alter.; MEA 2,000.

Section 610.6222 *VOR Federal airway 222* is amended to read in part:

From Hathaway INT, La.; to Goony INT, La.; MEA *2,500. *1,400—MOCA.
From Goony INT, La.; to *Elba INT, La.; MEA **4,700. *4,700—MRA. **1,400—MOCA.

Section 610.6232 *VOR Federal airway 232* is amended by adding:

From Sandusky, Ohio, VOR; to Lorain INT, Ohio.; MEA 1,900.
From Lorain INT, Ohio; to County INT, Ohio; MEA 2,500.
From Stroudsburg, Pa., VOR; to Somerset INT, Pa.; MEA 2,500.

Section 610.6237 *VOR Federal airway 237* is amended to read in part:

From Union Pass INT, Ariz.; to Mead INT, Nev.; MEA 9,000.

Section 610.6244 *VOR Federal airway 244* is amended to read in part:

From *Tonopah, Nev., VOR; to Wilson Creek, Nev., VOR; MEA 12,000. *10,000—MCA Tonopah VOR, eastbound.
From Wilson Creek, Nev., VOR; to *Milford, Utah, VOR; MEA 12,000. *10,000—MCA Milford VOR, westbound. *12,000—MCA Milford VOR, eastbound.

Section 610.6278 *VOR Federal airway 278* is amended by adding:

From Texico, N. Mex., VOR; to Guthrie, Tex., VOR; MEA *9,500. *5,100—MOCA.

Section 610.6295 *VOR Federal airway 295* is amended to read in part:

From Orlando, Fla., VOR; to *Clermont INT, Fla.; MEA 1,700. *2,000—MRA.
From Clermont INT, Fla.; to Center Hill INT, Fla.; MEA 1,700.
From Center Hill INT, Fla.; to Bushnell INT, Fla.; MEA *2,000. *1,700—MOCA.

Section 610.6401 *Hawaii VOR Federal airway 1* is amended to read:

From Hilo, Hawaii, VOR; to Hibiscus INT, Hawaii; MEA 2,000.

Section 610.6402 *Hawaii VOR Federal airway 2* is amended to read in part:

From *Kahala INT, Hawaii; to Penguin INT, Hawaii; MEA 2,000. *4,000—MCA Kahala INT, northwestbound.
From *Hilo, Hawaii, VOR; to 33 miles E from Hilo VOR; MEA 2,000. *3,000—MCA Hilo VOR, northwestbound.

Section 610.6403 *Hawaii VOR Federal airway 3* is amended to read in part:

From *Hilo, Hawaii, VOR; to Grass Shack INT, Hawaii; MEA 2,000. *3,000—MCA Hilo VOR, southbound.

Section 610.6406 *Hawaii VOR Federal airway 6* is amended to read in part:

From Marlin INT, Hawaii; to *Hilo, Hawaii, VOR; MEA 4,000. *3,000—MCA Hilo VOR, northwestbound.

Section 610.6408 *Hawaii VOR Federal airway 8* is amended to read in part:

From *Molokai, Hawaii, VOR; to **Bluefin INT, Hawaii; MEA 5,000. *3,500—MCA Molokai VOR, northeastbound. **5,000—MCA Bluefin INT, southwestbound.

Section 610.6422 *VOR Federal airway 422* is amended to read in part:

From Knox, Ind., VOR; to Wolflake, Ind., VOR; MEA 2,200.
From Wolflake, Ind., VOR; to Garrett INT, Ind.; MEA 2,200.

Section 610.6476 *VOR Federal airway 476* is added to read:

From McDonough, Ga., VOR; to Greenwood, S.C., VOR; MEA 2,100.
From Greenwood, S.C., VOR; to Fort Mill, S.C., VOR; MEA 2,000.

Section 610.6606 *VOR Federal airway 1506* is amended to read in part:

From Keeler, Mich., VOR; to LeRoy INT, Mich.; MEA 2,300.

Section 610.6608 *VOR Federal airway 1,508* is amended to read in part:

From *Mormon Mesa, Nev., VOR; to **Gunlock INT, Utah; MEA 10,000. *7,700—MCA Mormon Mesa VOR, northeastbound. **15,000—MRA.
From Keeler, Mich., VOR; to LeRoy INT, Mich.; MEA 2,300.

Section 610.6612 *VOR Federal airway 1,512* is amended to read in part:

From Terre Haute, Ind., VOR; to Manhattan INT, Ind.; MEA 2,000.
From Manhattan INT, Ind.; to Indianapolis, Ind., VOR; MEA 2,200.

Section 610.6614 *VOR Federal airway 1,514* is amended to read in part:

From Terre Haute, Ind., VOR; to Manhattan INT, Ind.; MEA 2,000.
From Manhattan INT, Ind.; to Indianapolis, Ind., VOR; MEA 2,200.
From *Tonopah, Nev., VOR; to Wilson Creek, Nev., VOR; MEA 12,000. *10,000—MCA Tonopah VOR, eastbound.
From Wilson Creek, Nev., VOR; to *Milford, Utah, VOR; MEA 12,000. *10,000—MCA Milford VOR, westbound. *12,000—MCA Milford VOR, eastbound.

Section 610.6620 *VOR Federal airway 1,520* is amended to read in part:

From St. Johns, Ariz., VOR; to *Socorro, N. Mex., VOR; MEA **12,000. *10,000—MCA Socorro VOR, westbound. **11,000—MOCA.
From Socorro, N. Mex., VOR; to Corona, N. Mex., VOR; MEA 9,500.

Section 610.6622 *VOR Federal airway 1,522* is amended to delete:

From Wink, Tex., VOR; to Midland, Tex., VOR; MEA 4,500.
From Midland, Tex., VOR; to Big Spring, Tex., VOR; MEA 4,200.

Section 610.6622 *VOR Federal airway 1,522* is amended by adding:

From Wink, Tex., VOR; to Goldsmith INT, Tex.; MEA 4,400.
From Goldsmith INT, Tex.; to *Pipe Line INT, Tex.; MEA **5,000. *5,000—MRA. **4,300—MOCA.
From Pipe Line INT, Tex.; to Mustang INT, Tex.; MEA *6,300. *4,100—MOCA.
From Mustang INT, Tex.; to Big Spring, Tex., VOR; MEA 4,000.

Section 610.6629 *VOR Federal airway 1,529* is amended to read in part:

From *Mormon Mesa, Nev., VOR; to **Gunlock INT, Utah; MEA 10,000. *7,700—MCA Mormon Mesa VOR, northeastbound. **15,000—MRA.

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

These rules shall become effective January 14, 1960.

Issued in Washington, D.C., on December 21, 1959.

WILLIAM B. DAVIS,
Director,
Bureau of Flight Standards.

[F.R. Doc. 59-10965; Filed, Dec. 28, 1959; 8:45 a.m.]

Title 15—COMMERCE AND FOREIGN TRADE

Chapter I—Bureau of the Census, Department of Commerce

[Foreign Commerce Statistical Decision 77]

PART 30—FOREIGN TRADE STATISTICS

Preparing Import Entries and Withdrawals

In conformity with section 4(a) of the Administrative Procedure Act (60 Stat. 238, 5 U.S.C. 1003), the authority contained in revised statutes 336, 337, and 161, as amended (15 U.S.C. 173, 174, and 5 U.S.C. 22), and due Notice of Consideration having been published (24 F.R. 9547), I have determined that it will be advantageous to effectuate the provisions of the following Statistical Decision 77 as published, except that the reference in the Decision to "long tons of 2,400 pounds" is amended to read "long tons of 2,240 pounds."

Statistical Decision 77 affects the preparation by importers and others of import entries and withdrawals through changes in the Code of Federal Regulations whereby "United States Import Duties Annotated for Statistical Reporting" is to be used in place of Schedule A, "Statistical Classification of Commodities Imported Into the United States," insofar as Schedule A has been used by importers or others as the basic reporting manual in preparing import entry and withdrawal forms for merchandise imported into the United States. Import statistics will continue to be compiled and published in Schedule A terms and arrangement as in the past. The new "U.S.I.D. Annotated," however, will facilitate furnishing the statistical information required on entry forms by presenting the requirements in terms and arrangement of the Tariff Act rather than in Schedule A terms and arrangement.

"U.S.I.D. Annotated," prepared by the Bureau of the Census in cooperation with the United States Tariff Commission and the Treasury Department, is a reproduction of "United States Import Duties" (1958), but is annotated to include the statistical detail and the new 8-digit numbers to be reported on the entry forms starting January 1, 1960.

Decision 77 provides that importers must furnish statistical information on import entry and withdrawal forms (Customs Forms 7501, 7502, etc.) filed on or after January 1, 1960, by substituting "U.S.I.D. Annotated" requirements in all cases where Schedule A requirements are specified on the entry or withdrawal forms. These forms will be changed to refer to "U.S.I.D. Annotated" requirements when they are next revised. An explanation of the correct way to prepare an import entry form in accordance with the requirements of "U.S.I.D. Annotated" also appears in the "U.S.I.D. Annotated."

The "U.S.I.D. Annotated" was announced in Bureau of the Census Circular Letter No. FT-266, dated November 12, 1959, sent to Collectors of Customs, importers, and others concerned. A sample page of "U.S.I.D. Annotated" was included as a part of the Circular Letter, which is available upon request to Collectors of Customs, Department of Commerce Field Offices, and the Bureau of the Census, Washington 25, D.C.

1. Paragraph (a) of § 30.6 is amended, effective January 1, 1960, to read as follows:

(a) The kinds, quantities, and values of all imported articles shall be ascertained from the entries. Collectors of Customs shall require entries of imported merchandise to contain the information required in "United States Import Duties Annotated for Statistical Reporting," as

prescribed by the Secretary of the Treasury, the Secretary of Commerce, and the Chairman of the United States Tariff Commission. Tons, where required, should be long tons of 2,240 pounds as construed in section 2951, revised statutes (19 U.S.C. 420), unless short tons are specified.

2. Paragraphs (a) and (b) of § 30.24 are amended effective January 1, 1960, to read as follows:

(a) Statistical copies of entries and withdrawals must describe the merchandise in the detail required by "United States Import Duties Annotated for Statistical Reporting" of the Department of Commerce. Collectors will insert the code numbers of district, port, country and flag in the proper columns and forward the entries to the New York Office, in accordance with the procedure outlined in the Treasury decisions.

(b) Collectors may insert the reporting number and unit of quantity for commodities if they find it convenient to do so while examining entries for compliance with the commodity classification required by "United States Import Duties Annotated for Statistical Reporting."

3. Paragraph (b) of § 30.27 is amended, effective January 1, 1960, to read as follows:

(b) Consular invoices of gold, silver, copper, lead, zinc, tin, and other metals in ore or base bullion are required to show separately the quantities and values of each of the metals contained therein, in accordance with commodity classifications required by "United States Import Duties Annotated for Statistical Reporting."

(R.S. 161; 5 U.S.C. 22. Interpret or apply R.S. 335, as amended, 336, as amended, 337, as amended, 4200, as amended, sec. 1, 18 Stat. 352, as amended, sec. 1, 27 Stat. 197, as amended, 32 Stat. 172, as amended, sec. 7, 44 Stat. 572, as amended, sec. 1, 52 Stat. 8; 15 U.S.C. 173, 174, 176(a), 177, 178, 46 U.S.C. 92, 95, 49 U.S.C. 177)

Any suggestions or recommendations concerning Statistical Decision 77 submitted in writing during the 30-day period following publication of the Notice on November 28, 1959, were given due consideration.

I have therefore directed that the provisions of Foreign Commerce Statistical Decision 77 shall become effective January 1, 1960.

ROBERT W. BURGESS,
Director,
Bureau of the Census.

[F.R. Doc. 59-10961; Filed, Dec. 28, 1959; 8:45 a.m.]

Title 20—EMPLOYEES' BENEFITS

Chapter II—Railroad Retirement Board

PART 225—COMPUTATION OF ANNUITY

Miscellaneous Amendments

Pursuant to the general authority contained in section 10 of the act of June 24, 1937 (50 Stat. 314, 45 U.S.C. 228(j)), §§ 225.1, 225.5, 225.6 and 225.7 of Part 225 (20 CFR 225.1, 225.5, 225.6 and 225.7) of the Regulations under such act are amended by Board Order 59-229, dated December 11, 1959, to read as follows:

§ 225.1 Formula for computing annuity.

An annuity for a month after May 1959 shall be computed by multiplying an individual's "years of service" by the following percentages of his "monthly compensation": 3.35 percent of the first $50; 2.51 percent of the next $100; and 1.67 percent of the next $250.

§ 225.5 Minimum amount of annuity.

In the case of an individual having a current connection with the railroad industry as defined in section 1(o) of the act and § 208.5 of this chapter, the minimum annuity payable for a month after May 1959 shall, except as provided in § 225.6 and prior to any reduction pursuant to §§ 225.7, 225.8 and 225.9, be whichever of the following is the least:

(a) $5.00 multiplied by the number of the individual's "years of service"; or

(b) $83.50; or

(c) 110 percent of the individual's "monthly compensation" as determined under § 225.3.

§ 225.6 Over-all minimum based on Social Security Act formula.

(a) When the total amount of annuity payable to an individual for an entire month after May 1959, except for a reduction under §§ 225.7 and 225.8, plus the amount, if any, of the spouse's annuity payable for such month to the spouse of such individual, is less than 110 percent of the amount, or 110 percent of the additional amount, which would have been payable for such month under the Social Security Act to the individual, his spouse, and his children, if any, the amount of the annuity or annuities shall be increased proportionately to 110 percent of such amount or 110 percent of such additional amount.

(b) When an individual's annuity is subject to a reduction under § 225.7 or § 225.8, and the amount of annuity payable to such individual for an entire month after May 1959 without regard to such reduction, plus the amount, if any, of the spouse's annuity payable for such month to the spouse of such individual, is less than 110 percent of the amount, or 110 percent of the additional amount, which would have been payable for such month under the Social Security Act to the individual, his spouse, and his children, if any, the total amount of the annuity or annuities shall be reduced by the same amount in money as the individual's annuity was reduced under § 225.7 or § 225.8. The amount of such individual's annuity and the amount of his spouse's annuity, if any, shall be increased proportionately to such total amount as so reduced.

(c) For the purpose of this section:

(1) The individual's service as an employee after 1936 shall be deemed to have been "employment" as that term is defined in the Social Security Act;

(2) Quarters of coverage shall be determined in accordance with section 5(1)(4) of the Railroad Retirement Act (see § 237.101 of this chapter), except that the alternate method in such section relating to determining quarters of coverage in a case where an individual lacks a completely or partially insured status does not apply. If an individual lacks an insured status for the purpose of this section through the use of the table appearing in section 237.101 of this chapter, quarters of coverage shall be determined by presuming the individual's compensation in a calendar year after 1936 to have been paid in equal proportions with respect to all months in which he will have been in service as an employee in such calendar year;

(3) A woman entitled to a spouse's annuity pursuant to an election made under section 2(h) of the Railroad Retirement Act shall be deemed entitled to a wife's insurance benefit under section 202(q) of the Social Security Act;

(4) The amount of any possible deductions for failure to report an event causing a deduction as provided in subsections (f) and (g)(2) of section 203 of the Social Security Act shall be disregarded; and

(5) A "period of disability," within the meaning of section 216(i) of the Social Security Act, with respect to any individual who has filed an application therefor and who either will have completed ten years of service or will have been awarded an annuity, shall be determined by the Board on the basis of its records or evidence obtained by it.

(d) In determining a "period of disability" for an individual, the Board shall have the same authority as the Secretary of Health, Education, and Welfare would have to determine such a period for such individual.

(e) An application filed with the Board for a disability annuity shall be deemed to be an application to determine a "period of disability"; *Provided, however,* That such an application filed on or before September 6, 1958, shall be deemed filed on a date after December 1954 and before July 1958: *Provided further,* That such an application filed on or after July 1, 1958, and prior to September 7, 1958, by an individual not entitled to a "period of disability" beginning before July 1, 1958, or such an application filed on or after September 7, 1958, shall be deemed filed on the earlier of: (1) The date the application for a disability annuity was filed; or (2) if the application for a disability annuity was filed in advance of eligibility, the date on which a letter or notice evidencing the individual's intention to apply or reapply for a disability annuity was received at an office of the Board.

§ 225.7 Annuities subject to reduction where individual is under age 65.

Where the eligibility of a male applicant for an annuity is based on age 60 to 65 and 30 years of service and where the eligibility of a female applicant for an annuity is based on age 62 to 65 and less than 30 years of service, the amount of the annuity, as computed under §§ 225.1 to 225.6, shall be reduced by one

one-hundred-and-eightieth for each calendar month during all of which the individual is less than 65 years of age when the annuity begins to accrue.

(Sec. 10, 50 Stat. 314, 45 U.S.C. 228 (j))

Dated: December 21, 1959.

By authority of the Board.

MARY B. LINKINS,
Secretary of the Board.

[F.R. Doc. 59-11038; Filed, Dec. 28, 1959; 8:49 a.m.]

Title 24—HOUSING AND HOUSING CREDIT

Chapter II—Federal Housing Administration, Housing and Home Finance Agency

SUBCHAPTER B—PROPERTY IMPROVEMENT LOANS

PART 201—CLASS 1 AND CLASS 2 PROPERTY IMPROVEMENT LOANS

Miscellaneous Amendments

Section 201.6 is amended to read as follows:

§ 201.6 Eligible loans.

(a) *Property location.* The property to be improved shall be located within the United States, its territories, or possessions.

(b) *Use of proceeds—in general.* The proceeds of a loan shall be used only to finance alterations, repairs, and improvements upon real property or in connection with existing structures which substantially protect or improve the basic livability or utility of the property, and which are commenced in reliance upon the credit facilities afforded by Title I of the Act.

(c) *Use of proceeds—technical services and direct costs.* The proceeds of a loan may be used to pay the cost of architectural and engineering services and fees paid for obtaining building permits that are directly connected with the eligible alterations, repairs, or improvements financed in accordance with the regulations in this part.

(d) *Use of proceeds—"built-in" kitchens.* Any part of the proceeds of a loan may be used for appliances to be installed in a kitchen provided that:

(1) The appliances are designed by the manufacturer to be installed in a kitchen as a "built-in" unit, and

(2) The appliances will be in fact installed and permanently affixed in the kitchen so as to become a permanent part of the real estate, and

(3) The dwelling in which the kitchen is located is designed as a single family residence which is occupied by the borrower, and

(4) The principal amount exceeds $600, exclusive of financing charges, at least $600 of which is to be used for the alteration, repair or improvement of the kitchen, and

(5) Individuals whose interest in the property to be improved is derived under a lease shall not be considered eligible borrowers unless the lease has an original term of not less than 99 years which is renewable, and

(6) Prior to disbursing the proceeds the insured obtains on forms approved by the Commissioner:

(i) A special certification signed by the borrower stating that he owns and occupies a dwelling designed for use as a single family residence and that it is his intention to build in, install and affix permanently in the kitchen of such residence the appliances purchased with the loan so that they will become an integral part of the real estate; and

(ii) An additional certification signed by the dealer, where the provisions of § 201.8(a) are applicable, stating that the appliances purchased by the borrower which are being financed by the Title I loan were designed by the manufacturer to be built in and that they have been permanently built in, installed and affixed in the borrower's kitchen so as to become an integral part of the real estate.

(7) Nothing in this paragraph will be construed as limiting the financing of household appliances or equipment considered eligible prior to October 20, 1959.

(e) *Reliance on credit application.* An insured acting in good faith may, in the absence of information to the contrary, rely upon all statements of facts made by the borrower, which are called for by the borrower's credit application, in determining the eligibility of the loan.

Section 201.7 is amended to read as follows:

§ 201.7 Ineligible loans.

(a) *In general.* There is hereby established a "list of ineligible items" which includes items, products, alterations, repairs, or improvements, or classes thereof, which the Commissioner has determined not to be eligible for financing with the proceeds of loans reported for insurance under the regulations in this part. The omission of any item from the "list of ineligible items" shall not be construed as rendering such omitted item eligible for financing. All items otherwise ineligible for Title I financing shall remain ineligible for such financing notwithstanding any provision of this section. If an insured has any doubt as to the eligibility of any item, product, alteration, repair, or improvement, or class thereof, it should request a specific ruling from the Commissioner before making any loan.

(b) *List of ineligible items.* No part of the proceeds of a loan shall be used to finance any of the following items:

Barbecue pits.
Bathhouses.
Burglar alarms.
Burglar protection bars.
Dumbwaiters.
Fire alarms or fire detecting devices.
Fire extinguishers.
Flower boxes.
Greenhouses (except commercial greenhouses).
Hangars (airplane).
Kennels.
Kitchen appliances which are designed and manufactured to be freestanding and are not built in and permanently affixed as an integral part of the kitchen in a residential structure.
Outdoor fireplaces or hearths.
Patios (unless permanently attached and affixed to an existing structure and covered by a roof).
Penthouses.
Photo murals.
Radiator covers or enclosures.
Stands.
Steam cleaning of exterior surfaces.
Swimming pools.
Television antennae.
Tennis courts.
Tree surgery.
Valance or cornice boards.

In § 201.9 paragraph (c) is amended by adding a proviso as follows:

§ 201.9 Refinancing.

* * * * *

(c) *Rebate.* The full unearned charge on the original note shall be refunded to the borrower. If no additional advance is made a handling charge not in excess of $5.00 may be assessed the borrower: *Provided,* That the provisions of this paragraph shall be applicable to loans refinanced on or after December 31, 1959.

In § 201.11 paragraphs (c)(2) and (e)(2) are amended to read as follows:

§ 201.11 Claims.

* * * * *

(c) *Maximum claim period.* * * *

(2) All other installment notes, whenever an installment is 9 months in default, claim shall be made within 31 days thereafter, and interest is to be allowed as provided in paragraph (e) of this section up to the full period of 9 months and 31 days.

* * * * *

(e) *Claim amount.* * * *

(2) 90 percent of the uncollected earned interest to date of default and 90 percent of interest from the date of default to the date of the application for reimbursement of loss sustained figured at 5 percent per annum on the outstanding principal balance, but in no event shall the total interest allowed exceed the maximum permissible financing charge on the principal amount outstanding to the date of application for reimbursement: *Provided,* That the provisions of this subparagraph shall be applicable to claims paid on or after December 31, 1959.

(Sec. 2, 48 Stat. 1246, as amended; 12 U.S.C. 1703)

Issued at Washington, D.C., December 22, 1959.

[SEAL] C. B. SWEET,
Acting Federal Housing Commissioner.

[F.R. Doc. 59-11053; Filed, Dec. 28, 1959; 8:49 a.m.]

Title 32—NATIONAL DEFENSE

Chapter VI—Department of the Navy

SUBCHAPTER C—PERSONNEL

PART 710—ADMISSION OF CANDIDATES INTO THE NAVAL ACADEMY AS MIDSHIPMEN

Revision of Part

Scope and purpose. Part 710 is revised to conform with the current edition of the "Regulations Governing the Admission of Candidates Into the United States Naval Academy as Midshipmen." Part 710 is revised to read as follows:

Subpart A—General

Sec.
710.1 Midshipmen at the U.S. Naval Academy.
710.2 Service obligation for enlisted and other candidates appointed as midshipmen.
710.3 Entrance date.

Subpart B—Sources of Nomination

710.5 General.
710.6 Noncompetitive nominations.
710.7 Congressional.
710.8 Commissioners of the District of Columbia.
710.9 Sons of Congressional Medal winners.
710.10 Governor of Puerto Rico.
710.11 Governor of the Canal Zone.
710.12 Competitive nominations.
710.13 Presidential at large.
710.14 Regular Navy and Marine Corps.
710.15 Naval Reserve and Marine Corps Reserve.
710.16 Interchangeability of lists under §§ 710.13 to 710.15.
710.17 Sons of deceased veterans.
710.18 Honor graduates of honor schools.
710.19 Naval Reserve Officers' Training Corps.
710.20 Interchangeability of lists under §§ 710.18 and 710.19.
710.21 Additional nominations to fill vacancies at the Naval Academy: qualified alternates and competitors.
710.22 Foreign students.

Subpart C—Qualifications for Admission

710.23 General requirements.
710.24 Citizenship.
710.25 Age.
710.26 Marriage.
710.27 Moral character.
710.28 Engagement to serve.
710.29 Scholastic requirements.
710.30 Scholastic entrance examination method.
710.31 College certificate method.
710.32 Qualified in previous year.
710.33 Physical requirements.
710.34 Preliminary physical examinations.
710.35 Formal physical examinations.
710.36 Physical reexamination.

Subpart D—Nomination Procedures

710.37 Vacancies.
710.38 Dates for nominations.
710.39 Residency.
710.40 Civil Service Commission examinations.

Subpart E—Appendixes to Regulations Governing the Admission of Candidates Into the Naval Academy as Midshipmen

710.41 Appendix I—Entrance procedure, equipment and pay.
710.42 Appendix II—Foreign students.
710.43 Appendix III—Additional details concerning the college certificate method of qualifying scholastically.
710.44 Appendix IV—Physical standards and disqualifying defects.
710.45 Appendix V—Installations conducting preliminary physical examinations.
710.46 Appendix VI—Installations conducting formal physical examinations.
710.47 Appendix VII—Course of instruction for fourth class (freshman year).

AUTHORITY: §§ 710.1 to 710.47 issued under secs. 5031, 6011, 70A Stat. 279, as amended; 10 U.S.C. 5031, 6011. Interpret or apply secs. 651, 6951–6974, 70A Stat. 27, 428–436, as amended, sec. 516, 72 Stat. 1439; 10 U.S.C. 516, 651, 6951–6974.

Subpart A—General

§ 710.1 Midshipmen at the U.S. Naval Academy.

(a) There are several ways of becoming a Naval Officer. The way that has been in existence the longest is by appointment to and graduation from the United States Naval Academy at Annapolis, Maryland. This institution was founded in 1845 and has been in continuous existence ever since that date. It is maintained by the Government, under the immediate supervision of the Chief of Naval Personnel of the Navy Department. Graduates are granted the degree of Bachelor of Science and are normally commissioned as ensigns in the line of the Navy.

(b) Students at the Naval Academy are called Midshipmen. Upon acceptance and execution of the required oath of office, they are issued appointments as Midshipmen in the United States Navy which are signed by the Secretary of the Navy by direction of the President of the United States. All of the sources of nomination for appointment are established by law and no person can be appointed unless duly nominated by or from such a source. These sources are described in detail in Subpart B of this part.

(c) At the Naval Academy all midshipmen follow a very demanding academic schedule in an atmosphere of strict discipline. They are required to pass in every subject taken, except that in the case of an overload subject, failure to maintain the prescribed proficiency will result in termination of participation in the overload program and reversion of the student to the standard curriculum. Character development and physical fitness are also very important parts of the program. The life of a midshipman is by no means easy. Anyone who is not prepared to sacrifice a certain amount of personal freedom and put forth his best effort should not seek appointment to the Naval Academy. On the other hand the Naval Academy provides a very busy, happy and rewarding four years for those who are sincere in their purpose and proud of the opportunity to serve their country.

§ 710.2 Service obligation for enlisted and other candidates appointed as midshipmen.

(a) Enlisted members of the Armed Forces who accept appointments as midshipmen at the Naval Academy will not be discharged from their enlistment contracts or from their period of obligated service while they are in the status of midshipman except for physical disability or because of the acceptance of a commission. (Act of September 2, 1958, 72 Stat. 1439; 10 U.S.C. 516.)

(b) Midshipmen in this category who are separated from the Naval Academy, except for one of the two reasons given in paragraph (a) of this section, will have their appointments as midshipmen terminated and will immediately resume their enlisted status. Members so reverted will be required to serve out their enlistments or obligated service, unless sooner discharged. In computing the unexpired portion of an enlistment contract or period of obligated service, the time served as a midshipman shall be counted as time served under such contract or period of obligated service.

(c) Candidates entering the Naval Academy from civil life who had not previously acquired a military obligation will automatically do so upon acceptance of appointment as midshipman at the United States Naval Academy. Under certain of the provisions of the Universal Military Training and Service Act (62 Stat. 604) as amended (10 U.S.C. 651, 50 U.S.C. App. 451–454, 455–471) any person who is enlisted, inducted, or appointed in any of the Armed Services or Reserve Components acquires automatically a six-year military obligation. Section IV. B. 3.f of Department of Defense Directive 1200.3 of May 23, 1958 (§ 48.4 (d)(3)(vi) of this title, as revised, 23 F.R. 3852) includes appointees to the Service Academies among those who are subject to the six-year obligation. Such candidates will be required to execute the following statement of understanding of this obligation prior to appointment as midshipmen:

I understand that if my appointment as a midshipman is terminated other than for the purpose of accepting a commission, I shall if qualified be transferred to a ready reserve component of the United States Navy or the United States Marine Corps, in a grade deemed appropriate by the Secretary of the Navy. I fully understand the requirement for satisfactory participation in the ready reserve. I also understand that upon completion of a period of satisfactory ready reserve service which, when added to my service as a midshipman, totals five years, I shall if I request be transferred to the standby reserve to complete the total military service obligation of six years acquired under section 4(d)(3) of the Universal Military Training and Service Act as amended (50 U.S.C. App. 454(d)(3)).

I understand further that if, after termination of my appointment as a midshipman, I should complete my total six year military service obligation without serving the minimum period of active duty required for exemption I may be liable for induction under Selective Service regulations to complete the two year active duty obligation prescribed by section 4(b) of the Universal Military Training and Service Act as amended (50 U.S.C. App. 454(b)).

§ 710.3 Entrance date.

Candidates will be required to enter the Naval Academy early in July. The fourth class summer program is of nine weeks duration beginning the ninth Tuesday preceding Labor Day. The Academic year begins on the first Wednesday following Labor Day. Each

eligible candidate will be notified individually by the Bureau of Naval Personnel of the hour and date he is to report to the Naval Academy for admission.

Subpart B—Sources of Nomination

§ 710.5 General.

There are two major ways in which a young man may become a candidate for admission to the Naval Academy; by direct nomination and by nomination to compete in a competitive quota. The sources of nomination are described in the succeeding sections of this subpart (§§ 710.6 to 710.22). It must be remembered that regardless of any special qualifications listed in any of these categories, all candidates to be admitted must meet the general, scholastic, and physical requirements described in subpart C of this part.

§ 710.6 Non-competitive nominations.

The majority of candidates consist of those young men receiving non-competitive nominations. The various categories under which these fall are discussed in §§ 710.7 to 710.11; see also §§ 710.21 and 710.22.

§ 710.7 Congressional.

The Vice President, each Senator, each Representative, and the Resident Commissioner of Puerto Rico are individually allowed to have a maximum of five midshipmen attending the Naval Academy at any one time. Applications for appointments or questions regarding them should be addressed to the official from whom you want to obtain the nomination. These members of Congress may nominate a principal and five alternates for each vacancy in their quotas, or they may designate six candidates for each vacancy in their quotas to compete for such vacancy with the order of merit being determined by the Academic Board of the U.S. Naval Academy. In the latter case, the Academic Board will consider not only the scores on the mental examination but also the candidate's previous academic record, all evidence of character, citizenship qualities, participation in extracurricular activities, part- or full-time employment, church or club activities, physical aptitude, and in general, his predicted ability to develop into a competent naval officer. All candidates should insure that the U.S. Naval Academy is in possession of a transcript of their previous school record (to include academic marks, class standing or estimated standing for the final year, participation in extracurricular activities with the number of years of participation and any special recognition or awards resulting therefrom), recommendations from people in a position to know his character and accomplishments such as his high school principal, teachers, coaches, ministers, etc. The above documents should be available to the U.S. Naval Academy as early as practicable and not later than April 1. Documents received after this date cannot be considered in the evaluation of the candidate.

§ 710.8 Commissioners of the District of Columbia.

The Commissioners of the District of Columbia are allowed a maximum of five midshipmen attending the Naval Academy at any one time. Selection of candidates to fill vacancies in this quota is performed by the Board of Commissioners of the District of Columbia and applications and questions should be addressed to that board. Appointments are made by the President.

§ 710.9 Sons of Congressional Medal Winners.

The son of any person who has been awarded the Congressional Medal of Honor for acts performed while in the armed forces may be appointed provided he is in all respects qualified. No recommendation or endorsement from any source is required. Applications for appointment under this section should be addressed to the Chief of Naval Personnel, Navy Department, Washington 25, D.C. The full name and date of birth of the applicant and the full name and grade or rate of the person awarded the Medal of Honor should be given in the application.

§ 710.10 Governor of Puerto Rico.

In addition to the appointments authorized from Puerto Rico in § 710.7, one midshipman who is a native of Puerto Rico is allowed at the Naval Academy, appointed by the President, on the recommendation of the Governor of Puerto Rico.

§ 710.11 Governor of the Canal Zone.

On nomination of the Governor of the Canal Zone, and appointment by the Secretary of the Navy, there may be at the Naval Academy one midshipman selected from among the sons of civilians residing in the Canal Zone and the sons of civilian employees of the United States Government and the Panama Canal Company residing in the Republic of Panama.

§ 710.12 Competitive nominations.

There are other sources of nomination, all competitive, which are discussed in the succeeding sections. For each source of competitive nomination, an order of merit will be established by the Academic Board of the U.S. Naval Academy. The results of the entrance examinations will be but one factor in determining the order of merit. Previous school records, all evidence of character, citizenship qualities, participation in extracurricular activities, part- or full-time employment, church or club activities, physical aptitude and, in general, his predicted ability to develop into a competent naval officer will be taken into consideration. Each candidate aspiring to be appointed under any of the competitive quotas should insure that the U.S. Naval Academy is in possession of a transcript of his previous school record (to include academic marks, class standing or estimated standing for the final year, participation in extracurricular activities with the number of years of participation and any special recognition or awards resulting therefrom), and recommendations from people in a position to know his character and accomplishments such as his high school principal, teachers, coaches, ministers, etc. The above documents should be available to the U.S. Naval Academy as early as practicable and not later than April 1. Documents received after this date cannot be considered in the evaluation of the candidate.

§ 710.13 Presidential at large.

The President may appoint seventy-five midshipmen each year to be selected by competitive examination from the United States at large. These appointments are given to the sons and adopted sons of officers and enlisted personnel of the Regular Army, Navy, Air Force, Marine Corps and Coast Guard, since it is difficult for such people to establish residence in one place in order to obtain a regular congressional nomination. Adopted sons to be eligible must have been adopted prior to their fifteenth birthday. The Secretary of the Navy is authorized to approve waivers of this policy where adoption proceedings had been initiated but the adoption had not occurred prior to the fifteenth birthday through circumstances beyond the control of the foster parents. Stepsons are not eligible. Applications should be addressed to the Chief of Naval Personnel, Navy Department Washington 25, D.C. They should contain the full name, date of birth, home address, and present address of the candidate, the full name, grade or rate of his parent, and in the case of an adopted son, evidence as to the date of adoption. There is no limit on the number that may be nominated for appointment from this source.

§ 710.14 Regular Navy and Marine Corps.

The Secretary of the Navy may appoint each year one hundred sixty enlisted men of the Regular Navy and Marine Corps. These men must meet all requirements including the age limitations. In addition they must have enlisted in the Navy or Marine Corps on or before July 1 of the year preceding the desired date of entrance to the Naval Academy. Enlisted men who can fulfill the age and service requirements should make known to their commanding officers early in their enlistments their desire to go to the Naval Academy. The Bureau of Naval Personnel usually begins in the spring of each year to select the men who will attend the U.S. Naval Preparatory School which convenes its classes in September. This school is of great assistance to men preparing to take the Naval Academy entrance examination. Only men who are assigned to this school are eligible to compete for appointments in this quota. Enlisted men failing to qualify for admission will be required to serve out their terms of enlistment. For further information about enlisting in the Navy or Marine Corps, apply to your nearest Navy Recruiting Station.

§ 710.15 Naval Reserve and Marine Corps Reserve.

The Secretary of the Navy may appoint each year one hundred sixty enlisted men of the Naval Reserve and Marine Corps Reserve. These men must be qualified as to age and must have served in the Reserve for at least one year on July 1 of the year of entrance to the Naval Academy. In addition to all other normal requirements for appointment, these men must be on active duty, or must be members of a drilling unit of the Reserve, be recommended by their commanding officers, and have maintained efficiency in drill attendance with their Reserve Units. Midshipmen USNR of the Regular Program NROTC, and the Aviation Cadet Program are not eligible for appointment under this quota. For further information about enlistment in the Naval Reserve or Marine Corps Reserve, apply to your nearest Navy Recruiting Station.

§ 710.16 Interchangeability of lists under §§ 710.13 to 710.15 (10 U.S.C. 6956).

If the annual quota of midshipmen from:

(a) Presidential at Large (§ 710.13);

(b) Regular Navy and Marine Corps (§ 710.14); or

(c) Naval Reserve and Marine Corps Reserve (§ 710.15)

is not filled, the Secretary may fill the vacancies by nominating for appointment other candidates from any of these sources who were found best qualified in order of merit, and not otherwise nominated.

§ 710.17 Sons of deceased veterans.

In addition to the Presidential at-large quota discussed in § 710.13, the President is authorized to have a maximum of forty midshipmen, who are the sons of deceased veterans, attending the Naval Academy at any one time. Eligibility to compete under this quota is confined to sons of members of the Armed Forces of the United States who were killed in action or have died of wounds or injuries received, or disease contracted, or pre-existing injury or disease aggravated, in active service during (a) World War I or World War II (as each is defined by laws providing service-connected compensation or pension benefits for veterans of World War I or World War II and their dependents); or (b) the period beginning June 27, 1950, and ending January 31, 1955. The determination in each case of the Veterans' Administration as to the service connection of the cause of death is binding upon the Secretary of the Navy. Applications for admission under this quota should be addressed to the Chief of Naval Personnel, Navy Department, Washington 25, D.C. They should include the full name and date of birth of the applicant and the full name, grade or rate, service, veterans claim number, and date of death of the parent.

§ 710.18 Honor graduates of honor schools.

The Secretary of the Navy may appoint annually ten honor graduates of educational institutions designated as "honor schools" by the Department of the Army, the Department of the Navy, or the Department of the Air Force. Candidates under this quota will be nominated each year by the heads of the schools designated as "honor schools." Each such school may nominate three honor graduates to compete for the appointments. Included in the three may be students whose standing is such that it appears they will be honor graduates in June of the year in which the examinations will be held. However, the latter will not be considered for appointment unless they do fulfill the requirements which would entitle them to be honor graduates at the time of their graduation.

§ 710.19 Naval Reserve Officers' Training Corps.

The Secretary of the Navy may appoint annually ten midshipmen from among members of the Naval Reserve Officers' Training Corps. Three candidates may be nominated each year by the president of each educational institution in which an NROTC unit is established. Each candidate must be a regularly enrolled contract student in the NROTC and must have completed one year of scholastic work in the corps at the time of entrance to the Naval Academy.

§ 710.20 Interchangeability of lists under §§ 710.18 and 710.19.

If the annual quota of midshipmen from:

(a) Honor Graduates of Honor Schools (§ 710.18); or

(b) Naval Reserve Officers' Training Corps (§ 710.19)

is not filled, the Secretary may fill the vacancy by nominating for appointment other candidates from the other source who were found best qualified in order of merit, and not otherwise nominated.

§ 710.21 Additional nominations to fill vacancies at the Naval Academy: qualified alternates and competitors.

Admission of candidates under the foregoing quotas and procedures often fails to produce the total number of candidates authorized to enter the Naval Academy in any year. This is caused by failures to pass physical examinations, and by other unforeseeable factors. Title 10, U.S. Code, section 6956 provides for this contingency. Under this law, when it is determined that upon the admission of a new class to the U.S. Naval Academy, the total number of midshipmen will be less than the number authorized for that class, the Secretary of the Navy may within his discretion nominate additional midshipmen to be admitted to provide the number authorized for the new class. Those nominated are selected from qualified candidates holding alternate appointments and other qualified candidates holding competitive appointments as described in §§ 710.6 to 710.20. At least two-thirds of those so appointed must be from among qualified alternate candidates nominated by nominators cited in §§ 710.6 to 710.11 and not more than one-third may be from competitive sources. The Academic Board of the U.S. Naval Academy considers the qualifications of candidates to be selected and forwards a recommended list of qualified candidates, in order of merit, to the Secretary of the Navy. In due course, successful candidates are advised by the Chief of Naval Personnel. In preparing this list, the Academic Board considers not only the scores made by the candidate in his qualifying mental examination, but also his previous school record and all evidence of the candidate's character, citizenship qualities, participation in extracurricular activities, part- or full-time employment, church or club activities, physical aptitude and, in general, his predicted ability to develop into a competent naval officer. Each candidate aspiring to be appointed under this method should insure that the U.S. Naval Academy is in possession of a transcript of his previous school record (to include academic marks, class standing or estimated class standing for the final year, participation in extracurricular activities with the number of years of participation and any special recognition or awards resulting therefrom), and recommendations from people in a position to know his character and accomplishments such as high school principal, teachers, coaches, ministers, etc. The above documents should be available at the U.S. Naval Academy as early as practicable but not later than April 1. Documents received after this date cannot be considered in the evaluation of the candidate. Although not mandatory, completion of high school credits as set forth in § 710.31 is an important factor. The only candidates eligible for consideration under this law are those found mentally and physically qualified for admission under alternate or competitive nominations from authorized sources in the year for which they are being considered. Special application for consideration is unnecessary because the Academic Board at the Naval Academy will automatically review the available records and classify in order of merit all eligibe candidates in this category in each year that additional admissions are possible. As processing of candidates under this law must follow the processing of congressional principals and competitors admitted under their various quotas, successful candidates under the provisions of this law cannot expect notification until some time in June, or even later. Appointments made under this law are in addition to and not in lieu of appointments otherwise authorized. For example, an appointment of a senatorial alternate whose principal has already entered is not charged to the Senator.

§ 710.22 Foreign students.

Appointments of foreign students to the U.S. Naval Academy are covered in Appendix II (§ 710.42).

Subpart C—Qualifications for Admission

§ 710.23 General requirements.

There are certain qualifications which apply equally to all applicants regardless of their source of appointment. These are covered in succeeding sections

of this subpart (§§ 710.24 to 710.36). The only exceptions are those candidates from other nations. Their entrance requirements are covered in Appendix II (§ 710.42).

§ 710.24 Citizenship.

All candidates are required to be male citizens of the United States.

§ 710.25 Age.

A candidate must be not less than seventeen years of age and must not have passed his twenty-second birthday on July 1 of the calendar year in which he enters the Naval Academy. This is a requirement of law and it is interpreted literally. There can be no exception to it except by Act of Congress. (10 U.S.C. 6958.)

§ 710.26 Marriage.

No person who is married, or who has been married, shall be admitted as a midshipman to the Naval Academy. Midshipmen shall not marry, and any midshipman who becomes married or who is found to be married or to have been married in the past shall be recommended for discharge.

§ 710.27 Moral character.

Candidates must be of good moral character. The Secretary of the Navy may reject the nomination of any candidate whose character is incompatible with Naval Academy standards. No candidate who has been dismissed in accordance with Title 10, U.S. Code, section 6961, for misconduct, or who is permitted to resign in lieu of dismissal, shall be reappointed or allowed to reenter the Naval Academy. In this regard midshipmen are only dismissed for offenses involving moral turpitude or for serious infractions of discipline.

§ 710.28 Engagement to serve (10 U.S.C. 6959).

(a) Each midshipman who is a citizen or national of the United States shall sign an agreement that, unless sooner separated, he will:

(1) Complete the course of instruction at the Naval Academy;

(2) Accept an appointment and serve as a commissioned officer of the Regular Navy, the Regular Marine Corps, or the Regular Air Force for at least three years immediately after graduation; and

(3) Accept an appointment as a commissioned officer in the reserve component of the Navy or the Marine Corps, or as a Reserve in the Air Force for service in the Air Force Reserve and remain therein until the sixth anniversary of his graduation, if an appointment in the regular component of that armed force is not tendered to him, or if he is permitted to resign as a commissioned officer of that component before that sixth anniversary.

(b) If the midshipman is a minor and has parents or a guardian, he may sign the agreement only with the consent of the parents or guardian.

(c) Officers of the Armed Services serve at the pleasure of the President, and no terminal dates are established for their commissions. The Secretary of the Navy, the Secretary of the Army and the Secretary of the Air Force establish, from time to time, the criteria concerning acceptance of resignations. In this connection it should be particularly noted that the engagement of service is one of "at least three years," which is a minimum period; the actual duration is determined by the Service Secretary, as appropriate, according to the needs of the service. At the present time, the Secretary of the Navy is requiring a minimum of four years of active duty.

§ 710.29 Scholastic requirements.

