AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

Pages 6185–6250

FEDERAL REGISTER

VOLUME 27 NUMBER 127

Washington, Saturday, June 30, 1962

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FEDERAL REGISTER

Telephone WOrth 3-3261

Published daily, except Sundays, Mondays, and days following official Federal holidays, by the Office of the Federal Register, National Archives and Records Service, General Services Administration, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U.S.C., ch. 8B), under regulations prescribed by the Administrative Committee of the Federal Register, approved by the President. Distribution is made only by the Superintendent of Documents, Government Printing Office, Washington 25, D.C.

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Rules and Regulations

Title 7—AGRICULTURE

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

PART 58—GRADING AND INSPECTION, MINIMUM SPECIFICATIONS FOR APPROVED PLANTS AND STANDARDS FOR GRADES OF DAIRY PRODUCTS

Subpart L—United States Standards for Grades of Nonfat Dry Milk (Spray Process)

SOLUBILITY INDEX AND HEAT TREATMENT CLASSIFICATION

On May 17, 1962, notice was published in the FEDERAL REGISTER (27 F.R. 4692) regarding a proposed amendment of the United States Standards for Grades of Nonfat Dry Milk (Spray Process) (7 CFR Part 58, Subpart L), affording interested persons an opportunity to file written data, views or arguments in connection therewith. No such comments were received within the prescribed time.

Statement of considerations. Recently some bakers have been requiring spray process nonfat dry milk with increased water absorption capacity. The heat treatment necessary to attain such increased water absorption capacity may cause a rise in the solubility index of the product which does not affect its baking quality. Therefore, the maximum solubility index levels in the present grade standards for the product would thus appear to be too restrictive for bakery-type nonfat dry milk. The purpose of this amendment is to allow for such possible rise in the solubility index with due recognition to the respective U.S. grades of the product.

After consideration of all relevant matters presented, including the proposal set forth in the aforesaid notice, the following amendment is hereby promulgated pursuant to the Agricultural Marketing Act, 1946 (secs. 202–208, 60 Stat. 1087, as amended; 7 U.S.C. 1621–1627), to become effective August 1, 1962:

§ 58.2528 [Amendment]

1. In § 58.2528, change paragraph (a) (3) (v) to read as follows:

(v) Solubility index: Not more than 1.2 ml., except that product classified as U.S. High Heat may have not more than 2.0 ml.

2. In § 58.2528, change paragraph (b) (3) (v) to read as follows:

(v) Solubility index: Not more than 2.0 ml., except that product classified as U.S. High Heat may have not more than 2.5 ml.

3. In Table III of § 58.2528, change item (5) to read as follows:

	Extra	*Standard*
(5) Solubility index, ml	1.2	2.0
U.S. High Heat	2.0	2.5

4. Change § 58.2538 to read:

§ 58.2538 Basis for obtaining heat treatment classification.

Heat treatment classification is not a U.S. Grade requirement except in cases when the higher solubility index specified for U.S. High Heat product is permitted. In all other instances, product submitted for USDA grading may be analyzed for heat treatment classification upon request of the applicant and the results shown on the grading certificate. Heat treatment classification will be made available only upon a U.S. graded product.

(Sec. 205, 60 Stat. 1090; 7 U.S.C. 1624)

Done at Washington, D.C., this 26th day of June 1962.

G. R. GRANGE,
Deputy Administrator,
Marketing Services.

[F.R. Doc. 62-6389; Filed, June 29, 1962; 8:50 a.m.]

Chapter VII—Agricultural Stabilization and Conservation Service, (Agricultural Adjustment), Department of Agriculture

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

PART 725—TOBACCO

Subpart—Burley, Flue-Cured, Fire-Cured, Dark Air-Cured, and Virginia Sun-Cured Tobacco Marketing Quota Regulations, 1962–63 Marketing Year

Correction

In F.R. Doc. 62-6065, appearing at page 5849 of the issue for Thursday, June 21, 1962, the following corrections are made:

1. In § 725.1331(q), the word "preson" should read "person".

2. In § 725.1349(e), the word "maner" should read "manner".

3. In § 725.1352(e):

a. In the phrase immediately preceding subparagraph (1), the word "filling" should read "filing", so that the phrase reads as follows: "* * * as to the farm at the time of filing such report,".

b. In subparagraph (4), the word "same" should read "name".

4. In the second sentence of § 725.1353 (a) (3), the word "warehousemen" should read "warehouseman".

SUBCHAPTER D—SPECIAL FEED GRAIN PROGRAM

[1962 Feed Grain Program, Supp. 1, Amdt. 2]

PART 775—FEED GRAINS

Subpart—1962 Feed Grain Program Regulations

CORN AND GRAIN SORGHUMS

Correction

In F.R. Doc. 62-5461, appearing at page 5469 of the issue for Saturday, June 9, 1962, the following changes are made:

1. In the table titled "1962 Feed Grain Program—County 1959–60 Adjusted Average Yields and Per Acre Payment for Corn":

a. Under "Georgia, District 8, Colquitt County", the "60 percent payment rate per acre" should read "$28.70" instead of "$26.70".

b. Under "Kansas, District 8, Edwards County", the "1959–60 adjusted average yield" should read "26.0 Bushels" instead of "36.0 Bushels".

c. Under "Louisiana, District 3, Morehouse County", the "50 percent payment rate per acre" should read "$21.50" instead of "$21.59".

d. Under "Tennessee, District 3", "Steward County" is changed to read "Stewart County".

2. In the table titled "1962 Feed Grain Program—County 1959–60 Adjusted Average Yields and Per Acre Payment for Grain Sorghums", under "Idaho, District 9, Jefferson County", the "60 percent payment rate per acre" should read "$22.30" instead of "$23.30".

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

[Valencia Orange Reg. 19]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

§ 908.319 Valencia Orange Regulation 19.

(a) *Findings.* (1) Pursuant to the marketing agreement and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under the said marketing agreement and order, as amended, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges as hereinafter provided

will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this regulation until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 1001–1011) because the time intervening between the date when information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Valencia oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this regulation, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Valencia oranges; it is necessary, in order to effectuate the declared policy of the act, to make this regulation effective during the period herein specified; and compliance with this regulation will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on June 28, 1962.

(b) *Order.* (1) The respective quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period beginning at 12:01 a.m., P.s.t., July 1, 1962, and ending at 12:01 a.m., P.s.t., July 8, 1962, are hereby fixed as follows:

(i) District 1: Unlimited movement;

(ii) District 2: 400,000 cartons;

(iii) District 3: Unlimited movement.

(2) As used in this section, "handled," "handler," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in said marketing agreement and order, as amended.

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

Dated: June 29, 1962.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 62–6485; Filed, June 29, 1962; 11:45 a.m.]

[Lemon Reg. 28]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 910.328 Lemon Regulation 28.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendation and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons as hereinafter provided will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 1001–1011) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on June 26, 1962.

(b) *Order.* (1) The respective quantities of lemons grown in California and Arizona which may be handled during the period beginning at 12:01 a.m., P.s.t., July 1, 1962, and ending at 12:01 a.m., P.s.t., July 8, 1962, are hereby fixed as follows:

(i) District 1: Unlimited movement;

(ii) District 2: 279,000 cartons;

(iii) District 3: Unlimited movement.

(2) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in the said amended marketing agreement and order.

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

Dated: June 27, 1962.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 62–6410; Filed, June 29, 1962; 8:51 a.m.]

[Plum Order 7]

PART 917—FRESH BARTLETT PEARS, PLUMS, AND ELBERTA PEACHES GROWN IN CALIFORNIA

Regulation by Size

§ 917.309 Plum Order 7 (Gaviota, Burbank, Duarte, Becky Smith, Elephant Heart, Laroda, and Sharkey).

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 917, as amended (7 CFR Part 917), regulating the handling of fresh Bartlett pears, plums, and Elberta peaches grown in the State of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations of the Plum Commodity Committee, established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of plums of the varieties hereinafter set forth, and in the manner herein provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 1001–1011) in that, as hereinafter set forth, the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective not later than the date hereinafter specified. A reasonable determination as to the supply of, and the demand for, such plums must await the development of the crop thereof, and adequate information thereon was not available to the Plum Commodity Committee until the date hereinafter set forth on which an open meeting was held, after giving due notice thereof, to consider the need for, and the extent of, regulation of shipments of such plums. Interested persons were afforded an op-

portunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; shipments of the current crop of such plums are expected to begin on or about the effective date hereof; this section should be applicable to all such shipments in order to effectuate the declared policy of the act; the provisions of this section are identical with the aforesaid recommendation of the committee; and information concerning such provisions and effective time has been disseminated among handlers of such plums and compliance with the provisions of this section will not require of handlers any preparation therefor which cannot be completed by the effective time hereof. Such committee meeting was held on June 26, 1962.

(b) *Order.* (1) During the period beginning at 12:01 a.m., P.s.t., July 1, 1962, and ending at 12:01 a.m., P.s.t., November 1, 1962, no shipper shall ship any package or container of Gaviota, Burbank, Duarte, Becky Smith, Elephant Heart, Laroda, or Sharkey plums, unless:

(i) Such plums are of a size that, when packed in a standard basket, they will pack at least a 4 x 5 standard pack; and

(ii) The diameters of the smallest and largest plums in such package or container do not vary more than one-fourth (¼) inch: *Provided,* That a total of not more than five (5) percent, by count, of the plums in the package or container may fail to meet this requirement.