(a) There are two methods of qualifying scholastically for admission to the Naval Academy. One method consists of qualifying on the entrance examination, which is composed of specified College Entrance Examination Board tests administered in March; the other method, known as the College Certificate Method, consists of qualifying on the basis of high school and college work acacceptable to the Naval Academy. This latter method of qualifying on the basis of high school and college work will not be accepted for candidates aspiring to enter in or after July 1961. Commencing at that time, all candidates must be high school graduates or in their final year of high school and must qualify scholastically by taking specific College Entrance Examination Board tests. The two methods effective for 1960 are described in succeeding sections of this subpart (§§ 710.30 to 710.32).

(b) A candidate rejected at one examination may not be examined again for admission to the same class unless recommended by the Academic Board of the Naval Academy (10 U.S.C. 6958). A candidate who receives unacceptable scores on the entrance examination may not qualify by the College Certificate Method for admission to the same class.

(c) Each candidate must ensure submission of his high school or preparatory school record, and his college record where applicable on the official forms that will be provided by the Navy Department following receipt of the nomination from the member of Congress or other authorized appointment source. These certificates should be filled out and submitted to the Naval Academy by the school or schools concerned as soon as practicable after receipt. When submitted in advance of the completion of current work, the certificate should clearly indicate subjects or courses being pursued at the time the certificate is being submitted. It is extremely important to each candidate that records be supplied promptly and that previous school records include academic marks, class standing or estimated class standing for the final year, participation in extra-curricular activities with the number of years' participation and any special recognition or awards resulting therefrom, and that recommendations from people in a position to know his character and accomplishments such as his high school principal, teachers, coaches, and ministers be included to help the Naval Academy determine the commissioned officer potential of the candidate. These certificates will be considered in conjunction with the test results in order to establish the priority of candidates in the various competitive lists and for the purpose of selection under the qualified alternate law.

§ 710.30 Scholastic entrance examination method.

(a) Subject to provisions of law, the basic method of qualifying is by taking the scholastic entrance examination consisting of the March administration ONLY of the following tests of the College Entrance Examination Board: The Scholastic Aptitude Test (verbal and mathematics sections), the English Composition Test, and either the Intermediate Mathematics Test or the Advanced Mathematics Test. Candidates are encouraged to choose the Mathematics achievement test in which they feel they can attain the higher score. No additional weight is given to results of the test in Advanced Mathematics over those in Intermediate Mathematics. An unacceptable score on any one test is cause for rejection. All candidates for appointment from the various competitive sources and all other candidates not qualifying by the College Certificate Method must take this series of tests; each such duly nominated candidate must register with the College Entrance Examination Board for the March series of tests as promptly as possible after receiving the necessary instructions from the Bureau of Naval Personnel, Navy Department, Washington, D.C. These instructions will include the provision for payment by the Navy for these tests.

(b) General information on the tests, including date of administration, location of testing centers, dates by which candidates must register, method of application, etc., is published in a booklet entitled Bulletin of Information. This booklet, published annually by the College Board, may be obtained without charge by writing to either:

The College Entrance Examination Board, P.O. Box 592, Princeton, N.J.

or

The College Entrance Examination Board, P.O. Box 27896, Los Angeles 27, Calif.

(c) In addition to the above-mentioned Bulletin, the College Board publishes two booklets, one entitled "A Description of the College Board Scholastic Aptitude Test" and one titled "A Description of the College Board Achievement Tests." These two booklets are sent free to individuals who register for the tests. They may be purchased in advance of registration for the tests at fifty cents each.

(d) For the majority of candidates, the examining points are in the communities in which they live. It is expected that few, if any, candidates will have to travel any more than seventy-five miles.

(e) Satisfactory scores in the March administration of the College Entrance Examination Board Tests will be determined by the Academic Board of the Naval Academy. No candidate shall be admitted to the Naval Academy unless in the opinion of the Academic Board he shows the requisite mental qualifications.

§ 710.31 College certificate method.

(a) A non-competitive candidate may fulfill the scholastic requirements for admission by submitting an acceptable high school certificate and an acceptable certificate from an accredited junior college, four-year college or university, or technical school of college grade.

(b) An acceptable high school certificate is one from an accredited secondary school presenting at least fifteen units of credit for subjects acceptable to the Naval Academy and with grades substantially better than the school's lowest passing grade. The mandatory subjects in the high school certificate are English, consisting of the full high school course of not less than three years' work for which the Naval Academy will allow a maximum of three units; three units of mathematics consisting of at least one and one-half, but preferably two, units of algebra, and one unit of plane geometry; and one year of United States history or one-half year of United States history and one-half year of civics, government or problems of democracy. The remaining eight units should preferably be offered from additional mathematics, history, science courses such as physics and chemistry, foreign language, mechanical drawing and other subjects normally included in a high school college preparatory course. Additional details are included in Appendix III (§ 710.43).

(c) An acceptable college certificate is one attesting at least one year's attendance at an accredited college, university or technical school during which the candidate completed courses totalling at least twenty-four semester hours of credit for subjects acceptable to the Naval Academy with grades substantially better than the college minimum passing grade. The mandatory subjects in the college certificate are mathematics with a minimum credit value of six semester hours, and English and/or history with a total value of six semester hours. The remaining credits necessary to complete the certificate may be offered from a wide range of college subjects but courses such as agriculture, physical education and many of the student activities such as dramatic arts and orientation, for which credit is assigned, are excluded. Further details are included in Appendix III (§ 710.43).

§ 710.32 Qualified in previous year.

Candidates who qualified scholastically for appointment in a preceding year will not be required to qualify mentally again in the event of renomination. There are two exceptions to this rule: (a) candidates who are competing mentally for appointments, and (b) former midshipmen who may be nominated for readmission to the Naval Academy and who were deficient in the academic work of the first year of the course at the time of separation. The latter must requalify by scoring acceptably in the College Entrance Examination Board Scholastic Aptitude Test and achievement tests in English and Intermediate or Advanced Mathematics. Any candidate who intends to use a qualification from a previous year should verify the validity of such qualification with the U.S. Naval Academy sufficiently in advance of the March administration of the CEEB tests to permit registration for the CEEB tests if necessary.

§ 710.33 Physical requirements.

(a) All candidates for the Naval Academy must meet the physical standards established by the Secretary of the Navy. These standards are necessarily exacting and have been established in the light of many years of experience by naval personnel on duty in all parts of the world under changing and extreme conditions of service. The standards are outlined in detail in Appendix IV (§ 710.44). However, expressed simply in layman's terms, they require that a candidate be physically sound, well formed, and of robust constitution. Vision must be 20/20 uncorrected in each eye. Normal color perception is required. Heart, lungs and hearing must be normal. There must be at least sixteen vital serviceable teeth, with a minimum of eight in each arch. Weight must be in proportion to height and general build. The limits of height are sixty-four to seventy-eight inches.

(b) The special physical requirements stated in Appendix IV (§ 710.44) are in general inflexible. Deviation is cause for rejection. For that reason candidates are urged to have any remedial work done well in advance of the date of the formal physical examination.

(c) There are three types of physical examinations conducted in connection with qualifying for entrance to the Naval Academy. They are discussed in §§ 710.34 to 710.36.

§ 710.34 Preliminary physical examinations.

(a) The Departments of the Navy, Army, and Air Force have made available to all candidates for the Naval Academy facilities where a careful preliminary physical examination can be obtained at no cost to the candidate other than travel and such subsistence as may be necessary. The preliminary examinations are conducted by medical specialists under conditions approximating as closely as possible those of the formal physical examinations given by the medical examining boards authorized to conduct formal examinations.

(b) The preliminary examinations are conducted solely for the convenience of candidates and prospective candidates. They serve to reveal obviously disqualifying defects which may prevent admission as midshipman. While failure to meet the established physical standards may cause failure on the preliminary physical examination, some defects are amenable to treatment and, if corrected, the candidate may subsequently qualify physically. Candidates are urged to avail themselves of this opportunity and thus spare themselves the needless expense and disappointment which may result from the late discovery of disqualifying defects.

(c) Preliminary physical examinations are conducted at any of the places listed in Appendix V (§ 710.45) and will be given to any candidate who presents an authorization from the Chief of Naval Personnel, or from a member of Congress, or who is a son or dependent relative of a member of the Armed Forces and presents a request signed by the member concerned. It is advisable to communicate with the activity selected in order to arrange an appointment.

(d) The report of the preliminary physical examination of a candidate, whether a civilian or a member of the Armed Forces, shall be submitted on Standard Form 88 in triplicate, and on Standard Form 89 in the candidate's own handwriting. The report shall be distributed as follows: a copy to the congressman, parent, or guardian who requested the examination; a copy to the Chief of Naval Personnel (Naval Academy Midshipman Branch), Navy Department, Washington 25, D.C.; and the original Standard Form 88 with Standard Form 89 to the Chief, Bureau of Medicine and Surgery, Navy Department, Washington 25, D.C.

§ 710.35 Formal physical examinations.

(a) Each candidate who receives an official notification from the Bureau of Naval Personnel authorizing him to report for formal physical examination must bear all expenses for travel and subsistence incident to this examination. The formal physical examinations will be conducted during the week following the March administration of the College Entrance Examination Board Tests. In 1960 the entrance examinations will be given on Saturday, March 12, and physical examinations will begin on Monday, March 14. Every eligible candidate will be notified by the Bureau of Naval Personnel when and where to report for the examination. Normally it will only require one day. In case of urgent necessity for change in the place or date of examination, written or telegraphic request for change should be addressed to the Chief of Naval Personnel, Navy Department, Washington 25, D.C.

(b) In order to determine coordination, strength, and endurance of the body musculature a physical aptitude test will be given in conjunction with the formal physical examination. The Physical Aptitude Examination will consist of a series of tests such as sit-ups, pull-ups, push-ups, Burpee movements, squat jump, arm hang, and duck walk. Also included in this battery of tests will be movements which will bring out disqualifying orthopedic defects such as shoulder and knee malfunctions. Failure to obtain a passing grade in this examination will be cause for rejection. See Appendix IV paragraph (v) [§ 710.44(v)] for details.

(c) When reporting for formal physical examination it is recommended that each candidate have with him an athletic supporter and shorts suitable for use when undergoing the required physical exercises.

(d) Installations conducting formal physical examinations for the U.S. Naval Academy are listed in Appendix VI (§ 710.46).

§ 710.36 Physical reexamination.

(a) Candidates rejected by a medical examining board may be given a reex-

amination by a Board of Medical Review at United States Naval Hospitals in Annapolis, Great Lakes, Oakland, Pensacola, and at the United States Naval Academy, upon authorization by the Chief of Naval Personnel. Candidates desiring to avail themselves of this privilege must make written request to the Chief of Naval Personnel within ten days after their formal physical examination. The physical reexaminations will be conducted early in May. The cost of travel to and from Annapolis, and subsistence, must be borne by the candidate.

(b) The results of reexaminations are final with the following exception: The Board of Medical Review may recommend to the Bureau of Naval Personnel waiver of a very minor physical defect for a candidate who is outstanding in all other respects.

NOTE: Where the disqualifying defect is subject to medical or dental correction, the candidate may be conditionally rejected subject to later certification by a registered physician or dentist that the defect has been corrected with complete restoration of function. Such certification must be forwarded to the Chief of Naval Personnel by way of the Chief, Bureau of Medicine and Surgery prior to May 1.

Subpart D—Nomination Procedures

§ 710.37 Vacancies.

The Secretary of the Navy shall, as soon as possible after the first of June of each year, notify in writing each authorized nominator of any vacancy that will exist at the Naval Academy because of graduation in the following year, or that may occur for other reasons, for which the nominator is entitled to nominate a candidate and alternates. The failure of a member of a graduating class to complete the course with his class does not delay the appointment of his successor.

§ 710.38 Dates for nominations.

Nominations to fill vacancies should be made by February 1 of the year in which the candidate aspires to enter. This date is necessary to enable the candidate to register for the March administration of the required College Entrance Examination Board tests and to be eligible for the March physical examination schedule.

§ 710.39 Residency.

Candidates allowed for States, congressional districts, and the District of Columbia must be actual residents of such States, congressional districts, or the District of Columbia, respectively, from which they are nominated.

§ 710.40 Civil Service Commission examinations.

It is the policy of some of the authorized nominators to have the United States Civil Service Commission hold special competitive examinations solely for the purpose of assisting them in selecting their candidates. These special competitive examinations have no bearing upon the candidate's mental qualifications for admission to the Naval Academy and the Naval Academy requirements must still be met fully. All the details concerning administration of the special competitive examinations are handled by the nominator concerned and the United States Civil Service Commission in Washington. Correspondence in regard to these examinations should be addressed accordingly.

Subpart E—Appendixes to Regulations Governing the Admission of Candidates Into the Naval Academy as Midshipmen

§ 710.41 Appendix I—Entrance procedure, equipment and pay.

(a) Candidates for whom there are vacancies, who have subscribed the "Engagement to Serve" and who have met the mental, moral, and physical requirements will receive appointments as midshipmen and be admitted as such to the Naval Academy.

(1) Each candidate will be required to certify on honor his exact age.

(2) In keeping with the policy of the Department of Defense and as directed by the Secretary of the Navy, candidates for appointment as midshipman are required to execute a loyalty certificate. The purpose of this certificate is to aid in determining whether the candidate's conduct or associations, past or present, have been such as to cast any doubt whatever upon his loyalty to the Government of the United States.

(3) The loyalty certificate includes a list of those agencies, groups, etc., designated by the Attorney General of the United States to be totalitarian, fascist, communist or subversive, or as having adopted a policy of advocating or approving the commission of acts of force or violence to deny persons their rights under the Constitution of the United States, or as seeking to alter the form of government of the United States by unconstitutional means.

(4) The admission of conduct or association, past or present, within the purview of acts as defined in the certificate, or association with any of the groups or organizations designated by the Attorney General, shall preclude appointment pending investigation and determination of eligibility by the Department of the Navy.

(5) False representation, or failure fully to disclose conduct or associations defined in the certificate shall constitute grounds for trial before a general court-martial with possible consequent conviction and imprisonment, or for separation from the naval service under conditions other than honorable, with or without any preceding court-martial procedure.

(6) Each candidate for midshipman upon entrance will be required to take oath of office as follows:

I, _____, of the State of _____ aged _____ years _____ months, having been appointed a midshipman in the United States Navy, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter; so help me God.

(7) He will also be required to subscribe to the following under oath:

For and in consideration of the privileges, opportunities, and benefits afforded me during the continuance of my service as a midshipman, I agree to and with the Superintendent of the United States Naval Academy, as follows:

First: To enter the service of the Navy of the United States and to the utmost of my power and ability to be in everything conformable and obedient to the several requirements and lawful commands of the officers who may be placed over me.

Second: I oblige myself, during such service, to comply with and be subject to the Uniform Code of Military Justice and such other laws and regulations as are or shall be established by the Congress of the United States or other competent authority.

Third: To submit to treatment for the prevention of smallpox, typhoid (typhoid prophylaxis), and to such other preventive measures as may be considered necessary by naval authorities.

(b) The course of instruction at the Naval Academy is of 4 years' duration and is designed for the purpose of educating and training students to become officers in the Navy. The word "officers" as used in the foregoing sentence means officers of the line and does not include officers of the Medical Corps, Dental Corps, etc. The curriculum provides a basic education in naval science; science and engineering; and the humanities and social sciences. In addition, there is opportunity for advanced work through validation of college-level courses successfully completed elsewhere, and through a program of elective overload courses for superior students. No midshipman can be admitted or readmitted to other than the fourth (freshman) class. Readmitted midshipmen who previously completed successfully one or more years of the Naval Academy course may request advancement to a higher class after reentry. There can be no deviation from the statutory age limits contained in § 710 25.

(c) Graduates of the Naval Academy who at graduation meet all requirements are commissioned as ensigns in the Navy and from each graduating class a limited number may be commissioned as second lieutenants in the Marine Corps. Their commissions may be revoked at any time during the first 3 years following graduation from the Naval Academy. On successful completion of the probationary period, officers are permanently commissioned. Officers whose commissions are revoked shall be discharged from the service, without advance pay or allowances.

(d) The pay of the Midshipman is $1,333.80 a year, commencing at the date of his admission. Its purpose is to permit him to pay all of his expenses; i.e., uniforms, books, equipment, laundry, income tax, etc., while at the Naval Academy.

(e) Midshipmen, immediately upon entrance, will be required to purchase from the midshipmen's storekeeper a regulation entrance outfit. Slide rules and drawing sets are furnished as part of the outfit. Candidates are advised, therefore, not to purchase these items prior to entering the Academy.

(f) Each candidate accepted for admission will, before being admitted as a midshipman, deposit with the midshipmen's storekeeper the sum of $300, to be used in part payment to cover cost of uniforms, clothing, textbooks, etc. In cases of extreme hardship this sum may be reduced to $100. The amount deposited is not refunded, but is expended for clothing and textbooks, which become the property of the midshipman.

(g) The required regulation entrance outfit, plus the additional uniforms, clothing, and textbooks required the first year, are valued at aproximately $1,000. The deposit made at the time of entrance is supplemented by an entrance credit of $600 upon first admission to the Naval Academy. The $600 credit is a loan advanced by the Government to be subsequently repaid by deductions from the midshipman's pay. These funds are available toward defraying the cost of the uniforms and equipment essential during the first year. Repayment of the indebtedness is accomplished by monthly deductions of $20 from the midshipman's pay, beginning in October of the second year at the Naval Academy and continuing until the indebtedness is liquidated. Any midshipman desiring to do so may repay this $600 entrance credit from personal funds immediately after appointment as midshipman. This sum is not required and only that portion of it that is not expended is recoverable should a midshipman subsequently be separated. Midshipmen who are involuntarily separated from the Naval Academy prior to repayment of the entrance credit, are required to turn in all articles of uniform and equipment deemed suitable for reissue, to an amount sufficient to liquidate the indebtedness. If reclaimed articles are insufficient to cover the indebtedness, the remainder of the debt is canceled. Midshipmen applying for voluntary separation for their own convenience are required to repay in full the amount of indebtedness prior to such separation.

(h) Upon being admitted to the Naval Academy, midshipmen receive travel and transportation allowances as prescribed in paragraph 5000, Joint Travel Regulations (ordinarily, mileage allowance of 6 cents per mile for authorized travel). Reimbursement will be made for the actual cost of passage fares on commercial vessels if sea travel is involved and provided no Government transportation is available. In the event travel originates outside the United States, candidates must contact the nearest naval activity for information as to the availability of Government transportation before endeavoring to procure commercial transportation. When government transportation is not available, a certified statement to this effect must be presented in order for the candidate to be reimbursed after he has become a midshipman.

(i) Candidates are usually sworn in as midshipmen on the day they are accepted for admission, i.e., the date of reporting at the Naval Academy as designated in the authorization to report issued by the Bureau of Naval Personnel. Due to limited living accommodations in the city of Annapolis candidates are urged to time their arrival at Annapolis to coincide as closely as possible with the reporting date, keeping in mind, however, that transportation facilities between Washington and Baltimore and Annapolis are not unlimited. Those arriving in Annapolis a day or two prior to actual reporting date may take advantage of berthing and messing facilities made available in Bancroft Hall, the midshipmen's dormitory. The cost for bed and meals per day is equal to the cost of a midshipman's daily ration allowance.

(j) Candidates admitted as midshipmen will be required to submit to the Superintendent, U.S. Naval Academy, for transmission to the Bureau of Naval Personnel upon admission, or as soon as practicable thereafter, evidence of birth. A certified copy of the public record of birth is the best evidence of birth. Supporting evidence will be required if the name on the evidence of birth is not identical with the name being used.

(k) Every candidate on reporting for appointment must present his Social Security card. If an individual has not obtained a social security number as a result of work experience prior to entering, he should obtain one based on the strength of expected employment as a midshipman.

(l) Each midshipman, except Foreign Nationals, shortly after entrance, will be required to complete a Statement of Personal History. Candidates should be prepared to furnish such information as:

(1) Names and locations of all schools attended.

(2) Family names, dates and places of birth of parents, service data if parents are or were in Armed Forces, naturalization numbers of parents if applicable.

(3) Relatives in foreign countries—relationship and location.

(4) Names and addresses of former employers.

(5) Names and addresses of three credit and five personal references. (Credit references may be those of parents.)

(6) Residences during past fifteen years. (Dates—street addresses—cities required.)

§ 710.42 Appendix II—Foreign students.

(a) *Appointments from the Republic of the Philippines.* (1) Title 10, United States Code, section 6957, provides that the Secretary of the Navy is authorized to permit, for the President of the United States, not exceeding four Filipinos at a time to receive instruction at the United States Naval Academy at Annapolis, Md. The Filipinos receiving instruction under authority of this law shall receive the same pay, allowances, and emoluments, to be paid from the same appropriations, and, subject to such exceptions as may be determined by the Secretary of the Navy, shall be subject to the same rules and regulations governing admission, attendance, discipline, resignation, discharge, dismissal, and graduation, as midshipmen at the Naval Academy appointed from the United States; but such persons shall not be entitled to appointment to any office or position in the United States Navy by reason of their graduation from the Naval Academy. Applications for appointment under provisions of this law must be addressed through diplomatic channels of the applicant's country. Nominations must reach the State Department in Washington, D.C., by January 1.

(2) The following regulations are established for candidates from the Republic of the Philippines:

(i) Each such candidate must:

(*a*) Be an unmarried, bona fide male citizen of the Republic of the Philippines, and, unless otherwise approved by the Secretary of the Navy, be not less than 17 years of age nor more than 22 years of age on July 1 of the calendar year in which he enters the Naval Academy.

(*b*) Possess physical qualifications as specified in this part. All candidates must undergo a physical examination and a physical aptitude examination by a board of medical examiners designated by the Chief of Naval Personnel. The formal physical examination of candidates from the Republic of the Philippines will be conducted by the Permanent Medical Examining Board at the United States Naval Academy at the time of reporting for admission. Such candidates are therefore urged to undergo careful preliminary examination by qualified medical personnel informed of the physical requirements set forth elsewhere in this part before leaving their homes for the Naval Academy. Those with obviously disqualifying defects may be spared the needless expense of the trip to Annapolis. However, in case of reasonable doubt as to whether defects are disqualifying, it is recommended that telegraphic inquiry be addressed to the Superintendent, U.S. Naval Academy, Annapolis, Md., U.S.A.

(*c*) Be proficient in reading, writing, and speaking idiomatic English and meet the following scholastic entrance requirements:

(*1*) Candidates may qualify for admission by either of the following two methods:

(*i*) Certificates from accredited secondary schools and colleges of the United States of America. See § 710.31 and Appendix III (§ 710.43).

(*ii*) Taking the College Entrance Examination Board Scholastic Aptitude Test and achievement tests in English Composition and Intermediate or Advanced Mathematics. See § 710.30.

(*2*) Candidates from the Republic of the Philippines will be given the same examination in English Composition as other candidates, but due consideration will be accorded these foreign students when evaluating test results. Each candidate shall submit a certificate from his government that he is conversant with the literature and history of his native country and that he has:

(*i*) In literature, completed a course in the literature of his native language equivalent in general to 2 years of secondary school work in literature in the United States.

(*ii*) In history, completed a course in the history of his native country equivalent in general to a 1-year history course

in the secondary schools of the United States.

(3) In lieu of these two certifications, a candidate from the Republic of the Philippines may produce evidence of having acquired the units of literature and/or United States history from accredited schools of the United States or of the Republic of the Philippines.

(4) See § 710.30 for the sources of information as to time, place, etc., of College Entrance Examination Board tests. The naval attaché or a diplomatic representative of the United States in the Republic of the Philippines shall furnish a report as to the candidate's proficiency in the use of idiomatic English.

(ii) The Government of the Republic of the Philippines should submit the names of candidates as early as possible in order that they may qualify for entrance during the month of March and enter the Naval Academy in July except in the cases of candidates attending secondary schools and colleges in the United States whose school records for the current year are essential to fulfillment of admission requirements. In this case candidates may be granted until June 25 in order to permit completion of the required certificates. The nomination of the candidate should contain a statement of the method of admission under which he wishes to qualify.

(iii) In lieu of the oath of allegiance to the United States, a substitute oath will be required, in substance as follows:

I, _____, a citizen of _____, aged _____ years _____ months, having been appointed a midshipman at the United States Naval Academy, do solemnly swear to comply with all regulations for the police and discipline of the Academy, and to give my utmost efforts to accomplish satisfactorily the required curriculum; do swear not to divulge any information of military value which I may obtain, directly or indirectly in consequence of my presence at the United States Naval Academy, to any alien government; and do agree that I shall be withdrawn from the United States Naval Academy if deficient in conduct, health, or studies.

(iv) Notification shall be made to the Government of the Republic of the Philippines that students found by proper authority to be unsatisfactory in conduct, studies, or health would be accorded the same consideration given other midshipmen regarding withdrawal from the Academy, or repetition of a year's work.

(b) *Appointments from American Republics (other than the United States) and Canada.* (1) Title 10, United States Code, section 6957 provides that the Secretary of the Navy is authorized to permit, upon designation of the President of the United States not exceeding 20 persons at a time from the American Republics (other than the United States) and Canada to receive instruction at the United States Naval Academy at Annapolis, Md. Not more than three persons from any one of such Republics, or Canada, shall receive instruction under authority of this law at the same time. The persons receiving instructions under authority of this law shall receive the same pay, allowances, and emoluments, to be paid from the same appropriations, and, subject to such exemptions as may be determined by the Secretary of the Navy, shall be subject to the same rules and regulations governing admission, attendance, discipline, resignation, discharge, dismissal, and graduation as midshipmen at the Naval Academy appointed from the United States; but such persons shall not be entitled to appointment to any office or position in the United States Navy by reason of their graduation from the Naval Academy. Application for appointment under the provisions of this law must be addressed through the appropriate diplomatic channels of the applicant's country. Nominations must reach the State Department in Washington, D.C., by January 1.

(2) The following regulations are established for candidates from American Republics (other than the United States) and Canada:

(i) Each candidate must:

(*a*) Be an unmarried, bona fide male citizen of the country transmitting the request, and, unless otherwise approved by the Secretary of the Navy, be not less than 17 years of age nor more than 22 years of age on July 1 of the calendar year in which he enters the Naval Academy.

(*b*) Possess physical qualifications as specified in this part. All candidates must undergo a physical examination and a physical aptitude examination by a board of medical examiners designated by the Chief of Naval Personnel. The formal physical examination of candidates from other American Republics and the Dominion of Canada will be conducted by the Permanent Medical Examining Board at the United States Naval Academy at the time of reporting for admission. Such candidates are therefore urged to undergo careful preliminary examination by qualified medical personnel informed of the physical requirements set forth elsewhere in this part before leaving their homes for the Naval Academy. Those with obviously disqualifying defects may be spared the needless expense of the trip to Annapolis. However, in case of reasonable doubt as to whether defects are disqualifying it is recommended that telegraphic inquiry be addressed to the Superintendent, United States Naval Academy, Annapolis, Md., U.S.A.

(*c*) Be proficient in reading, writing, and speaking idiomatic English and meet the following scholastic entrance requirements:

(*1*) Candidates may qualify for admission by either of the following two methods:

(*i*) Certificates from accredited secondary schools and colleges of the United States of America. See § 710.31 and Appendix III (§ 710.43).

(*ii*) Taking the College Entrance Examination Board Scholastic Aptitude Test and achievement tests in English Composition and Intermediate or Advanced Mathematics. See §710.30.

(2) Candidates from the American Republics will be given the same examination in English Composition as other candidates, but due consideration will be accorded these foreign students when evaluating test results. Each candidate shall submit a certificate from his Government that he is conversant with the literature and history of his native country and that he has:

(*i*) In literature, completed a course in the literature of his native language equivalent in general to 2 years of secondary school work in literature in the United States.

(*ii*) In history, completed a course in the history of his native country equivalent in general to a 1-year history course in the secondary schools of the United States.

(3) In lieu of these two certifications, a candidate from an American Republic may produce evidence of having acquired the units for literature and/or United States history from accredited schools of the United States.

(4) Candidates from Canada must meet the same requirements in English as a citizen of the United States. A candidate from Canada will be required to submit a certificate of equivalent study (a 1-year secondary school course) of the history of Canada, or produce evidence of having acquired the unit for United States history from accredited schools of the United States.

(5) See § 710.30 for the sources of information as to time, place, etc., of College Entrance Examination Board tests. The naval attaché or a diplomatic representative of the United States in the candidate's country shall in the cases of all candidates from other American Republics furnish a report as to the candidate's proficiency in the use of idiomatic English.

(ii) Each Government concerned should submit the names of candidates as early as possible in order that they may qualify for entrance during the month of March and enter the Naval Academy in July except in the cases of candidates attending secondary schools and colleges in the United States whose school records for the current year are essential to fulfillment of admission requirements. In this case candidates may be granted until June 25 in order to permit completion of the required certificates. The nomination of the candidate should contain a statement of the method of admission under which he wishes to qualify.

(iii) In lieu of the oath of allegiance to the United States, a substitute oath will be required, in substance as follows:

I, _____, a citizen of _____, aged _____ years _____ months, having been appointed a midshipman at the United States Naval Academy, do solemnly swear to comply with all regulations for the police and discipline of the Academy, and to give my utmost efforts to accomplish satisfactorily the required curriculum; do swear not to divulge any information of military value which I may obtain, directly or indirectly in consequence of my presence at the United States Naval Academy, to any alien government; and do agree that I shall be withdrawn from the United States Naval Academy if deficient in conduct, health, or studies.

(iv) Notification shall be made to each foreign government concerned that students found by proper authority to

be unsatisfacory in conduct, studies, or health would be accorded the same consideration given other midshipmen regarding withdrawal from the Academy, or repetition of a year's work.

§ 710.43 Appendix III [1]—Additional details concerning the college certificate method of qualifying scholastically.

(a) *Candidates.* Admission to the Naval Academy by the college certificate method is a privilege which the Academic Board may accord to those non-competitive candidates whom it considers, on the basis of the high school and college certificates presented, to be worthy of exemption from the otherwise required scholastic entrance examination. Any college certificate candidate who also elects to take the scholastic entrance examination must stand or fall on the results which he achieves on the entrance tests. If he fails to receive an acceptable score in any one of the required tests, he will be disqualified and may not thereafter utilize his college certificate for admission in the same year.

(b) *Certificate credit.* Following is a table of secondary school subjects for which the Naval Academy will allow certificate credit. This list is included in order to permit candidates properly to choose the subjects which they should pursue in high school and to permit a check of the list against courses already completed. Mandatory subjects are mentioned in the note at the head of the respective groups of subjects. An acceptable secondary school certificate is one showing proficiency in 7 units of certain required subjects and in at least 8 units of optional subjects.

	Designation	Maximum units allowed
Group I:		
English (maximum of three units allowed and required):		
English I	I	8
English II	II	
English III	III	
English IV	IV	
Group II:		
Mathematics (three units required of which at least one and one-half, but preferably two must be algebra and one plane geometry: units in excess of three count as optional. Three semesters of algebra will be acceptable for the algebra requirement if the school certifies that the candidate has covered satisfactorily the material listed under mathematics A1 and A2 as described in a following paragraph in this appendix. In such a case two units of algebra will be allowed toward certification.):		
Algebra to quadratics	A1	1
Algebra, quadratics and beyond	A2	1
Algebra, advanced	B	½
Plane geometry	C	1
Solid geometry	D	½
Plane trigonometry	E	½
Higher mathematics		
History (one unit of United States history (or one-half year of United States history and one-half year of civics, government or problems of democracy) required: other units count as optional)—		
History, ancient	A	1
History, European	B	1
History, English	C	1
History, United States	D	1
History, modern European	E	1
History, World	F	1
Group IV:		
Sciences, drawing, and languages (all units count as optional):		
Physics (recitation, laboratory), first year	I	1
Physics (recitation, laboratory) second year	II	1
Chemistry (recitation, laboratory), first year	I	1
Chemistry (recitation, laboratory), second year	II	1
Biology (recitation, laboratory)	I	1
General Science (recitation, laboratory)	I	1
Psychology	I	1
Mechanical drawing, first year	I	1
Mechanical drawing, second year	II	1
French, first year	I	1
French, second year	II	1
French, third year	III	1
Spanish, first year	I	1
Spanish, second year	II	1
Spanish, third year	III	1
German, first year	I	1
German, second year	II	1
German, third year	III	1
Italian, first year	I	1
Italian, second year	II	1
Italian, third year	III	1
Latin, first year	I	1
Latin, second year	II	1
Latin, third year	III	1
Latin, fourth year	IV	1
Group V:		
Miscellaneous (all units count as optional):		
Physical geography (recitation, laboratory)		1
Botany (recitation, laboratory)		1
Zoology (recitation, laboratory)		1
Geology		1
Astronomy		1
Physiology		1
Civics		1
Problems of democracy		1
American problems		1
Citizenship		1
Sociology		1
Social science		1
Current events		½
Commercial law		½
Commercial history		½
Commercial arithmetic		½
Commercial geography		½
Economics		1
Economic history		½
Economic geography		½
Industrial problems		½
Public speaking		½
Elementary law		½
Advanced arithmetic		½
Manual training		1
Journalism		1
Occupations		½

(c) *Recommendation by school principal.* It is expected that the responsible secondary school official will recommend only those candidates who, in his opinion, have the scholastic background needed to pursue successfully a difficult course of college level in which the emphasis is placed on engineering subjects, and who have those qualities of character necessary for success in an institution where training for effective military leadership is of paramount importance.

(d) *Definition of "unit of credit."* The Academic Board at the Naval Academy recognizes the following definition of a unit of credit that was formulated by the National Conference Committee on Standards of Colleges and Secondary Schools:

A unit represents a year's study in any subject in a secondary school, constituting approximately a quarter of a full year's work. A 4-year secondary school curriculum should be regarded as representing not more than 16 units of work.

(e) *Specific requirements and limitations.* The assumption is made also that the school year is from 36 to 40 weeks in length, that a period requires from 40 to 60 minutes and that the study is pursued for 4 or 5 periods a week. The Academic Board considers that a satisfactory year's work in a subject cannot be accomplished in less than 120 sixty-minute periods or their equivalent. Not more than 1½ units of credit can be allowed for work done in fully accredited night schools or in fully accredited schools of comparable character where the classes meet other than in regular day school hours. No credit will be allowed in a certificate, or as evidence of required review, for work done in correspondence courses, under a tutor, or in nonaccredited schools. All work essential to the acceptance of a certificate must have been completed by the end of the regular school year in order to establish eligibility for admission to the Naval Academy in the same year. Summer school work will not be accepted for entry in the year in which it is completed.

(f) *Offset of deficiencies in high school certificates.* Deficiencies in the high school certificate can often be offset by offering acceptable college work in the subject or subjects involved or advanced related branches thereof. In certain cases such work must be in excess of the 24 semester hours required in the college certificate.

(g) *No credit for barely passing grades.* No credit will be allowed for subjects for which barely passing grades have been assigned.

(h) *Definition of certain of the subjects listed in secondary school certificates.*

MATHEMATICS

A1. ALGEBRA TO QUADRATICS (ONE UNIT)

The four fundamental operations for rational algebraic expressions.

Factoring, determination of highest common factor and lowest common multiple by factoring.

Fractions, including complex fractions, and ratio and proportion.

Meaning, use, and evaluation of formulas.

Graphical representation.

Linear equations, both numerical and literal, containing one or two unknown quantities.

Problems depending on linear equations.

Radicals, including the extraction of the square root of polynomials and of numbers.

Exponents, including fractional and negative.

Numerical trigonometry—the use of the sine, cosine, and tangent in solving right triangles.

[1] This appendix will be deleted in July 1960 since the college certificate method of qualifying scholastically will not be accepted for candidates aspiring to enter in or after July 1961.

A2. QUADRATICS AND BEYOND (ONE UNIT)

Quadratic equations, both numerical and literal.

Simple cases of equations with one or more unknown quantities that can be solved by the methods of linear or quadratic equations.

Problems depending on quadratic equations.

Graphical solution of quadratic equations.

Simultaneous equations in three unknowns.

The solution of simple cases of equations of degree higher than the second.

Elementary theory and use of logarithms. Variation.

The binomial theorem for positive integral exponents.

The formulas for the nth term and the sum of the terms of arithmetic and geometric progressions, with applications.

It is assumed that pupils will be required throughout the course to solve numerous problems which involve putting questions into equations. Some of these problems should be chosen from mensuration, from physics, and from commercial life. The use of graphical methods and illustrations, particularly in connection with the solution of equations, is also expected.

B. ADVANCED ALGEBRA (ONE-HALF UNIT)

Permutations and combinations, limited to simple cases.

Complex numbers, with graphical representation of sums and differences.

Determinants, chiefly of the second, third, and fourth orders, including the use of minors and the solution of linear equations.

Numerical equations of higher degree, and as much of the theory of equations, with graphical methods, as is necessary for their treatment, including Descartes' rule of signs and Horner's method, but not Sturm's functions or multiple roots.

C. PLANE GEOMETRY (ONE UNIT)

The usual theorems and constructions of good textbooks, including the general properties of plane rectilinear figures; the circle and the measurement of angles; similar polygons; areas; regular polygons, and the measurement of the circle.

The solution of numerous original exercises.

Application to the mensuration of lines and plane surfaces.

D. SOLID GEOMETRY (ONE-HALF UNIT)

The usual theorems and constructions of good textbooks, including the relations of planes and lines in space; the properties and measurement of prisms, pyramids, cylinders, and cones; the sphere and the spherical triangle.

The solution of numerous original exercises.

Applications to the mensuration of lines, surfaces, and solids.

E. PLANE TRIGONOMETRY (ONE-HALF UNIT)

Definitions and relations of the six trigonometric functions as ratios; circular measurements of angles.

Proofs of principal formulas, in particular for the sine, cosine, and tangent of the sum and the difference of two angles, of the double angle and the half angle, the product expressions for the sum or the difference of two sines or of two cosines, etc.; the transformation of trigonometric expressions by means of these formulas.

Solutions of trigonometric equations of a simple character.

Theory and use of logarithms (without the introduction of work involving infinite series).

The solution of right and oblique triangles and practical applications.

ENGLISH I, II, III AND IV

The study of English in school has two main objects: (A) Command of correct and clear English, spoken and written; (B) ability to read with accuracy, intelligence, and appreciation; familiarity with a few masterpieces.

A. GRAMMAR AND COMPOSITION (ONE AND ONE-HALF UNITS)

The first object requires instruction in grammar and composition. English grammar should ordinarily be reviewed in the secondary school; and correct spelling and grammatical accuracy should be rigorously exacted in all written work during the four years. The principles of English composition governing punctuation, the use of words, sentences, and paragraphs should be thoroughly mastered; and practice in composition, oral as well as written, should extend throughout the secondary school period. Written exercises should include letter writing, narration, description, and simple exposition and argument. It is advisable that subjects for this work be taken from the student's personal experience, general knowledge, and studies other than English, as well as from his reading in literature. Finally, special instruction in language and composition should be accompanied by concerted effort of teachers in all branches to cultivate in the student the habit of using good English in his recitations and various exercises, whether oral or written.

B. LITERATURE (ONE AND ONE-HALF UNITS)

The second object is sought by the reading and study of English and American literature in a progressive course covering four years. The student should be trained to read aloud with expression and clarity and to read silently with swift comprehension. He should be encouraged to commit to memory some of the more notable passages both in verse and in prose. As an aid to literary appreciation he should be further advised to acquaint himself with the most important facts in the lives of the authors whose works he reads and with their place in literary history. The aim is to foster in the student the habit of intelligent reading and to develop a taste for good literature, by giving him a first-hand knowledge of some of its best specimens. He should read the books carefully, but his attention should not be so fixed upon details that he fails to appreciate the main purpose and charm of what he reads.

HISTORY

A. Ancient history, comprising the history of the ancient world and of Greece and Rome to the year 476 A. D. (One unit.)

B. European history, including both mediæval and modern. (One unit.)

C. English history. (One unit.)

D. United States history. (One unit required. The standard year course in United States history, or a year course embracing both United States history and civil government, will fulfill this requirement.)

E. Modern European history. (One unit.)

F. World history. (One unit.)

(i) *Additional rules.* (1) The college certificate must present at least 24 semester hours of credit for subjects acceptable to the Naval Academy, and here also the assigned grades should be substantially above the college passing grade. Of the 24 semester hours of credit specified, at least 6 must be in college mathematics selected from college algebra, trigonometry, analytical geometry, calculus, etc., and 6 in college English and/or history. A normal year of college work will embrace approximately 30 semester hours of credit for academic work, and the Academic Board at the Naval Academy looks with disapproval upon an arrangement of college courses designed to do nothing more than meet our minimum requirements.

(2) The length of college attendance prescribed is defined as requiring actual full-time attendance for one regular school year during which the candidate pursues courses constituting a normal year's load. Deficiencies not in excess of nine semester hours of credit may be made up as the result of regular class work in extension classes of fully accredited institutions provided such work is in excess of the normal year of college work. Extension classes are defined as classes which meet beyond regular daytime school hours. Under no circumstances will credit be allowed for correspondence courses or tutoring work or for a subject for which credit has been established as the result of an examination alone.

(3) The Naval Academy does not maintain a restricted list of accredited colleges, universities, and technological schools. It accredits, for certification purposes, any of the standard colleges, universities, technological schools of collegiate rank, and the two-year junior colleges that are fully and unqualifiedly accredited by the various State boards which prescribe collegiate standards in their respective States, or by any of the recognized accrediting agencies such as the New England Association of Colleges and Secondary Schools, the Association of Colleges and Secondary Schools of the Middle States and Maryland, the Association of Colleges and Secondary Schools of the Southern States, the North Central Association of Colleges and Secondary Schools, and the Northwest Association of Secondary and Higher Schools. In case of doubt as to the accredited status of the institution under consideration, specific inquiry should be addressed to the Superintendent, U.S. Naval Academy, Annapolis, Maryland, giving the name of the institution.

(4) A candidate who contemplates qualifying by the College Certificate Method but who has not completed the required year of college at the time of receipt of his nomination should submit his high school record on the prescribed form and should have a preliminary college certificate (Form I) submitted showing the courses contemplated or in progress and the amount of credit in semester hours to be assigned for each course. For instance, a college certificate submitted at the end of the first semester should show the first semester grade for each course and should indicate the courses to be pursued during the second semester and the eventual amount of credit in semester hours to be assigned for each. A certificate submitted prior to the receipt of any grades should indicate the courses to be pursued during the full school year and the credit value of each course.

(5) When review of a candidate's secondary school and college certificates

shows that the secondary school record is acceptable and that the college record through the first semester or first two quarters meets the requirements as to subjects studied and grades received, with formal acceptance dependent only upon satisfactory completion of the final term courses, tentative acceptance will be reported. Acceptance of the college certificate will become final upon receipt of a supplementary statement from the college registrar or other authorized official attesting satisfactory standing in studies and conduct during the final term.

(6) If an informal opinion is rendered which involves modification of the candidate's schedule of courses, or if the quality of his work is such that special additional requirements must be imposed, it will be the responsibility of the candidate himself to decide whether to persevere in trying to gain admission by this method, or to elect to take the mental entrance examination. This is an important decision since if he does not take the College Entrance Examination Board tests on the required date and subsequently has his college certificate rejected, he has irrevocably failed to qualify mentally, at least for entry that year. The decision should depend on his ability to effect such changes in his courses as may be necessary or, as the case may be, upon his own estimate of his ability to meet such other specific requirements as may have been imposed.

(7) If the supplementary final certificate cannot be mailed to the Naval Academy by June 25 and if the candidate receives from the Chief of Naval Personnel an authorization to report at the Naval Academy for admission before it is mailed, he must bring it with him and present it when he reports. It is the specific responsibility of each candidate to ensure compliance with this limiting date, and failure to do so can well result in cancellation of his nomination. A candidate who is an alternate has no ready means of knowing when he may become eligible for admission and should not be deterred from taking every possible step to ensure submission of all essential certificate papers. An incomplete record when a candidate becomes eligible for call can result in the conclusion that the individual has abandoned his candidacy.

(8) The candidate is encouraged to submit certificates prior to completion of the first term of the school year immediately preceding entrance to the Naval Academy. An early review of the record of completed work and of courses proposed for completion may reveal defects which can be corrected by slight changes in the final semester schedule. The certificate action reports issued by the Naval Academy state clearly such ensuing steps on the candidate's part as may be necessary to complete his case. However, if in doubt, a candidate should address a letter to the Superintendent, U.S. Naval Academy, Annapolis, Maryland, stating his questions. Such letters will be answered as promptly as possible.

(j) *Caution.* If you take the March series of the College Entrance Examination Board tests and have the results sent to the U.S. Naval Academy and they do not meet the required standards for admission, your college certificate will not be acceptable for entry in that year.

§ 710.44 Appendix IV—Physical standards and disqualifying defects.