(2) When used in this section, "standard pack" shall have the same meaning as set forth in the revised United States Standards for Plums and Prunes (Fresh) (§§ 51.1520 to 51.1537 of this title); "standard basket" shall mean the standard basket set forth in paragraph 1 of section 828.1 of the Agricultural Code of California; "diameter" shall mean the distance through the widest portion of the cross section of a plum at right angles to a line running from the stem to the blossom end; and, except as otherwise specified, all other terms shall have the same meaning as when used in the amended marketing agreement and order.

(3) Section 917.143 sets forth the requirements with respect to the inspection and certification of shipments of fruit covered by this section. Such section also prescribes the conditions which must be met if any shipment is to be made without prior inspection and certification. Notwithstanding that shipments may be made without inspection and certification, each shipper shall comply with all grade and size regulations applicable to the respective shipment.

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

Dated: June 28, 1962.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 62-6486; Filed, June 29, 1962; 11:45 a.m.]

[Plum Order 8]

PART 917—FRESH BARTLETT PEARS, PLUMS, AND ELBERTA PEACHES GROWN IN CALIFORNIA

Regulation by Sizes

§ 917.310 Plum Order 8 (Nubiana).

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 917, as amended (7 CFR Part 917), regulating the handling of fresh Bartlett pears, plums, and Elberta peaches grown in the State of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations of the Plum Commodity Committee, established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of plums of the variety hereinafter set forth, and in the manner herein provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 1001–1011) in that, as hereinafter set forth, the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective not later than the date hereinafter specified. A reasonable determination as to the supply of, and the demand for, such plums must await the development of the crop thereof, and adequate information thereon was not available to the Plum Commodity Committee until the date hereinafter set forth on which an open meeting was held, after giving due notice thereof, to consider the need for, and the extent of, regulation of shipments of such plums. Interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; shipments of the current crop of such plums are expected to begin on or about the effective date hereof; this section should be applicable to all such shipments in order to effectuate the declared policy of the act; the provisions of this section are identical with the aforesaid recommendation of the committee; and information concerning such provisions and effective time has been disseminated among handlers of such plums and compliance with the provisions of this section will not require of handlers any preparation therefor which cannot be completed by the effective time hereof. Such committee meeting was held on June 26, 1962.

(b) *Order.* (1) During the period beginning at 12:01 a.m., P.s.t., July 1, 1962, and ending at 12:01 a.m., P.s.t., November 1, 1962, no shipper shall ship any package or container of Nubiana plums, unless:

(i) Such plums are of a size that, when packed in a standard basket, they will pack at least a 3 x 4 x 5 standard pack; and

(ii) The diameters of the smallest and largest plums in such package or container do not vary more than one-fourth (¼) inch: *Provided,* That, a total of not more than five (5) percent, by count, of the plums in the package or container may fail to meet this requirement.

(2) When used in this section, "standard pack" shall have the same meaning as set forth in the revised United States Standards for Plums and Prunes (Fresh) (§§ 51.1520 to 51.1537 of this title); "standard basket" shall mean the standard basket set forth in paragraph 1 of section 828.1 of the Agricultural Code of California; "diameter" shall mean the distance through the widest portion of the cross section of a plum at right angles to a line running from the stem to the blossom end; and, except as otherwise specified, all other terms shall have the same meaning as when used in the amended marketing agreement and order.

(3) Section 917.143 sets forth the requirements with respect to the inspection and certification of shipments of fruit covered by this section. Such section also prescribes the conditions which must be met if any shipment is to be made without prior inspection and certification. Notwithstanding that shipments may be made without inspection and certification, each shipper shall comply with all grade and size regulations applicable to the respective shipment.

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

Dated: June 28, 1962.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 62-6487; Filed, June 29, 1962; 11:45 a.m.]

[Plum Order 9]

PART 917—FRESH BARTLETT PEARS, PLUMS, AND ELBERTA PEACHES GROWN IN CALIFORNIA

Regulation by Grade and Size

§ 917.311 Plum Order 9 (Mariposa, Ace, and Queen Ann).