(a) *General.* The physical standards outlined in paragraphs (b) to (v) of this section are prescribed for candidates. The standards are established to secure uniformity in conducting physical examinations and in interpreting physical fitness of candidates for admission to the U.S. Naval Academy. The object is to procure personnel who are physically fit and temperamentally adapted to the conditions of naval life and who will be physically fit for appointment to commissioned grade when duly qualified otherwise therefor. The standards prescribed are intended to preclude from acceptance, those individuals who present contagious or infectious disease which would be likely to endanger the health of other personnel, those who are likely to require repeated admissions to the sick list, prolonged hospitalization, or invaliding from service, and those who present any condition which would be reasonably likely to disqualify for appointment to commissioned status or result in early retirement for physical disability.

(1) Candidates will save valuable time and money for themselves and the Government by procuring careful complete physical and dental examinations prior to reporting for their formal physical examinations in order that temporary disqualifying defects may be remedied. (See § 710.34.)

(2) The candidate should insist that his medical and dental examiner fully inform him of all his physical defects and whether or not such defects are considered disqualifying for entrance to the U.S. Naval Academy under these standards.

(3) Since a history of having had certain illnesses which are recurrent and/or progressive in nature is disqualifying for entrance and for retention in the U.S. Naval Academy it is of paramount importance that the candidate inform the medical and dental examiner in detail of his past medical record. The candidate who fails to inform his examiner of his past medical record in order to gain entrance into the U.S. Naval Academy has not accomplished his goal if he must be discharged because of a recurrent or progressive disease subsequent to his entrance thereto.

(b) *Medical history.* In order to assist the examiner in conducting the physical examination, it is required that a careful history be obtained. An applicant for entry into the U.S. Naval Academy, upon reporting for examination, shall first be required to complete Standard Form 89 (Report of Medical History). The use of this form is not required in case of a candidate appearing before his own family physician and dentist. When used, the data on the completed form shall be reviewed, and elaborated upon by the examiner whenever it is necessary to present a more complete picture of the individual's medical history.

(c) *Psychiatric disorders.* The following conditions are causes for rejections:

(1) Psychotic disorders:
(i) Schizophrenic reactions.
(ii) Affective reactions.
(iii) Paranoid reactions.

(2) Psychiatric disorders with demonstrable physical etiology or associated structural changes in the brain:
(i) Psychotic disorders with demonstrable physical etiology or associated structural changes in the brain.
(ii) Nonpsychotic mental disorders with demonstrable physical etiology or associated structural changes in the brain.

(3) Psychoneurotic disorders:
(i) Anxiety reaction.
(ii) Dissociative reaction.
(iii) Conversion reaction.
(iv) Phobic reaction.
(v) Obsessive-compulsive reaction.
(vi) Neurotic-depressive reaction.
(vii) Somatization reaction.
(viii) Hypochondriacal reaction.

(4) Character and behavior disorders:
(i) Pathological personality types:
(*a*) Schizoid personality.
(*b*) Paranoid personality.
(*c*) Cyclothymic personality.
(*d*) Inadequate personality.
(*e*) Antisocial personality.
(*f*) Asocial (amoral) personality.
(*g*) Sexual deviate.
(ii) Immaturity reactions:
(*a*) Emotional-instability reaction.
(*b*) Passive-dependency reaction.
(*c*) Passive-aggression reaction.
(*d*) Aggressive reaction.
(*e*) Immaturity with symptomatic habit reaction.

(5) Disorders of intelligence:
(i) Mental deficiency, primary.
(ii) Mental deficiency, secondary.
(iii) Specific learning defect.

(d) *Weight, height and miscellaneous considerations.* (1) The applicant's weight should be well distributed and in proportion to age, height and skeletal structure. The purpose of the standard is to facilitate detection and disqualification of the unduly obese and to avoid disqualifying muscular, healthy applicants.

Height (inches)	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78
Weight (pounds):															
Minimum	112	116	120	124	128	132	136	140	144	148	152	156	160	164	168
Maximum	160	165	170	175	181	186	192	197	203	209	214	219	225	230	235

NOTE: The figures in the table above are for growing youths and are for the guidance of medical officers in connection with the other data obtained at the examination, a consideration of which will determine the candidate's physical eligibility.

(2) The applicant's height should be measured in inches to the nearest one-half inch, without shoes. The table below sets forth the minimum and maximum heights acceptable for candidates for the U. S. Naval Academy.

	Inches
Minimum	64
Maximum	78

(3) The following miscellaneous conditions are causes for rejection:

(i) Any deformity which is repulsive or which prevents the proper functioning of any part to a degree interfering with military efficiency.

(ii) Deficient muscular development or deficient nutrition.

(iii) Evidences of physical characteristics of congenital asthenia, such as slender bones, a weak ill-developed thorax, nephroptosis, gastroptosis, constipation, and "drop" heart, with its peculiar attenuation and weak and easily fatigued musclature.

(iv) All acute communicable diseases.

(v) All diseases and conditions which are not easily remediable or that tend physically to incapacitate the individual, such as: chronic malaria or malarial cachexia; tuberculosis; leprosy, actinomycosis; authenticated history of rheumatic fever within the previous five years, rheumatoid arthritis; osteomyelitis; malignant diseases of all kinds in any location; hemophilia; purpura; leukemia of all types; pernicious anemia; sickle cell anemia; trypanosomiasis; filariasis which has produced permanent disability or deformity, history of any acute attack of filariasis within 6 months of date of examination, or the finding of microfilaria in the blood stream; chronic metallic poisoning, allergic manifestations such as hay fever, if more than mild or if likely to cause more than minimal loss of time from duty or if associated with nasal polyps or hyperplastic sinusitis; asthma or a history of asthma, including so-called "childhood" asthma, unless there is a trustworthy history of freedom from seizures since six or seven years of age and provided that seizures prior to that time were not severe or prolonged and did not require extensive therapy; allergic conjunctivitis, allergic dermatoses, or allergic rhinitis particularly if there is associated hyperplastic sinusitis or nasal polyps, or a history thereof, when in the opinion of the examiner, the condition is likely to frequently recur, or to cause more than minimal loss of time from duty or otherwise is of present or future clinical significance.

(e) *The endocrine glands and metabolism.* The following conditions are causes for rejection:

(1) Toxic goiter; thyroid adenoma with pressure symptoms or of such size as to interfere with wearing a uniform.

(2) Cretinism; hypothyroidism; myxedema, spontaneous or postoperative (with clinical manifestations and diagnosis not based solely on low basal metabolic rate).

(3) Gigantism or acromegaly; diabetes insipidus, Simmonds' disease; Cushing's syndrome; other diseases because of a disorder of the pituitary gland.

(4) Frohlich's syndrome, if severe.

(5) Hyperparathyroidism and hypoparathyroidism when the diagnosis is supported by adequate laboratory studies.

(6) Addison's disease.

(7) Glycosuria if persisting; diabetes mellitus. If sugar is found in the urine, further specimens, voided in the presence of the physician or authorized assistant, should be examined. In doubtful cases the fasting blood sugar and glucose tolerance tests should be obtained. In the presence of diabetes mellitus in a parent, sibling, or grandparent, a standard glucose tolerance test is required.

(8) Nutritional deficiency diseases (including sprue, beriberi, pellagra, and scurvy) which are severe or not readily remediable or in which permanent pathological changes have been established.

(9) Gout.

(10) Hyperinsulinism when established by adequate investigation and if regarded by the examiners as of sufficient degree to disqualify for military service.

(f) *The eyes.* (1) For enrollment in the U.S. Naval Academy a minimum visual acuity of 20/20 each eye is required. No squinting or visual aids are allowed and the test letters should be read correctly and promptly. Refraction is not required for entrance into the U. S. Naval Academy unless medically indicated.

(2) Disease of the eye grounds shall be cause for rejection.

(3) Both eyes must be free from any disfiguring or incapacitating abnormality and from acute or chronic disease.

(4) The following conditions are causes for rejection:

(i) Trachoma.

(ii) Chronic conjunctivitis, or xerophthalmia.

(iii) Pterygium encroaching upon the cornea.

(iv) Complete or extensive destruction of the eyelids, disfiguring cicatrices, adhesions of the lids to each other or to the eyeball.

(v) Inversion or eversion of the eyelids, or lagophthalmus.

(vi) Trichiasis, ptosis, blepharospasm, or chronic blepharitis.

(vii) Epiphora, chronic dacryocystitis, or lachrymal fistula.

(viii) Chronic keratitis, ulcers of the cornea, staphyloma, or corneal opacities encroaching on the pupillary area and reducing the acuity of vision below the standard.

(ix) Irregularities in the form of the iris, or anterior or posterior synechiae sufficient to reduce the visual acuity below the standard.

(x) Opacities of the lens or its capsule sufficient to reduce the acuity of vision below the standard, or progressive cataract of any degree.

(xi) Extensive coloboma of the choroid or iris, absence of pigment (albino), glaucoma, iritis, or extensive or progressive choroiditis of any degree.

(xii) Retinitis, detachment of the retina, neuroretinitis, optic neuritis, or atrophy of the optic nerve.

(xiii) Loss or disorganization of either eye, or pronounced exophthalmos.

(xiv) Pronounced nystagmus or well-marked strabismus.

(xv) Diplopia, or night blindness.

(xvi) Abnormal condition of the eye due to disease of the brain.

(xvii) Malignant tumors of lids or eyeballs.

(xviii) Asthenopia.

(xix) Any organic disease of either eye.

(g) *Color perception.* (1) It is essential that all candidates for the Naval Academy have normal color perception. Candidates shall be considered qualified if they pass one of the American Optical Company pseudo-isochromatic plate test sets listed in subparagraph (2) of this paragraph or if they pass the Farnsworth Lantern test. Candidates who fail to pass the American Optical Company pseudo-isochromatic plate test shall be considered qualified if they pass the Farnsworth Lantern test. The results obtained with the Farnsworth Lantern shall be considered final in the resolution of all cases of questionable color perception. Where available the Farnsworth Lantern shall be used to test color perception in lieu of the AOC plate tests.

(2) When the American Optical Company pseudo-isochromatic plate test set is used for determination of color perception, a color vision test lamp with daylight filter or a fluorescent light with a daylight tube shall be used for illumination. The examinee shall not be allowed to trace the patterns or otherwise touch the test plates. The plates shall be shown at a distance of thirty inches and two seconds allowed to identify each plate. If the examinee hesitates, he should be asked again to "read the numbers." If he fails to respond, the examiner must turn to the next plate without comment. Qualification of examinees using the American Optical Company pseudo-isochromatic test plates is ascertained as follows:

(i) When the twenty plate test set (number N3–885–960) is used and the examinee reads correctly seventeen of the twenty plates, demonstration plates excluded, he is qualified.

(ii) When the eighteen plate test set (number 65–15–388–6606) is used and the examinee reads correctly fourteen of the eighteen plates, demonstration plate excluded, he is qualified.

(iii) When the fourteen plate test set (number 65–15–299–8186) is used and the examinee reads correctly ten of the fourteen plates, demonstration plate excluded, he is qualified.

(3) Detailed instruction for the administration of the Farnsworth Lantern test, as well as the criteria for passing the test, are engraved on a metal plate which is permanently attached to the instrument and shall be followed without exception. These instructions have been reprinted as enclosure (1) to BuMed Instruction 6730.2. The results of the test shall be recorded in item 64 of the Report of Medical Examination as "Passed FaLant" or "Failed FaLant." In addition, if the examinee makes no errors on the first run of nine pairs of lights, enter in item 73, Standard Form 88, "FaLant-one-run—no errors." If any

errors are made on the first run, record the number of errors made on each of the second and third runs separately in item 73 of the Standard Form 88.

(h) *The ears.* The following conditions are causes for rejection:

(1) The total loss of an external ear, marked hypertrophy or atrophy, or disfiguring deformity of the organ.

(2) Atresia of the external auditory canal, or tumors of this part.

(3) Acute or chronic suppurative otitis media, or chronic catarrhal otitis media.

(4) Mastoiditis, acute or chronic.

(5) Existing perforation of either membrana tympani.

(6) Deafness of one or both ears.

(7) Any diminution of auditory acuity in either ear, below 15/15 by whispered voice, below 40/40 by standard clock, or below 20/20 by coin click, or a significant auditory acuity loss as demonstrated by audiogram if such test has been performed.

(8) Any acute or chronic disease of the external, middle, or internal ear.

(i) *The skin.* The following conditions are causes for rejection:

(1) Eczema of long standing or which is resistant to treatment; allergic dermatosis, if severe.

(2) Chronic impetigo; sycosis; carbuncle; acne upon face or neck which is so pronounced as to amount to positive deformity.

(3) Actinomycosis; dermatitis herpetiformis; mycosis fungoides.

(4) Extensive psoriasis; ichtyosis; chronic lichen planus.

(5) Elephantiasis.

(6) Scabies; pediculosis (if indicative of unhygienic habits).

(7) Ulcerations of the skin not amenable to treatment, or those of long standing or of considerable extent, or of syphilitic or malignant origin.

(8) Extensive, deep, or adherent scars that interfere with muscular movements, or that show a tendency to break down and ulcerate.

(9) Naevi and other erectile tumors if extensive, disfiguring, or exposed to constant pressure.

(10) Obscene, offensive, or indecent tattooing.

(11) Pilonidal cyst or sinus if evidenced by presence of readily palpable tumor mass or if there is a history of inflammation or of purulent discharge.

(12) Lupus vulgaris; other tuberculous skin lesions.

(13) Lupus erythematosus, discoid or generalized; scleroderma.

(14) Epidermolysis bullosa; pemphigus.

(15) Plantar warts on weight-bearing areas, if of significance.

(j) *The head and face.* The following conditions are causes for rejection:

(1) Tinea in any form.

(2) All benign tumors which are of sufficient size to interfere with the wearing of military headgear, or subject to chronic irritation.

(3) Imperfect ossification of the cranial bones or persistence of the anterior fontanelle.

(4) Extensive cicatrices, especially such adherent scars as show a tendency to break down and ulcerate.

(5) Depressed fractures or other depressions, or loss of bony substance of the skull, unless the examiner is certain the defect is slight and will cause no future trouble.

(6) Monstrosity of the head, or hydrocephalus.

(7) Hernia of the brain.

(8) Deformities of the skull of any degree associated with evidence of disease of the brain, spinal cord, or peripheral nerves.

(9) Extreme ugliness.

(10) Unsightly deformities, such as large birthmarks, large hairy moles, extensive cicatrices, mutilations due to injuries or surgical operations, tumors, ulcerations, fistulae, atrophy of a part of the face, or lack of symmetrical development.

(11) Persistent neuralgia, tic douloureux, or paralysis of central nervous origin.

(12) Ununited fractures of the maxillary bones, deformities of either maxillary bone interfering with mastication or speech, extensive exostosis, necrosis, or osseous cysts.

(13) Chronic arthritis of the temporomandibular articulation, badly reduced or recurrent dislocations of this joint, or ankylosis, complete or partial.

(k) *The mouth, nose, pharynx, larynx, trachea, and esophagus.* The following conditions are causes for rejection:

(1) Harelip, unless adequately repaired, loss of the whole or a large part of either lip, unsightly mutilations of the lips from wounds, burns, or disease.

(2) Malformation, partial loss, atrophy, or hypertrophy of the tongue, split or bifid tongue, or adhesions of the tongue to the sides of the mouth, provided these conditions interfere with mastication, speech, or swallowing, or appear to be progressive.

(3) Malignant tumors of the tongue, or benign tumors that interfere with its functions.

(4) Marked stomatitis, or ulcerations, or severe leukoplakia.

(5) Ranula if at all extensive, or salivary fistula.

(6) Perforation or extensive loss of substance or ulceration of the hard or soft palate, extensive adhesions of the soft palate to the pharynx, or paralysis of the soft palate.

(7) Loss of the nose, malformation, or deformities thereof that interfere with speech or breathing, or extensive ulcerations.

(8) Perforated nasal septum if considered causative of symptoms or local pathology, or likely to do so.

(9) Nasal obstruction due to septal deviation, hypertrophic rhinitis, or other causes, and particularly if sufficient to produce mouth breathing.

(10) Acute or chronic inflammation of the accessory sinuses of the nose, hay fever, or allergic rhinitis (see paragraph (d) (3) (v) of this section).

(11) Atrophic rhinitis.

(12) Malformations or deformities of the pharynx of sufficient degree to interfere with function.

(13) Postnasal adenoids interfering with respiration or associated with middle-ear disease.

(14) Marked enlargement of the tonsils or markedly diseased tonsils.

(15) Laryngitis from any cause.

(16) Paralysis of the vocal cords, or aphonia.

(l) *The neck.* The following conditions are causes for rejection:

(1) Cervical adenitis of other than benign origin, including cancer, Hodgkin's disease, leukemia, tuberculosis, syphilis, etc.

(2) Adherent or disfiguring scars from disease, injuries, or burns.

(3) Thyroid adenoma interfering with breathing or with the wearing of clothing; exophthalmic goiter or thyroid enlargement from any cause associated with toxic symptoms or which is disfiguring.

(4) Benign tumors or cysts which are so large as to interfere with the wearing of a uniform or military equipment.

(5) Torticollis.

(6) Tracheal openings, thyroglossal or cervical fistulae.

(7) Restricted mobility sufficient to limit the normal range of motion.

(m) *The spine.* The following conditions are causes for rejection:

(1) Lateral deviation of the spine from the normal midline of such degree that it impairs normal function or is likely to do so.

(2) Curvature of the spine of such degree that function is interfered with or is likely to be interfered with, or in which there is noticeable deformity when the applicant is dressed (scoliosis, kyphosis, or lordosis).

(3) Fracture or dislocation of the vertebrae.

(4) Vertebral caries (Pott's disease).

(5) Abscess of the spinal column or its vicinity.

(6) Osteo-arthritis of the spinal column, partial or complete.

(7) Fracture of the coccyx; spina bifida; spondylolisthesis; other congenital anomalies of the lumbosacral spine if associated with symptoms of a chronic or recurrent nature or if in the opinion of the examiner of such a degree or type as to predispose to mechanical instability.

(8) Active arthritic processes from any cause.

(9) Herniation of intervertebral disc (nucleus pulposus) or history of operation for this condition.

(n) *The thorax.* The following conditions are causes for rejection.

(1) Congenital malformations or acquired deformities which result in reducing the chest capacity and diminishing the respiratory function to such a degree as to interfere with vigorous physical exertion or to produce disfigurement when the applicant is dressed.

(2) Pronounced contractions or markedly limited mobility of the chest wall following pleurisy or empyema.

(3) Deformities of the scapulae sufficient to interfere with the carrying of equipment.

(4) Absence or faulty development of the clavicle.

(5) Old fracture of the clavicle where there is much deformity or interference with the carrying of equipment; ununited

fractures, or partial or complete dislocation of either end of the clavicle.

(6) Suppurative periostitis or caries or necrosis of the ribs, the sternum, the clavicles, or the scapulae.

(7) Old fractures of the ribs with faulty union, if interfering with function.

(8) Benign tumors or cysts of the breast or chest wall which are so large as to interfere with the wearing of a uniform or of equipment.

(9) Unhealed sinuses of the chest wall.

(10) Scars of old operations for empyema unless the examiner is assured that the respiratory function is entirely normal.

(11) Pneumoconiosis, extensive pulmonary fibrosis or pulmonary emphysema.

(12) Acute or chronic pleurisy or empyema.

(13) Pneumothorax, hydrothorax, or hemothorax.

(14) Tumors of the lung, pleura or mediastinum.

(15) Chronic bronchitis, bronchiectasis, abscess of the lung, pulmonary infiltration of undetermined origin, asthma (see paragraph (d) (3) (v) of this section), cystic disease of the lung.

(16) Actinomycosis, nocardiosis, blastomycosis, coccidioidomycosis, aspergilliosis or histoplasmosis if there is reason to suspect recent activity of the disease process.

(17) Sarcoidosis.

(18) Hydatid or echinococcus cysts of the lung.

(19) Disqualifying defects demonstraable by a roentgenographic examination of the chest, such as:

(i) Evidence of reinfection (adult) type tuberculosis, active or inactive, other than slight thickening of the apical pleura or thin solitary fibroid strands.

(ii) Evidence of active primary (childhood) type tuberculosis.

(iii) Extensive calcification of the pleura, lung parenchyma or hilum, if of questionable stability or of such size and extent as to interfere with pulmonary function.

(iv) Evidence of fibrous or serofibrinous pleuritis, except moderate diaphragmatic adhesions with or without blunting or obliteration of the costophrenic sinus.

(o) *The heart and blood vessels.* The following conditions are causes for rejection:

(1) All diastolic murmurs.

(2) Apical systolic murmurs, when persistent in both the recumbent and upright positions, when moderate in intensity, when transmitted to the axilla, and when not abolished nor significantly diminished in intensity by forced breathing.

(3) Harsh systolic murmurs, heard at aortic area, even of less than moderate intensity with diminished or absent second sound.

(4) Pulmonic systolic murmurs, blowing or rough, low pitched, of more than moderate intensity.

(5) All valvular diseases of the heart, congenital heart disease, or pathological murmurs.

(6) Hypertrophy or dilation of the heart.

(7) History or evidence of pericarditis, endocarditis, myocarditis, angina pectoris, coronary occlusion, or coronary atherosclerosis.

(8) A heart rate of 100 or over, or of 50 or under, when these are proved to be persistent in the recumbent posture and on observation and reexamination over a sufficient period of time.

(9) Marked cardiac arrhythmia or irregularity, or an authenticated history of paroxysmal tachycardia, or auricular fibrillation or flutter.

(10) Arteriosclerosis.

(11) Arterial hypertension, essential hypertension (hypertensive vascular disease). The diagnosis of essential hypertension, especially in the earlier phases when blood pressure is still variable, requires judgment tempered by experience and with evaluation of any family history of hypertension, the vascular reaction to special tests, and repeated blood pressure and pulse rate determinations. In general, a persistent systolic blood pressure above 130, or a persistent diastolic blood pressure above 84 (fifth phase), is cause for rejection, particularly if associated with a labile pulse rate or evidence of vasomotor lability, or with positive family history of hypertensive vascular disease (sitting blood pressure values). The objective is to disqualify those applicants who are most likely to develop severe and incapacitating hypertension within a relatively short time. Generally, youthful applicants with a healthy vascular system are to be considered qualified even though good pressure values sometimes exceed the standard.

(12) Aneurysm of any variety in any situation.

(13) Intermittent claudication.

(14) Raynaud's disease, acrocyanosis.

(15) Thrombophlebitis of one or more extremities, if there is a persistence of the thrombus or any evidence of obstruction to circulation in the involved vein or veins.

(16) An authenticated history of rheumatic fever or chorea within the past 5 years, or a history of more than one attack of rheumatic fever.

(17) Arterial hypotension if it is causing, or has caused, symptoms.

(p) *The abdomen.* The following conditions are causes for rejection:

(1) Wounds, injuries, cicatrices, or muscular ruptures of the abdominal walls sufficient to interfere with function.

(2) Fistulae or sinuses from visceral or other lesions or following operation.

(3) Hernia of any variety.

(4) Large tumors of the abdominal wall.

(5) Scar pain, if severe or causing persistent or recurring complaints.

(6) Chronic diseases of the stomach or intestine or a history thereof, including such diseases as peptic ulcer, regional ileitis, ulcerative colitis and diverticulitis.

(7) Gastric resection, gastro-enterostomy, or bowel resection.

(8) Chronic appendicitis.

(9) Ptosis of the stomach or intestines.

(10) Acute or chronic disease of the liver, gall bladder, pancreas, or spleen.

(11) Chronic peritonitis or peritoneal adhesions.

(12) Chronic enlargement of the liver.

(13) Chronic enlargement of the spleen if marked.

(14) Jaundice.

(q) *The perineum and the pelvis including the sacroiliac and lumbosacral joints.* The following conditions are causes for rejection:

(1) Malformation and deformities of the pelvis sufficient to interfere with function.

(2) Disease of the sacroiliac or lumbosacral joints.

(3) Urinary fistula.

(4) Stricture or prolapse of the rectum.

(5) Fissure of the anus or pruritus ani.

(6) Fistula in ano or ischiorectal abscess.

(7) External hemorrhoids sufficient in size to produce marked symptoms; internal hemorrhoids, if large or accompanied by hemorrhage, or protruding intermittently or constantly.

(8) Incontinence of feces.

(r) *The genito-urinary system and venereal disease.* (1) All candidates for the U. S. Naval Academy shall receive a serologic test for syphilis. This test shall be conducted at the time of the final physical examination.

(i) When albumin, casts, hemoglobin, or red blood cells are found in the urine, the applicant shall not be accepted unless further study proves such findings to be of no significance. Such further study, if desired, should include daily complete examinations of the urine for at least 3 days and such other tests as are necessary, unless the presence of albumin and casts is associated with enlargement of the heart, high blood pressure, or other evidence of cardiovascular disease of such degree that a diagnosis of renal disease may be made immediately. When albumin is constantly or intermittently present, the underlying pathological condition should, if possible, be determined and stated as the cause for rejection; but if albuminuria be present daily during a period of 3 days, it should be regarded as reason for rejection, even if the origin cannot be determined.

(ii) If glucose is found in the urine, further observation is indicated, including an estimation of the 24-hour amount of urine and the employment of other tests to demonstrate the possible existence of diabetes. Blood-sugar values and blood-sugar tolerance tests must be normal if such an applicant is to be found qualified; the glycosuria must be shown to have been transient and not a persistent condition.

(iii) When the specific gravity of the specimen first examined is under 1.010, further observation of the applicant and repeated complete urinary examinations are indicated.

(iv) When serological test for syphilis is positive, the possibility of a false positive test should be considered. In view of the possibility of error in such a test, the candidate giving a positive reaction will have the opportunity for a physical reexamination subject to the conditions set forth in § 710.36 under the heading "Physical reexamination."

(2) The following conditions are causes for rejection:

(i) Acute or chronic nephritis, diabetes, mellitus or insipidus, or glycosuria if accompanied by abnormal response to blood sugar tests. In the presence of diabetes mellitus in a parent, sibling or grandparent, a standard glucose tolerance test is a requirement.

(ii) Blood, pus, or albumin in the urine, if persistent.

(iii) Floating kidney, hydronephrosis, pyonephrosis, pyelitis, tumor of the kidney, renal calculi, or absence of one kidney.

(iv) Acute or chronic cystitis.

(v) Vesical calculi, tumors of the bladder, incontinence of urine, enuresis, or retention of urine.

(vi) Hypertrophy, abscess, or chronic infection of the prostate gland.

(vii) Urethral stricture or urinary fistula.

(viii) Epispadias or hypospadias, except for minor displacements of the urethral orifice with no impairment in function of micturition, and no symptoms of irritation.

(ix) Phimosis when prepuce is adherent in whole or in part to the glans.

(x) Hermaphroditism.

(xi) Amputation of the penis.

(xii) Varicocele, if large and painful, or hydrocele upon original appointment.

(xiii) Atrophy of both testicles or loss of both.

(xiv) Undescended testicle (acceptable if unilateral, abdominal and unassociated with hernia), infantile genital organs.

(xv) Chronic orchitis or epididymitis.

(xvi) A persistently positive serologic test for syphilis.

(xvii) Syphilis in any stage, or a clearly defined history thereof.

(xviii) Any active venereal infection, acute or chronic, or any active infectious process resulting therefrom.

(xix) Reiter's disease.

(s) *The extremities.* The following conditions are causes for rejection:

(1) All anomalies in the number, the form, the proportion, and the movements of the extremities which produce noticeable deformity or interfere with function.

(2) Atrophy of the muscles of any part, if progressive or if sufficient to interfere with function.

(3) Benign tumors if sufficiently large to interfere with function.

(4) Ununited fracture, fractures with shortening or callus formation sufficient to interfere with function, old dislocations unreduced or partially reduced, complete or partial ankylosis of a joint, or relaxed articular ligaments permitting of frequent voluntary or involuntary displacement.

(5) Reduced dislocation or united fractures with incomplete restoration of function.

(6) Amputation of any portion of a limb (except fingers or toes if there is no interference with military activities), or resection of a joint.

(7) Excessive curvature of a long bone or extensive, deep, or adherent scars interfering with motion.

(8) Severe sprains.

(9) Disease of the bones or joints.

(10) Chronic synovitis, or floating cartilage, or other internal derangement in a joint (particularly of knee joint with history of disability).

(11) Varicose veins in an extremity when they cover a large area or are markedly tortuous or much dilated, or are associated with edema or hemorrhoids, or are accompanied by subjective symptoms.

(12) Varices of any kind situated in the leg below the knee, if associated with varicose ulcers or scars from old ulcerations; chronic edema of a limb.

(13) Chronic or obstinate neuralgias, particularly sciatica.

(14) Adherent or united fingers (web fingers).

(15) Deviation of the normal axis of the forearm to such a degree as to interfere with the proper execution of the manual of arms.

(16) (i) Permanent flexion or extension of one or more fingers, as well as irremediable loss of motion of these parts, if sufficient to interfere with proper execution of duties.

(ii) Total loss of either thumb.

(iii) Mutilation of either thumb to such an extent as to produce material loss of flexion or strength of the member.

(iv) Loss of more than one phalanx of the right index finger.

(v) Loss of the terminal and middle phalanges of any two fingers on the same hand.

(vi) Entire loss of any finger except the little finger of either hand or the ring finger of the hand not used in writing.

(17) Perceptible lameness or limping.

(18) Knock-knee, when the gait is clumsy or ungainly, or when subjective symptoms of weakness are present; bowlegs if so marked as to produce noticeable deformity when the applicant is dressed.

(19) (i) Clubfoot unless the defect is so slight as to produce no symptoms during vigorous exercise.

(ii) Pes cavus if extreme and causing symptoms.

(iii) Flatfoot when accompanied with symptoms of weak foot or when the foot is weak on test. Pronounced cases of flatfoot attended with decided eversion of the foot and marked bulging of the inner border, due to inward rotation of the astragalus, are disqualifying regardless of the presence or absence of subjective symptoms.

(20) Loss of either great toe or loss of any two toes on the same foot.

(21) Overriding or superposition of any of the toes to such a degree as will produce pain when wearing the military shoe.

(22) Ingrowing toenails when marked or painful.

(23) (i) Hallux valgus when sufficiently marked to interfere with locomotion or when accompanied by a painful bunion.

(ii) Bunions sufficiently pronounced to interfere with function.

(iii) Hammertoes when existing to such a degree as to interfere with function when wearing shoes.

(iv) Webbing of all the toes.

(v) Corns or calluses on the sole of the foot when they are tender or painful.

(24) (i) Hyperidrosis or bromidrosis when present to a marked degree.

(ii) Habitually sodden feet with blistered skin.

(iii) Unusually large or deformed feet for which proper shoes cannot be readily obtained.

(25) Severe fungoid infection of nailbeds.

(26) Surgical procedures involving joints, unless at least a six-month period since operation has elapsed and full function has been restored.

(t) *The nervous system.* The following conditions are causes for rejection:

(1) Neurosyphilis of any form (general paresis, tabes dorsalis, meningovascular syphilis).

(2) Degenerative disorders (multiple sclerosis, encephalomyelitis, cerebellar and Friedreich's ataxia, athetoses, Huntington's chorea, muscular atrophies and dystrophies of any type, cerebral arteriosclerosis).

(3) Residuals of infection (moderate and severe residuals of poliomyelitis, meningitis and abscesses, paralysis agitans, postencephalitic syndromes, Sydenham's chorea).

(4) Peripheral nerve disorder (chronic or recurrent neuritis or neuralgia of an intensity which is periodically incapacitating, multiple neuritis, neurofibromatosis).

(5) Residuals of trauma (residuals of concussion or severe cerebral trauma, post-traumatic cerebral syndrome, incapacitating severe injuries to peripheral nerves).

(6) Paroxysmal convulsive disorders and disturbances of consciousness (grand mal, petit mal, and psychomotor attacks, syncope, narcolepsy, migraine).

(7) Miscellaneous disorders (tics, spasmodic torticollis, spasms, brain and spinal cord tumors, whether operated upon or not, cerebrovascular disease, congenital malformations, including spina bifida if associated with neurological manifestations and meningocele even if uncomplicated Meniere's disease).

(u) *Dental.* (1) The dental examiner shall be familiar with paragraph (a) of this section.

(2) A candidate for appointment must have a minimum of 16 natural permanent teeth, of which a minimum of 8 must be in each arch. All missing teeth causing unsightly spaces or significantly reducing masticatory of incisal efficiency must be replaced by well-designed bridges or partial dentures which are in good condition. Except for minor or questionable carious areas, all required dental treatment must be completed.

(3) Disqualifying defects:

(a) Lack of satisfactory incisal or masticatory function.

(b) Failure to have a minimum of eight natural permanent teeth in each arch.

(c) Edentulous spaces which are unsightly or significantly reduce masticatory function.

(d) Carious teeth, except minor or questionable carious areas.

(e) Infectious or chronic diseases of the soft tissue of the oral cavity.

(f) Marked malocclusion resulting in severe dentofacial deformity.

(g) Orthodontic applicances attached to teeth for continued treatment (retainer appliances are permissible).

(h) Unsatisfactory restorations, bridges or dentures.

(i) Severe or extensive apical or periodontal infection.

(j) Perforations from the oral cavity into the nasal cavity or maxillary sinus.

(k) Tumors or cysts of the oral tissues which require treatment or may require treatment in the foreseeable future.

(4) Active duty enlisted candidates who can meet the dental standards when provided with remedial treatment should not be disqualified. Such applicants who have meet all the other physical and mental requirements for appointment should be given dental treatment to qualify them.

(v) *Physical aptitude.* (1) All candidates for the U. S. Naval Academy will be required to pass 3 of the 4 following tests—(For detailed description and illustration of each test see *"Description of Administration Procedures for Measuring Physical Aptitude of Candidate"* separately distributed to Examining Centers):

(i) *One pull-up.* Using an overhand grip on a horizontal bar, pull up from a full hang until the chin is over the bar.

(ii) *Fifteen sit-ups in thirty seconds.* From a full lying position on the back with the hands behind the neck (feet held down by partner) sit up, touch one elbow to the opposite knee and return to lying. Elbow-knee touching must be alternated to each side.

(iii) *Ten push-ups.* With the feet supported sixteen inches (chair height) above the floor, body straight and hands on floor, bend the elbows until *chin* touches floor and return to locked elbow position.

(iv) *Six Burpee movements in twenty seconds.* Each position must be accurate and the return movement complete. (Coordination Test.)

(2) All candidates to the U.S. Naval Academy will be required to pass both of the following tests:

(i) *Arm hang.* Full length and completely relaxed, hang from a horizontal bar for three full seconds with each hand.

(ii) *Duck walk.* With the hands on the hips, squat deeply with the knees spread and walk ten paces forward.

§ 710.45 Appendix V—Installations conducting preliminary physical examinations for the U.S. Naval Academy.

Alabama:
- Anniston—USAH, Fort McClellan.
- Birmingham:
  - USN Recruiting Station.
- Daleville—USAH, Fort Rucker.
- Montgomery—Maxwell AFB.

Alaska:
- Adak—U.S. Naval Station.
- Kodiak—U.S. Naval Station.

Arizona:
- Fort Huachuca—USAH.
- Phoenix—USNAF, Litchfield Park.
- Tucson—Davis Monthan AFB.
- Yuma—USMCAAS.

Arkansas:
- Little Rock—USN Recruiting Station.

California:
- Alameda—U.S. Naval Station.
- Barstow:
  - Station Hospital, US MarCorps.
  - Supply Center.
- China Lake—Station Hospital USNOTS.
- El Centro—USNAAS.
- Fairfield—Travis AFB.
- Long Beach—USNAS, Los Alamitos.
- Los Angeles—USN Recruiting Station & ONOP.
- Moffet Field—USNAS.
- Monterey—USAH, Fort Ord, USNNAS.
- Oakland—USNH.
- Oceanside—USNH.
- Port Hueneme—Station Hospital, USNCBC.
- Riverside—March AFB.
- San Diego—USNH, USNAS N. Island.
- San Francisco:
  - USN Disp., 50 Fell Street.
  - USN Recruiting Station.
  - Treasure Island—USN Station.
  - USN Shipyard.
  - Letterman AH.
- Santa Ana—Station Hospital, USMCAS.
- Stockton:
  - USN Supply Center.
  - (Stockton Annex).
- Vallejo—USNDISP, Mare Island.

Canal Zone:
- Naval Station, Rodman.

Colorado:
- Colorado Springs—USAH, Fort Carson.
- Denver:
  - Fitzsimons AH, Lowry AFB.
  - USN Recruiting Station.

Connecticut:
- New London—Station Hospital, USN Sub Base.

Cuba:
- Guantanamo Bay—USNH.

Florida:
- Green Cove Springs—USN Station.
- Jacksonville—USNAS, USNH.
- Pensacola—USNAS, USNH.
- Miami—Station Hospital, USMCAS.
- Tampa—MacDill AFB.
- Key West—USNAS, USNH.

Georgia:
- Albany—USMC Supply Center.
- Atlanta—USAH, Ft. McPherson.
- Augusta—USAH, Fort Gordon.
- Brunswick—USNAAS, Glynco.
- Columbus—USAH, Fort Benning.
- Walthourville—USAH, Fort Stewart.
- Macon—USN Recruiting Station.
- Valdosta—Moody AFB.

Hawaii:
- Honolulu:
  - Hickam AFB, Naval Medical Unit.
  - Tripler Army Hospital, USNAS.
  - Barbers Point, USN Base, Pearl H.

Illinois:
- Belleville—Scott AFB.
- Chicago—USN Recruiting Station.
- Glenview—USNAS.
- Great Lakes—USNH, USNTC.

Indiana:
- Indianapolis:
  - USAH, Fort Benjamin Harrison.
  - USN Recruiting Station.

Iowa:
- Des Moines—USN Recruiting Station.

Kansas:
- Fort Leavenworth—USAH.
- Hutchinson—Station Hospital, USNAS.
- Junction City—USAH, Fort Riley.
- Olathe—USNAS.

Kentucky:
- Ashland—USN Recruiting Station.
- Fort Knox—Ireland Army Hospital.
- Hopkinsville—USAH, Fort Campbell.
- Louisville—USN Recruiting Station.

Louisiana:
- New Orleans:
  - USAH—Camp Leroy Johnson.
  - U.S. Naval Station.
  - USNAS.
  - USN Recruiting Station.
- Shreveport—Barksdale AFB.

Maine:
- Brunswick—Station Hospital, USNAS.
- Portland—USN Recruiting Station.

Maryland:
- Aberdeen—USAH, Aberdeen Proving Ground.
- Annapolis—USNA.
- Bainbridge—USNH.
- Baltimore—USN Recruiting Station.
- Bethesda—USNH, National Naval Med Center.
- Fort George G. Meade—USAH.
- Patuxent River—USNAS.
- Suitland—Andrews AFB.

Massachusetts:
- Ayer—USAH, Fort Devens.
- Boston—USN Recruiting Station.
- Chelsea—USNH.
- Chicopee Falls—Westover AFB.
- South Weymouth—USNAS.

Michigan:
- Detroit—USN Recruiting Station.
- Grosse Ile—USNAS.
- Mount Clemens—Selfridge AFB.

Minnesota:
- Minneapolis:
  - Station Hospital, USNAS.
  - USN Recruiting Station.

Mississippi:
- Biloxi—Keesler AFB.
- Gulfport—USN Const. Batt. Center.

Missouri:
- Kansas City—USN Recruiting Station
- Newburg—USAH, Fort Leonard Wood.
- St. Louis:
  - USN Recruiting Station.

Montana:
- Butte—USN Recruiting Station.
- Great Falls—Malmstrom AFB.

Nebraska:
- Lincoln—USNAS.
- Omaha:
  - Offutt AFB.
  - USN Recruiting Station.

Nevada:
- Fallon—USNAAS.
- Hawthorne—USN Ammunition Depot.

New Hampshire:
- Portsmouth—USNH.

New Jersey:
- Lakehurst—USNAS.
- Little Silver—USAH, Fort Monmouth.
- Fort Dix—USAH, Fort Dix.

New Mexico:
- Albuquerque—USN Recruiting Station.
- Las Cruches—USNOM Test Fac. White Sands.
- Roswell—Walker AFB.

New York:
- Albany—USN Recruiting Station.
- Buffalo—USN Recruiting Station.
- Hempstead, L. I.—Mitchel AFB.
- Governors Island—USAH, Fort Jay.
- New York City:
  - USNAS, Floyd Bennet Field.
  - USN Recruiting Station.
- St. Albans, L.I.—USNH.
- West Point—U.S. Army Hospital, USMA.

North Carolina:
- Camp Lejeune—USNH.
- Cherry Point—Station Hospital, USMCAS.
- Fayetteville—USAH, Fort Bragg.
- Raleigh—USN Recruiting Station.

North Dakota:
- Fargo—USN Recruiting Station.

Ohio:
- Cincinnati—USN Recruiting Station.
- Cleveland—USN Finance Center.
- Columbus—USN Recruiting Station.
- Dayton—Wright-Patterson AFB.

Oklahoma:
- Fort Sill—USAH, Fort Sill.
- Oklahoma City—USN Recruiting Station.

Oregon:
- Astoria—Station Hospital, USNAS Tongue Point.
- Portland—USN Recruiting Station.

Pennsylvania:
- Mechanicsburg—USN Supply Center
- Middletown—Olmstead AFB.
- Phoenixville—Valley Forge AH.

Pennsylvania—Continued
Philadelphia:
USNH, 17th & Pattison Avenue.
USN Recruiting Station.
Pittsburgh—USN Recruiting Station.
Willow Grove—USNAS.
Puerto Rico:
Rodriquez—AH.
Rhode Island:
Newport—USNH.
Quonset Point—Station Hospital, USNAS.
South Carolina:
Beaufort—USNH.
Charleston—USNH.
Columbia:
USAH, Fort Jackson.
USN Recruiting Station.
Sumter—Shaw AFB.
Tennessee:
Memphis—USNAS, USNH.
Nashville—USN Recruiting Station.
Smyrna—Sewart AFB.
Texas:
Beeville—USNAAS Chase Field.
Corpus Christi—USNAS, USNH.
Dallas:
USNAS.
USN Recruiting Station.
El Paso—William Beaumont AH.
Houston:
USN Recruiting Station.
Killeen—USAH, Fort Hood.
Orange—USN Station.
San Antonio—Fort Sam Houston, Randolph AFB.
Utah:
Ogden—Hill AFB.
Salt Lake City—USN Recruiting Station.
Virginia:
Newington—DeWitt Army Hospital, Fort Belvoir.
Hampton—Langley AFB.
Lee Hall—USAH, Fort Eustis.
Little Creek—USN Amphibious Base.
Norfolk—USNAS, USN Station.
Oceana—USNAS.
Petersburg—USAH, Fort Lee.
Portsmouth—USNH.
Quantico—USNH.
Washington:
Bremerton—USNH, Naval Base.
Seattle:
USNAS.
USAH, Fort Lawton.
Spokane—USNAS.
Tacoma:
Fort Lewis, Madigan AH.
McChord AFB, USN Station.
Whidbey Island, Oak Harbor—USNAS.
Washington, D.C.:
Anacostia—USNAS.
U.S. Naval Dispensary.
Walter Reed AH—Physical Examining Section (Outpatient Clinic).
Wyoming:
Cheyenne—F. E. Warren Air Force Base.
Hospital Ships:
U.S.S. "Haven".
Guam—USNH.
Japan:
Yokosuka—USNH.

§ 710.46 Appendix VI—Installations conducting formal physical examinations for the U.S. Naval Academy.

U.S. Naval Hospital, Chelsea, Mass.
U.S. Naval Hospital, St. Albans, Long Island, N.Y.
U.S. Naval Hospital, Philadelphia, Pa.
Permanent Board of Medical Examiners, U.S. Naval Academy, Annapolis, Md.
U.S. Naval Hospital, Portsmouth, Va.
U.S. Naval Hospital, Charleston, S.C.
U.S. Naval Hospital, Memphis, Tenn.
U.S. Naval Hospital, Pensacola, Fla.
U.S. Naval Hospital, Key West, Fla.
U.S. Naval Hospital, Jacksonville, Fla.
U.S. Naval Hospital, Corpus Christi, Tex.
U.S. Naval Air Station, Dallas, Tex.
U.S. Naval Hospital, Great Lakes, Ill.
U.S. Naval Air Station, Olathe, Kans.
Fitzsimons Army Hospital, Denver, Colo.
U.S. Naval Hospital, San Diego, Calif.
U.S. Naval Hospital, Oakland, Calif.
U.S. Naval Hospital, Bremerton, Wash.
Naval Medical Unit, Tripler Army Hospital, Honolulu, Hawaii.

The U.S. Naval Hospital, Bainbridge, Maryland, will provide similar service to the enlisted candidates at the U.S. Naval Preparatory School, U.S. Naval Training Center, Bainbridge, Md.

§ 710.47 Appendix VII—Course of instruction.

The course of instruction at the USNA is of 4 years' duration. The curriculum provides a basic education in naval science; science and engineering; and the humanities and social sciences. In addition, there is opportunity for advanced work through validation of college-level courses successfully completed elsewhere, and through a program of elective overload courses for superior students. High and exacting academic standards prevail. Only candidates who are equipped to assimilate rapidly, who possess retentive memories, and are capable of intense application may reasonably expect to complete the course.

Midshipmen who have taken College Entrance Examination Board Advanced Placement Tests prior to entering the Academy may submit their scores for consideration in validating general education courses at the Naval Academy. Validation entitles midshipmen to substitute elective studies for prescribed courses in which they have demonstrated proficiency. Academic departments will review the advanced placement test scores and determine whether credit will be awarded. Although the academic departments conduct validation examinations soon after a new class enters the Academy, a prospective candidate may desire to take the advanced placement tests in lieu of the validation examinations conducted by the Academy. The advanced placement tests are administered in May of each year at College Board examining centers throughout the country. Registration in advance, including payment of fee, is necessary. Information on registration procedures, fees, testing dates, and examining centers is contained in the bulletin, "Advanced Placement Examinations," available without charge. This bulletin may be obtained by writing to College Board Advanced Placement Examinations at one of the following addresses:

Box 592
Princeton, New Jersey
or
Box 27896
Los Angeles 27, California

FOURTH CLASS—FRESHMAN YEAR

SUMMER TERM

Departments	Total hours	Subjects	Textbooks
Executive	19	Orientation	U.S. Naval Academy Regulations, Orientation Movies.
Command	46	Infantry drill	
	62	Practical seamanship	Elementary Seamanship.
		Basic instruction in knot tying, pulling whaleboats, sailing, visual communications, and handling motor launches and yard patrol craft. 2-hour introduction to naval aviation.	Seamanship (NavPers 16118B). Bluejackets Manual.
Weapons	42	Small arms	
Engineering	32	General marine engineering, basic shop practices, and elementary drawing.	Graphic Science, by French and Vierck.
Science	2	Chemistry	Department's Measurements and Mathematical Operations (Mimeo).
English, History, and Government.	22	Library and museum orientation. Readings in naval history. Lectures in naval history. Examination.	The Compact History of the United States Navy, by Pratt. Webster's New Collegiate Dictionary. Handbook for Writers, by Leggett, Mead, and Charvat (2d edition).
Foreign languages	1	Language interviews and assignment to language courses.	
Physical Education	30	Physical achievement tests. Basic instruction in swimming, boxing, and wrestling. Orientation in 5 additional sports.	Physical Education Plebe Summer Drill Manual (revised).
Naval Hygiene	5	Personal hygiene including social and mental hygiene, oral hygiene, care of the eyes, preventable diseases, and rules for maintaining health.	No textbook is required. Moving pictures are employed.

The total hours shown above represent the maximum. The admission of the new fourth class usually begins early in July and continues through the early part of the summer. The extent of individual participation depends upon the date of entrance.

Annual leave of absence during the summer will not be granted to midshipmen of the 4th class (1st-year students).

FOURTH CLASS—FRESHMAN YEAR—Continued

FIRST AND SECOND TERMS

Departments	Studies pursued during regular academic year (summer term not included) 4th class—(1st year's work)	Periods per week	Number of weeks (examination week not included)	Total periods of 50 minutes			Examination (hours)
				Recitations	Practical work	Evening* lectures	
Executive:							
1st term	Infantry drills	2	8		16		
2d term	do	2	9		18		
Command:							
1st term	Practical instruction	2	9		18		
2d term	do	2	4		8	3	
	(Scheduled 2 hours every other week each term.)						
Engineering:							
1st term	Engineering Graphics I	5	19		95		3.0
2d term	Engineering Graphics II	5	17		85		3.0
Mathematics:							
1st term	Plane trigonometry	5	6.8	34			
	College algebra	5	2.8	14			
	Plane analytic geometry	5	6.8	34			
	Solid analytic geometry	5	2.4	12			2.5
2d term	Calculus	5	17	85			2.5
Science:							
1st term	Chemistry	5	18	54	36		3.0
2d term	do	5	17	51	34		3.0
English, history, and government:							
1st term	Composition and literature	3	18	53			2.5
2d term	do	3	17	51			2.5
Foreign languages:							
1st term	Regular course or advanced course	3	18	53			3.0
2d term	do	3	17	51			3.0
Physical education:							
1st term	Physical education program	1.6	18		26		
2d term	do	2	17		34		

*Evening lectures are given outside the regular academic day and are not included in "Periods per week."

EXECUTIVE DEPARTMENT

Infantry Drills, watch standing, continued indoctrination.

COMMAND DEPARTMENT

Drills in deck seamanship, boat handling, Rules of the Road, lookout procedures, communications, and signaling. In preparation for the first cruise, a series of lectures is given at the end of the year for indoctrination in shipboard functions.

ENGINEERING DEPARTMENT

FIRST TERM

Engineering Graphics I. A basic study of the principles of engineering drawing in order to develop the ability to visualize spatially and to acquire the power and habit of exact thinking. Instruction in the use of drawing instruments and mechanical drafting procedures leading to creation of accurate, legible drawings as well as exercises in lettering. Applications of orthographic, oblique, and isometric projection to engineering drawings. Sketching and drawing standard fasteners and pipe fittings, employing data obtained from tables of standards. Making freehand sketches from models and pencil working drawings from sketches. Producing simple detailed working drawings from dimensioned assemblies, and making assemblies from completed drawings.

SECOND TERM

Engineering Graphics II. Descriptive geometry including solution of space problems involving points, lines and planes, parallelism, perpendicularity or angularity of lines and planes, and relationships of these to curved surfaces. Graphical analysis of problems involving vectors, charts and graphs, algebra and calculus. Definition of vectors and force systems; the parallelogram law, triangle law and the vector polygon. Construction and use of functional scales. Linear representations of functional equations and exponential relationships, graphical integration and differentiation.

Textbook: Engineering Graphics, by French and Vierck.

MATHEMATICS DEPARTMENT

FIRST TERM

Plane Trigonometry. Slide Rule; Definition of trigonometric functions of any angle, numerical value of functions of special angles; identities; Slide Rule solution of right triangles; functions of related angles; Radians; Graphs; Functions of composite angles; Logarithmic solution of right triangles; Law of sines, law of cosines; Inverse trigonometric functions; Trigonometric equations.

College Algebra. Inequalities; Complex numbers: definitions, rules of operation, polar form, DeMoivre's Theorem, roots; Theory of Equations: remainder theorem, synthetic division; Fundamental Theorem of Algebra, graphs, Descartes' Rule of Signs, rational roots, solution of equations.

Plane Analytic Geometry. Fundamental ideas of analytic geometry: The straight line, including equations, properties, and applications: The conic sections, including equation, properties, and applications; Transformation of coordinates and simplification of equations; Curve sketching; Polar coordinates; Parametric equations.

Solid Analytic Geometry. Fundamental concepts; Equations of planes and lines in space; Quadric surfaces.

Textbooks and Slide Rule:

Dietzgen Slide Rule Model 1733 with Manual

College Mathematics, by Sisam

Logarithmic and Trigonometric Tables by Department of Mathematics (Reference book)

Enriched Course.[1]

SECOND TERM

Calculus. The Velocity and Tangent Problems; Concepts of Variable, Function, Limit and Continuity; The Derivative and its Interpretations; The Derivative of a Power and a Polynomial; Applications to Tangents and Normals; Derivatives of Products, Quotients, Explicit and Implicit Functions, and Parametric Forms; Applications to Maximum and Minimum Value Problems; Differentials; The Definite and Indefinite Integral; Applications to Plane Areas, Velocity and Acceleration; Exponential and Logarithmic Functions and their Derivatives; Integrals of Exponentials; Derivatives, Integrals and Graphs of Trigonometric Functions; Derivatives of Inverse Trigonometric Functions and Integrals involving them; Time-Rate Problems; Curvature of Plane Curves; Velocity and Acceleration in Curvilinear Motion; Integration of Standard Forms.

Enriched Course.[1]—Textbook: Calculus, by Britton.

SCIENCE DEPARTMENT

FIRST AND SECOND TERMS

Chemistry. Fundamentals of chemical theory with a study of the properties of metals and non-metals. Among specific topics studied in chemical theory are the laws of chemical change, atomic structure and the periodic table, kinetic-molecular theory and the gas laws, solutions, chemical equilibrium, ionization, electrochemistry, radioactivity, nuclear reactions, and nuclear energy from fission and fusion reactions. Metals studied include the alkali and alkaline earth metals, aluminum, and iron. Nonmetals studied are limited to oxygen, hydrogen, halogens, nitrogen and sulfur families, carbon and simple carbon compounds. Practical naval applications include batteries, corrosion, water treatment, explosives, chemical warfare, the atomic bomb, the hydrogen bomb, and nuclear power plants for propulsion.

The laboratory work includes both descriptive and quantitative experiments, and a brief introduction to the principles of semi-micro qualitative analysis applied to a few of the more common cations.

Textbooks:

Sisler, VanderWerf, and Davidson, College Chemistry, 1953.

Department's Chemistry Laboratory Manual and Department Notes, 1959 edition.

ENGLISH, HISTORY, AND GOVERNMENT DEPARTMENT

FIRST TERM

Composition and Literature. "A" Course. Primary emphasis is on composition—exposition, narration, and argumentation. Writing techniques are illustrated by selections from leading American authors. The course is divided into functional units, such as: Autobiographical Writing, Character Portrayal, Narration and Reporting, Comparison and Contrast, Development of an Idea, Correspondence, Argument, and Public Speaking. Each unit is concluded by a theme, a stated quiz, or a speech. There are several library periods, coinciding with theme days.

Textbooks:

Handbook for Writers, 2d edition, Leggett, Mead, and Charvat.

Major American Writers, Jones, Leisy, and Ludwig.

[1] The enriched course is for those midshipmen who made the highest grades during the previous marking period. It is basically the regular course but includes additional or more challenging material.

Webster's New Collegiate Dictionary.
A Guide to Efficient Study.
"B" Course. This course is designed for midshipmen with exceptional aptitude for composition and literature. The general objectives are the same as those of the "A" Course, except that there is more emphasis on critical writing, and selected American authors are studied more intensively.
Textbooks:
The Story of Philosophy, Will Durant.
Literature of the Early Republic.
The Scarlet Letter, Nathaniel Hawthorn.
Selections from Ralph Waldo Emerson.
Moby Dick, Herman Melville.
Autobiography of Brook Farm, ed. H. W. Sams.
Leaves of Grass and Selected Prose, Walt Whitman.
Nine Plays, Eugene O'Neill.
Handbook for Writers, Leggett, Meade, and Charvat.
Webster's New Collegiate Dictionary.
A Guide to Efficient Study.

SECOND TERM

Composition and Literature. "A" Course. During this term from 4 to 6 days each are devoted to study of the works of from 9 to 12 of the chief English authors. Emphasis on practice in writing and speaking is continued. There are library periods, coinciding with theme days.
Textbooks:
Major British Writers, enlarged edition, G. B. Harrison, general editor.
She Stoops to Conquer, Oliver Goldsmith.
Handbook for Writers, 2d edition, Leggett, Mead, and Charvat.
Webster's New Collegiate Dictionary.
"B" Course. This course is designed for midshipmen with exceptional aptitude for composition and literature. The major types of English literature are studied in complete works by outstanding men of letters. The general objectives are the same as those for the "A" Course, except that there is more emphasis on critical writing.
Textbooks:
King Lear, Othello, William Shakespeare.
Poems, John Donne.
Rasselas, Poems and Selected Prose, Samuel Johnson.
Selected Poetry and Letters, John Keats.
The Shadow Line, Joseph Conrad.
Joseph Andrews, Henry Fielding.
Six Plays, Richard B. Sheridan.
Saint Joan, Major Barbara, Androcles and the Lion, G. B. Shaw.
The Summing Up, W. Somerset Maugham.
Handbook for Writers, 2d edition, Leggett, Mead and Charvat.
Webster's New Collegiate Dictionary.

FOREIGN LANGUAGES DEPARTMENT

FIRST AND SECOND TERMS

Regular course. Brief elementary pronunciation course conducted using departmental pamphlets or suitable regular texts; essentials of grammar; conversation on area material.
Textbooks:
Foundation Course in Spanish, by Turk.
The University of Chicago Spanish Dictionary, by Castillo and Bond.
DeQue Hablamos? by Starnes and Fernandez.
Larousse's French-English, English-French Dictionary, DuBois et al.
A Conversational Introduction to French, by Heise and Muller.
Dantès, by Dumas (Enriched Sections only).
Lectures Litteraires Graduees, by Crouteau and Selvi.
Essentials of German, by Koch and Nock.
Auf dem Dorfe, by Meyer (Top Sections only).
In der Stadt, by Meyer (Top Sections only).
Langenscheidt's German-English, English-German Dictionary, by Klatt and Golze.
Himmel, Mein Schuhe!, by Froschel (Top Sections only).
Erzähl Mir Was!, by Blauth and Roderbourg.
Akademische Freiheit, by Meyer.
Introduction to Brazilian Portuguese, by Riccio.
McKay's Modern Portuguese-English, English-Portuguese Dictionary, by Richardson and Sa Pereira.
Departmental Transcription on History of Portugal.
Russian Conversation and Grammar, by Lemieux.
Russian-English Dictionary, By Smirnitzky.
Beginning Italian Grammar, by Cioffari.
McKay's Modern Italian-English, English-Italian Dictionary, by Purves.
Sotto un Cielo Azzurro, by Russo.
Basic French Reader, by Harris & Lévêque (Enriched Sections only).
Advanced Course.[2] Accelerated Course, First Term. Thereafter parallels the Third Class Regular Course.
Textbooks:
Foundation Course in Spanish, by Turk.
The University of Chicago Spanish Dictionary, by Castillo and Bond.
Naval Phraseology, U.S. Naval Institute.
Larousse's French-English, English-French Dictionary, by DuBois et al.
Carmen et Autres Nouvelles, by Merimee (edited by Blondheim).
José, by Valdés.
A Conversational Introduction to French, by Heise and Muller.
French One-Act Plays of Today, by Turgeon.

PHYSICAL EDUCATION DEPARTMENT

FIRST AND SECOND TERMS

Fundamentals of swimming, boxing, wrestling, gymnastics, golf, tennis, posture, volleyball, basketball, handball, bowling, and squash racquets. Tests in applied strength, agility, swimming, boxing, wrestling, and gymnastics.
Textbook: Physical Education Drill Manual.

By direction of the Secretary of the Navy.

Dated: December 23, 1959.

[SEAL] CHESTER WARD,
Rear Admiral, U.S. Navy,
Judge Advocate General of the Navy.

[F.R. Doc. 59-11053; Filed, Dec. 28, 1959; 8:49 a.m.]

[2] Those midshipmen who have the equivalent of at least one year of college French or Spanish, and who qualify by examination, are permitted to enroll in the advanced course.

Title 26—INTERNAL REVENUE, 1954

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 6435]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Lobbying Expenditures

On September 19, 1959, notice of proposed rule making regarding an amendment of the regulations for taxable years beginning after December 31, 1953, and ending after August 16, 1954, under section 162 of the Internal Revenue Code of 1954, relating to lobbying expenditures, was published in the FEDERAL REGISTER (24 F.R. 7584). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the regulations as so published are hereby adopted.

[SEAL] DANA LATHAM,
Commissioner of Internal Revenue.

Approved: December 23, 1959.

FRED C. SCRIBNER, Jr.,
Acting Secretary of the Treasury.

The amendment of the Income Tax Regulations (26 CFR Part 1) under section 162 of the Internal Revenue Code of 1954, relating to lobbying expenditures, reads as follows:

§ 1.162-15 Excepted contributions.

* * * * *

(c) (1) Expenditures for lobbying purposes, for the promotion or defeat of legislation, for political campaign purposes (including the support of or opposition to any candidate for public office), or for carrying on propaganda (including advertising) related to any of the foregoing purposes are not deductible from gross income. For example, the cost of advertising to promote or defeat legislation or to influence the public with respect to the desirability or undesirability of proposed legislation is not deductible as a business expense, even though the legislation may directly affect the taxpayer's business. On the other hand, expenditures for institutional or "good will" advertising which keeps the taxpayer's name before the public are generally deductible as ordinary and necessary business expenses provided the expenditures are related to the patronage the taxpayer might reasonably expect in the future. For example, a deduction will ordinarily be allowed for the cost of advertising which keeps the taxpayer's name before the public in connection with encouraging contributions to such organizations as the Red Cross, the purchase of United States Savings Bonds, or participation in similar causes. In like fashion, expenditures for advertising which present views on economic, financial, social, or other subjects of a general nature but which do not involve any of the activities specified in the first sentence of this subparagraph are deductible if they otherwise meet the requirements of the regulations under section 162.

(2) Dues and other payments to an organization, such as a labor union or a trade association, which otherwise meet the requirements of the regulations under section 162, are deductible in full unless a substantial part of the organization's activities consists of one or more of those specified in the first sentence of subparagraph (1) of this paragraph. If a substantial part of the activities of the organization consists of one or more of those so specified, deduction will be allowed only for such portion of such dues and other payments as the taxpayer can clearly establish is attributable to activ-

ities other than those so specified. The determination as to whether such specified activities constitute a substantial part of an organization's activities shall be based on all the facts and circumstances. In no event shall special assessments or similar payments (including an increase in dues) made to any organization for any of such specified purposes be deductible.

(3) Expenditures for the promotion or the defeat of legislation include, but shall not be limited to, expenditures for the purpose of attempting to—

(i) Influence members of a legislative body directly or indirectly, by urging or encouraging the public to contact such members for the purpose of proposing, supporting, or opposing legislation, or

(ii) Influence the public to approve or reject a measure in a referendum, initiative, vote on a constitutional amendment, or similar procedure.

(Sec. 7805 of the Internal Revenue Code of 1954, 68A Stat. 917; 26 U.S.C. 7805)

[F.R. Doc. 59-11061; Filed, Dec. 28, 1959; 8:50 a.m.]

Title 39—POSTAL SERVICE

Chapter I—Post Office Department

PART 168—DIRECTORY OF INTERNATIONAL MAIL

Miscellaneous Amendments

Part 168, Directory of International Mail, as published in the FEDERAL REGISTER of March 20, 1959, at pages 2117–2195, as Federal Register Document 59–2388, is amended by making the following changes in § 168.5 *Individual* country regulations:

I. In country "Bolivia", as amended by Federal Register Document 59–4137, 24 F.R. 3991, and by Federal Register Document 59–5635, 24 F.R. 5490, under Parcel Post, the third paragraph of the item *Prohibitions* is deleted. Parcels containing used clothing for Bolivia need no longer be accompanied by certificates of disinfection.

II. In country "Brazil", as amended by Federal Register Document 59–4137, 24 F.R. 3991, and by Federal Register Document 59–8112, 24 F.R. 7785, make the following changes for the purpose of classification.

1. Under Postal Union Mail, amend the item *Prohibitions and import restrictions* to read as follows:

Prohibitions and import restrictions. Articles prohibited or restricted as parcel post are prohibited or restricted in the postal union mail.

2. Under Parcel Post, add a new paragraph to the item *Prohibitions* to read as follows:

Coins, banknotes, paper money and any values payable to bearer; manufactured or unmanufactured platinum, gold, or silver; precious stones, jewelry or other precious articles.

III. Insert a new country "Central African Republic" and the pertinent regulations in the proper alphabetical order of countries therein to read as follows:

CENTRAL AFRICAN REPUBLIC

Postal Union Mail

Surface rates, classifications, weight limits and dimensions. See § 168.1 of this chapter.

Air rates. (See § 168.1 of this chapter for classifications, weight limits and dimensions.)

Letters, 25 cents per half ounce.
Single post cards, 10 cents each.
Air letters (aerogrammes), 10 cents each.
Other articles, 65 cents first 2 ounces; 45 cents each additional 2 ounces.

Small packets. Accepted.

Letter packages containing dutiable merchandise. Accepted. See § 112.1(e) of this chapter.

Registration. Fee, 50 cents. Maximum indemnity, $8.17.

Special delivery. No service.

Money orders. Yes. International form. See § 61.2(e) of this chapter.

Prohibitions. Paper money and other instruments of payment, letters of credit, securities, or deeds may be imported by mail only if accompanied by a permit issued by the exchange-control authorities, or if imported by a bank. Coins; manufactured or unmanufactured platinum, gold, or silver; precious stones, jewelry and other precious articles are prohibited.

Articles prohibited as parcel post are prohibited in the postal union mail.

Parcel Post

Surface parcel rates, including transit charges. (Rates: $0.74 first pound; $0.26 each additional pound.)

Air parcel rates, including surcharges. (Rates, $1.47 first 4 ounces; $0.93 each additional 4 ounces.)

For weights over 11 pounds, add $0.93 for each 4-ounce unit or fraction.

Weight limit: 44 pounds.
Sealing: Compulsory.
Group shipments: No.
Registration: No.
Insurance: No.
Postal forms required:
1 Form 2922 (Parcel Post Sticker).
1 Form 2966 (Customs declaration).

Dimensions. Length, 3½ feet; length and girth combined, 6 feet.

Special handling. Available. See § 168.4 of this chapter.

Indemnity. No provision.

Observations. The postal authorities of the Central African Republic collect domestic postage charges from the addressees of incoming parcels.

Prohibitions. It is forbidden to import any articles prohibited importation into France, with the exception of tobacco which is admitted subject to payment of customs duties and other taxes.

IV. Insert a new country "Chad (Republic of)" and the pertinent regulations in the proper alphabetical order of countries therein to read as follows:

CHAD (REPUBLIC OF)

Postal Union Mail

Surface rates, classifications, weight limits and dimensions. See § 168.1 of this chapter.

Air rates. (See § 168.1 of this chapter for classifications, weight limits and dimensions.)

Letters, 25 cents per half ounce.
Single post cards, 10 cents each.
Air letters (aerogrammes), 10 cents each.
Other articles, 65 cents first 2 ounces; 45 cents each additional 2 ounces.

Small packets. Accepted.

Letter packages containing dutiable merchandise. Accepted. See § 112.1(e) of this chapter.

Registration. Fee, 50 cents. Maximum indemnity, $8.17.

Special delivery. No service.

Money orders. Yes. International form. See § 61.2(e) of this chapter.

Prohibitions. Paper money and other instruments of payment, letters of credit, securities, or deeds may be imported by mail only if accompanied by a permit issued by the exchange-control authorities, or if imported by a bank. Coins; manufactured or unmanufactured platinum, gold, or silver; precious stones, jewelry and other precious articles are prohibited.

Articles prohibited as parcel post are prohibited in the postal union mail.

Parcel Post

Surface parcel rates, including transit charges. (Rates: $0.74 first pound; $0.26 each additional pound.)

Air parcel rates, including surcharges. (Rates: $1.47 first 4 ounces; $0.93 each additional 4 ounces.)

For weights over 11 pounds, add $0.93 for each 4-ounce unit or fraction.

Weight limit: 44 pounds.
Sealing: Compulsory.
Group Shipments: No.
Registration: No.
Insurance: No.
Postal forms required:
1 Form 2922 (Parcel Post Sticker).
1 Form 2966 (Customs declaration).

Dimensions. Length, 3½ feet; length and girth combined, 6 feet.

Special handling. Available. See § 168.4 of this chapter.

Indemnity. No provision.

Observations. The postal authorities of Chad collect domestic postage charges from the addressees of incoming parcels.

Prohibitions. It is forbidden to import any articles prohibited importation into France, with the exception of tobacco which is admitted subject to payment of customs duties and other taxes.

V. In the country "Colombia" as amended by Federal Register Document 59–8445, 24 F.R. 8143, and by Federal Register Document 59–8642, 24 F.R. 8330, under Parcel Post, make the following changes in the item *Observations* as a result of Colombian authorities fixing $20 (U.S. currency) as the value limit of parcels exempt from the requirements for consular invoices, and the modification of the country's import license requirements.

1. Seventh paragraph of the item *Observations* which immediately follows the list of Colombian consulates is deleted.

2. Eighth paragraph of the item *Observations* is amended to read as follows:

The addressees in Colombia are required in most cases to obtain import

licenses in order to secure delivery of parcels. For a parcel exceeding $20 in value the addressee is required to send a copy of the import license to the sender, who must submit it to the Colombian Consul when obtaining the consular invoice. If a sender receives a copy of a Colombian import license for a parcel whose value does not exceed $20, he must return it to the addressee in Colombia.

VI. Insert a new country "Comoro Islands" and the pertinent regulations in the proper alphabetical order of countries therein to read as follows:

COMORO ISLANDS

Postal Union Mail

Surface rates, classifications, weight limits and dimensions. See § 168.1 of this chapter.

Air rates. (See § 168.1 of this chapter for classifications, weight limits and dimensions.)

Letters, 25 cents per half ounce.
Single post cards, 10 cents each.
Air letters (aerogrammes), 10 cents each.
Other articles, 66 cents first 2 ounces; 45 cents each additional 2 ounces.

Small packets. Accepted.

Letter packages containing dutiable merchandise. Accepted. See § 112.1(e) of this chapter.

Registration. Fee, 55 cents. Maximum indemnity, $8.17.

Special delivery. No service.

Money orders. Yes. International form. See § 61.2(e) of this chapter.

Prohibitions. Paper money and other instruments of payment, letters of credit, securities, or deeds may be imported by mail only if accompanied by a permit issued by the French exchange-control authorities, or if imported by a bank.

Coins; manufactured or unmanufactured platinum, gold, and silver; jewels and other precious articles.

Articles prohibited as parcel post are prohibited in the postal union mail.

Parcel Post

Surface parcel rates, including transit charges. (Rates: $0.82 first pound; $0.25 each additional pound.)

Air parcel post. No service.

Weight limit: 11 pounds.
Sealing: Optional.
Group shipments: No
Registration: No.
Insurance: No.
Postal forms required:
1 form 2922 (Parcel Post Stickers).
1 Form 2966 (Customs declaration).

Dimensions. Length, 3½ feet; length and girth combined, 6 feet.

Special handling. Available. See § 168.4 of this chapter.

Indemnity. No provision.

Prohibitions. Saccharine. Compound medicines not appearing in an official pharmacopoeia.

Playing cards. Tabasco sauce (praiss). Articles violating the copyright laws. Products bearing any indication leading to the belief that they are of French origin. Preserved fish, vegetables, and plums not bearing on each receptacle a stamp showing their origin. Boxes of preserved sardines weighing more than 1 kilogram.

VII. Insert a new country "Congo (Republic of)" and the pertinent regulations in the proper alphabetical order of countries therein to read as follows:

CONGO (REPUBLIC OF)

Postal Union Mail

Surface rates, classifications, weight limits and dimensions. See § 168.1 of this chapter.

Air rates. (See § 168.1 of this chapter for classifications, weight limits and dimensions.)

Letters, 25 cents per half ounce.
Single post cards, 10 cents each.
Air letters (aerogrammes), 10 cents each.
Other articles, 65 cents first 2 ounces; 45 cents each additional 2 ounces.

Small packets. Accepted.

Letter packages containing dutiable merchandise. Accepted. See § 112.1(e) of this chapter.

Registration. Fee, 50 cents. Maximum indemnity, $8.17.

Special delivery. No service.

Money orders. Yes. International form. See § 61.2(e) of this chapter.

Prohibitions. Paper money and other instruments of payment, letters of credit, securities, or deeds may be imported by mail only if accompanied by a permit issued by the exchange-control authorities, or if imported by a bank. Coins; manufactured or unmanufactured platinum, gold or silver; precious stones, jewelry and other precious articles are prohibited.

Articles prohibited as parcel post are prohibited in the postal union mail.

Parcel Post

Surface parcel rates, including transit charges. (Rates: $0.74 first pound; $0.26 each additional pound.)

Air parcel rates, including surcharges. (Rates, $1.47 first 4 ounces; $0.93 each additional 4 ounces).

For weights over 11 pounds, add $0.93 for each 4-ounce or fraction.

Weight limit: 44 pounds.
Sealing: Compulsory.
Group shipments: No.
Registration: No.
Insurance: No.
Postal forms required:
1 Form 2922 (Parcel Post Sticker).
1 Form 2966 Customs declaration).

Dimensions. Length, 3½ feet; length and girth combined, 6 feet.

Special handling. Available. See § 168.4 of this chapter.

Indemnity. No provision.

Observations. The postal authorities of Congo collect domestic postage charges from the addresses of incoming parcels.

Prohibition. It is forbidden to import any articles prohibited importation into France, with the exception of tobacco which is admitted subject to payment of customs duties and other taxes.

VIII. In country "Cuba (Including Isle of Pines, West Indies)," under Parcel Post, the item *Observations* is amended by striking out "$50" in the first sentence therein, and inserting in lieu thereof "$300" as a result of the relaxation of consular invoice requirements for Cuba.

IX. In country "Dahomey" make the following changes as a result of a change in the political status of the country:

1. Amend the country heading of "Dahomey" to read "Dahomey (Republic of)".

2. Under Postal Union Mail, the item *Prohibitions and import restrictions* is amended by deleting "French" where it appears in the first sentence therein.

X. The country "French Equatorial Africa (Gabon, Moyen (Middle) Congo, Oubangui-Chari, and Tchad)," and the pertinent regulations are deleted from the list of countries therein.

XI. Amend the country heading of "French Sudan" to read "Soudanese Republic" and redesignate the new country heading and the pertinent regulations in the proper alphabetical order of countries therein.

XII. Insert a new country "Gabon Republic" and the pertinent regulations in the proper alphabetical order of countries therein to read as follows:

GABON REPUBLIC

Postal Union Mail

Surface rates, classifications, weight limits and dimensions. See § 168.1 of this chapter.

Air rates. (See § 168.1 of this chapter for classifications, weight limits and dimensions.)

Letters, 25 cents per half ounce.
Single post cards, 10 cents each.
Air letters (aerogrammes), 10 cents each.
Other articles, 65 cents first 2 ounces; 45 cents each additional 2 ounces.

Small packets. Accepted.

Letter packages containing dutiable merchandise. Accepted. See § 112.1(e) of this chapter.

Registration. Fee, 50 cents. Maximum indemnity, $8.17.

Special delivery. No service.

Money orders. Yes. International form. See § 61.2(e) of this chapter.

Prohibitions. Paper money and other instruments of payment, letters of credit, securities, or deeds may be imported by mail only if accompanied by a permit issued by the exchange-control authorities, or if imported by a bank. Coins; manufactured or unmanufactured platinum, gold or silver; precious stones, jewelry and other precious articles are prohibited.

Articles prohibited as parcel post are prohibited in the postal union mail.

Parcel Post

Surface parcel rates, including transit charges. (Rates: $0.74 first pound; $0.26 each additional pound.)

Air parcel rates, including surcharges. (Rates: $1.47 first 4 ounces; $0.93 each additional ounce.)

For weights over 11 pounds, add $0.93 for each 4-ounce unit or fraction.

Weight limit: 44 pounds.
Sealing: Compulsory.
Group shipments: No.
Registration: No.
Insurance: No.
Postal forms required:
1 Form 2922 (Parcel Post Sticker).
1 Form 2966 (Customs declaration).

Dimensions. Length, 3½ feet; length and girth combined, 6 feet.

Special handling. Available. See § 168.4 of this chapter.

Indemnity. No provision.

Observations. The postal authorities of Gabon Republic collect domestic postage charges from the addressees of incoming parcels.

Prohibitions. It is forbidden to import any articles prohibited importation into France, with the exception of tobacco which is admitted subject to payment of customs duties and other taxes.

XIII. In country "Hungary", as amended by Federal Register Document 59–5991, 24 F.R. 5833, and by Federal Register Document 59–7459, 24 F.R. 7250 under Postal Union Mail, insert a new item *Observations* immediately following the item *Money orders* to read as follows:

Observations. Postage stamps, cancelled or not, and other stamped paper sent to individuals must be addressed to "Bélyegcserebizottság (Stamp Exchange Commission), VII. Verseny u. 12, Budapest 70, Hungary", with the name of the addressee.

XIV. In country "Italy (Including Republic of San Manno)", as amended by Federal Register Document 59–7459, 24 F.R. 7250, and by Federal Register Document 59–8642, 24 F.R. 8331, under Parcel Post, the item *Observations* is amended as a result of the Postal Administration of Italy giving notice that the termination of duty-free entry of gift parcels announced in the FEDERAL REGISTER of October 14, 1959, 24 F.R. 8331, is not being applied to parcels from the United States for an indefinite period. As so amended, the item *Observations* reads as follows:

Observations. Commercial parcels must be accompanied by a copy of the relative commercial invoice dated and signed by the sender.

Gift parcels are delivered free of customs duty and without requirement of import licenses if they comply with the following conditions:

1. Parcels may not exceed 22 pounds in weight, and only one may be received by an individual addressee per month.

2. Contents are limited to food, clothing, soap, and dentifrices for the personal use of the addressee and his family. Sugar is limited to 6 pounds 9 ounces, coffee to 4 pounds 6 ounces, and cocoa to 2 pounds 3 ounces per parcel.

3. Each parcel should be marked "Pacco familiare gratuito" (free family parcel).

XV. Amend the country heading of "Ivory Coast" to read "Ivory Coast (Republic of)" as a result of a change in the political status of the country.

XVI. In country "Madagascar and dependencies" make the following revisions as a result of a change in the political status of the country:

1. Amend the country heading of "Madagascar and dependencies" to read "Madagascar (Malgache Republic), Madagascar, Ste. Marie-De-Madagascar and Nossi-Be".

2. Under Postal Union Mail, the item *Prohibitions* is amended by deleting "French" where it appears in the first sentence therein.

XVII. In country "Madeira Islands", as amended by Federal Register Document 59–4137, 24 F.R. 3991, and by Federal Register Document 59–8642, 24 F.R. 8330, under Postal Union Mail, the item *Letter packages containing dutiable merchandise* is amended by deleting "If registered". Registration is no longer required for letter packages containing dutiable merchandise. As so amended, the item reads as follows:

Letter packages containing dutiable merchandise. Accepted. See § 112.1(e) of this chapter.

XVIII. Amend the country heading of "Mauritania" to read "Mauritania (Islamic Republic)" as a result of a change in the political status of the country.

XIX. In country "Mexico" as amended by Federal Register Document 59–4133, 24 F.R. 3991, and by Federal Register Document 59–4844, 24 F.R. 4728, under Parcel Post, make the following changes as a result of the increase in the value limit of articles which may be received without an import permit.

1. In the item *Observations* strike out "100 Mexican pesos (about $8)" where it appears in the first sentence of paragraph (5) and insert in lieu thereof "200 Mexican pesos (about $16).

2. In the item *Import restrictions*, amend the last paragraph to read as follows:

See *Observations* concerning import permits required for certain items exceeding 200 pesos in value.

XX. In country "New Guinea, Territory of (Comprises Northeast Portion of New Guinea Island, Bismark Archipelago [New Britain, New Ireland, New Hanover, Admiralty Islands] and Buka, and Bougainville [Solomon Islands]), as amended by Federal Register Document 59–8445, 24 F.R. 8143, make the following changes for the purpose of clarification:

1. Under Postal Union Mail, amend the item heading of *Prohibitions and import restrictions* to read *Prohibitions.*

2. Under Parcel Post, amend the item heading of *Prohibitions and import restrictions* to read *Prohibitions.*

XXI. Amend the country heading of "Niger" to read "Niger (Republic of)" as a result of a change in the political status of the country.

XXII. In country "Papua, Territory of", make the following changes for the purpose of clarification:

1. Under Postal Union Mail, amend the item heading of *Prohibitions and import restrictions* to read *Prohibitions.*

2. Under Parcel Post, amend the item heading of *Prohibitions and import restrictions* to read *Prohibitions.*

XXIII. The country headng of "Ryukyu Islands" and the territorial definition which immediately follows the country heading are amended as a result of a political change whereby a portion of the island group has passed under Japanese administration. As so amended, the country heading and territorial definition reads as follows:

RYUKUYU ISLANDS (INCLUDING OKINAWA AND THE OTHER ISLANDS OF THE RYUKYU GROUP SOUTH OF 27° NORTH LATITUDE, AS WELL AS TORI SHIMA AND IHEYA)

[Ryukyu (Nansei) Islands north of 27° north latitude, excluding Tori Shima and Iheya, are under the administration of Japan]

XXIV. Amend the country heading of "Senegal" to read "Senegal (Republic of)" as a result of a change in the political status of the country.

XXV. In country "Somaliland Protectorate", as amended by Federal Register Document 59–7459, 24 F.R. 7250, under Parcel Post, add a new paragraph to the item *Prohibitions* to read as follows:

Lighters and refills containing butane gas.

XXVI. In country "Trinidad and Tobago", as amended by Federal Register Document 59–4137, 24 F.R. 3992, and by Federal Register Document 59–7459, 24 F.R. 7250, under Parcel Post, make the following changes:

1. The item *Prohibitions* is amended by adding "Carbon paper" to the list of articles. As so amended, the item reads as follows:

Prohibitions. Disguised firearms. Other arms require the permission of the Trinidad police authorities.

Carbon paper.

Saccharine, except with the permission of the Trinidad health authorities.

Uncooked pork including ham and bacon, and all uncooked pork products.

2. The item *Import restrictions* is deleted. Addresses are no longer required to obtain import license.

XXVII. Amend the country heading of "Upper Volta" to read "Volta Republic" and redesignate the new country heading and the pertinent regulations in the proper alphabetical order of countries therein.

XXVIII. Amend the country heading of "Viet-nam" to read "Vietnam (Annam, Cochin-China and Tonkin)".

XXIX. In "Places not included in alphabetical list of countries" make the following changes:

1. The following places are deleted from the list of places therein.

a. Alaska.

b. Comoro Islands (Madagascar).

c. Gabon (French Equatorial Africa).

d. Hawaii.

e. Kuchinoshima (Ryukyu Islands).

2. The following list of places, as they appear in alphabetical order therein, are amended as a result of a change in their titles:

a. Anjouan (Madagascar and dependencies) amended to Anjouan (Comoro Islands)

b. Annam (Viet-Nam) amended to Annam (Vietnam)

c. Cochin-China (Viet-Nam) amended to Cochin China (Vietnam)

d. French Guinea (Guinea, Republic of) amended to French Guinea (Guinea)

e. French West Africa (Dahomey, French Sudan, Ivory Coast, Mauritania, Niger, Senegal, or Upper Volta) amended to French West Africa (Dahomey,

Guinea, Ivory Coast, Mauritania, Niger, Senegal, Soudanese Republic or Volta Republic)

f. Grand Comoro (Madagascar) amended to Grand Comoro (Comoro Islands)

g. Hashemite Kingdon of Jordan (Jordan, Hashemite Kingdom) amended to Hashemite Kingdom (Jordan)

h. Mayotte (Madagascar and dependencies) amended to Mayotte (Comoro Islands)

i. Moheli (Madagascar and dependencies) amended to Moheli (Comoro Islands)

j. Moyen (Middle) Congo (French Equatorial Africa) amended to Moyen (Middle) Congo (Congo republic of)

k. Nansei (Japan) amended to Nansei Islands (Ryukyu Islands or Japan)

l. Nossi-be (Madagascar and dependencies) amended to Nossi-be (Madagascar)

m. Oubangui-Chari (French Equatorial Africa) amended to Oubangui-Chari (Central African Republic)

n. Rodrigues (Mauritius and dependencies) amended to Rodrigues (Mauritius)

o. Tchad (French Equatorial Africa) amended to Tchad (Chad)

p. Tonkin (Viet-Nam) amended to Tonkin (Vietnam)

3. Insert the following new places in proper alphabetical order therein:

a. French East Africa (Comoro Islands or French Somaliland)

b. French Equatorial Africa (Central African Republic, Chad, Congo or Gabon Republic)

c. French Sudan (Soudanese Republic)

d. Iheya (Ryukyu Islands)

e. Islamic Republic (Mauritania)

f. Malgache Republic (Madagascar)

g. Mali, Federation of (Senegal or Soudanese Republic)

h. Tori Shima (Ryukyu Islands)

i. Upper Volta (Volta Republic)

(R.S. 161, as amended, 396, as amended, 398, as amended; 5 U.S.C. 22, 369, 372)

[SEAL] HERBERT B. WARBURTON,
General Counsel.

[F.R. Doc. 59-11057; Filed, Dec. 28, 1959; 8:49 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

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

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 2037]

[82163]

ARIZONA

Revoking in Part Certain Reclamation Withdrawals (Yuma, Sentinel and Colorado River Storage Projects)

By virtue of the authority contained in Section 3 of the act of June 17, 1902 (32 Stat. 388; 43 U.S.C. 416), it is ordered as follows:

1. The departmental orders of July 2, 1902, January 31, 1903, July 1, 1904, November 16, 1918, and March 14, 1929, withdrawing public lands for reclamation purposes in connection with the Yuma, Sentinel, and Colorado River Storage Projects, are hereby revoked so far as they affect the following-described lands:

GILA AND SALT RIVER MERIDIAN, ARIZONA

T. 6 S., R. 13 W.,
Sec. 33, SE¼SW¼, S½SE¼.
T. 7 S., R. 13 W.,
Secs. 4 to 9 incl., all;
Secs. 16 to 18 incl., all.
T. 6 S., R. 14 W.,
Secs. 19 to 36 incl., all.
T. 7 S., R. 14 W.,
Secs. 1 to 4 incl., all;
Sec. 5, lots 1 to 4 incl., S½N½, N½S½;
Sec. 6, lots 1 to 7 incl., S½NE¼, SE¼NW¼, E½SW¼, N½SE¼;
Sec. 9, NE¼;
Sec. 10, N½, NW¼SW¼, SE¼;
Secs. 11 to 14 incl., all;
sec. 15, NE¼, S½;
Sec. 16, S½;
Sec. 17, SE¼;
Sec. 19, SE¼;
Secs. 20 to 23, incl.;
Sec. 24, N½NW¼, SE¼SW¼;
Sec. 25, SE¼NE¼, W½SE¼;
Secs. 26 to 29, incl.;
Sec. 30, lots 1, 2, and 3, E½, E½NW¼, NE¼SW¼;
Sec. 31, lots 3 and 4, E½NE¼, E½SW¼, SE¼;
Secs. 32 to 36 incl., all.
T. 7 S., R. 15 W.,
Secs. 1 to 10, incl., all;
Sec. 11, N½, SW¼, N½SE¼;
Sec. 12, N½NE¼, NW¼;
Sec. 15, N½NE¼, NW¼, NW¼SW¼;
Secs. 16 to 18 incl., all;
Sec. 19, lot 1, NE¼NW¼.
T. 7 S., R. 16 W.,
Secs. 1 to 22 incl., all;
Sec. 23, N½, N½S½;
Sec. 24, N½;
Sec. 27, lot 3;
Sec. 28, N½N½;
Sec. 29, N½, N½SW¼;
Sec. 30, lots 1, 2, and 3, NE¼, E½NW¼, NE¼SW¼, N½SE¼.
T. 7 S., R. 17 W.,
Secs. 19 to 32 incl., all;
Sec. 33, N½, SW¼, NE¼SE¼, W½SE¼;
Sec. 34, N½, N½S½;
Sec. 35, N½N½, SW¼NW¼;
Sec. 36, N½NW¼.
T. 8 S., R. 17 W.,
Sec. 6, lots 1 to 5 incl., SE¼NW¼.
T. 7 S., R. 18 W.,
Secs. 22 to 27 incl., and 34 to 36 incl., all.
T. 8 S., R. 18 W.,
Secs. 1 to 9 incl., all;
Sec. 10, N½;
Sec. 11, N½;
Sec. 12, N½N½;
Sec. 16, N½;
Secs. 17 and 18, all;
Sec. 19, lot 1, N½NE¼, NE¼NW¼.
T. 8 S., R. 19 W.,
Sec. 19, lots 1 and 2, E½, E½NW¼, NE¼SW¼;
Secs. 20 to 23 incl., all;
Sec. 24, N½, SW¼, N½SE¼;
Sec. 26, N½NE¼, N½NW¼, SW¼NW¼, W½SE¼NW¼;
Sec. 27, all;
Sec. 28, N½, N½SW¼, SE¼;
Sec. 29, N½.
T. 7 S., R. 20 W.,
Secs. 19 to 21 incl., and 28 to 30 incl., all;
Sec. 32, N½N½, SE¼NE¼;
Sec. 33, N½, N½SW¼, SE¼.
T. 8 S., R. 20 W.,
Secs. 1 to 3 incl., all;
Sec. 4, lots 1 and 2, S½NE¼, NE¼SE¼;
Sec. 10, N½NE¼, SE¼NE¼;
Secs. 11 to 13 incl., all;
Sec. 14, NE¼, N½NW¼, NE¼SE¼;
Sec. 24, N½NE¼.
T. 7 S., R. 21 W.,
Secs. 1 to 4 incl., all;
Sec. 5, lots 1, 2, and 3, S½NE¼, SE¼;
Sec. 8, E½, E½SW¼;
Secs. 9 to 17 incl., all;
Sec. 19, NE¼, S½NW¼, S½;
Secs. 20 to 34 incl., all;
Sec. 35, N½, SW¼;
Sec. 36, N½.
T. 8 S., R. 21 W.,
Sec. 3, lots 1 to 4, incl.;
Sec. 4, lots 1 to 4, incl.;
Sec. 5, lots 1 to 4, incl., S½N½, SW¼;
Sec. 6, all;
Sec. 7, lots 1 and 2, NE¼, E½NW¼, and N½SE¼;
Sec. 8, W½NW¼.
T. 7 S., R. 22 W. (partly unsurveyed),
Sec. 23, SE¼SE¼;
Sec. 24, S½NE¼, SE¼NW¼, and S½;
Sec. 25, all;
Sec. 26, NE¼, E½NW¼, and S½;
Secs. 35 and 36, all.
T. 8 S., R. 22 W.,
Sec. 1, all;
Sec. 2, lots 1 and 2, S½NE¼, and SE¼;
Sec. 11, NE¼;
Sec. 12, N½.