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 917, as amended (7 CFR Part 917), regulating the handling of fresh Bartlett pears, plums, and Elberta peaches grown in the State of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations of the Plum Commodity Committee, established under the aforesaid amended marketing agreement and order, and upon other available informa-

tion, it is hereby found that the limitation of shipments of plums of the varieties hereinafter set forth, and in the manner herein provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 1001–1011) in that, as hereinafter set forth, the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective not later than the date hereinafter specified. A reasonable determination as to the supply of, and the demand for, such plums must await the development of the crop thereof, and adequate information thereon was not available to the Plum Commodity Committee until the date hereinafter set forth on which an open meeting was held, after giving due notice thereof, to consider the need for, and the extent of, regulation of shipments of such plums. Interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; shipments of the current crop of such plums are expected to begin on or about the effective date hereof; this section should be applicable to all such shipments in order to effectuate the declared policy of the act; the provisions of this section are identical with the aforesaid recommendation of the committee; and information concerning such provisions and effective time has been disseminated among handlers of such plums and compliance with the provisions of this section will not require of handlers any preparation therefor which cannot be completed by the effective time hereof. Such committee meeting was held on June 26, 1962.

(b) *Order.* (1) During the period beginning at 12:01 a.m., P.s.t., July 1, 1962, and ending at 12:01 a.m., P.s.t., November 1, 1962, no shipper shall ship any package or container of Mariposa, Ace, or Queen Ann plums, unless:

(i) Such plums grade at least U.S. No. 1, as required by the provisions of § 917.301 (Plum Order 1; 27 F.R. 4729), except that a total tolerance of ten (10) percent for defects not considered serious damage is permitted in addition to the tolerances permitted by such grade;

(ii) Such plums are of a size that, when packed in a standard basket, they will pack at least a 3 x 4 x 5 standard pack;

(iii) The diameters of the smallest and largest plums in such package or container do not vary more than one-fourth (¼) inch: *Provided,* That a total of not more than five (5) percent, by count, of the plums in the package or container may fail to meet this requirement.

(2) When used in this section, "U.S. No. 1" and "standard pack" shall have the same meaning as set forth in the revised United States Standards for Plums and Prunes (Fresh) (§§ 51.1520 to 51.1537 of this title); "standard basket" shall mean the standard basket set forth in paragraph 1 of section 828.1 of the Agricultural Code of California; "diameter" shall mean the distance through the widest portion of the cross section of a plum at right angles to a line running from the stem to the blossom end; and, except as otherwise specified, all other terms shall have the same meaning as when used in the amended marketing agreement and order.

(3) Section 917.143 sets forth the requirements with respect to the inspection and certification of shipments of fruits covered by this section. Such section also prescribes the conditions which must be met if any shipment is to be made without prior inspection and certification. Notwithstanding that shipments may be made without inspection and certification, each shipper shall comply with all grade and size regulations applicable to the respective shipment.

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

Dated: June 28, 1962.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 62-6488; Filed, June 29, 1962; 11:46 a.m.]

[Apricot Reg. 1]

PART 922—APRICOTS GROWN IN DESIGNATED COUNTIES IN WASHINGTON

Limitation of Shipments

§ 922.301 Apricot Regulation 1.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 922, as amended (7 CFR Part 922), regulating the handling of apricots grown in designated counties in Washington, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations of the Washington Apricot Marketing Committee, established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of apricots, in the manner herein provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 1001–1011) in that, as hereinafter set forth, the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective not later than July 2, 1962. A reasonable determination as to the supply of, and the demand for, such apricots must await the development of the crop and adequate information thereon was not available to the Washington Apricot Marketing Committee until June 22, 1962; recommendation as to the need for, and the extent of, regulation of shipments of such apricots was made at the meeting of said committee on June 22, 1962, after consideration of all available information relative to the supply and demand conditions for such apricots, at which time the recommendation and supporting information were submitted to the Department; shipments of the current crop of such apricots will begin on or about July 4, 1962, and this section should be applicable, insofar as practicable, to all shipments of such apricots in order to effectuate the declared policy of the act; and compliance with the provisions of this section will not require of handlers any preparation therefor which cannot be completed by the effective time hereof.

(b) *Order.* (1) During the period beginning at 12:01 a.m., P.s.t., July 2, 1962, and ending at 12:01 a.m., P.s.t., October 1, 1962, no handler shall handle any container of apricots unless:

(i) Such apricots grade not less than Washington No. 1: *Provided,* That such apricots are at least reasonably uniform in color;

(ii) Such apricots measure not less than 1⅝ inches in diameter: *Provided,* That apricots of the Blenheim variety and apricots of the Tilton variety when packed in unlidded wooden boxes may measure not less than 1¼ inches; and: *Provided, further,* That not more than 10 percent, by count, of such apricots may fail to meet the applicable minimum diameter requirement; and

(iii) Such apricots when packed in lidded containers are row-faced: *Provided,* That this requirement shall not apply to apricots in experimental containers approved pursuant to § 922.110.

(2) All apricots handled during the period specified in this section are subject also to all applicable container restrictions which are in effect pursuant to this part during such period.

(3) Notwithstanding any other provision of this section, any individual shipment of apricots which (i) does not, in the aggregate, exceed 150 pounds may be handled without regard to the restrictions specified in this paragraph (grade, size, pack, and container) or in § 922.41 (Assessments) or § 922.55 (Certification), (ii) is sold at the orchard, is in excess of 150 pounds but not in excess of 500 pounds, and is for home use only and not for resale in commercial channels may be handled without regard to the restrictions in § 922.55 (Certifica-

tion) or the pack and container requirements of this paragraph: *Provided*, That the fruit so shipped meets the grade and size requirements of this paragraph and is subject to § 922.41 (Assessments) and is reported to the committee on forms furnished by the committee in the manner specified therein.

(4) Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as given to the respective term in said amended marketing agreement and order; "diameter" and "Washington No. 1" shall have the same meaning as when used in the Washington State Department of Agriculture Standards for Apricots (1953); and "reasonably uniform in color" means that the apricots in the individual container do not show sufficient variation in color to materially affect the general appearance of the apricots.

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

Dated: June 27, 1962.

PAUL A. NICHOLSON,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 62-6411; Filed, June 29, 1962; 8:51 a.m.]

Chapter X—Agricultural Stabilization and Conservation Service (Marketing Agreements and Orders), Department of Agriculture

[Milk Order 1]

PART 1001—MILK IN GREATER BOSTON, MASSACHUSETTS, MARKETING AREA

Order Amending Order

§ 1001.0 Findings and determinations.

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

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

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

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

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

(b) *Additional findings.* (1) It is necessary in the public interest to make this order amending the order effective not later than July 1, 1962. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

(2) The provisions of the said order are known to handlers. The recommended decision of the Assistant Secretary, United States Department of Agriculture, was issued May 31, 1962, and the decision of the Under Secretary containing all amendment provisions of this order was issued June 25, 1962. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective July 1, 1962, and that it would be contrary to the public interest to delay the effective date of this amendment for 30 days afer its publication in the FEDERAL REGISTER. (Sec. 4(c), Administrative Procedure Act, 5 U.S.C. 1001–1011.)

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

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

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

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

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

1. In § 1001.3, the number "40" in paragraphs (b) and (c) is changed to "80" and paragraph (f) is revised as follows:

§ 1001.3 Definitions of plants.

* * * * *

(f) "Distributing plant" means any processing and packaging plant: (1) With route disposition in the marketing area in the month of not less than 10 percent of its receipts from dairy farmers or of its total receipts of fluid milk products; and (2) with total Class I disposition in the month or in either of the two preceding months of at least 50 percent of its total receipts of fluid milk products in the corresponding month.

2. In § 1001.20, the word "August" in the introductory text of paragraph (d) is changed to "July" and new paragraphs (d)(3) and (f) are added as follows:

§ 1001.20 Basic pooling requirements.

* * * * *

(d) * * *

(3) No plant shall be eligible for pool plant status under this paragraph in November of any year unless it has met the requirements of paragraph (c) of this section in one of the months of July through October of that year.

* * * * *

(f) It is a supply plant from which a greater quantity of fluid milk products is shipped to regulated distributing plants under this order than to plants to which qualifying shipments of fluid milk products may be made under any other New England Federal order, and from which the total quantity of fluid milk products shipped to all plants to which qualifying shipments of fluid milk products may be made under any New England Federal order is at least 15 percent of its total receipts of milk from dairy farmers.

§ 1001.42 [Amendment]

3. In § 1001.42(c), the phrase "Within 40" in Column A of the table is changed to "Within 80" and the second, third and fourth lines in Columns A, B, C, and D of the table are revoked.

4. In § 1001.48(a) the word "continental" in subparagraph (2) is changed to "the" and subparagraph (1) is revised as follows:

§ 1001.48 Computation of New England basic Class I price.

* * * * *

(a) * * *

(1) Divide by 1.0025 the monthly wholesale price index for all commodities as reported by the Bureau of Labor Statistics, United States Department of Labor, with the years 1957–59 as the base period.

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

Effective date: July 1, 1962.

Signed at Washington, D.C., on June 27, 1962.

JOHN P. DUNCAN, JR.,
Assistant Secretary.

[F.R. Doc. 62-6414; Filed, June 29, 1962; 8:51 a.m.]

[Milk Order 6]

PART 1006—MILK IN SPRINGFIELD, MASSACHUSETTS, MARKETING AREA

Order Amending Order

§ 1006.0 Findings and determinations.