The areas described aggregate approximately 125,486 acres, of which 8,278.20 acres have been patented, 61,089.22 are withdrawn for military purposes in connection with the Yuma Test Station and 4,381.79 are included in pending applications for withdrawal filed by the Department of the Army.

2. Subject to any valid existing rights and the requirements of applicable law, the vacant public lands, excepting those withdrawn in connection with the Yuma Test Station, and those covered in the pending applications of the Department of the Army, are hereby opened to filing of applications selections and locations in accordance with the following:

a. Until 10:00 a.m. on June 20, 1960, the State of Arizona shall have a preferred right of application to select the lands in accordance with and subject to the provisions of subsection (c) of section 2 of the act of August 27, 1958 (72 Stat. 928; 43 U.S.C. 851–2), and the regulations in 43 CFR 270.

(1) All applications under the nonmineral public land laws, other than from the State, filed at or before 10:00 a.m. on June 20, 1960, shall be considered as simultaneously filed at that time. Those thereafter filed shall be considered in the order of filing.

(2) All applications under subparagraph (1) above, shall be subject to those from persons having prior existing valid settlement rights, preference rights conferred by existing law, and equitable claims subject to allowance and confirmation.

3. Applications for lands included in pending applications for withdrawal will be suspended in accordance with the regulations in 43 CFR 295.11a, to the extent that they are in conflict therewith.

4. The lands have been open to applications and offers under the mineral leasing laws, and some of them have

heretofore been opened to mining location. The remainder shall be open to mining location at 10:00 a.m. on June 20, 1960.

5. Applicants claiming preference rights must submit evidence of their entitlement.

Inquiries concerning the lands shall be addressed to the Manager, Land Office, Bureau of Land Management, Phoenix, Arizona.

ROGER ERNST,
Assistant Secretary of the Interior.

DECEMBER 21, 1959.

[F.R. Doc. 59-11036; Filed, Dec. 28, 1959; 8:48 a.m.]

Title 46—SHIPPING

Chapter I—Coast Guard, Department of the Treasury

SUBCHAPTER S—NUMBERING OF UNDOCUMENTED VESSELS, STATISTICS ON NUMBERING, AND "BOATING ACCIDENT REPORTS" AND ACCIDENT STATISTICS

[CGFR 59-64]

PART 171—STANDARDS FOR NUMBERING

Temporary Exemptions, Procedures for Making Application for Coast Guard Numbers, and Fees for Numbers

The purpose for this document is to publish procedures with respect to numbering of undocumented vessels under the Federal Boating Act of 1958; to provide for temporary exemptions from numbering requirements in order to allow States which have under active consideration or have nearly perfected their numbering systems additional time in which to obtain approval; and to reduce the fee for an original number from $5.00 to $3.00, which is based on the cost for administration of the Coast Guard numbering system.

The new regulation designated 46 CFR 171.01-6 is to provide a temporary exemption until July 1, 1960, for all undocumented vessels principally used within a particular State in which it is found that such State's system for numbering is under active consideration or nearly perfected for approval and may be approved by July 1, 1960. This temporary exemption may be permitted so that the assumption of functions with respect to numbering by a particular State may be accomplished in an equitable manner.

The new regulation designated 46 CFR 171.10-2 describes the procedures for making application for a Coast Guard number on and after April 1, 1960. Arrangements have been made with the Post Office so that applications (Forms CG-3876 and CG-3876A) will be available at all First Class and Second Class Post Offices throughout the United States and at designated Third and Fourth Class Post Offices in those States in which the undocumented vessels must be numbered by the Coast Guard. No applications will be accepted before April 1, 1960.

The amendment to 46 CFR 171.10-25 revises the procedures for obtaining a duplicate certificate of number in event the original certificate of number is lost or destroyed. Arrangements have been made with the Post Office so that applications for duplicate certificates of number (Form CG-3919) will be available at all First and Second Class Post Offices throughout the United States and at designated Third and Fourth Class Post Offices in those States in which vessels must be numbered by the Coast Guard. No applications will be accepted before April 1, 1960. No application will be processed without a special fee stamp attached thereto and postmarked.

The new regulation designated 46 CFR 171.15-10(b) identifies the temporary certificate which will be issued through the Post Office and will require that it be postmarked in order to make it valid.

The amendments to 46 CFR 171.15-20 (c) and (d) provide for use of Form CG-3920 for change of address notice and Form CG-3921 for notification of change in status of vessel.

The amendment to 46 CFR 171.17-1 (a)(1) revises the estimated cost for original numbering from $5.00 to $3.00.

The amendment to 46 CFR 171.17-1 (b) provides the payment of fee for original numbering ($3.00) and the fee for reissue of lost or destroyed certificate of number ($1.00) shall be made by the purchase of an appropriate special fee stamp available at all First and Second Class Post Offices and at designated Third and Fourth Class Post Offices in those States in which the undocumented vessels must be numbered by the Coast Guard. The appropriate special fee stamp must be affixed to the application for certificate of number (Form CG-3876) and the temporary certificate of number (Form CG-3876A) or to the application for duplicate certificate of number (Form CG-3919) and the temporary duplicate certificate of number (Form CG-3919A) and postmarked by a Post Office. No special fee stamps will be issued before April 1, 1960.

By virtue of the authority transferred to me as Commandant, United States Coast Guard, by Treasury Department Order 167-32, dated September 23, 1958 (23 F.R. 7605), I hereby promulgate the following regulations in this document in accordance with section 7 of the Federal Boating Act of 1958, and these regulations shall be in effect on and after March 15, 1960:

Subpart 171.01—General

1. Subpart 171.01 is amended by inserting a new section reading as follows:

§ 171.01-6 Temporary exemptions until July 1, 1960.

(a) The Commandant may temporarily exempt from numbering requirements until July 1, 1960, all undocumented vessels principally used within a particular State upon a finding that such State has under active consideration or has nearly perfected a numbering system which will meet the requirements for approval as set forth in this part so that such numbering systems may be approved by July 1, 1960. The names of those States granted temporary exemptions will be published in the FEDERAL REGISTER.

(Sec. 7, 72 Stat. 1757; 46 U.S.C. 527d)

Subpart 171.10—Application for Number

2. Subpart 171.10 is amended by inserting a new section reading as follows:

§ 171.10-2 Procedures for making application to the Coast Guard.

(a) The application for an original number to be issued by the Coast Guard is a two-part form designated CG-3876 and CG-3876A. On and after April 1, 1960, this form is available upon request at all First Class and Second Class Post Offices throughout the United States and at all designated Third Class and Fourth Class Post Offices in States in which the undocumented vessels must be numbered by the Coast Guard, and at all Coast Guard Marine Inspection Offices. The instructions for filling in these forms are set forth on the back of the forms.

(b) The owner of any undocumented vessel required to be numbered by the Coast Guard shall complete the application (Form CG-3876) and the temporary certificate (Form CG-3876A) and submit them to any Post Office where the special fee stamp may be purchased, affixed, and canceled.

(Sec. 7, 72 Stat. 1757; 46 U.S.C. 527d)

3. Section 171.10-25 is amended to read as follows:

§ 171.10-25 Lost or destroyed certificate of number.

(a) If a certificate of number is lost or destroyed, the owner within 15 days shall notify the Commandant (MVI-10), U.S. Coast Guard, Washington 25, D.C. The notification shall be in writing and shall describe the circumstances of the loss or destruction.

(b) If an application for a duplicate certificate of number (Form CG-3919) (see § 171.10-30) is submitted without delay, it may also provide the written notification required by paragraph (a) of this section.

(Sec. 7, 72 Stat. 1757; 46 U.S.C. 527d)

4. Subpart 171.10 is amended by inserting a new section reading as follows:

§ 171.10-30 Duplicate certificate of number.

(a) The application for a duplicate certificate of number to be issued by the Coast Guard is a two-part form designated CG-3919 and CG-3919A. On and after April 1, 1960, this form is available upon request at all First Class and Second Class Post Offices throughout the United States and at designated Third Class and Fourth Class Post Offices in States in which the undocumented vessels must be numbered by the Coast Guard, and at all Coast Guard Marine Inspection Offices. The instructions for filling in these forms are set forth on the back of the forms. Space is provided on the application to describe the circumstances of the loss or destruction of the certificate of number so that, when submitted without delay, it may also provide the written notification required by § 171.10-25.

(b) The owner shall complete the application for a duplicate certificate of number (Form CG–3919) and the temporary duplicate certificate of number (Form CG–3919A), and submit them to any Post Office where the special fee stamp may be purchased, affixed, and canceled. (See § 171.17–1.)

(c) The duplicate certificate of number issued as a result of such application on Form CG–3919 will replace the certificate of number so lost or destroyed.

(Sec. 7, 72 Stat. 1757; 46 U.S.C. 527d)

Subpart 171.15—Certificate of Number

5. Section 171.15–10 is amended by designating the present text thereof as paragraph (a) by adding new paragraphs (b) and (c) reading as follows:

§ 171.15–10 Temporary certificate.

* * * * *

(b) For Form CG–3876A (temporary certificate of number) to be a valid temporary certificate, the Form CG–3876A shall be completely filled out by the applicant at the same time as he completes the attached application (Form CG–3876), and it shall bear an identical postmark as that stamped on the application.

(c) For Form CG–3919A (temporary duplicate certificate of number) to be a valid temporary certificate, the Form CG–3919A shall be completely filled out by the applicant at the same time as he completes the attached application (Form CG–3919), and it shall bear an identical postmark as that stamped on the application.

(Sec. 7, 72 Stat. 1757; 46 U.S.C. 527d)

6. Section 171.15–20 is amended by changing paragraphs (b) and (c) to read as follows:

§ 171.15–20 Notification of changes required.

* * * * *

(b) When the owner of a Coast Guard numbered vessel changes his address from that shown on his certificate, but does not change the State in which the vessel is principally used, he shall notify in writing the Commandant (MVI–10), U.S. Coast Guard, Washington 25, D.C., of his new address within a period not to exceed 15 days from such change. This written notification should be on Form CG–3920 (change of address notice), which is available upon request from any Post Office which handles applications for certificates of numbers (see § 171.10–2), or from any Coast Guard Marine Inspection Office.

(c) When a Coast Guard numbered vessel is lost, destroyed, abandoned, or transferred to another person, the certificate of number issued for the vessel shall be surrendered to the Commandant (MVI–10), U.S. Coast Guard, Washington 25, D.C., within a period not to exceed 15 days after such event. When the numbered vessel is lost, destroyed, abandoned, or transferred to another person, the owner shall within 15 days notify in writing the Commandant (MVI–10), U.S. Coast Guard, Washington 25, D.C., of the change in the status of the vessel. This written notification should be on Form CG–3921 (Notification of change in status of vessel), which is available upon request from any Post Office which handles applications for certificates of numbers (see § 171.10–2), or from any Coast Guard Marine Inspection Office. If the certificate of number is lost or destroyed, a description of such circumstances shall be reported as required by § 171.10–25.

(Sec. 7, 72 Stat. 1757; 46 U.S.C. 527d)

Subpart 171.17—Fees and Charges

7. Section 171.17–1 is amended to read as follows:

§ 171.17–1 Fees.

(a) The fees charged by the U.S. Coast Guard are based upon the estimated cost of the administration of the Coast Guard's numbering system.

(b) The fees are as follows:

(1) Original numbering—$3.00.

(2) Reissue of lost or destroyed certificate of number—$1.00.

(3) Renewal of number—$3.00.

(Sec. 7, 72 Stat. 1757; 46 U.S.C. 527d)

8. Subpart 171.17 is amended by inserting a new section reading as follows:

§ 171.17–5 Method of payment.

(a) The fee for original numbering shall be paid by purchase of a special fee stamp from any Post Office which sells the special fee stamps. (See § 171.10–2.)

(b) The fee for reissue of lost or destroyed certificate of number (duplicate certificate of number) shall be paid by purchase of a special fee stamp from any Post Office which sells the special fee stamps. (See § 171.10–30.)

(c) No application for an original certificate of number or for a duplicate certificate of number will be processed without an appropriate special fee stamp attached thereto. No special fee stamps shall be sold prior to April 1, 1960.

(d) The fee for renewal of number is payable to the U.S. Coast Guard and shall accompany the application.

(Sec. 7, 72 Stat. 1757; 46 U.S.C. 527d)

Dated: December 23, 1959.

[SEAL] J. A. HIRSHFIELD,
Rear Admiral, U.S. Coast Guard,
Acting Commandant.

[F.R. Doc. 59–11054; Filed, Dec. 28, 1959; 8:49 a.m.]

Title 49—TRANSPORTATION

Chapter I—Interstate Commerce Commission

PART 120—ANNUAL, SPECIAL OR PERIODICAL REPORTS

Railroad Annual Report Form C

At a session of the Interstate Commerce Commission, Division 2, held at its office in Washington, D.C., on the 2d day of December A.D. 1959.

It appearing that the matter of annual reports of line-haul and switching and terminal railroad companies of class II being under further consideration, and the changes to be effectuated by this order being minor changes in the data to be furnished, rule-making procedures under section 4(a) of the Administrative Procedure Act, 5 U.S.C. 1003, being deemed unnecessary:

It is ordered, That the order of January 9, 1959, in the matter of Railroad Annual Report Form C, be, and it is hereby, modified and amended with respect to annual reports for the year ended December 31, 1959, and subsequent years, to read as shown below.

It is further ordered, That § 120.12, be, and it is hereby, modified and amended to read as follows:

§ 120.12 Form prescribed for Class II railroads.

Commencing with the year ended December 31, 1959, and for subsequent years thereafter, until further order, all line-haul and switching and terminal railroad companies of class II, as described in § 126.1 of this chapter, all carriers with average annual operating revenues of less than $3,000,000, subject to the provisions of section 20, part I of the Interstate Commerce Act, are required to file annual reports in accordance with Railroad Annual Report Form C, which is attached hereto and made a part of this section.[1] Such annual report shall be filed in duplicate in the Bureau of Transport Economics and Statistics, Interstate Commerce Commission, Washington 25, D.C., on or before March 31 of the year following the year to which it relates.

(Sec. 12, 24 Stat. 383, as amended; 49 U.S.C. 12. Interpret or apply sec. 20, 24 Stat. 386, as amended; 49 U.S.C. 20)

And it is further ordered, That copies of this order and of Annual Report Form C shall be served on all line-haul and switching and terminal railroad companies of class II, subject to the provisions of section 20, part I, of the Interstate Commerce Act, and upon every receiver, trustee, executor, administrator or assignee of any such railroad company, and that notice of this order shall be given to the general public by depositing a copy thereof in the office of the Secretary of the Commission at Washington, D.C., and by filing a copy thereof with the Director, Office of the Federal Register.

By the Commission, Division 2.

[SEAL] HAROLD D. MCCOY,
Secretary.

[F.R. Doc. 59–11046; Filed, Dec. 28, 1959; 8:49 a.m.]

[1] Filed as part of the original document.

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 903]

[Docket No. AO-10-A24]

MILK IN ST. LOUIS, MISSOURI, MARKETING AREA

Notice of Hearing on Proposed Amendments to Tentative Marketing Agreement and Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of a public hearing to be held at the Melbourne Hotel, Grand Avenue and Lindell Blvd., St. Louis, Missouri, beginning at 10:00 a.m., on January 18, 1960, with respect to proposed amendments to the tentative marketing agreement and to the order, regulating the handling of milk in the St. Louis, Missouri, marketing area.

The public hearing is for the purpose of receiving evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

The proposals relative to a redefinition of the marketing area raise the issue whether the provisions of the present order would tend to effectuate the declared policy of the Act, if they are applied to the marketing area as proposed to be redefined and, if not, what modifications of the provisions of the order would be appropriate.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by Sanitary Milk Producers, Prairie Farms of Southern Illinois, Square Deal Milk Producers Association and Producers Creamery Company:

Proposal No. 1. Amend § 903.5 *St. Louis Marketing Area* to read as follows:

§ 903.5 St. Louis Marketing Area.

"St. Louis, Missouri, Marketing Area" hereinafter called the "Marketing Area" means the territory within the corporate limits of the City of St. Louis, the territory within St. Louis County, and the City of St. Charles, all in Missouri; and the territory within Scott Military Reservation, and East St. Louis, Centerville, Canteen and Stites Townships and the City of Belleville, all in St. Clair County, Illinois.

Proposal No. 2. Amend § 903.6 *Producer* to read as follows:

§ 903.6 Producer.

"Producer" means any person, except a producer-handler, a dairy farmer for other markets, or a dairy farmer whose milk is diverted by a handler for his account during any of the months of August through February of the preceding year but not reported as producer receipts, who produces milk under a dairy farm permit or rating, for the production of milk to be used for Grade A distribution issued by a duly constituted health authority, which milk is delivered from the farm or a cooperative association to a pool plant or diverted pursuant to paragraph (a) or (b) of this section: *Provided*, That no person shall be a producer with respect to milk which is delivered to a milk plant partially exempt from the provisions of this section pursuant to § 903.61.

(a) Diverted for his account by the operator of a pool plant from such plant to a nonpool plant provided such nonpool plant is not subject to classification and pricing provisions of another order during the months of March through July: *Provided*, That milk so diverted shall be deemed to have been received by the diverting handler at the location of the plant from which diverted: or

(b) Diverted by cooperative association qualified pursuant to § 903.18(b) for the account of such association from a pool plant to a nonpool plant provided such nonpool plant is not subject to classification and pricing provisions of another order any day during the months of March through July, or on not more than 15 days production during any month from August through February: *Provided*, That milk so diverted shall be deemed to have been received by the cooperative association at a pool plant at the location of the plant from which diverted.

Proposal No. 3. Amend § 903.9 *Pool plant* by deleting paragraph (b) and substituting the following:

(b) A city plant or a country plant from which not less than 50 percent of its approved milk during the month is shipped to pool plants or distributed on routes to retail or wholesale outlets (including plant stores but not including pool plants or nonpool plants) located in the marketing area: *Provided*, That if a country plant ships to pool plants approved milk equal to at least 75 percent of its producer milk in the months of October and November, and 50 percent in the months of August, September, December and January, such plant shall upon written application to the market administrator on or before January 31st of any year, be designated as a pool plant until the end of any month during the succeeding August through January period in which the milk of such plant is disposed of in such a way that it becomes impossible for the plant to re-establish its qualifications under the terms of this proviso: *And provided further*, That a country plant operated by a milk processing cooperative association or by a milk processing cooperative association under an agreement with another milk processing cooperative association may become a pool plant during any month if deliveries to other pool plants equal at least 75 percent of the total milk production of the producer members of the association, or associations, during October and November and at least 50 percent during December through September.

Proposal No. 4. Amend § 903.10 *Reserve supply credit* by deleting entire section.

Proposal No. 5. Amend § 903.12 *Handler* to read as follows:

§ 903.12 Handler.

"Handler" means (a) any person in his capacity as the operator of a city plant or a country plant; (b) producer-handler, (c) a cooperative association with respect to the milk of its member producers which is delivered to the pool plant of another handler or to a plant of a producer-handler in a tank truck, owned or operated by, or under contract to, such cooperative association for the account of such cooperative association (such milk shall be considered as having been received by such cooperative association at a plant to which it is delivered); or (d) a cooperative association qualified pursuant to § 903.18 (b) and (c) with respect to milk from producers diverted for the account of such association from a pool plant to a nonpool plant pursuant to § 903.6(b).

Proposal No. 6. Add a new § 903.17 *Dairy farmer for other markets* to read as follows:

§ 903.17 Dairy farmer for other markets.

"Dairy farmer for other markets" means any dairy farmer whose milk is received by a handler at a pool plant during any of the months of March through July, from a farm which the "handler", or an affiliate of a handler, or any person who controls, or is controlled by the handler, received nonpool milk approved as Grade A milk during any of the preceding months of August through February.

Proposal No. 7. Add a new § 903.18 *Cooperative Association* to read as follows:

§ 903.18 Cooperative Association.

"Cooperative Association" means any group of producers, which the secretary determines after application by the group; (a) to be qualified under the provisions of the Act of Congress of February 19, 1922, as amended, known as "Capper Volstead Act", (b) to have full authority in the sale of milk of its members and to be engaged in making collective sales or marketing milk, or its products, for its members; (c) to have its entire activities under the control of its members.

Proposal No. 8. Amend § 903.22(k) to read as follows:

(k) On or before the 10th day after each month, report to each cooperative association, which so requests with respect to producer milk and approved milk caused to be delivered by the asso-

ciation or by its members to each handler during the month (1) the percentage of such receipts classified in each class and (2) the percentage of relationship of receipts to the total pounds of Class I milk available to assign to such receipts exclusive of the Class I milk disposed of by such handler to other pool plant(s). For the purpose of these reports, the milk received from such association is treated on a pro rata basis of the total producer milk and approved milk received by such handler during the month.

Proposal No. 9. Amend § 903.30 by adding the following two new paragraphs: "(f) the quantities of skim milk and butterfat contained in inventories of Class I products on hand at the beginning and end of the month; (g) such other information with respect to receipts and utilization of skim milk and butterfat as the Market Administrator may prescribe."

Proposal No. 10. Amend § 903.31 to read as follows:

§ 903.31 Reports of milk received from producers.

(a) On or before the 25th day of each month each handler shall report to the market administrator on forms approved by the market administrator, his producer payroll including milk from cooperatives, which shall show the total pounds of milk received from each producer during the first 15 days of each month, and (b) on or before the 20th day after the end of each month, each handler shall report to the market administrator for such month, on forms approved by the market administrator, his producer payroll including milk from cooperatives which shall show for each producer from whom milk was received: (1) The total pounds and butterfat content of milk received from such producer, (2) the price and the total amount paid for milk received from such producer together with the amount and nature of any deductions, and (3) the amount and nature of payments made pursuant to § 903.86.

Proposal No. 11. Amend § 903.35 *Records and facilities* to read as follows:

§ 903.35 Records and facilities.

Each handler shall maintain and make available to the market administrator, or to his representatives, during the usual hours of business, such accounts and records of his operations, together with such facilities as are necessary as determined by the market administrator to verify or establish correct data with respect to:

Proposal No. 12. Amend § 903.41 *Classes of utilization* to read as follows:

(a) * * * (1) disposed of in fluid form as milk, skim milk, buttermilk, milk drinks (plain or flavored), cream (fresh, frozen or sour), salad dressing or any other product required by ordinance or statute to be made from Grade A milk.

(b) * * * (2) in inventory of products designated as Class I milk in § 903.41(a) on hand at the end of the month.

Proposal No. 13. Amend § 903.43 by deleting the introductory text of paragraph (c) and substituting the following for the introductory text of paragraph (c) and paragraph (c)(4) and by adding new paragraphs (e) and (f):

(c) Skim milk and butterfat disposed of in the form of milk or skim milk by transfer or diversion from a pool plant to a nonpool plant shall be classified as Class I milk unless:

* * * * *

(4) The skim milk and butterfat in the fluid milk products disposed of from such nonpool plant do not exceed the receipts of skim milk and butterfat in milk received during the month directly from Grade A dairy farms that the market administrator determines constitute the regular source of supply for such plant: *Provided,* That any skim milk or butterfat in fluid milk products disposed of from the nonpool plant, which is in excess of receipts from such dairy farms, shall be assigned to the fluid milk products so transferred or diverted and classified as Class I milk: *And provided further,* That if the total skim milk and butterfat transferred or diverted during the month to such nonpool plant from all plants subject to the classification and pricing provisions of this part, and other orders issued pursuant to the act, are more than the skim milk and butterfat available for assignment to Class I milk pursuant to the preceding proviso, the skim milk and butterfat assigned to Class I milk at a pool plant shall be not less than that obtained by prorating the assignable Class I milk at the transferee plant over the receipts at such plant from all plants subject to the classification and pricing provisions of this and other orders issued pursuant to the act.

(e) Skim milk or butterfat transferred or diverted in the form of bulk cream to a nonpool plant shall be Class I milk, unless

(1) Such cream is transferred without Grade A certification by any health authority,

(2) The handler claims Class II in his report submitted to the market administrator pursuant to § 903.30 on or before the 7th day after the end of the month within which such transaction occurred,

(3) The buyer maintains books and records showing the utilization of all skim milk and butterfat at his plant, which are made available, if requested by the market administrator, for the purpose of verification, and

(4) Not less than an equivalent amount of skim milk and butterfat was actually used as Class II milk in such buyer's plant.

(f) A country plant shall not be considered a nonpool plant under paragraphs (c) and (e) of this section.

Proposal No. 14. Amend § 903.44 by adding the following: "Provided that if any of the water contained in the milk from which a product is made is removed, pounds of skim milk used or disposed of in such product shall be considered to be an amount equivalent to the nonfat milk solids contained in such products plus all the water originally associated with such solids."

Proposal No. 15. Amend § 903.45 *Allocation of skim milk and butterfat classified* as follows:

By renumbering paragraph (a) (6) and (7) as (7) and (8) and inserting a new paragraph (6) as follows:

(6) Subtract from the pounds of skim milk remaining in Class II milk, the pounds of skim milk contained in inventory of products designated as Class I in § 903.41(a) on hand at the beginning of the month; *Provided,* That if the pounds of milk in such inventory shall exceed the remaining pounds of skim milk in Class II milk, the balance shall be subtracted from the pounds of skim milk remaining in Class I.

Proposal No. 16. Amend § 903.51 *Class prices* as follows:

Amend paragraph (a) by deleting subparagraph (1) and renumbering (2) and (3) as (1) and (2) and by amending paragraph (b) as follows:

(a) *Class I milk price.* The Class I milk price shall be the Class I price for the month pursuant to Federal Order No. 41 plus 50¢ plus or minus the amount provided in subparagraph (1) as follows:

(1) If the utilization percentage calculated pursuant to subparagraph (2) of this paragraph exceeds 125, subtract, or if it is less than 125 add, an amount calculated by multiplying the difference between such percentages and 125 by 2 cents.

(b) *Class II milk price.* For the months of August through February, the Class II milk price shall be the basic formula price and all other months, the Class II price shall be an amount computed as follows:

Proposal No. 17. Amend § 903.52 *Location differential to handlers* to read as follows:

§ 903.52 Location differential to handlers.

(a) With respect to skim milk and butterfat contained in milk received from producers at a pool plant outside the marketing area, which is classified as Class I milk, the price per hundredweight shall be reduced by the amounts set forth in the following schedule according to the shortest highway distance from the plant where the milk is received from producers, or the plant from which the milk is diverted, to the City Hall in St. Louis.

	Cents
More than 50 miles but less than 60 miles	18
For each additional 10 miles, or fraction thereof, an additional	1

Provided, That for the purpose of calculating such location differential, with respect to approved milk transferred between pool plants, the Class II approved milk remaining in the transferee plant (except skim milk or butterfat in such plant which was subtracted pursuant to § 903.45(a)(1) and (b)), after deducting therefrom the amount of such milk, or an equivalent to 0.05 times the producer milk at such plant, whichever is less, shall be assigned to approved milk from other plants in sequence according to the location differential applicable at each plant from which approved milk was received, beginning with the plant having the largest differential, and then to producer milk: *And pro-*

vided further, That any approved milk transferred between city plants as Class II milk, which is to be assigned to receipts of approved milk from other plants, pursuant to this section, shall be assigned to approved milk received from such other plants by either city plant so as to yield the greatest return to producers.

(b) For milk received direct from producers at, or diverted from a pool plant located within 50 miles of the City Hall, St. Louis, and classified as Class I or Class II, such prices shall be increased by an amount computed as follows:

(1) Multiply the hundredweight of skim milk and butterfat received direct from producers by 15 cents. Round the result to the nearest cent.

(2) Divide the result obtained in subparagraph (1) of this paragraph by the hundredweight of skim milk and butterfat received direct from producers plus the hundredweight of skim milk and butterfat diverted from such plant pursuant to § 903.6 and round to the nearest cent.

Proposal No. 18. Add a new § 903.54 *Use of equivalent prices* to read as follows:

§ 903.54 Use of equivalent prices.

If for any reason a price quotation required by this part for computing class prices, or for any other purpose, is not available in the manner described, the market administrator shall use a price determined by the Secretary to be equivalent to the price which is required.

Proposal No. 19. Amend § 903.61 *Plants subject to other Federal orders* as follows:

Add as paragraph (c) the following:

(c) If the value of skim milk and butterfat disposed of as Class I milk on routes in the marketing area from a plant(s) subject to the classification and pricing provisions of another Federal order is less than its value as computed pursuant to this subpart, the operator of such plant(s) shall pay, with respect to the volume of Class I milk so distributed, to the market administrator for deposit into the producer settlement fund an amount computed as follows:

(1) For Class I milk which is disposed of from a plant regulated by another Federal order containing market-wide pooling, the amount shall be the difference between the Class I price for the month pursuant to this order, and the Class I price for the month pursuant to such other order.

(2) For Class I milk which is disposed of from a plant regulated by another Federal order containing individual handler pools, the amount shall be computed by subtracting the Class II price from the Class I price both pursuant to the subpart.

Proposal No. 20. Amend § 903.62 *Handlers operating non-pool plants* by the addition of the following: "The Class II price adjusted by the Class II butterfat differential;" and delete paragraphs (a) and (b).

Proposal No. 21. Delete § 903.70 and insert a new one as follows:

§ 903.70 Computation of the value of producer milk for each handler.

For each month, the market administrator shall compute the value of producer milk for each handler as follows:

(a) Multiply the quantity of producer milk in each class computed pursuant to § 903.46 by the applicable class price. Total the resulting amounts, and add any amounts necessary to reflect adjustments in location differential allowance required pursuant to the provisions of § 903.52 (a) and (b).

(b) Add an amount computed by multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat remaining in Class II after the calculations pursuant to § 903.45 (a) (8) and (b) less the amount deducted pursuant to § 903.45 (a) (1) and (b) for the preceding month, or the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 903.45 (a) (6) and (b) for the current month, whichever is less and: *Provided*, That in the case of a handler who receives no milk from producers, the computation shall be made on the lesser of the quantities deducted from Class I pursuant to § 903.45 (a) (6) and (b) for the current month, or the quantity of skim milk and butterfat subtracted from Class II the previous month pursuant to § 903.45 (a) (7) and (b) less the amount deducted pursuant to § 903.45 (a) (1) and (b).

(c) Add an amount computed as follows: Multiply the hundredweight of skim milk and butterfat subtracted from Class I milk pursuant to § 903.45 (a) (2) and (b) by the price arrived at by subtracting from the Class I price, adjusted by the Class I butterfat differential and the Class I location differential at the nearest plant(s) from which an equivalent amount of other source milk was received, the Class II price adjusted by the Class II butterfat differential.

(d) Add an amount computed as follows: Multiply the hundredweight of skim milk and butterfat subtracted pursuant to § 903.45 (a) (4) and (b) by an amount representing the difference between a lower Class I price computed pursuant to such other order for the month, and the Class I price computed pursuant to this order for the month: *Provided*, That in the case of skim milk and butterfat originating from a plant regulated by a Federal order containing individual handler pooling, an amount shall be added by multiplying the hundredweight of skim milk and butterfat subtracted from Class I milk pursuant to § 903.45 (a) (4) and (b) by the price arrived at by subtracting the Class I price, adjusted by the Class I butterfat differential and the Class I location differential at the nearest plant(s), from which an equivalent amount of other source milk was received, from the Class II price adjusted by the Class II butterfat differential.

(e) Add the amounts computed by multiplying the pounds of overage deducted from each class pursuant to § 903.45 (a) (8) and (b) by the applicable class price.

Proposal No. 22. Delete § 903.71 (c), (d), (e) and (f) and substitute the following:

(c) Subtract for each of the months of April, May and June an amount equal to the hundredweight of producer milk multiplied by 15 cents. Such amount shall be administered pursuant to paragraph (d) of this section.

(d) Add during each of the months of September, October, November and December one-fourth of the total amount subtracted pursuant to paragraph (c) of this section:

(e) Subtract if the weighted average butterfat content of milk received from producers is more than 3.5 percent, or add if such average butterfat content is less than 3.5 percent, an amount computed by multiplying the producer butterfat differential by the difference between 3.5 and the average butterfat content of producer milk, and multiplying the resulting figure by the total hundredweight of such milk.

(f) Subtract an amount equal to the value of the adjustments required pursuant to § 903.52(b);

(g) Add an amount equivalent to one-half of the unobligated balance in the producer settlement fund;

(h) Divide the resulting amount by the total hundredweight of producer milk; and

(i) Subtract not less than 4 cents nor more than 5 cents from the amount computed pursuant to paragraph (h) of this section. The resulting figure shall be the uniform price per hundredweight of milk testing 3.5 percent butterfat, f.o.b. the marketing area: *Provided*, That for skim milk and butterfat delivered to or diverted from a pool plant located within 50 miles of the City Hall, St. Louis, the uniform price per hundredweight shall be increased by the rate computed pursuant to § 903.52(b)(2).

Proposal No. 23. Amend § 903.80 by deleting paragraph (b) and substituting the following:

(b) In the case of a cooperative association qualified pursuant to § 903.18(b) which has so requested any handler in writing, such handler shall make payment to the cooperative association for milk received during the month from the producer members of such association and for milk received from the association in its capacity as a handler as follows:

Proposal No. 24. Amend § 903.82 *Location differential to producers* to read as follows:

§ 903.82 Location differential to producers.

In making payment for milk received from producers pursuant to 903.80, the uniform price per hundredweight for milk received at plants located outside the marketing area shall be reduced by the amount set forth in the following schedule according to the shortest highway distance from the plant where the milk is received from producers, or the plant from which the milk is diverted, to the City Hall in St. Louis:

	Cents
More than 50 miles, but less than 60 miles	18
For each additional 10 miles, or fraction thereof, an additional	1

Proposal No. 25. Add a new § 903.89 *Adjustment of overdue accounts* to read as follows:

§ 903.89 Adjustment of overdue accounts.

Any unpaid obligation of a handler or of the market administrator pursuant to §§ 903.80, 903.84, 903.85, 903.86, 903.87, and 903.88 shall be increased one-half of 1 percent for each month, or portion thereof, that such payment is overdue.

Proposed by Sealtest Foods, Division, National Dairy Products Corporation:

Proposal No. 26. Amend § 903.43(c) (2) by deleting the words "110 airline miles" and replacing with the words "200 airline miles".

Proposal No. 27. Amend § 903.5 to read as follows:

§ 903.5 St. Louis, Missouri, marketing area.

"St. Louis, Missouri, marketing area," hereinafter called the "marketing area," means the territory within the corporate limits of the City of St. Louis, the counties of St. Louis, Bollinger, Cape Girardeau, Crawford, Franklin, Gasconade, Iron, Jefferson, Madison, Mississippi, Perry, St. Charles, St. Francois, St. Genevieve, Scott, Warren, and Washington, all in the State of Missouri; and the territory within Scott Military Reservation, and East St. Louis, Centerville, Canteen, and Stites Townships, and the City of Belleville, all in St. Clair County, Illinois.

Proposed by Twentieth Century Foods Corporation:

Proposal No. 28. That § 903.43(c) (2) be amended to read as follows:

(2) The transferee-plant is located within 110 airline miles from the City Hall in St. Louis, Missouri, or in the State of Missouri south of the Missouri River, or in the county of Fulton in the State of Arkansas, and * * *.

Proposed by the Dairy Division, Agricultural Marketing Service:

Proposal No. 29. Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator, 2710 Hampton Avenue, St. Louis 39, Mo., or from the Hearing Clerk, Room 112, Administration Building, United States Department of Agriculture, Washington 25, D.C., or may be there inspected.

Issued at Washington, D.C., this 23d day of December 1959.

ROY W. LENNARTSON,
Deputy Administrator.

[F.R. Doc. 59-11073; Filed, Dec. 28, 1959; 8:51 a.m.]

[7 CFR Part 921]

[Docket No. AO-222-A10]

MILK IN OZARKS MARKETING AREA

Notice of Hearing on Proposed Amendments to Tentative Marketing Agreement and Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of a public hearing to be held at the Colonial Hotel, 330 St. Louis Street, Springfield, Missouri, beginning at 10:00 a.m., on January 21, 1960, with respect to proposed amendments to the tentative marketing agreement and to the order, regulating the handling of milk in the Ozarks marketing area.

The public hearing is for the purpose of receiving evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by Producers Creamery Company:

Proposal No. 1. Amend § 921.51(a) to read as follows:

(a) *Class I milk.* The Class I price announced for such month under Part 903 of this chapter regulating the handling of milk in the St. Louis marketing area, subject to a supply-demand adjustment of not more than 50 cents computed as follows:

(1) Divide the total receipts of producer milk under this part during the second and third months preceding, by the total gross volume of Class I milk under this part during the same months, multiply the result by 100 and round to the nearest whole number. The result shall be known as the Class I utilization percentage.

(2) Compute a net deviation percentage as follows:

(i) If the Class I utilization percentage is not less than the minimum standard utilization percentage specified below, nor in excess of the maximum standard utilization percentage, net deviation percentage is zero.

(ii) Any amount by which the Class I utilization percentage is less than the minimum standard utilization percentage specified below is a minus net deviation percentage.

(iii) Any amount by which the Class I utilization percentage exceeds the maximum standard utilization percentage specified below is a plus deviation percentage.

(3) For a minus net deviation percentage the Class I price shall be increased 2 cents for each percentage point of increase and for all plus net deviation percentage points the Class I price shall be decreased 2 cents for each plus deviation percentage point.

Month for which price applies	Months used in computation	Standard utilization percentages	
		Minimum	Maximum
January	October-November	105	110
February	November-December	109	118
March	December-January	105	110
April	January-February	105	110
May	February-March	109	114
June	March-April	132	137
July	April-May	171	176
August	May-June	187	192
September	June-July	185	190
October	July-August	172	177
November	August-September	129	134
December	September-October	105	110

Proposal No. 2. Amend § 921.51(b) (3) to read as follows:

(3) From the sums of the result arrived at under sub-paragraphs one and two of this paragraph, subtract 75 cents.

Proposal No. 3. Amend § 921.71 and other appropriate sections of the Order to provide a plan that will offer a greater incentive for the production of milk during the fall and winter months of short production. Such a plan could be that commonly termed "The Louisville Plan" which would deduct from the blend price for the months of April, May and June 15¢ per cwt. and in turn pay back 25% of the total funds so collected in each of the months of September, October, November and December.

Proposed by Greene County Milk Producers Association:

Proposal No. 4. Amend § 921.51(a) to provide for a change in the method of computing the level of Class I prices and to consider an increase in the level of Class I prices.

Proposal No. 5. Amend § 921.51(b) to consider a change in the method of computing the Class II price, and to consider increasing the level of Class II prices provided by this section.

Proposal No. 6. Amend § 921.71 to provide for a Fall Incentive Payment Plan (Louisville Plan), to provide a price incentive to producers to level out production in line with the Class I requirements of the market, by deducting approximately 30¢ per hundredweight during the months of April, May, and June, and paying the money so deducted back to producers in equal installments during the fall months of September, October, November, and December.

Proposal No. 7. Consider conforming changes in all other sections of the Order which may be necessary to effectuate the intent of the specific amendments proposed above.

Proposed by the Dairy Division, Agricultural Marketing Service:

Proposal No. 8. Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator, 2710 Hampton Avenue, St. Louis 39, Missouri, or from the Hearing Clerk, Room 112, Administration Building, United States Department of Agriculture, Washington 25, D.C., or may be there inspected.

Issued at Washington, D.C., this 23d day of December, 1959.

ROY W. LENNARTSON,
Deputy Administrator.

[F.R. Doc. 59-11072; Filed, Dec. 28, 1959; 8:51 a.m.]

[7 CFR Part 927]

[Docket No. AO-71-A39]

MILK IN NEW YORK-NEW JERSEY MILK MARKETING AREA

Notice of Recommended Decision and Opportunity To File Written Exceptions to Proposed Amendments to Tentative Marketing Agreement and to Order

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), notice is hereby given of the filing with the Hearing Clerk of this recommended decision of the Deputy Administrator, Agricultural Marketing Service, United States Department of Agriculture, with respect to proposed amendments to the tentative marketing agreement, and order regulating the handling of milk in the New York-New Jersey milk marketing area. Interested parties may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington 25, D.C., not later than the close of business the 10th day after publication of this decision in the FEDERAL REGISTER. The exceptions should be filed in quadruplicate.

Preliminary statement. The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreement and to the order, were formulated, was conducted at Newark, New Jersey on October 27, 1959, pursuant to notice thereof which was issued October 2, 1959 (24 F.R. 8184).

The material issues of record relate to:

1. The rates of nearby differentials;
2. The defined territory for location of plants eligible for designation as "regular" pool plants; and
3. The classification of ice milk mix and milk shake base mix disposed of in the Connecticut marketing area.

Findings and conclusions. The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

Issue No. 1. The order should be amended by providing (in § 927.71 (b)(6)) for a reduction in the rates of nearby differentials otherwise applicable of 10 percent for each full percentage point by which, in the preceding 12 months, the total quantity of milk subject to the nearby differential is more than 35 percent of the total quantity of milk classified in Class I-A.

This provision should replace a current provision (§ 927.71(b)(6)) for reduction in nearby differential rates depending upon the ratio of nearby differential milk to Class I-A milk in the preceding 12 months in relation to a corresponding ratio for the 12-month period August 1957-July 1958. This current provision, however, was suspended on May 25, 1959 (24 F.R. 4303) with respect to producer payments required to be made by not later than the 25th day of each of the months of June through December 1959. Suspension of the provision was based on a finding that the reduction in rates resulting from operation of the provision was improper and not in accord with the purpose of the provision in that it reflected milk received from additional producers made eligible for the differential by amendment of the order effective September 1, 1958.

The quantity of milk received from producers made eligible by the September 1, 1958, amendment was about 158 million pounds in the 12-month period September 1958-August 1959. The addition of this quantity of milk to the quantity received in the August 1957-July 1958 period produces a ratio to total Class I-A volume of 0.3516. A substantially identical ratio (0.3517) is obtained by relating the volume of nearby differential milk to total Class I-A volume for the period September 1958-August 1959. Thus, it is apparent that the use of a ratio rounded to 0.352, in lieu of the ratio of 0.32332 based on relationships in the August 1957-July 1958 period, would properly recognize and adjust for the additional volume of nearby differential milk resulting from the amendment of September 1, 1958.

It was suggested at the hearing, however, that use of the proposed ratio of 0.352 would be inappropriate since it fails to reflect a shift of Order No. 27 producers to other markets, particularly of Eastern New York producers to Connecticut. The provision involved here is not designed to measure shifts of producers either to or from Order No. 27 plants except in terms of total volume of milk subject to the nearby differential. Its only purpose is to reduce the differential rates when and if the volume of nearby differential milk exceeds a specified proportion of Class I-A sales. However, for the purpose of determining what this specified limit should be, recognition of the shift of producers to Connecticut which already has occurred seems appropriate. Some measure of this shift is obtained in the fact that between July 1958 and July 1959 the number of producers from whom milk was received at plants in Dutchess, Columbia and Rensselaer Counties declined about 24 percent compared to a decline of only about 4 percent in the total number of producers during the same period. (For this fact official notice is taken of the Market Administrator's Bulletin, Volume 18, No. 7.) The impact of this factor on the volume of nearby differential milk is not susceptible of precise measurement. However, some recognition should be given to it by adjusting to a flat 0.35 the ratio otherwise calculated to be 0.352.

For purposes of this provision of the order the quantity of Class I-A milk used in the calculation should be the total quantity so classified including both producer milk and nonpool milk. The quantity of Class I-A milk subject to compensatory payments has increased materially since the Connecticut order became effective in April 1959. Connecticut order pool milk transferred to Order 27 pool plants is subject to compensatory payments under Order No. 27 when classified in Class I-A. This milk, together with other milk classified in Class I-A and subject to compensatory payments, displaces an equivalent quantity of producer milk in Class I-A. The total quantity of milk classified in Class I-A consequently is a more appropriate figure for use in this connection than only the quantity of producer milk in Class I-A.