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

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

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

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

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

(b) *Additional findings.* (1) It is necessary in the public interest to make this order amending the order effective not later than July 1, 1962. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

(2) The provisions of the said order are known to handlers. The recommended decision of the Assistant Secretary, United States Department of Agriculture, was issued May 31, 1962, and the decision of the Under Secretary containing all amendment provisions of this order was issued June 25, 1962. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective July 1, 1962, and that it would be contrary to the public interest to delay the effective date of this amendment for 30 days after its publication in the FEDERAL REGISTER. (Sec. 4(c), Administrative Procedure Act, 5 U.S.C. 1001–1011.)

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

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

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

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

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

1. In § 1006.3, paragraph (f) is revised as follows:

§ 1006.3 Definitions of plants.

* * * * *

(f) "Distributing plant" means any processing and packaging plant: (1) With route disposition in the marketing area in the month of not less than 10 percent of its receipts from dairy farmers or of its total receipts of fluid milk products; and (2) with total Class I disposition in the month or in either of the two preceding months of at least 50 percent of its total receipts of fluid milk products in the corresponding month.

2. In § 1006.48(a), the word "continental" in subparagraph (2) is changed to "the" and subparagraph (1) is revised as follows:

§ 1006.48 Computation of New England basic Class I price.

* * * * *

(a) * * *

(1) Divide by 1.0025 the monthly wholesale price index for all commodities as reported by the Bureau of Labor Statistics, United States Department of Labor, with the years 1957–59 as the base period.

§ 1006.64 [Amendment]

3. In § 1006.64(a), the town of "Brookline" is added to the list of Vermont towns.

4. In § 1006.20, the number "30" in paragraph (c) is changed to "15" and a new paragraph (d) is added as follows:

§ 1006.20 Basic pooling requirements.

* * * * *

(d) It is a supply plant from which a greater quantity of fluid milk products is shipped to regulated distributing plants under this order than to plants to which qualifying shipments of fluid milk products may be made under any other New England Federal order, and from which the total quantity of fluid milk products shipped to all plants to which qualifying shipments of fluid milk products may be made under any New England Federal order is at least 15 percent of its total receipts of milk from dairy farmers.

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

Effective date: July 1, 1962.

Signed at Washington, D.C., on June 27, 1962.

JOHN P. DUNCAN, JR.,
Assistant Secretary.

[F.R. Doc. 62-6415; Filed, June 29, 1962; 8:52 a.m.]

[Milk Order 7]

PART 1007—MILK IN WORCESTER, MASSACHUSETTS, MARKETING AREA

Order Amending Order

§ 1007.0 Findings and determinations.

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

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

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

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

sufficient quantity of pure and wholesome milk, and be in the public interest; and

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

(b) *Additional findings.* (1) It is necessary in the public interest to make this order amending the order effective not later than July 1, 1962. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

(2) The provisions of the said order are known to handlers. The recommended decision of the Assistant Secretary, United States Department of Agriculture, was issued May 31, 1962, and the decision of the Under Secretary containing all amendment provisions of this order was issued June 25, 1962. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective July 1, 1962, and that it would be contrary to the public interest to delay the effective date of this amendment for 30 days after its publication in the FEDERAL REGISTER. (Sec. 4(c), Administrative Procedure Act, 5 U.S.C. 1001–1011.)

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

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

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

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

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

1. In § 1007.3, paragraph (f) is revised as follows:

§ 1007.3 Definitions of plants.

* * * * *

(f) "Distributing plant" means any processing and packaging plant: (1) With route disposition in the marketing area in the month of not less than 10 percent of its receipts from dairy farmers or of its total receipts of fluid milk products; and (2) with total Class I disposition in the month or in either of the two preceding months of at least 50 percent of its total receipts of fluid milk products in the corresponding month.

2. In § 1007.48(a) the word "continental" in subparagraph (2) is changed to "the" and subparagraph (1) is revised as follows:

§ 1007.48 Computation of New England basic Class I price.

* * * * *

(a) * * *

(1) Divide by 1.0025 the monthly wholesale price index for all commodities as reported by the Bureau of Labor Statistics, United States Department of Labor, with the years 1957–59 as the base period.

3. In § 1007.20, the number "30" in paragraph (c) is changed to "15" and a new paragraph (d) is added as follows:

§ 1007.20 Basic pooling requirements.

* * * * *

(d) It is a supply plant from which a greater quantity of fluid milk products is shipped to regulated distributing plants under this order than to plants to which qualifying shipments of fluid milk products may be made under any other New England Federal order, and from which the total quantity of fluid milk products shipped to all plants to which qualifying shipments of fluid milk products may be made under any New England Federal order is at least 15 percent of its total receipts of milk from dairy farmers.

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

Effective date: July 1, 1962.

Signed at Washington, D.C., on June 27, 1962.

JOHN P. DUNCAN, Jr.,
Assistant Secretary.

[F.R. Doc. 62-6416; Filed, June 29, 1962; 8:52 a.m.]

[Milk Order 14]

PART 1014—MILK IN SOUTHEASTERN NEW ENGLAND MARKETING AREA

Order Amending Order

§ 1014.0 Findings and determinations.

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

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

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

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

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

(b) *Additional findings.* (1) It is necessary in the public interest to make this order amending the order effective not later than July 1, 1962. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

(2) The provisions of the said order are known to handlers. The recommended decision of the Assistant Secretary, United States Department of Agriculture, was issued May 31, 1962, and the decision of the Under Secretary containing all amendment provisions of this order was issued June 25, 1962. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective July 1, 1962, and that it would be contrary to the public interest to delay the effective date of this amendment for 30 days after its publication in the FEDERAL REGISTER. (Sec. 4(c), Administrative Procedure Act, 5 U.S.C. 1001–1011.)

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

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

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

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who during the determined representative

period were engaged in the production of milk for sale in the marketing area.

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

1. In § 1014.2, paragraph (e) is revised as follows:

§ 1014.2 Definitions of persons.

* * * * *

(e) "Producer" means any dairy farmer (except a dairy farmer for other markets, a dairy farmer with respect to exempt milk delivered, any person holding producer-handler status under any Federal order, or a dairy farmer who is a producer under another Federal order with respect to milk diverted from a plant subject to such other order) whose milk is delivered from his farm to a pool plant or is diverted from a pool plant to a plant specified in subparagraphs (1) through (3) of this paragraph if the handler, in filing his monthly report pursuant to § 1014.30, reports the milk as receipts from a producer at such pool plant: *Provided,* That this definition shall not include a local or state government not engaged in the resale of any packaged fluid milk products on routes, if such governing body so elects by written notification to the market administrator and the handler to which it delivers, in which event such election shall be effective for the 12 months beginning with the month in which the election is made, and for each subsequent month until cancelled in writing: *And provided further,* That any dairy farmer whose milk is diverted on more than the number of days specified shall not be considered to qualify under this paragraph with respect to any of his deliveries of milk during such month:

(1) A regulated plant of another handler;

(2) A regulated plant of the same handler in the same plant zone; or

(3) An unregulated plant under the following conditions:

(i) Milk moved from such farm is not diverted to an unregulated plant from such pool plant on more days during the 12 months ending with the current month than it is delivered to such pool plant; or

(ii) Milk moved from such farm is moved in a tank truck in which it is commingled with milk from other farms, the milk from a majority of which farms is diverted from such pool plant during the month in accordance with subdivision (i) of this subparagraph.

2. In § 1014.3, paragraphs (c)(1), (c)(3)(i), and (d) and the introductory text of paragraph (c)(3) are revised as follows:

§ 1014.3 Definitions of plants.

* * * * *

(c) * * *

(1) Any receiving plant (except the plant of a producer-handler under any Federal order) with route disposition in the marketing area in the month of not less than 10 percent of its receipts from dairy farmers and with total Class I disposition in the month or in either of the two preceding months of at least 50 percent of its total receipts of fluid milk products in the corresponding month, unless the market administrator determines that such plant disposed of a greater proportion of its Class I milk in another Federal order marketing area on routes than was so disposed of in this marketing area.

* * * * *

(3) Except as provided in subdivisions (i) through (iv) of this subparagraph, any receiving plant (other than a plant fully regulated under the provisions of any Federal order on the basis of its route disposition) from which a greater quantity of fluid milk products is shipped during the month to a pool plant qualified pursuant to subparagraph (1) of this paragraph or to a regulated plant under this order other than a pool plant than to plants to which qualifying shipments of fluid milk products may be made under any other New England Federal order, and from which the total quantity of fluid milk products shipped to all plants to which qualifying shipments of fluid milk products may be made under any New England Federal order is at least 15 percent of its total receipts of milk from dairy farmers: *Provided,* That any plant qualifying for pooling under the Boston order on the basis of greater shipments under such order, but which is designated as a nonpool plant under the Boston order for such month, and from which the qualifying shipments under this order are at least 15 percent of its receipts of milk from dairy farmers and are greater than under any other order except Boston shall also qualify under this subparagraph.

(i) Any plant qualifying as a pool plant pursuant to this subparagraph, other than a plant which retains automatic pool plant status for the month under subdivision (ii) or (iii) of this subparagraph, shall be a nonpool plant in any month of December through June in which it retains automatic pool plant status under another New England Federal order.