Issue No. 2. Provisions of the order relating to definition of the territory within which plants eligible for designation as "regular pool plants" may be located should not be changed. The proposal in the notice of hearing for complete elimination of this definition was not supported at the hearing. Instead, a modification was proposed under which the requirements for regular pool plant status would be changed for plants located within 200 miles of Philadelphia and closer to Philadelphia than to the New York-New Jersey marketing area. Plants so located (except for those eligible as of August 1, 1957, coincident with expansion of the marketing area) are currently not eligible for designation as regular pool plants but are eligible for designation as temporary pool plants.

The modified proposal was designed only to provide regular pool plant status for a single plant located at Greencastle, Pennsylvania. This plant did not qualify for designation as a regular pool plant as of August 1, 1957, but has been in the pool as a temporary pool plant continuously since that date. The plant was an Order 27 pool plant from September 1949 until withdrawn at the operator's election in April 1956 at which time the plant became a source of supply for the Baltimore market and also shipped a portion of its supply into northern New Jersey in the April 1956-July 1957 period during which it was not a pool plant.

Proponent contends that this plant should be made eligible for regular pool plant status because of its long, though interrupted, period of serving the market and because there are other plants in the same general vicinity which currently are regular, rather than temporary, pool plants. It was contended that relief from the necessity of meeting the month-to-month performance requirements specified for temporary pool plants would promote efficiency in the operation of proponent's plants on a system basis.

The Greencastle plant is in the 211-220 mile zone under Order No. 27. It is 154 miles from Philadelphia and only about 80 miles from Baltimore and Washing-

ton, D.C. Regarding plants located in this section of Pennsylvania it was found in the decision of June 10, 1957 (22 F.R. 4194) as follows: "Plants located in this territory, as in the case of plants in Maryland and Delaware and other than those eligible to be expressly designated initially, would be expected to constitute sources of supply for local markets in that area and for Philadelphia or other markets farther south rather than for the New York-Northern New Jersey marketing area in the event of a recurrence of relatively short milk supplies generally in the Northeast. Plants in this area (except as noted) accordingly are not plants which may reasonably be expected to constitute a reserve supply for the New York-Northern New Jersey marketing area and should consequently be included in the pool only on the basis of actually supplying the marketing area with fluid milk."

In a sense, the Greencastle plant is an example demonstrating the validity of the above findings. Already, there has been a period of 16 consecutive months during which the plant was withdrawn from the pool to serve another market more advantageously located from the standpoint of distance to market. It was not shown whether or not plants other than at Greencastle would become eligible for regular pool status under the proposed change. Assuming, however, that only Greencastle would be affected, no basis is found for providing an exception to the present uniformly applicable standards.

Issue No. 3. No change should be made in the order relating to the classification of milk used in ice milk mix or milk shake base mix. Such mixes containing between 3 and 5 percent butterfat meet the definition of "flavored milk drinks" as such term is used in the order. Accordingly, milk leaving the plant at which classification is determined in the form of such a mix is classified in Class I–A when disposition is within the marketing area and in Class I–B when disposition is outside the marketing area. Class I–A and Class I–B prices are identical.

It was proposed at the hearing that milk in such mixes disposed of in the Connecticut marketing area be classified in Class III because milk so utilized is classified in Class II under provisions of the Connecticut marketing order. The Order No. 27 Class III and Connecticut Class II prices are at virtually the same level. Both prices, however, are substantially below the Order No. 27 Class I–A and Class I–B prices. Thus, it was contended by proponents that an Order No. 27 regulated handler is at a significant competitive disadvantage in marketing these mixes in Connecticut. The proposal in the notice of hearing related only to the classification of milk used in products disposed of in the Connecticut marketing area. There was no proposal relating to the classification of milk in ice milk mix or milk shake base mix disposed of in the Order No. 27 marketing area or elsewhere other than in Connecticut. It was shown, however, that ice milk is a product which may not be sold legally in the State of New York and, consequently, that the classification of milk used in ice milk mix there disposed of is immaterial as a practical matter. On the other hand, ice milk may be sold legally in Northern New Jersey. Accordingly, the question of how milk used in ice milk mix there disposed of appears to be pertinent from an operating standpoint but not to be within the scope of the proposal in this proceeding. The record is not clear as to territory in which milk shake base mix may legally be sold.

Proponents' contention is that the proposed amendment really would have application only under certain circumstances in that, under existing provisions of the order and accounting rules and regulations, milk used in the mixes here discussed may be classified in Class III (rather than Class I) unless it leaves the plant at which classification is determined in the form of such a mix. Thus, opportunity presently exists to obtain the classification sought by the proposed amendment. Moreover, the proposal relates only to products disposed of in Connecticut and would make the classification dependent solely upon the area of disposition and the classification under provisions of another order. This does not constitute an appropriate basis for classification. The classification of milk and the class prices established should be designed primarily to reflect conditions prevailing in the marketing area.

Rulings on proposed findings and conclusions. Briefs and proposed findings and conclusions were filed on behalf of certain interested parties in the market. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

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

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

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Recommended marketing agreement and order amending the order. The following order amending the order regulating the handling of milk in the New York-New Jersey milk marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out. The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the order, as hereby proposed to be amended:

1. Amend § 927.71(b)(6) to read as follows:

(6) The nearby differential rates shall be reduced 10 percent for each full percentage point by which the quantity of milk subject to the differential in the preceding 12 months exceeds 35 percent of the total quantity of Class I–A milk (both pool and nonpool) in such 12 months.

Issued at Washington, D.C., this 23d day of December, 1959.

ROY W. LENNARTSON,
Deputy Administrator.

[F.R. Doc. 59–11071; Filed, Dec. 28, 1959; 8:51 a.m.]

[7 CFR Part 928]

[Docket No. AO–227–A10]

MILK IN NEOSHO VALLEY MARKETING AREA

Notice of Hearing on Proposed Amendments to Tentative Marketing Agreement and Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of a public hearing to be held at the Besse Hotel, Pittsburg, Kansas, beginning at 10:00 a.m., on January 14, 1960, with respect to proposed amendments to the tentative marketing agreement and to the order, regulating the handling of milk in the Neosho Valley marketing area.

The public hearing is for the purpose of receiving evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

The proposal relative to a redefinition of the marketing area raises the issue whether the provisions of the pres-

ent order would tend to effectuate the declared policy of the Act, if they are applied to the marketing area as proposed to be redefined and, if not, what modifications of the provisions of the order would be appropriate.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by the K.M.O. Milk Producers Association:

Proposal No. 1. Amend § 928.51 (b) by eliminating the language contained therein, and inserting in lieu thereof, the following:

(b) *Class II milk.* The price for Class II milk shall be the higher of the prices computed pursuant to subparagraph (1), (2), or (3) of this paragraph.

(1) The price computed pursuant to § 928.50(a).

(2) The price computed pursuant to the provisions of § 928.50(b) (1) and (2).

(3) The price computed as the arithmetic average of the basic, or field, prices reported to have been paid or to be paid per hundredweight for ungraded milk of 4.0 percent butterfat content received from farmers during the delivery period at the following plants or places for which prices have been reported to the market administrator or to the Department on or before the 6th day after the end of the delivery period by the companies indicated below:

Company and Location

Pet Milk Co., Neosho, Mo.
Borden Co., Fort Scott, Kans.
Carnation Co., Mount Vernon, Mo.
Pet Milk Co., Iola, Kans.

Proposal No. 2. Amend § 928.71 by deleting the phrase "for each delivery period of August through January", and substituting therefor the phrase "for each delivery period of September through December".

Proposal No. 3. Make such conforming changes in other sections of the order as may be necessary to reflect the use of the months of September through December for base setting, and the months of February through July for base utilization.

Proposal No. 4. Add a new paragraph (b) to § 928.94 reading as follows:

(b) Any amount due a Handler pursuant to this section may be reduced by the amount of any unpaid balance due the Market Administrator from such Handler, pursuant to § 928.95, § 928.96, or § 928.97.

Proposed by Hiland Dairy, Inc.:

Proposal No. 5. Delete all the provisions of § 928.61 and substitute the following:

§ 928.61 Plants subject to other Federal Orders.

In the case of any approved plant which the Secretary determines disposes of a greater portion of its milk as Class I milk on retail or wholesale routes (including plant stores) in another marketing area regulated by another order issued pursuant to the act than is disposed of as Class I milk on retail or wholesale routes (including plant stores) in the Neosho Valley Marketing Area, the provisions of this part shall not apply except as follows: The operator of such plant shall, with respect to the total receipts and utilization of skim milk and butterfat at the plant, make reports to the market administrator at such time and in such manner as the market administrator may require, and allow verification of such reports by the market administrator.

Proposal No. 6. Amend the Class I pricing provisions of the order by removing the present provisions of § 928.51(a) and substituting the following:

(a) *Class I milk.* The price for Class I milk shall be the price for Class I milk of 4.0 percent butterfat content established for the same month or delivery period under Federal Order No. 21 regulating the handling of milk in the Ozarks Marketing Area, plus fifteen cents.

Proposed by Neosho Valley Co-operative Creamery Association:

Proposal No. 7. Amend § 928.9b to include the following sentence: "To consider limiting the diversion of milk from a pool plant to a non-pool plant not to exceed fifteen (15) days in any one month of the year."

Proposed by Page Milk Company:

Proposal No. 8. Amend § 928.6 so that the marketing area be expanded to include in addition to the counties now included, Washington, Nowata and Craig Counties in Oklahoma and Chautauqua County in Kansas.

Proposal No. 9. Subparagraphs (1) and (2) of § 928.51(a) should be deleted.

Proposal No. 10. Amend § 928.51(a) by changing the figures "$1.00" to "$1.15" and the figures "$1.45" to "$1.65."

Proposal No. 11. Amend § 928.51 to provide for a Class I–A in which would be included concentrated milk products marketed in competition with fluid Grade A milk, and to be priced 30¢ less than Class I.

Proposal No. 12. Amend § 928.51 by adding a Class III, which would include evaporated milk, powered milk and butter, and be priced lower than Class II.

Proposal No. 13. Amend § 928.7 to provide that to be an approved plant, the milk processing plant must sell milk in the marketing area in the following percentages beginning on the dates indicated:

June 1, 1960, 15 percent.
June 1, 1961, 25 percent.
June 1, 1962, 35 percent.

Proposal No. 14. The order should be amended to provide for an individual handler pool rather than a marketwide pool.

Proposed by Producers Creamery Company:

Proposal No. 15. Amend § 928.7(a) to read as follows:

(a) From which not less than 50 percent of the total receipts of Grade 'A' milk during the month is disposed of as Class I milk to wholesale or retail outlets, including sales through plant stores or vendors, but not including sales to pool plants or non-pool plants and from which not less than 10 percent of the total receipts of Grade 'A' milk is disposed of during the delivery period on wholesale or retail routes, including routes operated by vendors and disposed of through plant stores, of Class I milk in the marketing area.

Proposal No. 16. Amend § 928.9(b) to read as follows:

(b) Diverted from an approved plant to a milk plant during any of the months of December through August inclusive and not more than 15 days production during the months of September through November inclusive: *Provided,* That such milk so diverted shall be deemed to have been received by the handler for whose account it was diverted: *And provided, further,* That this definition shall not include a person with respect to milk produced by him which is received by a handler who is partly exempt from the provisions of this sub-part pursuant to §§ 928.61 and 928.62.

Proposal No. 17. Amend § 928.51(b) to read as follows:

(b) *Class II milk.* For the months of August through February, the price for Class II milk shall be the basic formula price. For all other months, the Class II price shall be an amount computed as follows:

(1) Multiply by 4.84 the simple average, as computed by the market administrator, of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade AA (93-score) bulk creamery butter per pound at Chicago, as reported by the Department during the month: *Provided,* That if no price is reported for Grade AA (93-score) butter, the highest of the prices reported for Grade A (92-score) butter for that day shall be used in lieu thereof;

(2) Multiply by 8.2 the weighted average of carlot prices per pound for spray process nonfat dry milk solids for human consumption, f.o.b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the immediately preceding month through the 25th day of the current month, by the Department; and

(3) From the sum of the results arrived at under subparagraphs (1) and (2) of this paragraph subtract 75 cents.

Proposal No. 18. Delete all of §§ 928.72, 928.80, 928.81, 928.82 and all other references to the base-excess plan and substitute in lieu thereof a Fall Premium Plan (commonly called the Louisville Plan) which would deduct from the blend price for the months of April, May and June 40 cents per cwt. The funds obtained from such a deduction would then be paid back in three equal payments on an equal per hundredweight basis to all producers during the months of September, October and November. Such a plan should become effective with the first deductions being made during the summer months of 1961. The base-excess plan should be continued during the base using period of February through July 1960.

Proposed by the Dairy Division, Agricultural Marketing Service:

Proposal No. 19. Make such changes as may be necessary to make the entire marketing agreement and the order con-

form with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator, 523½ North Broadway, Room 3, Pittsburg, Kansas, or from the Hearing Clerk, Room 112, Administration Building, United States Department of Agriculture, Washington 25, D.C., or may be there inspected.

Issued at Washington, D.C., this 23d day of December 1959.

ROY W. LENNARTSON,
Deputy Administrator.

[F.R. Doc. 59-11052; Filed, Dec. 28, 1959; 8:49 a.m.]

FEDERAL AVIATION AGENCY

[14 CFR Part 600]

[Airspace Docket No. 59-WA-120]

FEDERAL AIRWAYS

Modification

Pursuant to the authority delegated to me by the Administrator (§ 409.13, 24 F.R. 3499), notice is hereby given that the Federal Aviation Agency is considering an amendment to § 600.6187 of the Regulations of the Administrator, the substance of which is stated below.

VOR Federal airway No. 187 presently extends from Albuquerque, N. Mex., to Rock Springs, Wyo., and from Boysen Reservoir, Wyo., to Billings, Mont. The Federal Aviation Agency is considering the extension of Victor 187 northward from the Rock Springs VOR to the Boysen Reservoir VOR via the intersection of the Rock Springs VOR 026° and the Boysen Reservoir VOR 186° radials. This would provide an interconnecting VOR airway between Rock Springs VOR and Boysen Reservoir VOR, and would improve air traffic management and flight planning by providing a single numbered VOR airway from Albuquerque to Billings. It would also provide a more direct airway for VHF equipped aircraft operating between Albuquerque and Billings and between other southern and northern terminals. The control areas associated with Victor 187 are so designated that they would automatically conform with the modified airway. Accordingly, no amendment relating to such control areas would be necessary.

If this action is taken, a segment of VOR Federal airway No. 187 and associated control areas would be designated from Rock Springs, Wyo., to Boysen Reservoir, Wyo., via the intersection of the Rock Springs VOR 026° and the Boysen Reservoir VOR 186° radials.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Regional Administrator, Federal Aviation Agency, 5651 West Manchester Avenue, P.O. Box 90007, Airport Station, Los Angeles 45, Calif. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Administrator, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Administrator.

This amendment is proposed under sections 307(a) and 313(a) of the Federal Aviation Act of 1958 (72 Stat. 749, 752; 49 U.S.C. 1348, 1354).

Issued in Washington, D.C., on December 21, 1959.

JOHN H. HILTON,
Acting Director, Bureau of Air Traffic Management.

[F.R. Doc. 59-11013; Filed, Dec. 28, 1959; 8:46 a.m.]

[14 CFR Part 601]

[Airspace Docket No. 59-NY-30]

CONTROL AREAS

Designation of Extension

Pursuant to the authority delegated to me by the Administrator (§ 409.13, 24 F.R. 3499), notice is hereby given that the Federal Aviation Agency is considering an amendment to Part 601 of the Regulations of the Administrator, the substance of which is stated below.

The Federal Aviation Agency has under consideration designation of the Rosewood, Ohio, control area extension, which would include that area west of the Rosewood VOR formerly the Sidney, Ohio, VOR, bounded on the northeast by VOR Federal airway No. 277, on the southeast by VOR Federal airway No. 275, on the south by VOR Federal airway No. 210, and on the west by VOR Federal airway No. 55 east alternate. The designation of this control area extension would provide protection for aircraft operating under instrument flight conditions which are being vectored by radar when arriving and departing the Dayton, and Wright-Patterson, Ohio, terminals.

If this action is taken, the Rosewood, Ohio, control area extension would be designated to include that area west of the Rosewood VOR bounded on the northeast by VOR Federal airway No. 277, on the southeast by VOR Federal airway No. 275, on the south by VOR Federal airway No. 210, and on the west by VOR Federal airway No. 55 east alternate.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Regional Administrator, Federal Aviation Agency, Federal Building, New York International Airport, Jamaica 30, N.Y. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Administrator, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Administrator.

This amendment is proposed under sections 307(a) and 313(a) of the Federal Aviation Act of 1958 (72 Stat. 749, 752; 49 U.S.C. 1348, 1354).

Issued in Washington, D.C., on December 21, 1959.

JOHN H. HILTON,
Acting Director, Bureau of Air Traffic Management.

[F.R. Doc. 59-11001; Filed, Dec. 28, 1959; 8:45 a.m.]

[14 CFR Part 601]

[Airspace Docket No. 59-WA-187]

CONTROL AREAS

Modification of Extension

Pursuant to the authority delegated to me by the Administrator (§ 409.13, 24 F.R. 3499), notice is hereby given that the Federal Aviation Agency is considering an amendment to § 601.1166 of the Regulations of the Administrator, the substance of which is stated below.

The present Mobile, Ala., control area extension is designated within a 25-mile radius of Brookley AFB, Mobile, Ala., with a 25-mile extension to the northwest. The Federal Aviation Agency has under consideration modification of the Mobile control area extension to include additional airspace south of Brookley AFB, bounded on the east by the Pensacola, Fla., control area extension, on the south by Restricted Areas (R-452), (R-153), and Warning Area (W-453), on the west by longitude 88°30'00" W., and on the north by VOR Federal airway No. 22. This modification would provide additional protection to aircraft while operating under IFR conditions when arriving and departing the Brookley AFB.

If this action is taken, the Mobile, Ala., control area extension would be designated within a 25-mile radius of Brookley AFB, Mobile, Ala., excluding the portion which overlies the Pensacola, Fla., control area extension; within 5 miles either side of the 292° radial of the Mobile VOR extending from the VOR to a point 25 miles northwest; and the area south of Brookley AFB, bounded on the east by the Pensacola, Fla., control area extension, on the south by Restricted Areas (R–452), (R–153), and Warning Area (W–453), on the west by longitude 88°30'00" W., and on the north by VOR Federal airway No. 22.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Regional Administrator, Federal Aviation Agency, P.O. Box 1689, Fort Worth 1, Tex. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Administrator, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B–316, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Administrator.

This amendment is proposed under sections 307(a) and 313(a) of the Federal Aviation Act of 1958 (72 Stat. 749, 752; 49 U.S.C. 1348, 1354).

Issued in Washington, D.C., on December 21, 1959.

JOHN H. HILTON,
Acting Director, Bureau of Air Traffic Management.

[F.R. Doc. 59–11002; Filed, Dec. 28, 1959; 8:45 a.m.]

[14 CFR Part 601]

[Airspace Docket No. 59–FW–7]

CONTROL AREAS

Modification of Extension

Pursuant to the authority delegated to me by the Administrator (§ 409.13, 24 F.R. 3499), notice is hereby given that the Federal Aviation Agency is considering an amendment to § 601.1182 of the Regulations of the Administrator, the substance of which is stated below.

The Federal Aviation Agency has under consideration the modification of the Enid, Okla., control area extension. The present Enid control area extension includes that airspace in the vicinity of Vance AFB, Enid, Okla., bounded on the north by VOR Federal airway No. 190, on the east by Blue Federal airway No. 5 on the south by VOR Federal airway No. 140 and Red Federal airway No. 59, on the west by longitude 98°30'00" W. The proposed modification would include that airspace west of longitude 98°30'00" W., bounded on the northwest by VOR Federal airway No. 12, and on the southwest by VOR Federal airway No. 17. This extension would provide protection for IFR aircraft departing Vance AFB westbound and would facilitate air traffic management by permitting greater flexibility in the control of departures. Concurrent with this action it is also proposed to delete the reference to L/MF airways in the description of the control area extension and to substitute therefor appropriate VOR Federal airways because of the diminishing requirements for and gradual phasing out of L/MF airways.

If this action is taken, the Enid, Okla., control area extension would be redesignated to include that airspace in the vicinity of Vance AFB, Enid, Okla., bounded on the north by VOR Federal airway No. 190, on the east by VOR Federal airway No. 77, on the south by VOR Federal airway No. 140, on the southwest by VOR Federal airway No. 17, and on the northwest by VOR Federal airway No. 12.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Regional Administrator, Federal Aviation Agency, P.O. Box 1689, Fort Worth 1, Tex. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Administrator, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B–316, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Administrator.

This amendment is proposed under sections 307(a) and 313(a) of the Federal Aviation Act of 1958 (72 Stat. 749, 752; 49 U.S.C. 1348, 1354).

Issued in Washington, D.C., on December 21, 1959.

JOHN H. HILTON,
Acting Director, Bureau of Air Traffic Management.

[F.R. Doc. 59–11000; Filed, Dec. 28, 1959; 8:45 a.m.]

[14 CFR Part 601]

[Airspace Docket No. 59–WA–314]

CONTROL ZONES

Modification

Pursuant to the authority delegated to me by the Administrator (§ 409.13, 24 F.R. 3499), notice is hereby given that the Federal Aviation Agency is considering an amendment to § 601.1984 and Part 601 of the Regulations of the Administrator, the substance of which is stated below.

The present King Salmon, Alaska, control zone is designated as a 5-mile radius zone centered on the King Salmon Airport. The Federal Aviation Agency has under consideration modification of the King Salmon control zone to include an extension within 2 miles either side of the 123° and 303° radials of a VORTAC to be installed approximately June 15, 1960, near King Salmon at latitude 58°43'31" N., longitude 156°45'00" W., extending from the 5-mile radius zone to a point 10 miles northwest of the VORTAC. This modification would provide additional controlled airspace for protection of aircraft conducting instrument approaches to and departing from the King Salmon Airport.

If this action is taken, the King Salmon, Alaska, control zone would be redesignated within a 5-mile radius of the King Salmon Airport and within 2 miles either side of the 123° and 303° radials of the King Salmon VORTAC extending from the 5-mile radius zone to a point 10 miles northwest of the VORTAC and the present control zone would be revoked.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Regional Administrator, Federal Aviation Agency, P.O. Box 440, Federal Building, Anchorage, Alaska. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Administrator, or the Chief, Airspace Utilization Division, Federal Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained

in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Administrator.

This amendment is proposed under sections 307(a) and 313(a) of the Federal Aviation Act of 1958 (72 Stat. 749, 752; 49 U.S.C. 1348, 1354).

Issued in Washington, D.C., on December 21, 1959.

JOHN H. HILTON,
Acting Director, Bureau of Air Traffic Management.

[F.R. Doc. 59-11007; Filed, Dec. 28, 1959; 8:46 a.m.]

[14 CFR Part 601]

[Airspace Docket No. 59-KC-32]

CONTROL ZONES

Modification

Pursuant to the authority delegated to me by the Administrator (§ 409.13, 24 F.R. 3499), notice is hereby given that the Federal Aviation Agency is considering an amendment to § 601.2061 of the Regulations of the Administrator, the substance of which is stated below.

The Federal Aviation Agency is considering the modification of the Lincoln, Nebr., control zone. The present Lincoln control zone is designated within a 5-mile radius of the Lincoln Air Force Base, with extensions 10 miles north of the Lincoln radio range based on the radio range north course, 15 miles south of the Lincoln AFB based on the radio range south course, and 12 miles northwest of the Lincoln ILS outer marker based on the former ILS localizer front course at its previous location. The ILS previously served the northwest runway and has been relocated to serve the north-south runway.

To provide protection for aircraft executing radio range standard instrument approaches from the north; VOR standard instrument approaches from the north-northeast; Lincoln instrument landing system, ILS outer marker compass locator ADF, and Sprague, Nebr., radio beacon ADF standard instrument approaches from the south, it is proposed to modify the Lincoln control zone by designating extensions to the zone respectively within 2 miles either side of the radio range north course from the 5-mile radius zone to 12 miles north of the radio range; within 2 miles either side of the 195° and 015° radials of the Raymond, Nebr., VOR from the 5-mile radius zone to 12 miles north-northeast of the VOR; and within 2 miles either side of the south course of the Lincoln ILS localizer from the 5-mile radius zone to the Sprague, Nebr., radio beacon. When the Lincoln ILS was relocated, the prescribed instrument approach procedure, for which the northwest control zone extension was designated, was cancelled. Therefore, the northwest control zone extension would be revoked concurrently. The prescribed instrument approach procedure based on the south course of the Lincoln radio range has also been cancelled. Therefore, the present 15-mile control zone extension to the south would be shortened to terminate at the Sprague, Nebr., radio beacon, as proposed herein.

If these actions are taken, the Lincoln, Nebr., control zone would be redesignated within a 5-mile radius of the geographical center (latitude 40°50'35" N., longitude 96°45'42" W.) of the Lincoln Air Force Base; within 2 miles either side of the north course of the Lincoln radio range extending from the 5-mile radius zone to 12 miles north of the radio range; within 2 miles either side of the 195° and 015° radials of the Raymond, Nebr., VOR extending from the 5-mile radius zone to 12 miles north-northeast of the Raymond VOR; and within 2 miles either side of the south course of the Lincoln ILS localizer from the 5-mile radius zone to the Sprague, Nebr., radio beacon.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Regional Administrator, Federal Aviation Agency, 4825 Troost Avenue, Kansas City 10, Mo. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Administrator, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Administrator.

This amendment is proposed under sections 307(a) and 313(a) of the Federal Aviation Act of 1958 (72 Stat. 749, 752; 49 U.S.C. 1348, 1354).

Issued in Washington, D.C., on December 21, 1959.

JOHN H. HILTON,
Acting Director, Bureau of Air Traffic Management.

[F.R. Doc. 59-11005; Filed, Dec. 28, 1959; 8:45 a.m.]

[14 CFR Part 601]

[Airspace Docket No. 59-FW-88]

CONTROL ZONES

Modification

Pursuant to the authority delegated to me by the Administrator (§ 409.13, 24 F.R. 3499), notice is hereby given that the Federal Aviation Agency is considering an amendment to § 601.2246 of the Regulations of the Administrator, the substance of which is stated below.

The Federal Aviation Agency is considering modifying the Oklahoma City, Okla., control zone. The Oklahoma City control zone is presently described as within a 5-mile radius of Will Rogers Municipal Airport, Oklahoma City, Okla., with extensions from the 5-mile radius zone to the north, south, west, northwest; and an extension 2 miles either side of a direct line from the Will Rogers Municipal Airport to Tinker Air Force Base, Okla., extending from the Will Rogers Municipal Airport 5-mile radius zone to the Tinker AFB 5-mile radius zone; within a 5-mile radius of the Tinker AFB with extensions north and south; and within a 5-mile radius of the Tulakes, Ola., Airport. The prescribed instrument approach procedures utilized by landing aircraft approaching Will Rogers from the east, and by landing aircraft approaching Tinker AFB from the west have been revoked. It therefore appears that the retention of the control zone extension 2 miles either side of a direct line between the Will Rogers Municipal Airport and Tinker AFB is an unnecessary assignment of airspace, and that the revocation thereof would be in the public interest.

If this action is taken, the Oklahoma City, Okla., control zone would be designated within a 5-mile radius of Will Rogers Municipal Airport including the airspace within 2 miles either side of the west course of the Oklahoma City radio range extending from the 5-mile radius zone to the Mustang Fan Marker; within 2 miles either side of the south (front) course of the ILS localizer extending from the 5-mile radius zone to a point 5 miles south of the ILS outer marker and within 2 miles either side of the north (back) course of the ILS localizer extending from the 5-mile radius zone to a point 5 miles north of Tulakes nondirectional radio beacon; within 2 miles either side of the 107° and 287° radials of the Oklahoma City VOR extending from the 5-mile radius zone to a point 5 miles west of the VOR; within a 5-mile radius of the Tulakes Airport; within 2 miles either side of the 050° radial of the Oklahoma City VOR extending between the Tulakes Airport 5-mile radius zone and the VOR; within a 5-mile radius of Tinker AFB including the airspace lying within 5 miles on the east side and 3 miles on the west side of the centerline of the Tinker AFB north-south runway (runway 35/17) extending from the center of the runway to a point 15 miles north of, and 8 miles south of, the ends of the runway.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Regional Administrator, Federal Aviation Agency, P.O. Box 1689, Fort Worth 1, Tex. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Administrator, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Administrator.

This amendment is proposed under sections 307(a) and 313(a) of the Federal Aviation Act of 1958 (72 Stat. 749, 752; 49 U.S.C. 1348, 1354).

Issued in Washington, D.C., on December 21, 1959.

JOHN H. HILTON,
Acting Director, Bureau of Air Traffic Management.

[F.R. Doc. 59-11004; Filed, Dec. 28, 1959; 8:45 a.m.]

[14 CFR Part 601]

[Airspace Docket No. 59-WA-133]

CONTROL ZONES

Modification

Pursuant to the authority delegated to me by the Administrator (§ 409.13, 24 F.R. 3499), notice is hereby given that the Federal Aviation Agency is considering an amendment to § 601.2324 of the Regulations of the Administrator, the substance of which is stated below.

The Federal Aviation Agency has under consideration the modification of the New Bern, N.C., control zone. The present New Bern control zone includes that airspace within a 6-mile radius of the Simmons-Nott Airport and within 2 miles either side of a line bearing 265° extending from the New Bern nondirectional radio beacon to a point 10 miles west of the radio beacon, excluding the portion which overlaps Cherry Point Restricted Area (R-123), and excluding the airspace above 5,500 feet mean sea level daily from sunset to sunrise. It is proposed to modify the present control zone by revoking the extension to the west and adding an extension to the southwest. The instrument approach procedure which required an extension to the west has been revoked. Accordingly, it appears that the retention of the control zone extension to the west is unjustified as an assignment of airspace and that the revocation thereof would be in the public interest. The present ADF and VOR instrument approach procedures are based on the 221° radial of the VOR and the 221° bearing from the New Bern radio beacon. A control zone within a 5-mile radius of the Simmons-Nott Airport with an extension 10 miles southwest would provide adequate protection for aircraft conducting instrument approaches to this airport utilizing present ADF and VOR instrument approach procedures.

If this action is taken, the New Bern, N.C., control zone would be designated to include that airspace within a 5-mile radius of the Simmons-Nott Airport and within 2 miles either side of the 221° radial of the New Bern VOR, extending from the VOR to a point 10 miles southwest, excluding the portion which overlaps the Cherry Point Restricted Area (R-123), and excluding the airspace encompassed by Cherry Point, N.C., Restricted Area (R-125).

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Regional Administrator, Federal Aviation Agency, P.O. Box 1689, Fort Worth 1, Tex. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Administrator, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Administrator.

This amendment is proposed under sections 307(a) and 313(a) of the Federal Aviation Act of 1958 (72 Stat. 749, 752; 49 U.S.C. 1348, 1354).

Issued in Washington, D.C., on December 21, 1959.

JOHN H. HILTON,
Acting Director, Bureau of Air Traffic Management.

[F.R. Doc. 59-11006; Filed, Dec. 28, 1959; 8:46 a.m.]

[14 CFR Part 601]

[Airspace Docket No. 59-FW-83]

CONTROL ZONES

Modification

Pursuant to the authority delegated to me by the Administrator (§ 409.13, 24 F.R. 3499), notice is hereby given that the Federal Aviation Agency is considering an amendment to § 601.2340 of the Regulations of the Administrator, the substance of which is stated below.

The Federal Aviation Agency has under consideration the modification of the Sanford, Fla., control zone. The Sanford control zone is presently designated within a 5-mile radius of the Naval Auxiliary Air Station, Sanford, Fla., within 2 miles either side of a 270° bearing extending from the Sanford Navy nondirectional radio beacon to a point 10 miles west, and within 2 miles either side of a 190° bearing extending from the Sanford Navy nondirectional radio beacon to the Orlando, Fla., control zone. It is proposed to revoke the Sanford control zone extension to the south. The control zone extension to the south was formerly used for instrument approaches to Sanford NAAS, based on the Orlando low frequency radio range. The Orlando radio range has been decommissioned, and it therefore appears that the retention of the Sanford control zone extension to the south is unjustified as an assignment of airspace, and that the revocation thereof would be in the public interest.

If this action is taken, the Sanford, Fla., control zone would be redesignated within a 5-mile radius of the Naval Auxiliary Air Station, Sanford, Fla., and within 2 miles either side of a 270° bearing extending from the Sanford Navy nondirectional radio beacon to a point 10 miles west.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Regional Administrator, Federal Aviation Agency, P.O. Box 1689, Fort Worth 1, Tex. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Administrator, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available

for examination at the office of the Regional Administrator.

This amendment is proposed under sections 307(a) and 313(a) of the Federal Aviation Act of 1958 (72 Stat. 749, 752; 49 U.S.C. 1348, 1354).

Issued in Washington, D.C., on December 21, 1959.

JOHN H. HILTON,
Acting Director, Bureau of Air Traffic Management.

[F.R. Doc. 59-11003; Filed, Dec. 28, 1959; 8:45 a.m.]

[14 CFR Parts 600, 601]

[Airspace Docket No. 59-KC-5]

FEDERAL AIRWAYS AND CONTROL AREAS

Supplemental Notice; Extension of Time for Comments

In a Notice of Proposed Rule Making published in the FEDERAL REGISTER on September 23, 1959 (24 F.R. 7652), it was stated that the Federal Aviation Agency proposed to designate VOR Federal airway No. 462 and its associated control areas from Houghton, Mich., via Whitefish, Mich., to Sault Ste. Marie, Mich., in order to provide a route for the use of VOR equipped aircraft between these terminals. The coordinates of the Houghton VOR, which has been commissioned, are latitude 47°10'02" N., longitude 88°28'54" W. The coordinates of the Whitefish VOR, which is to be installed approximately June 15, 1960, are latitude 46°42'30" N., longitude 85°02'30" W.

The Department of the Air Force has advised the Federal Aviation Agency that it wishes to further evaluate the location of this proposed airway with respect to Air Force operations. This request appears reasonable. Therefore, in order to provide the Air Force and other interested persons a further opportunity to submit additional written data, views or arguments, the date for filing such material will be extended to December 31, 1959.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (§ 409.13, 24 F.R. 3499), I hereby give notice that the time within which comments will be received for consideration on Airspace Docket No. 59-KC-5 is extended to December 31, 1959. Communications should be submitted in triplicate to the Regional Administrator, Federal Aviation Agency, 4825 Troost Avenue, Kansas City 10, Mo.

This amendment is proposed under sections 307(a) and 313(a) of the Federal Aviation Act of 1958 (72 Stat. 749, 752; 49 U.S.C. 1348, 1354).

Issued in Washington, D.C., on December 21, 1959.

JOHN H. HILTON,
Acting Director, Bureau of Air Traffic Management.

[F.R. Doc. 59-11008; Filed, Dec. 28, 1959; 8:46 a.m.]

[14 CFR Parts 600, 601]

[Airspace Docket No. 59-WA-418]

FEDERAL AIRWAYS AND CONTROL AREAS

Modification

Pursuant to the authority delegated to me by the Administrator (§ 409.13, 24 F.R. 3499), notice is hereby given that the Federal Aviation Agency is considering an amendment to §§ 600.6025, 600.6122, and 601.6122 of the Regulations of the Administrator, the substance of which is stated below.

VOR Federal airway No. 25 presently extends, in part, from Red Bluff, Calif., to Klamath Falls, Oreg. VOR Federal airway No. 122 presently extends, in part, from the Talent, Oreg., Intersection to Klamath Falls. The Federal Aviation Agency has under consideration modification of the segment of Victor 25 from the Red Bluff VOR to the Klamath Falls VOR by realigning it via the intersection of the Red Bluff VOR 015° and the Klamath Falls VOR 181° radials. The control areas associated with Victor 25 are so designated that they will automatically conform to the modified airway; accordingly, no amendment relating to such control areas is necessary. The Federal Aviation Agency is also considering a modification of the segment of Victor 122 and associated control areas between the Talent Intersection and the Klamath Falls VOR by realigning and extending it from the intersection of the Medford, Oreg., VOR 176° and the Klamath Falls VOR 268° radials to Klamath Falls VOR thence direct to the Lakeview, Oreg., VOR. These modifications to Victor 25 and Victor 122 would permit lower reception and minimum en route altitudes which would facilitate air traffic management in this area by increasing the traffic capacity of these airways. The extension of Victor 122 from Klamath Falls to Lakeview would provide a VOR airway for VHF equipped aircraft operating between these points.

If these actions are taken, the segment of VOR Federal airway No. 25 between Red Bluff, Calif., and Klamath Falls, Oreg., would be redesignated via the intersection of the Red Bluff VOR 015° and the Klamath Falls VOR 181° radials. The segment of VOR Federal airway No. 122, with associated control areas, between Talent, Oreg., Intersection and Klamath Falls would be redesignated from the intersection of the Medford, Oreg., VOR 176° and the Klamath Falls, Oreg., VOR 268° radials to Lakeview, Oreg., via Klamath Falls, Oreg.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Regional Administrator, Federal Aviation Agency, 5651 West Manchester Avenue, P.O. Box 90007, Airport Station, Los Angeles 45, Calif. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Administrator, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Administrator.

This amendment is proposed under Sections 307(a) and 313(a) of the Federal Aviation Act of 1958 (72 Stat. 749, 752; 49 U.S.C. 1348, 1354).

Issued in Washington, D.C., on December 21, 1959.

JOHN H. HILTON,
Acting Director, Bureau of Air Traffic Management.

[F.R. Doc. 59-11012; Filed, Dec. 28, 1959; 8:46 a.m.]

[14 CFR Parts 600, 601]

[Airspace Docket No. 59-WA-242]

FEDERAL AIRWAYS AND CONTROL AREAS

Modification

Pursuant to the authority delegated to me by the Administrator (§ 409.13, 24 F.R. 3499), notice is hereby given that the Federal Aviation Agency is considering an amendment to §§ 600.6166 and 601.6166 of the Regulations of the Administrator, the substance of which is stated below.

VOR Federal airway No. 166 and its associated control areas presently extends from Martinsburg, W. Va., VOR to Norris, Pa., Intersection, and from Hoopes, Pa., Intersection to Colts Neck, N.J., VOR. The Federal Aviation Agency has under consideration the extension of Victor 166 westerly from Martinsburg to Parkersburg, W. Va., via a VOR to be installed approximately July 15, 1960, near Kessel, W. Va., at latitude 39°13'32" N., longitude 78°59'22" W., and the Clarksburg, W. Va., VOR. The extension of Victor 166 from Martinsburg to Parkersburg would provide an additional route between Zanesville, Ohio, and Martinsburg for the movement of the high volume of air traffic operating between midwestern terminals and the Washington, D.C./Baltimore, Md., and other eastern seaboard terminals.

If this action is taken, a segment to VOR Federal airway No. 166 and its associated control areas would be designated from Parkersburg, W. Va., to Martinsburg, W. Va., via Clarksburg, W. Va., and Kessel, W. Va.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be

submitted in triplicate to the Regional Administrator, Federal Aviation Agency, Federal Building, New York International Airport, Jamaica 30, N.Y. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Administrator, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Administrator.

This amendment is proposed under sections 307(a) and 313(a) of the Federal Aviation Act of 1958 (72 Stat. 749, 752; 49 U.S.C. 1348, 1354).

Issued in Washington, D.C., on December 21, 1959.

JOHN H. HILTON,
Acting Director, Bureau of Air Traffic Management.

[F.R. Doc. 59-11009; Filed, Dec. 28, 1959; 8:46 a. m.]

[14 CFR Parts 600, 601]

[Airspace Docket No. 59-WA-315]

FEDERAL AIRWAYS AND CONTROL AREAS

Modification

Pursuant to the authority delegated to me by the Administrator (§ 409.13, 24 F.R. 3499), notice is hereby given that the Federal Aviation Agency is considering an amendment to §§ 600.6174 and 601.6174 of the Regulations of the Administrator, the substance of which is stated below.

VOR Federal airway No. 174 presently extends, in part, from Vichy, Mo., to Troy, Ill. The Federal Aviation Agency has under consideration the revocation of a segment of Victor 174 between the Vichy, Mo., VOR and the Troy, Ill., VOR. The Federal Aviation Agency IFR peak day airway traffic survey for the period July 1, 1958, through June 30, 1959, shows less than 15 aircraft movements on this segment of Victor 174. Also, VOR Federal airways No. 9, 12, 14, 14 south alternate, 72, and 88 provide adequate airway routing for the movement of air traffic in the area south of the St. Louis terminal. Therefore, it appears that the segment of Victor 174 between Vichy and Troy is an unnecessary assignment of airspace, and that the revocation thereof would simplify the airway structure and would be in the public interest.

If this action is taken, the segment of VOR Federal airway No. 174 and its associated control areas from Vichy, Mo., to Troy, Ill., would be revoked.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Regional Administrator, Federal Aviation Agency, 4825 Troost Avenue, Kansas City 10, Mo. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Administrator, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Administrator.

This amendment is proposed under sections 307(a) and 313(a) of the Federal Aviation Act of 1958 (72 Stat. 749, 752; 49 U.S.C. 1348, 1354).

Issued in Washington, D.C., on December 21, 1959.

JOHN H. HILTON,
Acting Director, Bureau of Air Traffic Management.

[F.R. Doc. 59-11010; Filed, Dec. 28, 1959; 8:46 a.m.]

[14 CFR Parts 600, 601]

[Airspace Docket No. 59-WA-337]

FEDERAL AIRWAYS AND CONTROL AREAS

Designation

Pursuant to the authority delegated to me by the Administrator (§ 409.13, 24 F.R. 3499), notice is hereby given that the Federal Aviation Agency is considering an amendment to Parts 600 and 601 of the Regulations of the Administrator, the substance of which is stated below.

The Federal Aviation Agency has under consideration the designation of VOR Federal airway No. 1524 with associated control areas from Los Angeles, Calif., to Joliet, Ill. This would be a new airway. Victor 1524 would be designated from the Los Angeles VOR via the Ontario, Calif., VOR; intersection of the Ontario VOR 091° and the Twentynine Palms, Calif., VOR 244° radials; Twentynine Palms, Calif., VOR; Needles, Calif., VOR; Peach Springs, Ariz., VOR; Tuba City, Ariz., VOR; Farmington, N. Mex., VOR; Alamosa, Colo., VOR; Lamar, Colo., VOR; Hill City, Kans., VOR; Mankato, Kans., VOR; Pawnee City, Nebr., VOR; Lamoni, Iowa, VOR; Ottumwa, Iowa, VOR; Nodine, Ill.; VOR intersection of the Nodine VOR 082° and the Joliet, Ill., VOR 263° radials; to the Joliet VOR. Designation of this new airway would provide a more direct route between the Chicago, Ill., and Los Angeles terminal areas, and is part of a plan to develop a parallel preferential route system for intermediate altitude air traffic between these terminals.

If this action is taken, VOR Federal airway No. 1524, and associated control areas, would be designated from Los Angeles, Calif., to Joliet, Ill., via Ontario, Calif.; Palm Springs, Calif., intersection; Twentynine Palms, Calif.; Needles, Calif.; Peach Springs, Ariz.; Tuba City, Ariz.; Farmington, N. Mex.; Alamosa, Colo.; Lamar, Colo.; Hill City, Kans.; Mankato, Kans.; Pawnee City, Nebr.; Lamoni, Iowa; Ottumwa, Iowa; Nodine, Ill.; and the intersection of the Nodine VOR 082° and the Joliet VOR 263° radials.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Chief, Airspace Utilization Division. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C.

This amendment is proposed under sections 307(a) and 313(a) of the Federal Aviation Act of 1958 (72 Stat. 749, 752; 49 U.S.C. 1348, 1354).

Issued in Washington, D.C., on December 21, 1959.

JOHN H. HILTON,
Acting Director, Bureau of Air Traffic Management.

[F.R. Doc. 59-11011; Filed, Dec. 28, 1959; 8:46 a.m.]

[14 CFR Part 608]

[Airspace Docket No. 59-KC-37]

RESTRICTED AREAS

Revocation and Modification

Pursuant to the authority delegated to me by the Administrator (§ 409.13, 24 F.R. 3499), notice is hereby given that the Federal Aviation Agency is considering an amendment to Part 608 and § 608.30 of the Regulations of the Administrator, the substance of which is stated below.

The Federal Aviation Agency is considering a proposal by the Department of Air Force to revoke the Upper Lake Huron Restricted Area (R-91) and modify the Upper Lake Huron Restricted Area No. 2 (R-491). The present Upper Lake Huron Restricted Areas (R-91) and (R-491) encompass areas of 864 and 2,604 sq. miles respectively, and are designated to contain aerial gunnery activities from the surface to 50,000 feet. The time of use is daylight hours only, and the controlling agency for both restricted areas is Wurtsmith Air Force Base, Oscoda, Mich.

The western edge of Restricted Area (R-91) extends within approximately 7 miles of Wurtsmith Air Force Base and prevents the designation of instrument procedures which would provide protection for aircraft operating under instrument flight rule conditions to and from the Wurtsmith AFB. This airbase is a high activity air defense base and additional maneuvering airspace is required northeast of the airbase in that area presently within Restricted Area (R-91) for jet penetration procedures. Accordingly, it is proposed that the operation now being conducted in Restricted Area (R-91) be relocated into Restricted Area (R-491) and Restricted Area (R-491) be extended westerly to include approximately 296 sq. miles of the present Restricted Area (R-91) in order to contain the aerial gunnery operations now conducted in Restricted Area (R-91).

If these actions are taken, the Upper Lake Huron Restricted Area (R-91) would be revoked. The Upper Lake Huron Restricted Area No. 2 (R-491) would be redesignated as the Upper Lake Huron Restricted Area (R-491), and to include that area bounded by a line beginning at:

Latitude 45°17'00" N., longitude 83°10'00" W.; to latitude 45°17'00" N., longitude 82°30'30" W.; to latitude 44°07'00" N., longitude 82°14'45" W.; to latitude 44°07'00" N., longitude 83°01'00" W.; to latitude 44°45'00" N., longitude 83°01'00" W.; to latitude 44°55'00" N., longitude 83°10'00" W.;

thence due north to the point of beginning.

Designated altitudes. Surface to 50,000 feet.

Time of use. Sunset to sunrise.

Controlling agency: Commanding officer, 412th Fighter Group, Wurtsmith Air Force Base, Oscoda, Mich.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Regional Administrator, Federal Aviation Agency, 4825 Troost Avenue, Kansas City 10, Mo. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Administrator, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D. C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Administrator.

This amendment is proposed under sections 307(a) and 313(a) of the Federal Aviation Act of 1958 (72 Stat. 749, 752; 49 U.S.C. 1348, 1354).

Issued in Washington, D.C., on December 21, 1959.

JOHN H. HILTON,
Acting Director, Bureau of Air Traffic Management.

[F.R. Doc. 59-11014; Filed, Dec. 28, 1959; 8:47 a.m.]

NOTICES

DEPARTMENT OF COMMERCE

Bureau of the Census

SURVEY OF DISTRIBUTORS STOCKS OF CANNED FOODS

Notice of Determination

In conformity with the Act of Congress approved August 31, 1954, 13 U.S.C. 181, 224, and 225, and due Notice of Consideration having been published (24 F.R. 9555 November 28, 1959) pursuant to said act, I have determined that year-end data on stocks of 32 canned and bottled products, including vegetables, fruits, juices, and fish, are needed to aid the efficient performance of essential governmental functions, and have significant application to the needs of the public and industry and are not publicly available from nongovernmental or other governmental sources.

Wholesale inventories constitute an important factor in evaluating supplies of canned food. Adequate supply statistics are important to wholesalers in establishing buying, inventory, and pricing policies; to canners and growers in planning acreage and in entering into contracts; to the Department of Agriculture in administering laws passed by Congress; and to the public in insuring a balanced and adequate food supply.

This survey will involve the collection of information from a sample of wholesalers and warehouses of retail multi-unit organizations. All respondents will be required to submit information covering their December 31, 1959, inventories of 32 canned and bottled vegetables, fruits, juices, and fish. Report forms will be furnished to firms covered by the survey. Additional copies of the forms are available on request to the Director of the Census, Washington 25, D.C.

Reports are due 8 days after receipt of the report forms.

I have therefore directed that this annual survey be conducted for the purpose of collecting these data.

ROBERT W. BURGESS,
Director,
Bureau of the Census.

[F.R. Doc. 59-10959; Filed, Dec. 28, 1959; 8:45 a.m.]

RETAILERS' INVENTORIES, SALES, NUMBER OF STORES

Notice of Determination

In conformity with the Act of Congress approved August 31, 1954, 13 U.S.C. 181, 224, and 225, and due Notice of Consideration having been published (24 F.R. 9555, November 28, 1959) pursuant to said Act, I have determined that certain 1959 annual data for retail trade establishments are needed to provide a sound statistical basis for the formation of policy by various government agencies and are also applicable to a variety of public and business needs. These data are not publicly available from nongovernmental or other governmental sources.

Retail trade, as the outlet for the production of industry, mining, and agriculture, is of strategic importance in the economy of the nation. Information by kind of retail business, such as the amount of merchandise inventories on hand in retail stores and in warehouses of large retail organizations, sales by region, and sales-inventory ratios, are basic to analyses of the economy. Data on the amount of retail inventories are included in the measurement of the gross national product.

Business and industry also are interested in sales and inventory figures as indicators of the outlook for business activity and as tools for the promotion of business efficiency and stability. Individual retailers can also make use of the sales-inventory ratios to appraise, in a

general way, their own relative operational positions.

The Annual survey will involve collection of information from (1) large multi-unit organizations (organizations having 11 or more retail stores in 1954) regardless of their location, (2) large retail establishments (those whose 1954 sales were in excess of five million dollars) regardless of location; (3) individual establishments located in Census sample areas, whose sales meet certain minimum sales criteria; and (4) other individual establishments, regardless of size, located in a sample of small land segments which are within Census sample areas. All respondents will be required to submit information covering the year 1959. Report forms will be furnished to the firms covered by the survey, which will be due 15 days after receipt. Copies of the forms are available on request to the Bureau of the Census, Washington 25, D.C.

I have therefore directed that an annual survey be conducted for the purpose of collecting these data.

ROBERT W. BURGESS,
Director,
Bureau of the Census.

[F.R. Doc. 59-10960; Filed, Dec. 28, 1959; 8:45 a.m.]

DEPARTMENT OF THE TREASURY

Coast Guard

[CGFR 59-62]

TERMINATION OF MANUFACTURERS' APPROVALS FOR SUPERVISED FIRE PATROL SYSTEMS AND FIRE INDICATING AND ALARM SYSTEMS

1. The fire-protective systems to be installed on merchant vessels contracted for on or after November 19, 1959, or to be installed as new installations or major replacements on existing merchant vessels, are required by 46 CFR 113.10-5(a), 113.15-5(a) and 113.15-90(a) in the Electrical Enginering Regulations (CG-259) to meet the requirements in the specification designated 46 CFR Subpart 161.002 (Fire-Protective Systems) in Subchapter Q—Specifications of 46 CFR Chapter I. The specification for "Fire-Protective Systems" was published in the FEDERAL REGISTER dated November 21, 1956. The amendments to 46 CFR 113.10-5(a) and 113.15-5(a) were published in the FEDERAL REGISTER of June 26, 1958 (23 F.R. 4683). By individual letters dated December 4, 1958, all the manufacturers of "Fire Indicating and Alarm Systems" (161.002) and/or "Supervised Fire Patrol Systems" (161.003) listed in the Coast Guard pamphlet "Equipment Lists" (CG-190) dated April 1, 1958, were mailed copies of this "Fire-Protective Systems" specification and notified that the equipment covered by the Coast Guard listed approvals did not meet the new specification requirements and the approvals therefore would have to be terminated on the date the amendments to 46 CFR 113.10-5(a) and 113.15-5(a) became effective.

2. By virtue of the authority vested in me as Commandant, United States Coast Guard, by Treasury Department Order Nos. 120, dated July 31, 1950 (15 F.R. 6521), 167-14, dated November 26, 1954 (19 F.R. 8026), 167-20, dated June 18, 1956 (21 F.R. 4894) CGFR 56-28, dated July 24, 1956 (21 F.R. 5659), and 167-38, dated October 26, 1959 (24 F.R. 8857), and R.S. 4405, as amended, 4462, as amended, 4488, as amended, 4491, as amended, sections 1, 2, 49 Stat. 1544, as amended, section 3, 54 Stat. 346, as amended, and section 3, 70 Stat. 152 (46 U.S.C. 375, 416, 481, 489, 367, 1333, 390b), and section 3, 68 Stat. 675 (50 U.S.C. 198), and implementing regulations in 46 CFR Chapter I:

It is ordered, That:

a. All the approvals for "Fire Indicating and Alarm Systems" (161.002) shall be terminated effective November 19, 1959, because these items of equipment no longer comply with current Coast Guard specification requirements.

b. All the approvals for "Supervised Fire Patrol Systems" (161.003) shall be terminated effective November 19, 1959, because these items of equipment no longer comply with current Coast Guard specification requirements.

c. All items of equipment covered by the approvals described in paragraphs a. and b. above, which are purchased for installation on merchant vessels contracted for on or before November 19, 1959, or which are purchased as new installations or major replacements on existing vessels on or before November 19, 1959, may be installed and/or continued in use so long as such equipment is in good and serviceable condition.

d. Whenever minor repairs or minor alterations to items of equipment covered by the approvals described in paragraphs a. and b. above become necessary, such repairs or alterations may be performed, but will be subject to the requirements in 46 CFR 113.15-90(a) of the Electrical Engineering Regulations (CG-259).

Dated: December 23, 1960.

[SEAL] J. A. HIRSHFIELD,
Rear Admiral, U.S. Coast Guard,
Acting Commandant.

[F.R. Doc. 59-11055; Filed, Dec. 28, 1959; 8:49 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-152]

FLORIDA WEST COAST NUCLEAR GROUP, INC.

Notice of Application for Construction Permit and Utilization Facility License

Please take notice that Florida West Coast Nuclear Group, Inc., 101 Fifth Street, South, St. Petersburg, Florida, under section 104.b of the Atomic Energy Act of 1954, as amended, has submitted an application for license authorizing construction and operation of a 150 megawatt (thermal) gas cooled, heavy water-moderated developmental nuclear reactor of the pressure-tube type at a site in Polk County, Florida, near Pierce, approximately 35 miles southeast of Tampa. A copy of the application is available for public inspection in the AEC's Public Document Room, 1717 H Street NW., Washington, D.C.

Dated at Germantown, Md., this 22d day of December 1959.

For the Atomic Energy Commission.

H. L. PRICE,
Director, Division of
Licensing and Regulation.

[F.R. Doc. 59-10999; Filed, Dec. 28, 1959; 8:45 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 12604 etc; FCC 59M-1756]

BLUE ISLAND COMMUNITY BROADCASTING CO., INC., ET AL.

Order Continuing Hearing

In re applications of Blue Island Community Broadcasting Co., Inc., Blue Island, Illinois, Docket No. 12604, File No. BPH-2458; The News-Sun Broadcasting Co., Waukegan, Illinois, Docket No. 13292, File No. BPH-2543; William O. Barry and H. C. Young, Jr., d/b as Hi-Fi Broadcasting Company, Chicago, Illinois, Docket No. 13293, File No. BPH-2589; Elmwood Park Broadcasting Corporation, Elmwood Park, Illinois, Docket No. 13294, File No. BPH-2636; Patrick Henry, David D. Larsen, Stewart B. Kett and James D. Glenn, Jr., d/b as Suburban Broadcasters, Berwyn, Illinois, Docket No. 13295, File No. BPH-2748; for construction permits (FM); Evelyn R. Chauvin Schoonfield, Elmwood Park, Illinois, Docket No. 13296, File No. BRH-179; for renewal of license (FM).

Pending further action by the Commission on the matter of consolidating several additional applications for hearing in this proceeding:[1] *It is ordered,* This 22d day of December 1959, on the Hearing Examiner's own motion, that the prehearing conference and the hearing, heretofore scheduled herein for January 8 and February 23, 1960, respectively, are hereby postponed to dates to be set by subsequent orders of the Hearing Examiner.

Released: December 22, 1959.

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

[F.R. Doc. 59-11062; Filed, Dec. 28, 1959; 8:50 a.m.]

[1] The Commission, by a section 309(b) letter dated December 22, 1959, and addressed to the above-named applicants and others, has advised the applicants in the instant proceeding of the pendency of five additional applications which were timely filed for consolidation herein. Also, in the same communication, the Commission has notified the five other applicants that mutual interference problems resulting from their proposals necessitate the designation of their applications for consolidated hearing in this proceeding. These five applicants have been given 20 days in which to file replies to the section 309(b) letter in question.

[Docket No. 12068, etc.; FCC 59M-1761]

FLORENCE BROADCASTING CO., INC.

Order Scheduling Prehearing Conferences

In re applications of Florence Broadcasting Company, Inc., Brownsville, Tennessee, et al., for construction permits, Docket No. 12068, File No. BP-10850; Docket Nos. 13222, 13223, 13224, 13225, 13226, 13227, 13228, 13229, 13230, 13231, 13232, 13233, 13234, 13235, 13236, 13237, 13238, 13239, 13240, 13241, 13242, 14243, 13244, 13245, 13246, 13247, 13248, 13249, 13250, 13251.

Pursuant to agreement at the prehearing conference held on this date: *It is ordered*, That unless some party objects, in writing, on or before December 21, 1959, the following groups are established:

Group 1:

Docket No. 13226—Mount Vernon, Illinois (940 kc).
Docket No. 12068—Brownsville, Tennessee (940 kc).
Docket No. 13235—Houston, Mississippi (940 kc).

Group 1 is linked with Group 2 by Docket No. 13226—Mt. Vernon, Illinois, vs. Docket No. 13249—Ft. Wayne, Indiana.

Group 2:

Docket No. 13222—Battle Creek, Michigan (930 kc).
Docket No. 13223—Centerville, Indiana (930 kc).
Docket No. 13224—Urbana, Ohio (940 kc).
Docket No. 13228—Jamestown, Kentucky (940 kc).
Docket No. 13230—Lima, Ohio (940 kc).
Docket No. 13231—Grundy, Virginia (940 kc).
Docket No. 13232—Shelbyville, Kentucky (940 kc).
Docket No. 13233—South Haven, Michigan (940 kc).
Docket No. 13237—Lexington, Kentucky (940 kc).
Docket No. 13239—Miamisburg, Ohio (940 kc).
Docket No. 13240—Bristol, Virginia (940 kc).
Docket No. 13241—Delphos, Ohio (940 kc).
Docket No. 13242—Zanesville, Ohio (940 kc).
Docket No. 13246—Cincinnati, Ohio (940 kc).
Docket No. 13249—Ft. Wayne, Indiana (940 kc).

Group 2 is linked with Group 3 by Docket No. 13240—Bristol, Virginia, vs. Docket No. 13236—Fayetteville, North Carolina.

Group 3:

Docket No. 13225—Greensboro, North Carolina (950 kc).
Docket No. 13227—Potomac-Cabin John, Maryland (950 kc).
Docket No. 13229—Richmond, Virginia (950 kc).
Docket No. 13234—Smithfield, Virginia (940 kc).
Docket No. 13243—Smithfield, Virginia (940 kc).
Docket No. 13236—Fayetteville, North Carolina (940 kc).
Docket No. 13238—Potomac, Maryland (950 kc).
Docket No. 13244—Takoma Park, Maryland (940 kc).
Docket No. 13245—Baltimore, Maryland (940 kc).
Docket No. 13247—Lebanon, Pennsylvania (940 kc).
Docket No. 13248—Newport News, Virginia (940 kc).
Docket No. 13250—Catonsville, Maryland (940 kc).
Docket No. 13251—McLean, Virginia (950 kc).

It is further ordered, That the following dates shall apply for exchange of engineering data and for further prehearing conferences by groups:

	Preliminary exchange of engineering data	Exchange of engineering exhibits	Further prehearing conference
Group 1	Jan. 21, 1960	Feb. 18, 1960	Feb. 25, 1960, at 9 a.m.
Group 2	Feb. 15, 1960	Mar. 15, 1960	Apr. 1, 1960.
Group 3	Mar. 1, 1960	Apr. 5, 1960	Apr. 11, 1960.

Dated at Washington, D.C., this 11th day of December 1959.

Released: December 23, 1959.

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

[FR. Doc. 59-11063; Filed, Dec. 28, 1959; 8:50 a.m.]

[Docket Nos. 12943, 12944; FCC 59M-1754]

W. H. HANSEN AND GRABET, INC., RADIO ENTERPRISES

Order Scheduling Hearing

In re applications of W. H. Hansen, Tucson, Arizona, Docket No. 12943, File No. BP-11126; Gabet, Inc., Radio Enterprises, Tucson, Arizona, Docket No. 12944, File No. BP-12539; for construction permits.

The Hearing Examiner has under consideration (1) a petition filed November 30, 1959, by Grabet, Inc., Radio Enterprises for leave to amend application; and (2) a supplement to the petition for leave to amend filed December 14, 1959, by Grabet, Inc., Radio Enterprises.

The purpose of the petition for leave to amend and the supplement thereto is to reflect (1) an agreement with W. H. Hansen, the competing applicant; (2) changes in stock ownership or options; (3) method of financing the proposed station; (4) currently correct financial data; and (5) corrective engineering data.

The purpose of the proposed amendment and the need for the supplement thereto were discussed at the prehearing conference held December 7, 1959, at which time it was also agreed that the date for the evidentiary hearing would be specified by the Hearing Examiner after the supplement to the amendment had been filed.

There are no objections to the proposed amendments to the application of Grabet, Inc., Radio Enterprises. Good cause has been shown that the petition and supplemental petition to amend the application should be granted.

It is ordered, This the 21st day of December 1959, that the above-mentioned petition and supplemental petition of Grabet, Inc., Radio Enterprises for leave to amend its application be and the same are hereby granted and the application is amended;

It is further ordered, That the evidentiary hearing in this proceeding will be held on January 15, 1960, in the offices of the Commission, Washington, D.C.

Released: December 22, 1959.

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

[F.R. Doc. 59-11064; Filed, Dec. 28, 1959; 8:50 a.m.]

[Docket No. 13297; FCC 59M-1759]

HIAWATHALAND BROADCASTING CO. (WSOO)

Order Scheduling Prehearing Conference

In re application of Hiawathaland Broadcasting Company (WSOO), Sault Ste. Marie, Michigan, for construction permit for Standard Broadcast Station; Docket No. 13297, File No. BP-12230.

On the Hearing Examiner's own motion: *It is ordered*, This 22d day of December, 1959, pursuant to the provisions of § 1.111 of the Commission's rules, that all parties, or their counsel in the above-entitled proceeding are directed to appear for a prehearing conference at the offices of the Commission, Washington, D.C. at 2:00 p.m., on Thursday, January 7, 1960.

In order to conserve time the parties are requested to confer a day or two beforehand with a view to reaching advance agreement upon such routine details as the manner of presentation, dates for exchange of exhibits, the need for further prehearing conferences, and dates for the hearing. It is likewise requested that the parties be prepared fully to discuss the pertinent items listed in § 1.111 with the objective in mind of eliminating unessentials so that the hearing may proceed with proper dispatch.

Released: December 22, 1959.

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

[F.R. Doc. 59-11065; Filed, Dec. 28, 1959; 8:50 a.m.]

[Docket Nos. 12788 etc.; FCC 59M-1762]

CHARLES J. LANPHIER

Order Scheduling Prehearing Conference

In re applications of Charles J. Lanphier, Golden Valley, Minnesota et al., for construction permits; Docket No. 12788, File No. BP-11629; Docket Nos. 12792, 12795, 12796, 12797, 12798, 12799, 12800, 12801, 12802, 12803, 12805, 12905, 12906, 12907.

The Hearing Examiner having under consideration the need for a special conference;

It appearing that the Commission on December 18, 1959, released a Memorandum Opinion and Order adding a new issue (No. 21) which relates to the applications for Harvey, Morris, Evanston and Des Plaines, Illinois; and

It further appearing that a conference date would be desirable for the discussion of exhibits, hearing date and comparable matters relating to this issue and no others, except that the date for hearing lay testimony on those applications which are included within Group B as heretofore defined in the Statement and Order Governing Hearing dated September 17, 1959, may also be discussed;

It is ordered, This 22d day of December 1959, that a conference will be held on January 8, 1960, at 2:00 p.m. and that only those applicants in Group B are specifically expected to attend.

Released: December 23, 1959.

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

[F.R. Doc. 59-11066; Filed, Dec. 28, 1959; 8:50 a.m.]

[Docket Nos. 13298, 13299; FCC 59M-1760]

WILLIAM P. LEDBETTER AND E. O. SMITH

Order Scheduling Prehearing Conference

In re applications of William P. Ledbetter, Tolleson, Arizona, Docket No. 13298, File No. BP-11951; E. O. Smith, Tolleson, Arizona, Docket No. 13299, File No. BP-13137; for construction permits.

On the Hearing Examiner's own motion: *It is ordered,* This 22d day of December 1959, pursuant to the provisions of § 1.111 of the Commission's rules, that all parties, or their counsel in the above-entitled proceeding are directed to appear for a prehearing conference at the offices of the Commission, Washington, D.C. at 2 p.m., on Friday, January 8, 1960.

In order to conserve time the parties are requested to confer a day or two beforehand with a view to reaching advance agreement upon such routine details as the manner of presentation, dates for exchange of exhibits, the need for further prehearing conferences, and dates for the hearing. It is likewise requested that the parties be prepared fully to discuss the pertinent items listed in § 1.111 with the objective in mind of eliminating unessentials so that the hearing may proceed with proper dispatch.

Released: December 22, 1959.

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

[F.R. Doc. 59-11067; Filed, Dec. 28, 1959; 8:51 a.m.]

[Docket No. 13291; FCC 59M-1763]

MILE HIGH STATIONS, INC.

Order Scheduling Prehearing Conference

In the matter of revocation of license of Mile High Stations, Inc., for Standard Broadcast Station KIMN, Denver, Colorado; Docket No. 13291.

It is ordered, This 22d day of December 1959, that a pre-hearing conference pursuant to § 1.111 of the rules will be held in the above-entitled matter commencing at 10:00 a.m., January 8, 1960, in the Commission's offices in Washington, D.C.

Released: December 23, 1959.

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

[F.R. Doc. 59-11068; Filed, Dec. 28, 1959; 8:51 a.m.]

[Docket No. 12874; FCC 59-1288]

RADIO AMERICAS CORP. (WORA)

Memorandum Opinion and Order Reopening Record for Further Hearing on Stated Issue

In re application of Radio Americas Corporation (WORA), Mayaguez, Puerto Rico, for construction permit; Docket No. 12874, File No. BP-11925.

1. The Commission has before it for consideration (1) a petition to enlarge issues, filed on September 29, 1959, by Radio Station WIBS, Inc. (WIAC); (2) an opposition to said petition, and a supplement thereto, filed on October 7, 1959, and October 12, 1959, respectively, by Radio Americas Corporation (WORA); (3) a reply to the WIAC petition, filed on October 8, 1959, by the Broadcast Bureau; (4) a reply to the WORA supplement, filed on October 16, 1959, by WIAC; and (5) the matters of record in the above-entitled proceeding.

2. Radio Americas Corporation applied for a construction permit to change the frequency (1150 kc to 760 kc), power (1 kw to 5 kw) and antenna array (non-directional to DA-1) of Station WORA, Mayaguez, Puerto Rico. By Order of May 13, 1959 (FCC 59-450; 24 FR 4065) this application was designated for hearing on issues relating to interference which WORA would cause to Station WIAC (740 kc, 10 kw, Santurce, Puerto Rico). The licensee of WIAC, Radio Station WIBS, Inc., was made a party to the proceeding. A hearing was held on October 1, 1959 and on that date the record was closed. An Initial Decision released December 7, 1959 (FCC 59D-115) looked toward grant of the WORA application.

3. On September 29, 1959, WIAC filed a petition to enlarge the issues in this proceeding to include an issue with respect to compliance by WORA operating as proposed with § 3.28(c)(3) of the Commission's Rules (the so-called "ten-percent rule"). WIAC contends that it was misled by WORA's engineering consultant into believing that WORA would provide an accurate figure representing the population within its proposed normally-protected (2.5 mv/m) contour. It cites this "deception" as good cause for the extremely late filing of the subject petition. We cannot accept this claim, especially in view of WIAC's own admission that it had a "ten-percent rule" violation in mind as early as July 17. Therefore, WIAC's petition will be denied.

4. However, the record reveals that our prior determination that the WORA proposal would comply with § 3.28(c)(3) of the rules can no longer stand. In its application, WORA indicated that the population within its proposed nighttime normally-protected primary service area was 372,727, and that the population within its proposed nighttime limitation contour (then calculated as 3.66 mv/m) was 343,777. We found on the basis of that information that the population loss (28,950) was well within the limit of the rule. At the hearing, however, WORA submitted an "Exhibit E-3" in which the population within the interference-free contour (recalculated as 3.36 mv/m) was stated to be 450,609. It is apparent, therefore, that the figures supplied in the application for the normally-protected and nighttime limitation contours may be wholly incorrect. We will therefore reopen the record herein for evidence on the ten-percent rule question.[1] The effectiveness of the Initial Decision must be stayed until this new issue is finally determined.

Accordingly, it is ordered, That the petition to enlarge issues, filed September 29, 1959, by Radio Station WIBS, Inc., is denied;

It is further ordered, On the Commission's own motion, That the record herein is reopened and remanded to the Examiner for preparation of a Supplemental Initial Decision after further hearing on the following issue: To determine whether Radio Americas Corporation (WORA) operating as proposed would achieve compliance with § 3.28(c)(3) of the Commission's rules, and, if not, whether circumstances exist which would warrant waiver thereof.

It is further ordered, That the effective date of the Initial Decision herein is stayed pending final determination of the above-added issue.

Adopted: December 22, 1959.

Released: December 23, 1959.

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

[F.R. Doc. 59-11069; Filed, Dec. 28, 1959; 8:51 a.m.]

[1] WORA, in its opposition, does not contend that its proposal comes within any of the exceptions specified in § 3.28(c) of the rules. In its reply, the Broadcast Bureau states that the WORA proposal does not come within any of the exceptions, and it specifically notes that the WORA proposal would not provide a first transmission facility to any community and that considerably less than 25 percent of the proposed service area is without primary service.

[Canadian List 141]

CANADIAN BROADCAST STATIONS

List of Changes, Proposed Changes, and Corrections in Assignments

DECEMBER 4, 1959.

Notification under the provisions of Part III Section 2 of the North American Regional Broadcasting Agreement.

List of changes, proposed changes, and corrections in assignments of Canadian Broadcast Stations modifying appendix containing assignments of Canadian Broadcast Stations (Mimeograph No. 4721–3) attached to the recommendations of the North American Regional Broadcasting Agreement Engineering Meeting.

Call letters	Location	Power kw	Antenna	Schedule	Class	Expected date of commencement of operation
		850 kilocycles				
New	Langley Prairie, B.C.	1	DA-2	U	II	EIO 11-15-60.
		930 kilocycles				
CJCA	Edmonton, Alberta	10 kw D/5 kw N.	DA-N	U	III	NIO with increased daytime power.
CFBC (no change in night operation) (PO: 930 kc 5 kw DA-1).	St. John, N.B.	10 kw D/5 kw N.	DA-2	U	III	EIO 11-15-60.
		1050 kilocycles				
CKSB	St. Boniface, Manitoba.	10	DA-N	U	II	NIO on new freq.
		1060 kilocycles				
CJLR	Sillery (Quebec) P.Q.	5	DA-1	U	II	Now in operation.
		1150 kilocycles				
CKX (PO: 1150 kc 5 kw D/1 kw N ND).	Brandon, Manitoba	10 kw D/1 kw N.	ND	U	III	EIO 11-15-60.
		1240 kilocycles				
CFLM	La Tuque, P.Q.	1 kw D/0.25 kw N.	ND	U	IV	Now in operation.
		1250 kilocycles				
CKSB	St. Boniface, Manitoba.	1	DA-1	U	III	Delete assignment.
		1370 kilocycles				
New	Abbotsford, B.C.	1	DA-1	U	III	EIO 11-15-60.
		1450 kilocycles				
CHEF	Granby, P.Q.	1 kw D/0.25 kw N.	ND	U	IV	NIO with increased daytime power.
		1470 kilocycles				
CHOW (PO: 1470 kc 0.5 kw DA-D).	Welland, Ontario	1 kw D/0.5 kw N.	DA-2	U	III	EIO 11-15-60.
		1550 kilocycles				
New	Calgary, Alberta	10	DA-1	U	II	Do.
		1600 kilocycles				
New	Duncan, B.C.	1	DA-1	U	III	Do.

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

[F.R. Doc. 59–11070; Filed, Dec. 28, 1959; 8:51 a.m.]

FEDERAL POWER COMMISSION

[Docket No. G–18036]

BENSON-MONTIN-GREER DRILLING CORP.

Notice of Application and Date of Hearing

DECEMBER 21, 1959.

Take notice that Benson-Montin-Greer Drilling Corp., (Applicant), a Delaware corporation with its principal office in Oklahoma City, Oklahoma, filed an application in Docket No. G–18036 on March 6, 1959, pursuant to section 7 of the Natural Gas Act for: (1) A certificate of public convenience and necessity authorizing it to render service to El Paso Natural Gas Company (El Paso) from the Hill No. 1 and Hill No. 2 Units in the Blanco Field, Rio Arriba County, New Mexico, covered by a gas sales contract dated January 14, 1958, between Applicant and El Paso, and (2) for permission and approval to abandon the aforementioned service for the reason that Applicant's interests in the units involved were sold to El Paso on December 1, 1958.

The foregoing sale and abandonment subject to the jurisdiction of the Commission, are more fully described in the application on file with the Commission, and open to public inspection.

Applicant states it filed the certificate application to sell the subject gas to El Paso for the reason that it had through inadvertence previously failed to apply for such authorization. Applicant states that it sold its interests in the two units and production therefrom, down to the base of the Pictured Cliffs Formation, to El Paso on December 1, 1958.

Applicant further recites that it is informed that El Paso, as the buyer of the wells, is continuing to deliver gas therefrom into its own lines for interstate transmission.

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 January 26, 1960, at 9:30 a.m., e.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a noncontested hearing, dispose of the proceedings pursuant to the provisions of Section 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 January 18, 1960. 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. 59–11024; Filed, Dec. 28, 1959; 8:47 a.m.]

[Docket No. G–19011]

EASON OIL COMPANY ET AL.

Notice of Application and Date of Hearing

DECEMBER 21, 1959.

Take notice that on July 20, 1959, Eason Oil Company (Applicant), Operator, et al., for itself and on behalf of Republic Natural Gas Company filed an application in Docket No. G–19011, pursuant to section 7(b) of the Natural Gas Act, for authorization to abandon service to Cities Service Gas Company (Cities Service) from acreage in the East Guthrie Lake Field, Logan County, Oklahoma, covered by a gas sales contract dated April 16, 1956, as amended, between Applicant, as seller, and Cities Service, as buyer, on file as Eason Oil Company FPC Gas Rate Schedule No. 4, as supplemented, all as more fully described in the application on file with the Commission, and open to public inspection.

Applicant states in support of the abandonment application that the gas reserves underlying the leases dedicated to the subject service have been depleted to such extent that production of gas in commercial quantities is no longer possible.

Applicant was authorized on April 8, 1957, in Docket No. G–10307 to render the service herein proposed to be abandoned.

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 January 26, 1960, at 9:30 a.m., e.s.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before January 18, 1960. 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 59–11025; Filed, Dec. 28, 1959; 8:47 a.m.]

[Docket No. G–19530]

EAST TENNESSEE NATURAL GAS CO.

Notice of Application and Date of Hearing

DECEMBER 21, 1959.

Take notice that on September 25, 1959, East Tennessee Natural Gas Company (Applicant) filed an application, as supplemented on November 2, 1959, for a certificate of public convenience and necessity, pursuant to section 7(c) of the Natural Gas Act, seeking authorization to construct and operate certain facilities in order to sell and deliver to Middle Tennessee Natural Gas Utility District (Mid-Tennessee) the latter's natural gas requirements for its "Carthage Tap" facilities and its "Monterey Tap" facilities, through which Mid-Tennessee will initiate natural gas service to 14 communities in north-central Tennessee.

Applicant states that in Docket No. G–10460 it was authorized to construct and operate four taps and appurtenant metering facilities at different points on its existing main line system in Tennessee, in order to sell and deliver natural gas into four separate distribution systems to be constructed by Mid-Tennessee for resale and distribution by the latter in twenty-three Tennessee towns and adjacent areas. Applicant subsequently constructed and placed in operation two of its four proposed taps and metering installations serving Mid-Tennessee's Systems No. 2 and 4, which are now in operation. Mid-Tennessee was unable to finance and construct the remaining facilities, i.e., Systems No. 1 and 3, the so-called Carthage and Monterey tap facilities, within the time limit specified in the Commission's order of August 13, 1956, in Docket No. G–10460, and Applicant did not construct its taps to supply those systems.[1]

Applicant herein proposes to construct and operate the following facilities:

Project A—approximately 9.1 miles of 4-inch lateral transmission pipeline extending from a connection with its 22-inch main line south to the vicinity of Carthage, Tennessee. Through this lateral Applicant proposes to supply gas to Mid-Tennessee for resale and distribution in the communities of Carthage, Gordonsville, Alexandria, Watertown, Liberty, Dowelltown, Smithville, Auburntown, Woodbury and vicinity.

Project B—approximately 14.16 miles of 6-inch lateral transmission pipeline extending from a connection with its existing 22-inch pipeline south to the vicinity of Pleasant Hill, Tennessee. Through these facilities, Applicant proposes to deliver gas to Mid-Tennessee for resale and distribution in the communities of Monterey, Sparta, Mayland, Crossville and vicinity.

Mid-Tennessee estimates the natural gas requirements for the communities to be served from the proposed Carthage and Monterey taps as follows:

	Requirements in Mcf					
	1959		1960		1961	
	Peak day	Annual	Peak day	Annual	Peak day	Annual
Carthage Tap No. 1	2,101	195,005	3,028	271,672	3,803	340,829
Monterey Tap No. 3	2,152	224,247	3,269	319,839	4,168	400,160
Total	4,253	419,252	6,297	591,511	7,971	740,989

Applicant estimates the total capital cost of its proposed facilities at $509,884, which would be financed out of available funds on hand.

Mid-Tennessee would purchase natural gas from Applicant under Applicant's appropriate rate schedules on file with the Commission.

The application shows that in order to supply the communities proposed to be served from the Carthage and Monterey tap facilities, Mid-Tennessee will be required to construct approximately 88.28 miles of 3 to 6-inch transmission pipeline connecting the new communities to the respective laterals proposed to be constructed by Applicant, and distribution systems to serve those communities. The total estimated capital cost of these facilities is $4,650,000. Mid-Tennessee proposes to finance these facilities by the sale of 5.5 percent 36-year revenue bonds, discounted 10 percent, to Hyde Construction Co.

Mid-Tennessee has informed Applicant that no further authorization is required to enable it to provide its proposed service, and that it has the necessary franchise rights for such natural gas service.

This matter should be heard 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 January 25, 1960, at 10:00 a.m., e.s.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such application.

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 January 13, 1960.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59–11026; Filed, Dec. 28, 1959; 8:47 a.m.]

[1] After granting several extensions of time to applicant, the Commission by order issued August 25, 1959, denied Applicant's latest request for extension of time, filed July 31, 1959, and amended the certificate order in Docket No. G–10460 to delete authorization for those of Applicant's facilities which had not been completed and placed in operation by August 12, 1959.

[Docket No. G–16235 etc.]

EL PASO NATURAL GAS CO. ET AL.

Notice of Applications, Consolidation of Proceedings, and Date of Hearing

DECEMBER 21, 1959.

In the matters of El Paso Natural Gas Company, Docket No. G–16235; Pacific Northwest Pipeline Corporation, Docket Nos. G–16236, G–16237; Colorado Interstate Gas Company, Docket No. G–16904; Plateau Natural Gas Company, Docket No. G–18280; Pueblo Gas & Fuel Company, Docket No. G–19216; Public Service Company of Colorado, G–19225.

Pursuant to the authority conferred upon the Federal Power Commission in sections 7(c) and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, the proceedings in the above-entitled cases are hereby consolidated for the purpose of hearing, and a hearing on the application and petitions therein will commence February 1, 1960, at 10 a.m., e.s.t., in a hearing

room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters presented in said cases.

Notices of the applications in some of said cases have been issued heretofore as follows:

Docket No.	Date notice was issued	FEDERAL REGISTER reference	Final intervention date
G-16235	June 26, 1959	24 FR 5433-34	July 23, 1959
G-16236	June 25, 1959	24 FR 5406	July 23, 1959
G-16237	June 25, 1959	24 FR 5406	July 23, 1959
G-16904	Feb. 13, 1959	24 FR 1335	Mar. 20, 1959
G-18280	July 10, 1959	24 FR 5726	Aug. 10, 1959

Docket G-19216: The Pueblo Gas & Fuel Company, Pueblo, Colorado, by petition filed August 12, 1959, and supplemented October 12, 1959, requests that the Commission issue an order pursuant to section 7(a) of the Natural Gas Act directing Colorado Interstate Gas Company to establish physical connection of its transportation facilities with facilities which petitioner proposes to construct at an estimated cost of $210,175, and to sell natural gas to petitioner. Petitioner also requests the Commission to order Colorado Interstate to install at its Devine Compressor Station at an estimated cost of $10,000, a meter station necessary to connect with petitioner's facilities.

Petitioner says that it is a wholly owned subsidiary of the Public Service Company of Colorado, Denver, that it purchases natural gas from Colorado Interstate and distributes and sells it at retail in the City of Pueblo and adjacent areas, and that it desires to make natural gas service available to the communities of North Avondale, South Avondale, and Boone in Pueblo County, Colorado, near the City of Pueblo. Petitioner estimates that a total of 420 gas customers will ultimately be served by it in said communities, and that approximately 100 customers will take service by the end of the first year. It estimates annual sales of 52,616 Mcf of gas during the third year of operation and peak day sales of 499 Mcf in the third year. The petition is on file with the Commission and is open to public inspection.

Docket G-19225: The Public Service Company of Colorado, Denver, by petition filed August 13, 1959 and supplemented October 12, 1959, requests that the Commission issue an order, pursuant to section 7(a) of the Natural Gas Act, directing Colorado Interstate Gas Company to establish physical connection of its transportation facilities with facilities which petitioner proposes to construct at an estimated cost of $162,000, and to sell natural gas to petitioner at the point of interconnection. Petitioner also requests the Commission to order Colorado Interstate to install, at an estimated cost of approximately $10,000, a meter station and related facilities necessary to connect with petitioner's facilities and to make the proposed sale.

Petitioner says that it distributes and sells natural gas at retail in the City and County of Denver, in the metropolitan area around Denver, and in other communities in northern Colorado; that it purchases its natural gas requirements for its Denver service area from Colorado Interstate, and that it desires to make additional natural gas service available to an unincorporated area, called the "Valley Country Club Area", in the Denver service area. Petitioner estimates that approximately 165 customers in the new area will take service by the end of the first year and that the number will rise ultimately to 500. It estimates annual sales of 90,100 Mcf of gas and peak day sales of 950 Mcf during the third year of operation. The petition is on file with the Commission and is open to public inspection.

Petitions and notices to intervene in the proceedings relating to Dockets G-19216 and G-19225 and protests may be filed with the Federal Power Commission, 441 G Street NW., Washington 25, D.C., pursuant to sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10) on or before January 13, 1960.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59-11027; Filed, Dec. 28, 1959; 8:47 a.m.]

[Docket No. G-20051]

EL PASO NATURAL GAS CO.

Notice of Application and Date of Hearing

DECEMBER 21, 1959.

Take notice that on November 3, 1959, El Paso Natural Gas Company (Applicant) filed in Docket No. G-20051 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of field facilities to enable Applicant to take into its certificated pipeline system natural gas which will be purchased from producers in the general area of Applicant's existing transmission system from time to time during the calendar year 1960, at a total cost not to exceed $5,000,000, with no single project to exceed a cost of $500,000 all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The purpose of this "budget-type" application is to augment Applicant's ability to act with reasonable dispatch in contracting for and connecting to its pipeline system new supplies of natural gas in various producing areas generally coextensive with said system.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on January 21, 1960, at 9:30 a.m., e.s.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before January 13, 1960. 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. 59-11028; Filed, Dec. 28, 1959; 8:47 a.m.]

[Docket Nos. G-14579, G-14592]

EXCELSIOR OIL CORP. AND UNITED CARBON CO., INC.

Notice of Applications and Date of Hearing

DECEMBER 21, 1959.

In the matters of Excelsior Oil Corporation, operator, et al., Docket No. G-14579; United Carbon Company, Inc. (Maryland), Docket No. G-14592.

Take notice that on February 26, 1958, Excelsior Oil Corporation, Operator, et al.,[1] in Docket No. G-14579, and on March 3, 1958, United Carbon Company, Inc. (Maryland), (Carbon) in Docket No. G-14592 filed applications pursuant to section 7 of the Natural Gas Act for authorization as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in the respective applications which are on file with the Commission and open to public inspection.

The applications seek authority for:

(1) Carbon in Docket No. G-14592 to abandon service to Colorado Interstate Gas Company (Colorado) from certain acreage in the northeast Eva Field, Texas County, Oklahoma, covered by an agreement dated March 14, 1956, between Carbon and Colorado, dedicating additional acreage to, and amending, an earlier contract dated November 15, 1954, as amended,[2] between United Producing Company, Inc. (Producing) and Phillips Petroleum Company (Phillips) as Sellers and Colorado as Buyer.

(2) Excelsior in Docket No. G-14579 to continue the services proposed to be abandoned by Carbon.

The applications state that by instrument of assignment executed on October

[1] Excelsior filed for itself and the following co-owners: Honaker-Davis Drilling Company (Honaker), a partnership, Richard Gill and Josephine Gill.

[2] Carbon ratified and adopted the contract of November 15, 1954, by an amendment dated December 30, 1954.

22, 1957, Carbon assigned to Excelsior and Honaker in the proportion of a one-half undivided working interest to each, its 100 percent undivided working interest in sections 8 (with the exception of the NW/4 thereof) and 9, Township 4 North, Range 10 East, Texas County, Oklahoma, subject, among other things, to the aforementioned contract of November 15, 1954, as amended.

The applications further state that by "Partial Agreement of Lease" also executed on October 22, 1957, Carbon assigned its 100 percent undivided working interest in the NW/4 of Section 8, Township 4 North, Range 10 East, to Excelsior and Honaker, covering among other things gas production in addition to the contract of November 15, 1954, as amended.

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 January 28, 1960, at 9:30 a.m., e.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such applications: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for 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 January 15, 1960. 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. 59-11029; Filed, Dec. 28, 1959; 8:48 a.m.]

[Docket No. G-17826]

GEODE PETROLEUM, INC.

Notice of Application and Date of Hearing

DECEMBER 21, 1959.

Take notice that Geode Petroleum, Inc. (Geode) filed an application on February 13, 1959, pursuant to Section 7 of the Natural Gas Act, for a certificate of public convenience and necessity, authorizing the continued sale of natural gas as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in the application which is on file with the Commission and open for public inspection.

Geode seeks authorization to continue the sale of natural gas previously made by Oil Participations Incorporated (Participations) to Tennessee Gas Transmission Company (Tennessee) from certain acreage located in the Corpus Channel Field, Nueces County, Texas, under a basic gas sales contract dated July 1, 1953, as amended, between D. D. Bean & Sons Company, et al. (predecessors in interest to Participations), sellers, and Tennessee, buyer.

The application states that by instrument of assignment dated October 31, 1958, Participations conveyed to Lester Foran its working interest in the subject acreage. Subsequently, Lester Foran reassigned said interest to Geode, effective October 1, 1958, by instrument dated November 26, 1958.

Participations was heretofore authorized in Docket No. G-4363 to render the service proposed herein to be continued by Geode.

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 January 28, 1960, at 9:30 a.m., e.s.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of Section 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 January 15, 1960. Failure of any party to Hunt's contention that the Commission 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. 59-11030; Filed, Dec. 28, 1959; 8:48 a.m.]

[Docket No. G-20009]

HUNT OIL CO.

Order Amending Order for Hearing Suspending Proposed Change in Rate and Allowing Decreased Rate To Become Effective and Order Denying Motion for Reconsideration

DECEMBER 21, 1959.

On October 5, 1959, Hunt Oil Company (Hunt) tendered three instruments for filing as supplements to its FPC Gas Rate Schedule No. 36. Said tenders were designated as Supplements Nos. 4, 5 and 6 to said Rate Schedule No. 36.

Supplement No. 4 is a letter agreement dated September 10, 1959, between Hunt and El Paso Natural Gas Company (El Paso) and states that the well-head pressure of gas from V. T. Amacker B No. 1-67 well has declined to the extent that it no longer meets the delivery pressures required by a certain "Gas Purchase Agreement"[1] dated September 4, 1956, but does comply with that required by certain "Casinghead Gas Contract"[2] covering low-pressure gas in the same general area and which also was executed on September 4, 1956. The aforementioned letter agreement provides that "payment for all gas taken from said well will be made in accordance with the applicable price provisions under section 7 of Article XII of that certain Casinghead Gas Contract dated September 4, 1956."

Supplement No. 5 is composed of the aforementioned Casinghead Gas Contract dated September 4, 1956, but not as said contract has been amended by supplementary filings to Hunt's FPC Gas Rate Schedule No. 34. Section 7 of Article XII of Supplement No. 5 provides that the price "for the five (5) year period commencing on January 1, 1958" shall be "eight cents ($0.08) per one thousand (1,000) cubic feet."

Supplement No. 6 reduces the level of rate from 13.5282 cents[3] per Mcf at 14.65 psia to 10.3072 cents.

By letter dated October 15, 1959, El Paso protested the acceptance of the Notice of Change (Supplement No. 6) stating that the contract rate for the low-pressure gas is 8.0 cents per Mcf and that there is no agreement between the parties to support the aforementioned 10.3072 cents level of rate proposed by Hunt.

After finding the "rates and charges so proposed have not been shown to be justified and may be unjust and unreasonable," the Commission suspended and deferred the use of the aforementioned supplements and permitted said supplements to become effective upon the filing

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[1] On file as Hunt's FPC Gas Rate Schedule No. 36.

[2] On file as Hunt's FPC Gas Rate Schedule No. 34.

[3] Rate is in effect subject to refund in the proceedings in Docket No. G-16479.

of an undertaking all as more fully set forth in the order issued November 4, 1959, in this proceeding. To date, Hunt has not tendered the required undertaking.

On November 23, 1959, Hunt filed a motion for reconsideration[4] requesting that the Commission vacate and set aside its order of November 4, 1959, and that the Commission grant such other relief as is appropriate in the premises. In support of its motion, Hunt states that the order of November 4, 1959 (1) is based upon erroneous assumption of facts; (2) is vague, indefinite and confusing; (3) is not in the public interest; and (4) exceeds the Commission's powers under the Natural Gas Act.

As to the first contention, Hunt alleges that the statement "the parties have agreed that such gas shall be sold under the terms of a specified casinghead gas contract dated September 4, 1956," as contained in the order, is incorrect. Nonetheless, in its motion, Hunt admits that the gas from V. T. Amacker B No. 1–67 well which fails to meet the pressure requirements of the aforementioned Gas Purchase Contract dated September 4, 1956, will hereafter be delivered into the low-pressure gathering system of El Paso as provided in the aforementioned Casinghead Gas Contract dated September 4, 1956, at pressure and price conditions therein set forth. Hunt's contention in this regard therefore is groundless. In this connection, Hunt states that, "If the submission of the full Casinghead Gas Contract dated September 4, 1956, by Hunt as an exhibit to its Notice of Change is responsible for this erroneous assumption of fact upon which the Commission has apparently based its action, Hunt regrets indeed its submission of said contract. Certainly such was not intended to be misleading; and had there been any idea that such would have been misleading, only the applicable price provision would have been submitted." It should be stated here that had Hunt not submitted the aforementioned Casinghead Gas Contract with the letter agreement dated September 10, 1959, and the undated Notice of Change as tendered on October 5, 1959, said tender would not have been in compliance with Section 154.93 of the Commission's Regulations and the whole tender would have been subject to rejection under Section 154.100.

As to Hunt's contention the order is vague and indefinite, and thereby raises many questions, among which are, "What does it suspend" and "How can a refund be made" where the change involved is a decrease? The order is clear that Supplements Nos. 4, 5 and 6 are suspended. The order is likewise clear that it does not suspend the incremental decrease in rate. The Commission found that under the circumstances here existing the decreased rate of 10.3072 cents has not been shown to be a just and reasonable rate. Hunt's reliance on the 10.6418 cents per Mcf initial rate of Rate Schedule No. 36 as having "been accepted as just and reasonable" is without foundation. The Commission has made no statutory finding as to the lawfulness of the 10.6418 cents level of rate under the instant rate schedule. Hunt's assertion and question as to refunds, where the change contemplated results in a decreased rate, is evidently bottomed on the erroneous conception that what is suspended is the decrease in rate rather than the decreased rate. This contention has already been disposed of as groundless. Further, although Hunt's assertion that "the Agreement and Undertaking required to be filed by the producer-applicant should specify the maximum it may be required to refund" and "* * * the order of November 4, 1959, certainly does not define what portion of this rate is suspended or what portion of the rate Hunt will be required to refund", is likewise not well taken. It is noted, however, that there is an ambiguity as to what Hunt shall report to the Commission during the pendency of this proceeding. It is appropriate that this ambiguity be removed by amending the order of November 4, 1959, as hereinafter indicated.

Hunt's contention that the suspension here involved is not in the public interest is again evidently based upon the erroneous impression that the suspension applies to the incremental decrease in rate rather than the decreased rate. Hunt's contention that the Commission is powerless to require the filing of an undertaking where a decreased rate is involved is without support in Sections 4 and 15, or any other section of the Act.

The Commission finds:

(1) It is appropriate in carrying out the provisions of the Natural Gas Act that the order issued November 4, 1959, in this proceeding, suspending and deferring the use of Supplements Nos. 4, 5 and 6 to Hunt's FPC Gas Rate Schedule No. 36, be amended as hereinafter ordered.

(2) The motion of Hunt filed November 23, 1959, herein, should be denied as Hunt has set forth no new facts or principles of law which were not fully considered by the Commission when it issued said order of November 4, 1959, or which now having been considered warrants any change in or modification of the order, except as set out in Finding (1).

The Commission orders:

(A) Paragraph (D) of the aforementioned order issued November 4, 1959, is hereby amended to read as follows:

(D) Hunt shall refund at such times and in such amounts to the persons entitled thereto, and in such manner as may be required by final order of the Commission, the portion of the rate found by the Commission in this proceeding not justified, together with interest thereon at the rate of six percent per annum from the date of payment to Hunt until refunded; shall bear all costs of any such refunding; shall keep accurate accounts in detail of all amounts received by reason of the rate or charge allowed by this order to become effective, for each billing period, specifying by whom and in whose behalf such amounts were paid; and shall report (original and one copy), in writing and under oath, to the Commission monthly, or quarterly if Hunt so elects, and so notifies the Commission, for each billing period, and for each purchaser, the billing determinants of natural gas sales to such purchasers and the revenues resulting therefrom, as computed under the rate of 8.0 cents per Mcf at 14.65 psia, and under the rate allowed by this order to become effective, together with the differences in the revenues so computed.

(B) In all other respects, said order issued November 4, 1959, in this proceeding, shall remain in full force and effect.

(C) The motion for reconsideration filed by Hunt on November 23, 1959, is hereby denied.

By the Commission.

MICHAEL J. FARRELL,
Acting Secretary.

[F.R. Doc. 59–11031; Filed, Dec. 28, 1959; 8:48 a.m.]

[4] Hunt submitted a document entitled "Application for Rehearing and Reconsideration" which has been accepted for filing as a motion for reconsideration pursuant to § 1.12 of the Commission's rules of practice and procedure. An "application for rehearing" of an interlocutory order, such as is here involved, may not be properly filed. (§ 1.30(e) of the rules.)

[Docket No. G–15895]

JAL OIL CO., INC.

Notice of Application and Date of Hearing

DECEMBER 21, 1959.

Take notice that on August 7, 1958, as amended November 17, 1958, and February 13, 1959, Jal Oil Company, Inc. (Applicant) filed an application in Docket No. G–15895, pursuant to Section 7(c) of the Natural Gas Act, for a certificate of public convenience and necessity to sell natural gas to El Paso Natural Gas Company (El Paso) in interstate commerce for resale from the Levelland Field, Cochran County, Texas. This sale is to be covered by a gas sales contract dated October 15, 1956, between R. Olsen, as seller, and El Paso, as buyer, subject to the jurisdiction of the Commission, all as more fully represented in the application which is on file with the Commission and open to public inspection.

By instrument of assignment dated December 2, 1957, effective as of December 1, 1957, R. Olsen and Laureada B. Olsen, transferred to Applicant certain acreage in Cochran County, Texas, and Lea County, New Mexico, in which acreage said assignors were the sole working interest holders. A portion of the acreage in Cochran County, Texas, thus assigned is covered by the subject application and is dedicated to El Paso under the contract of October 15, 1956.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7

and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on January 20, 1960 at 9:30 a.m., e.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a 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 January 13, 1960. 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. 59-11032; Filed, Dec. 28, 1959; 8:48 a.m.]

[Docket No. G-19217]

SUPERIOR OIL CO.

Notice of Application and Date of Hearing

DECEMBER 21, 1959.

Take notice that The Superior Oil Company (Applicant), a California corporation with a principal office in Houston, Texas, filed an application in Docket No. G-19217 on August 12, 1959, pursuant to section 7(b) of the Natural Gas Act, for authorization to abandon service to Kansas-Nebraska Natural Gas Company, Inc. (Kansas-Nebraska), from acreage in the North Johnson Hill Field, Logan County, Colorado, covered by a gas sales contract dated March 25, 1954, between Superior, as seller, and Kansas-Nebraska, as buyer, on file with the Commission as The Superior Oil Company FPC Gas Rate Schedule No. 19, all as more fully described in the application on file with the Commission, and open to public inspection.

Applicant states in support of the proposed abandonment that the lease involved has been released and quitclaimed as of July 23, 1959, for the reason that the production therefrom was insufficient to maintain the lease in force and, it is not economically feasible to explore the property further.

Superior was authorized on October 14, 1955, in Docket No. G-6179 to render the service herein proposed to be abandoned.

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 January 26, 1960, at 9:30 a.m., e.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a 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 January 18, 1960. 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. 59-11033; Filed, Dec. 28, 1959; 8:48 a.m.]

[Docket No. G-18604]

MONTANA-DAKOTA UTILITIES CO.

Notice of Application and Date of Hearing

DECEMBER 21, 1959.

Take notice that on May 20, 1959, Montana-Dakota Utilities Co., (Applicant) filed an application, as amended July 27, 1959, in Docket No. G-18604, pursuant to section 7(c) of the Natural Gas Act, for a certificate of public convenience and necessity seeking authorization to: (1) Construct and operate metering and lateral pipeline facilities and to initiate natural gas service to a new customer, the Glasgow Air Force Base (Air Base), Glasgow, Montana; (2) Construct and operate additional mainline compression and gas storage dehydration facilities to enable it to continue to maintain adequate service to its existing customers, particularly during the forthcoming heating season; and (3) Construct and operate field facilities to attach a new source of supply from the Carter Oil Company (Carter) in the Elk Basin Field, Carter County, Wyoming, all as more fully set forth in the application and amendment on file with the Commission and open to public inspection.

Applicant proposes to construct and operate 15.5 miles of 6⅝-inch transmission lateral and appended metering facilities to extend from a connection on its 10-inch Malta to Morgan Creek transmission line near Tampico, Montana, to the Glasgow Air Force Base for distribution by the Air Base to 960 individual dwelling units either now under construction or scheduled to be constructed at the base. Interruptible volumes of natural gas may also be required if the Air Base decides to convert its central heating plant from oil, the present fuel, to natural gas. An existing 267 dwelling units now using oil for space heating may also be converted to natural gas.

Applicant has entered into a contract with the U.S. Government dated March 6, 1959, to provide natural gas service to the Air Base as requested.

Applicant states that it has designed its proposed Air Base lateral to deliver a maximum volume of about 6,000 Mcf per day anticipating the need to attach other loads to the lateral in the future.

To enable it to maintain adequate service to its existing market areas, particularly during periods of peak demand commencing in the 1959–1960 winter, Applicant proposes to increase its storage withdrawal capacity by installing a 40,000 Mcf per day dehydration unit at its Cabin Creek plant in Fallon County, Montana, for use in treating storage withdrawals from its existing Baker storage field. The existing dehydration facility at Cabin Creek of 20,000 Mcf per day capacity is proposed to be relocated at Applicant's Baker station to increase the dehydration capacity at that location to 40,000 Mcf per day. Applicant also proposes to install and operate an additional 880 horsepower of compression facilities at its Cabin Creek plant.

The application states that the additional dehydration facilities proposed at the main line Cabin Creek and Baker stations will enable the Applicant to withdraw an estimated required 49,790 Mcf per day from its Baker storage field to assist it in meeting its estimated winter peak day firm requirements. The facilities at Cabin Creek and Baker stations are expected to meet Applicant's needs through the 1961–2 winter season.

Applicant also proposes to install and operate an additional 660 horsepower of compression facilities at its Saco Plant, Valley County, Montana, in order to meet the required compression of the increased Bowdoin field withdrawals necessary to implement 1961–1962 peak day system supplies. The natural gas compressed at the Saco plant supplies the system's requirements along Applicant's Malta, Montana, to Williston, North Dakota, lines as well as supplying natural gas to other parts of the system. The Air Base is proposed to be served from this line, and Applicant states that the additional facilities will be required to provide the 1959 deliveries from this line including deliveries to the Air Base.

Applicant also seeks authorization to construct and operate 12,300 feet of 4½-inch field line and metering facilities to attach new natural gas supplies from a well of the Carter Oil Company in the South Elk Basin Field, Park County, Wyoming, one of Applicant's existing sources of supply for its system serving Billings, Montana.

The costs of the proposed Cabin Creek dehydration and compression facilities are estimated at $449,000; the cost of relocation of the Cabin Creek dehydration facilities to the Baker station is estimated at $47,000; and the cost of 660 horsepower Saco station compression addition is estimated at $245,500. The cost

of the metering and lateral pipeline facilities required to serve the Air Base is estimated at $310,200. The cost of facilities required to attach the Carter Oil Company gas well is estimated at $32,400. Applicant estimates the total costs of all the proposed facilities including $4,003 for removal of the dehydration plant from Cabin Creek, at $1,101,103 which will be defrayed from current working funds.

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 January 21, 1960, at 9:30 a.m., e.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a 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 January 13, 1960. 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. 59-11034; Filed, Dec. 28, 1959; 8:48 a.m.]

[Docket No. G-18458]

MARY JANE TENNANT

Notice of Application and Date of Hearing

DECEMBER 21, 1959.

Take notice that on May 4, 1959, Mary Jane Tennant (Applicant) filed an application in Docket No. G-18458 for authorization to continue the sale of natural gas to Hope Natural Gas Company (Hope) from the Paw Paw District, Marion County, West Virginia, previously made by Harry L. Tennant under a gas sales contract dated November 21, 1952, as amended, between Harry L. Tennant, as seller, and Hope, as buyer, designated in the Commission's files as Mary Jane Tennant FPC Gas Rate Schedule No. 1 (formerly Harry L. Tennant FPC Gas Rate Schedule No. 1), all as more fully represented in the application which is on file with the Commission and open to public inspection.

Applicant acquired this acreage through the division of her father's (Harry L. Tennant) estate.

Harry L. Tennant was authorized on July 13, 1955 in Docket No. G-8359 to render the service herein proposed to be continued by Applicant.

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 January 20, 1960, at 9:30 a.m., e.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a noncontested hearing, dispose of the proceedings pursuant to the provisions of Section 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 January 13, 1960. 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 therefore is made.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59-11035; Filed, Dec. 28, 1959; 8:48 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 241]

MOTOR CARRIER TRANSFER PROCEEDINGS

DECEMBER 24, 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 62329. By order of December 16, 1959, the Transfer Board approved the transfer to Jerome J. Cohen, doing business as Jericho Motor Express, Vineland, N.J., of Certificate in No. MC 117240, issued July 22, 1958, to Phil-Jer Freightways, Inc., Camden, N.J., authorizing the transportation of: General commodities, excluding household goods, commodities in bulk, and other specified commodities, between Philadelphia, Pa., on the one hand, and, on the other, points in Cumberland, Gloucester, and Salem Counties, N.J. Charles H. Trayford, 155 East 40th Street, New York, N.Y., for applicants.

No. MC-FC 62650. By order of December 17, 1959, the Transfer Board approved the transfer to Bob C. Krutsinger, Joplin, Mo., of Permits in Nos. MC 65, MC 65 Sub 2, MC 65 Sub 7, and MC 65 Sub 9, issued December 6, 1949, December 6, 1949, October 15, 1951, and August 18, 1953, respectively to E. E. Robertson, doing business as M & H Truck Line, Joplin, Mo., authorizing the transportation of: Meat and packing house products, fresh meats, dressed poultry, eggs, cheese, butter, oleomargarine, soap and various other related commodities, from, to, or between specified points in Kansas, Oklahoma, Ohio, and Missouri. Stanley P. Clay, 514 First National Building, Joplin, Mo., for applicants.

No. MC-FC 62711. By order of December 18, 1959, the Transfer Board approved the transfer to Barmel Transport Corp., Hoboken, N.J., of a portion of the operating rights in Certificate No. MC 116810, issued November 25, 1959, to Bair Transport, Inc., Riverside, N.J., authorizing the transportation of: Petroleum Products, except gasoline, kerosene, distillates, and naphtha, in bulk, in tank vehicles, from Camden, N.J., to points in Connecticut, Maryland, Massachusetts, New York, and Pennsylvania; and from Paulsboro, N.J., to New York, N.Y.; and; Varnish, in bulk, tank vehicles, from Jersey City, N.J., to Philadelphia, Pa. A. David Millner, 1060 Broad Street, Newark, N.J.; and Jacob Polin, P.O. Box 317, Bala Cynwyd, Pa., for applicants.

No. MC-FC 62717. By order of December 18, 1959, the Transfer Board approved the transfer to McKinney Trucking Company, Inc., Miami, Fla., of permit in No. MC 117498, issued June 19, 1959, to J. M. McKinney, doing business as J. M. McKinney Trucking Company, Paris, Texas; authorizing the transportation of: Crates, baskets, boxes, and other fruit and vegetable containers, from specified points in Texas to specified points in Florida. Sam Dawkins, Jr., 1515 Praetorian Building, Dallas 1, Texas, for applicants.

No. MC-FC 62783. By order of December 17, 1959, the Transfer Board approved the transfer to Robert Nelson Hines, doing business as Centre Carriers, 126 South Penn Street, Bellefonte, Pennsylvania, that portion of the operating rights in Certificate No. MC 93419, issued by the Commission July 14, 1941, to Lee Graham, doing business as Lock Haven Transfer, Route One, Lock Haven, Pennsylvania, authorizing the transportation, over irregular routes, of malt beverages, from Buffalo and Utica, N.Y., to Lock Haven, Pa., and empty malt beverage

containers, from Lock Haven to Buffalo and Utica.

No. MC–FC 62786. By order of December 21, 1959, the Transfer Board approved the transfer to Caldwell Freight Lines, Inc., Caldwell, North Carolina, of Certificates in Nos. MC 115793, and MC 115793 Sub 1, issued March 28, 1958 and April 13, 1959, respectively to A. P. Anderson, Jr., doing business as Caldwell Freight Lines, Lenoir, North Carolina, authorizing the transportation of new furniture, and furniture parts, over irregular routes, from Elkin, N.C., to points in Tennessee, and from Conover, Hickory, Lenoir, Lincolnton, and Newton, N.C., to points in Tennessee, and points in Washington, Scott, Lee, Russell, Wise, and Dickerson Counties, Va., and new furniture, from Cleveland, London, Morristown, Greenville, and Knoxville, Tenn., to Lenoir, N.C. W. C. Palmer, P.O. Box 532, 205–206 McLean Building, Lenoir, N.C., for applicants.

No. MC–FC 62801. By order of December 17, 1959, the Transfer Board approved the transfer to Charles G. Sheidy doing business as H & S Express, Baltimore, Md., of Certificate No. MC 15508 issued June 21, 1955 to John P. Starry doing business as Star Trucking Co., Baltimore, Md., authorizing the transportation of general commodities, excluding household goods and commodities in bulk, and various specified commodities, between points within ten miles of Baltimore, Md., including Baltimore; and, Monumental stone, from Baltimore, Md., to Baltimore and points in Maryland within 30 miles of Baltimore, Washington, D.C., and points in Maryland and Virginia within 30 miles of Washington. Charles G. Sheidy, 4500 Canco Road, Baltimore 27, Md., for applicants.

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

[F.R. Doc. 59–11044; Filed, Dec. 28, 1959; 8:49 a.m.]

[No. 33239]

KANSAS INTRASTATE FREIGHT RATES AND CHARGES

At a session of the Interstate Commerce Commission, Division 2 held at its office in Washington, D.C., on the 11th day of December A.D. 1959.

It appearing that a petition dated October 23, 1959, has been filed on behalf of The Atchison, Topeka and Santa Fe Railway Company and other common carriers by railroad operating to, from and between points in the State of Kansas, in interstate and intrastate commerce, averring that in Ex Parte No. 206, Increased Freight Rates, Eastern, Western and Southern Territories, 1956, 299 I.C.C. 429; 300 I.C.C. 633, and Ex Parte No. 212, Increased Freight Rates, 1958, 302 I.C.C. 665; 304 I.C.C. 289, the Commission authorized carriers subject to the Interstate Commerce Act, parties thereto, to make certain increases in their rates and charges for interstate application throughout the United States; and that increases under such authorizations have been made;

It further appearing that the petitioners allege that by orders in its Dockets Nos. 53768–R and 59403–R, the State Corporation Commission of Kansas has refused to authorize or permit petitioners to apply to their rates on certain commodities (described in Appendix A hereto) increases corresponding to those approved for interstate application in the above-cited proceedings, as more fully set forth in the petition; and aver that such refusal causes and results in undue and unreasonable advantage, preference and prejudice as between persons and localities in intrastate commerce, on the one hand, and interstate and foreign commerce, on the other hand, and in undue, unreasonable and unjust discrimination against, and undue burden on, interstate and foreign commerce, in violation of section 13 of the Interstate Commerce Act;

And it further appearing that there have been brought in issue by the said petition rates and charges made or imposed by authority of the State of Kansas:

It is ordered, That in response to the said petition, an investigation be, and it is hereby, instituted, and that a hearing be held therein for the purpose of receiving evidence from the respondents hereinafter designated and any other persons interested to determine whether the rates and charges of the common carriers by railroad, or any of them, operating in the State of Kansas, for the intrastate transportation of certain commodities, described in Appendix A attached hereto, made or imposed by authority of the State of Kansas, cause, or will cause, by reason of the failure of such rates and charges to include increases corresponding to those permitted by the Commission for interstate traffic in Ex Parte Nos. 206 and 212, supra, any undue or unreasonable advantage, preference or prejudice, as between persons or localities in intrastate commerce, on the one hand, and interstate or foreign commerce, on the other hand, or any undue, unreasonable or unjust discrimination against, or undue burden on, interstate or foreign commerce, and to determine what rates and charges, if any, or what maximum or minimum, or maximum and minimum, rates and charges shall be prescribed to remove the unlawful advantage, preference, prejudice, discrimination, or undue burden, if any, that may be found to exist:

It is furthered ordered, That all common carriers by railroad operating within the State of Kansas, which are subject to the jurisdiction of this Commisson, be, and they are hereby, made respondents to this proceeding; that a copy of this order be served upon each of the said respondents, and that the State of Kansas be notified of the proceeding by sending copies of this order and of said petition by certified mail to the Governor of the said State and to the State Corporation Commission of Kansas at Topeka, Kans.;

It is further ordered, That notice of this proceeding be given to the public by depositing a copy of this order in the office of the Secretary of the Commission, at Washington, D.C., for public inspection, and by filing a copy with the Federal Register Division, Washington, D.C.;

And it is further ordered, That this proceeding be assigned for hearing at such time and place as the Commission may hereafter designate.

By the Commission, Division 2.

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

APPENDIX A

Specific Exceptions Made by the State Corporation Commission of Kansas

Ex Parte 206, Increased Freight Rates, Eastern, Western and Southern Territories, 1956, 299 I.C.C. 429; 300 I.C.C. 633:

Sand.
Gravel.
Crushed stone, including chat.
Building aggregates, including expanded clay or shale cinders.
Agricultural limestone.
Brick.
Clay sewer pipe.
Clay drain pipe and related articles.
Bituminous coal.
Petroleum and petroleum products including liquefied petroleum gas.
Cement.

Ex Parte 212, Increased Freight Rates, 1958, 302 I.C.C. 665; 304 I.C.C. 289:

Sand.
Gravel.
Crushed stone.
Chat.
Road aggregates.
Lightweight building aggregates.
Agricultural limestone.
Brick.
Clay sewer pipe, drain tile and related articles.
Bituminous coal.
Petroleum and petroleum products.
Hay.

[F.R. Doc. 59–11045; Filed, Dec. 28, 1959; 8:49 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 31–635]

UNION ELECTRIC CO.

Notice of Filing of Application for Exemption and Release of Jurisdiction Reserved Over Retainability of Gas Systems; Notice of and Order for Hearing

DECEMBER 21, 1959.

Notice is hereby given that Union Electric Company ("Union"), a public-utility company and a registered holding company, has filed an application and amendments thereto seeking an exemption for itself and every subsidiary company thereof as such from the provisions of the Public Utility Holding Company Act of 1935 ("Act"), on the basis that Union is predominantly a public-utility company whose operations as such do not extend beyond the State in which it is organized and States contiguous thereto within the meaning of section 3(a)(2) of the Act. Union has further applied for an order releasing the jurisdiction heretofore reserved by the Commission concerning the retainability of the gas properties in the Union system

(11 S.E.C. 194 (1942); 32 S.E.C. 169 (1950); 35 S.E.C. 483 (1953)).

All interested persons are referred to said application, as amended, which is on file in the Headquarters Office of the Commission and which is summarized as follows:

Union is organized under the laws of the State of Missouri, its principal office being in the city of St. Louis. It is engaged as a public-utility company in the generation, transmission, distribution, and sale of electric energy in the States of Missouri, Illinois, and Iowa, and in the distribution of natural gas in the city of Alton, Illinois, and vicinity. It is also engaged in furnishing steam heating service in the downtown business section of St. Louis.

Union owns common (voting) stock of three public-utility companies and an inactive coal company in the percentages stated: Missouri Power & Light Company, an electric and gas utility and heating company, 100% owned; Missouri Edison Company, an electric and gas utility company, 99.98% owned; Electric Energy, Inc., an electric utility company, 40% owned; and Union Colliery Company, an inactive coal company, 100% owned.

It appearing to the Commission that it is appropriate in the public interest and in the interest of investors and consumers that a hearing be held with respect to said application and that said application shall not be granted except pursuant to further order of the Commission:

It is hereby ordered, Pursuant to the applicable provisions of the Act, that a hearing be held at the Headquarters Office of the Securities and Exchange Commission, 425 Second Street NW., Washington 25, D.C., on January 26, 1960, at 10:00 a.m.

It is further ordered, That William W. Swift, or any other officer or officers of the Commission designated by it for that purpose, shall preside at such hearing. The officer or officers so designated to preside at such hearing are hereby authorized to exercise all powers granted to the Commission under section 18(c) of the Act and to a hearing officer under the rules of practice of the Commission.

The Division of Corporate Regulation having advised the Commission that it has made a preliminary examination of the application, as amended, and that upon the basis thereof the following matters and questions are presented for consideration, without prejudice to the specification of additional matters and questions upon further examination:

(a) Whether Union is predominantly a public-utility company whose operations as such do not extend beyond the State in which it is organized and States contiguous thereto;

(b) Whether and to what extent the granting of such exemption would be detrimental to the public interest or the interest of investors or consumers;

(c) What limitations or conditions should be imposed with respect to such exemption, if granted, in the public interest or in the interest of investors or consumers;

(d) Whether the jurisdiction heretofore reserved by the Commission with respect to the retainability of the gas properties in Union's holding company system should be released.

It is further ordered, That any person desiring to be heard in connection with these proceedings or proposing to intervene herein shall file with the Secretary of the Commission, not later than five days prior to the date hereinbefore fixed as the date for said hearing, his request or application therefor, as prescribed by Rule XVII of the rules of practice of the Commission. Such request shall set forth the nature of the applicant's interest in the proceedings, his reasons for requesting to be heard or to intervene, and a statement of the issues which the applicant proposes to raise with respect to the proceedings herein.

It is further ordered, That notice of this hearing be given by registered mail to Union and to each of its subsidiary companies, the Federal Power Commission, the Public Service Commission of Missouri, the Illinois Commerce Commission, and the Iowa State Commerce Commission; that notice be given to all other interested persons by a general release of this Commission which shall be distributed to the press and mailed to the persons on the mailing list for releases issued under the Act; and that further notice be given to all persons by publication of this notice and order in the FEDERAL REGISTER.

By the Commission.

ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 59-11039; Filed, Dec. 28, 1959; 8:49 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 10963]

EMPRESA DE TRANSPORTES AEROVIAS BRASIL, S.A.

Notice of Postponement of Hearing

Notice is hereby given that the hearing in the above-entitled proceeding now assigned to be held on January 12, 1960, is postponed to January 22, 1960 at 10:00 a.m., e.s.t., in Room 925, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before Examiner Curtis C. Henderson.

Dated at Washington, D.C., December 22, 1959.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 59-11060; Filed, Dec. 28, 1959; 8:50 a.m.]

DEPARTMENT OF LABOR

Wage and Hour Division

LEARNER EMPLOYMENT CERTIFICATES

Issuance to Various Industries

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended, 29 U.S.C. 201 et seq.), the regulations on employment of learners (29 CFR Part 522), and Administrative Order 524 (24 F.R. 9274), the firms listed in this notice have been issued special certificates authorizing the employment of learners at hourly wage rates lower than the minimum wage rates otherwise applicable under section 6 of the Act. The effective and expiration dates, occupations, wage rates, number or proportion of learners, learning periods, and the principal product manufactured by the employer for certificates issued under general learner regulations (§§ 522.1 to 522.11) are as indicated below. Conditions provided in certificates issued under special industry regulations are as established in these regulations.

Apparel Industry Learner Regulations (29 CFR 522.1 to 522.11, as amended, and 29 CFR 522.20 to 522.24, as amended).

The following learner certificates were issued authorizing the employment of 10 percent of the total number of factory production workers for normal labor turnover purposes. The effective and expiration dates are indicated.

B. Bennett Co., Inc., 123 Magazine Street, New Orleans, La.; effective 12-27-59 to 12-26-60 (work and semi-dress pants, work and sport shirts).

Blue Bell, Inc., Nappanee, Ind.; effective 12-19-59 to 12-18-60 (ladies', girls' and boys' dungarees).

Dixie Manufacturing Co., Plant No. 2, Barley Street, Columbia, Tenn.; effective 12-14-59 to 11-11-60; learners may not be employed in the production of ladies' skirts at special minimum wage rates (replacement certificate) (ladies' and girls' shorts, slacks and pedal pushers).

Dury Clothing Co., Inc., 330 Philadelphia Avenue, West Pittston, Pa.; effective 12-10-59 to 12-9-60 (men's trousers).

Forest City Manufacturing Co., Collinsville, Ill.; effective 12-23-59 to 12-22-60 (junior and misses' dresses).

Forest City Manufacturing Co., Du Quoin, Ill.; effective 12-23-59 to 12-22-60 (misses' and women's dresses).

The Hercules Trouser Co., Wellston, Ohio; effective 1-1-60 to 12-31-60 (men's and boys' single pants).

Edward Hyman Co., Hazlehurst, Miss.; effective 12-14-59 to 12-13-60 (men's work pants, shirts and coveralls).

The Londontown Manufacturing Co., 5 North Haven Street, Baltimore, Md.; effective 1-1-60 to 12-31-60 (men's and women's raincoats, men's jackets).

Richfield Shirt Factory, Monroe Township, Juniata County, Richfield, Pa.; effective 12-28-59 to 12-27-60 (men's and boys' dress and sport shirts).

Riviera Sportswear Co., 117 North Second Street, La Crosse, Wis.; effective 12-8-59 to 12-7-60; workers engaged in the production of women's and children's dresses.

Rutherford Garment Co., Rutherford, Tenn.; effective 12-29-59 to 12-28-60 (men's and boys' wool, rayon and cotton jackets and parkas).

Henry I. Siegel Co., Inc., Trezevant, Tenn.; effective 12-26-59 to 12-25-60 (men's and boys' single pants).

Stahl-Urban Co., North Second Street, Brookhaven, Miss.; effective 12-19-59 to 12-18-60 (men's and boys' work trousers, wool and cotton outerwear, jackets, etc.).

The Warner Brothers Co., Marianna, Fla.; effective 12-22-59 to 12-21-60 (corsets and brassieres).

The Warner Brothers Co., Thomasville, Ga.; effective 12-22-59 to 12-21-60 (corsets and brassieres).

Waverly Garment Co., Waverly, Tenn.; effective 12–27–59 to 12–26–60 (men's cotton work pants and shirts).

Yunker Manufacturing Co., Inc., 315 Ann Street, Parkersburg, W. Va.; effective 12–28–59 to 12–27–60 (infants' cotton apparel).

The following learner certificates were issued for normal labor turnover purposes. The effective and expiration dates and the number of learners authorized are indicated.

Angelica Uniform Co., Mountain View, Mo.; effective 1–1–60 to 12–31–60; 10 learners (men's washable service coats, hospital garments, etc.).

Barrow Manufacturing Co., Statham, Ga.; effective 12–10–59 to 12–9–60; eight learners (men's and boys' pants).

Glenn Berry Manufacturers, Inc., Oswego, Kans.; effective 12–10–59 to 12–9–60; 10 learners (boys' dungarees).

Crisfield Shirt and Pajama Co., Inc., Princess Anne, Md.; effective 12–14–59 to 12–13–60; 10 learners (boys' cotton shirts and knit shirts).

East Salem Shirt Factory, R.D. No. 2, Mifflintown, Pa.; effective 12–28–59 to 12–27–60; five learners (men's and boys' dress and sport shirts).

Nadine Fashions, 42 River Street, Carbondale, Pa.; effective 12–10–59 to 12–9–60; six learners (ladies' and misses' dresses).

Shreveport Garment Manufacturers, 1023 Polk Street, Mansfield, La.; effective 12–18–59 to 12–17–60; 10 learners (men's and boys' cotton work shirts).

W. E. Stephens Manufacturing Co., Inc., Watertown, Tenn.; effective 12–29–59 to 12–28–60; 10 learners (ladies' and girls' shorts, pedal pushers; men's and boys' work and sport shirts).

The following learner certificates were issued for plant expansion purposes. The effective and expiration dates and the number of learners authorized are indicated.

Hicks-Howard Co., Del Rio, Tex.; effective 12–15–59 to 6–14–60; 20 learners (men's and boys' work clothing and wash slacks).

Industrial Garment Manufacturing Co., Palestine, Tex.; effective 12–14–59 to 6–13–60; 10 learners (men's cotton work pants).

Lyons Manufacturing Co., Inc., Lyons, Ga.; effective 12–7–59 to 6–6–60; 25 learners (men's and ladies' tailored shirts).

Pocomoke Garment Co., Inc., Sixth Street, Pocomoke City, Md.; effective 12–8–59 to 6–7–60; 15 learners (women's blouses).

Rosemont Corp., 601 Lincoln Street, Oxford, Pa.; effective 12–14–59 to 6–13–60; 10 learners (ladies' dresses).

Henry I. Siegel Co., Inc., South Fulton, Tenn.; effective 12–15–59 to 6–14–60; 60 learners (men's and boys' single pants).

Hosiery Industry Learner Regulations (29 CFR 522.1 to 522.11, as amended, and 29 CFR 522.40 to 522.44, as amended).

Franklin Hosiery Co., Franklin, N.C.; effective 12–11–59 to 6–10–60; 25 learners for plant expansion purposes (seamless).

Interwoven Stocking Co., Martinsburg, W. Va.; effective 12–9–59 to 12–8–60; 5 percent of the total number of factory production workers for normal labor turnover purposes (seamless).

Seneca Knitting Mills Co., Inc., East Bayard Street, Extension, Seneca Falls, N.Y.; effective 12–8–59 to 12–7–60; 5 percent of the total number of factory production workers for normal labor turnover purposes (seamless).

Knitted Wear Industry Learner Regulations (29 CFR 522.1 to 522.11, as amended, and 29 CFR 522.30 to 522.35, as amended).

Ellwood Knitting Mills, Inc., 1110 Mecklen Lane and 911 Lawrence Avenue, Ellwood City, Pa.; effective 12–11–59 to 12–10–60; 5 percent of the total number of factory production workers for normal labor turnover purposes (men's and boys' knitted outerwear).

Kingsboro Mills, Inc., Lafayette, Tenn., effective 12–14–59 to 12–13–60; 5 percent of the total number of factory production workers for normal labor turnover purposes (ladies' lingerie).

Roven-Woven, Inc., Mount Pleasant Mills, Pa.; effective 12–9–59 to 6–8–60; 25 learners for plant expansion purposes (women's lingerie).

Shoe Industry Learner Regulations (29 CFR 522.1 to 522.11, as amended and 29 CFR 522.50 to 522.55, as amended).

The following learner certificates were issued authorizing the employment of 10 percent of the total number of factory production workers for normal labor turnover purposes. The effective and expiration dates are indicated.

International Shoe Co., West Plains Factory, West Plains, Mo.; effective 12–22–59 to 12–21–60 (men's welt dress shoes).

International Shoe Co., Windsor Factory, Windsor, Mo.; effective 12–31–59 to 12–30–60 (men's welt dress leather shoes).

International Shoe Co., Eldon, Mo.; effective 12–31–59 to 12–30–60 (boys' leather welt shoes).

Rex Shoe Co., 1950 Wyoming Ave., Exeter, Pa.; effective 12–10–59 to 12–9–60 (ladies' leather and fabric shoes, and slippers).

Regulations Applicable to the Employment of Learners (29 CFR 522.1 to 522.11, as amended).

Monarch-Comer Co., Comer, Ga.; effective 12–14–59 to 6–13–60; five learners for plant expansion purposes in the occupations of sewing machine operating, and final pressing, each for a learning period of 480 hours at the rates of not less than 90 cents an hour for the first 280 hours and not less than 95 cents an hour for the remaining 200 hours (coats and jackets).

Newey Brothers, Inc., East St. Johnsbury Rd., St. Johnsbury, Vt.; effective 12–14–59 to 6–13–60; five learners for normal labor turnover purposes in the occupation of sewing machine operator for a learning period of 240 hours at the rates of 85 cents an hour for the first 120 hours and 90 cents an hour for the remaining 120 hours (sewn hook and eye tape fasteners for bras and corsets).

The following learner certificate was issued in Puerto Rico to the company hereinafter named. The effective and expiration dates, learner rates, occupations, learning periods, and the number or proportion of learners authorized to be employed, are as indicated.

Guacio Crafts, San Sebastian, P.R.; effective 12–3–59 to 6–2–60; five learners for plant expansion purposes in the occupation of bamboo shop worker for a learning period of 320 hours at the rate of 50 cents an hour for the first 160 hours and 57 cents an hour for the remaining 160 hours (bamboo planters).

Each learner certificate has been issued upon the representations of the employer which, among other things, were that employment of learners at subminimum rates is necessary in order to prevent curtailment of opportunities for employment, and that experienced workers for the learner occupations are not available. The certificates may be annulled or withdrawn, as indicated therein, in the manner provided in Part 528 of Title 29 of the Code of Federal Regulations. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within fifteen days after publication of this notice in the FEDERAL REGISTER pursuant to the provisions of 29 CFR 522.9.

Signed at Washington, D.C., this 18th day of December 1959.

ROBERT G. GRONEWALD,
Authorized Representative of the Administrator.

[F.R. Doc. 59–11037; Filed, Dec. 28, 1959; 8:48 a.m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

[Vesting Order SA–278]

ALLGEMEINE WECHSELSTUBEN A.G.

In re: Property indirectly owned by Allgemeine Wechselstuben A.G., Budapest, Hungary; F–34–1698.

Under the authority of Title II of the International Claims Settlement Act of 1949, as amended (69 Stat. 562), Executive Order 10644, November 7, 1955 (20 F.R. 8363), Department of Justice Order No. 106–55, November 23, 1955 (20 F.R. 8993), and pursuant to law, after investigation, it is hereby found and determined:

1. That the property described as follows: That certain debt or other obligation of The Chase Manhattan Bank, 18 Pine Street, New York 15, New York, in the sum of $67.90 arising out of a blocked account maintained by said company in the name of "Amsterdamsche Bank N.V., Amsterdam blocked account, subaccount Allgemeine Wechselstuben A.G., Budapest" together with any and all rights to demand, enforce and collect the same,

is property within the United States which was blocked in accordance with Executive Order 8389, as amended, and remained blocked on August 9, 1955, and which is, and as of September 15, 1947, was indirectly owned by Allgemeine Wechselstuben A.G., Budapest, Hungary, a national of Hungary as defined in said Executive Order 8389, as amended.

2. That the property described herein is not owned directly by a natural person.

There is hereby vested in the Attorney General of the United States the property described above, to be administered, sold, or otherwise liquidated, in accordance with the provisions of Title II of the International Claims Settlement Act of 1949, as amended.

It is hereby required that the property described above be paid, conveyed, transferred, assigned and delivered to or for the account of the Attorney General of the United States in accordance with directions and instructions issued by or for the Assistant Attorney General, Di-

rector, Office of Alien Property, Department of Justice.

The foregoing requirement and any supplement thereto shall be deemed instructions or directions issued under Title II of the International Claims Settlement Act of 1949, as amended. Attention is directed to section 205 of said Title II (69 Stat. 562) which provides that:

Any payment, conveyance, transfer, assignment, or delivery of property made to the President or his designee pursuant to this title, or any rule, regulation, instruction, or direction issued under this title, shall to the extent thereof be a full acquittance and discharge for all purposes of the obligation of the person making the same; and no person shall be held liable in any court for or in respect of any such payment, conveyance, transfer, assignment, or delivery made in good faith in pursuance of and in reliance on the provisions of this title, or of any rule, regulation, instruction, or direction issued thereunder.

Executed at Washington, D.C., on December 21, 1959.

For the Attorney General.

[SEAL] DALLAS S. TOWNSEND,
Assistant Attorney General,
Director, Office of Alien Property.

[F.R. Doc. 59-11047; Filed, Dec. 28, 1959; 8:49 a.m.]

[Vesting Order SA-279]

HUNGARIAN GENERAL CREDITBANK

In re: Property indirectly owned by Hungarian General Creditbank, also known as Banque Generale de Credit Hongrois, Ungarische Allgemeine Creditbank, and as Magyar Altalanos Hitelbank, Budapest, Hungary. F-34-228, 034-222, Bank #39.

Under the authority of Title II of the International Claims Settlement Act of 1949, as amended (69 Stat. 562), Executive Order 10644, November 7, 1955 (20 F.R. 8363), Department of Justice Order No. 106-55, November 23, 1955 (20 F.R. 8993), and pursuant to law, after investigation, it is hereby found and determined:

1. That the property described as follows: That certain debt or other obligation of The Chase Manhattan Bank, 18 Pine Street, New York 15, New York, in the sum of $22,297.00 arising out of a blocked account maintained by said company in the name of "Amsterdamsche Bank N.V., Amsterdam, blocked account, sub-account Banque Generale de Credit Hongrois, Budapest", together with any and all rights to demand, enforce and collect the same,

is property within the United States which was blocked in accordance with Executive Order 8389, as amended, and remained blocked on August 9, 1955, and which is, and as of September 15, 1947, was owned indirectly by Hungarian General Creditbank, also known as Banque Generale de Credit Hongrois, Ungarische Allgemeine Creditbank and as Magyar Altalanos Hitelbank, Budapest, Hungary, a national of Hungary as defined in said Executive Order 8389, as amended.

2. That the property described herein is not owned directly by a natural person.

There is hereby vested in the Attorney General of the United States the property described above, to be administered, sold, or otherwise liquidated, in accordance with the provisions of Title II of the International Claims Settlement Act of 1949, as amended.

It is hereby required that the property described above be paid, conveyed, transferred, assigned and delivered to or for the account of the Attorney General of the United States in accordance with directions and instructions issued by or for the Assistant Attorney General, Director, Office of Alien Property, Department of Justice.

The foregoing requirement and any supplement thereto shall be deemed instructions or directions issued under Title II of the International Claims Settlement Act of 1949, as amended. Attention is directed to section 205 of said Title II (69 Stat. 562) which provides that:

Any payment, conveyance, transfer, assignment, or delivery of property made to the President or his designee pursuant to this title, or any rule, regulation, instruction, or direction issued under this title, shall to the extent thereof be a full acquittance and discharge for all purposes of the obligation of the person making the same; and no person shall be held liable in any court for or in respect of any such payment, conveyance, transfer, assignment, or delivery made in good faith in pursuance of and in reliance on the provisions of this title, or of any rule, regulation, instruction, or direction issued thereunder.

Executed at Washington, D.C., on December 21, 1959.

For the Attorney General.

[SEAL] DALLAS S. TOWNSEND,
Assistant Attorney General,
Director, Office of Alien Property.

[F.R. Doc. 59-11048; Filed, Dec. 28, 1959; 8:49 a.m.]

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