* * * * *

(d) "Regulated plant" means (1) any pool plant, or (2) any other plant (except the plant of a producer-handler under any Federal order) with route disposition in the marketing area in the month of not less than 10 percent of its total receipts of fluid milk products and with total Class I disposition in the month or in either of the two preceding months of at least 50 percent of its total receipts of fluid milk products in the corresponding month, unless the market administrator determines that such plant disposed of a greater proportion of its Class I milk in another marketing area on routes.

3. In § 1014.41(a), the word "continental" in subparagraph (2) is changed to "the" and subparagraph (1) is revised as follows:

§ 1014.41 Computation of New England basic Class I price.

* * * * *

(a) * * *

(1) Divide by 1.0025 the monthly wholesale price index for all commodities as reported by the Bureau of Labor Statistics, United States Department of Labor, with the years 1957–59 as the base period.

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

Effective date: July 1, 1962.

Signed at Washington, D.C., on June 27, 1962.

JOHN P. DUNCAN, Jr.,
Assistant Secretary.

[F.R. Doc. 62–6417; Filed, June 29, 1962; 8:52 a.m.]

[Milk Order 15]

PART 1015—MILK IN CONNECTICUT MARKETING AREA

Order Amending Order

§ 1015.0 Findings and determinations.

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

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

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

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

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified

in, a marketing agreement upon which a hearing has been held.

(b) *Additional findings.* (1) It is necessary in the public interest to make this order amending the order effective not later than July 1, 1962. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

(2) The provisions of the said order are known to handlers. The recommended decision of the Assistant Secretary, United States Department of Agriculture, was issued May 31, 1962, and the decision of the Under Secretary containing all amendment provisions of this order was issued June 25, 1962. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective July 1, 1962, and that it would be contrary to the public interest to delay the effective date of this amendment for 30 days after its publication in the FEDERAL REGISTER. (Sec. 4(c), Administrative Procedure Act, 5 U.S.C. 1001–1011.)

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

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

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

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

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

1. In § 1015.3, a colon is placed after the word "means" which immediately precedes paragraph (c)(1), paragraphs (c)(1), (c)(2)(i), and (d) and the introductory text of paragraph (c)(2) are revised, and a new paragraph (c)(2)(vi) is added as follows:

§ 1015.3 Definitions of plants.

* * * * *

(c) * * *

(1) Any receiving plant (except the plant of a producer-handler under any Federal order) with route disposition in the marketing area in the month of not less than 10 percent of its receipts from dairy farmers and with total Class I disposition in the month or in either of the two preceding months of at least 50 percent of its total receipts of fluid milk products in the corresponding month, unless the market administrator determines that such plant disposed of a greater proportion of its Class I milk in another Federal order marketing area on routes than was so disposed in the marketing area.

(2) Except as provided in subdivisions (i) through (vi) of this subparagraph, any receiving plant (other than a plant fully regulated under the provisions of any Federal order on the basis of its route disposition) from which a greater quantity of fluid milk products is shipped during the month to a pool plant qualified pursuant to subparagraph (1) of this paragraph, to a producer-handler or to a regulated plant under this order other than a pool plant than to plants to which qualifying shipments of fluid milk products may be made under any other New England Federal order, and from which the total quantity of fluid milk products shipped to all plants to which qualifying shipments of fluid milk products may be made under any New England Federal order is at least 15 percent of its total receipts of milk from dairy farmers: *Provided,* That any plant qualifying for pooling under the Boston order on the basis of greater shipments under such order, but which is designated as a nonpool plant under the Boston order for such month, and from which the qualifying shipments under this order are at least 15 percent of its receipts of milk from dairy farmers, and are greater than under any other order except Boston shall also qualify under this subparagraph: *And provided further,* That in the case of any plant for which qualification pursuant to subdivision (vi) of this subparagraph is requested, shipments to plants in this market, for the purpose described above in this subparagraph, shall include all deliveries of milk by the cooperative association and by its producer-members in the manner described in such subdivision (vi) of this subparagraph.

(i) Any plant qualifying as a pool plant pursuant to this subparagraph, other than a plant which retains automatic pool plant status for the month under subdivision (ii) or (iii) of this subparagraph, shall be a nonpool plant in any month of December through June in which it retains automatic pool plant status under another New England Federal order.

* * * * *

(vi) Subject to subdivisions (ii), (iii) and (iv) of this subparagraph, that receiving plant operated by an association of producers (which shall be the plant closest to Hartford, Connecticut, if more than one plant is operated by such association) shall be a pool plant in any month in which the total quantity of milk shipped therefrom to a pool plant qualified pursuant to subparagraph (1) of this paragraph, to a producer-handler or to a regulated plant other than a pool plant, plus the total quantity of milk received directly from farms at pool plants qualified pursuant to subparagraph (1) of this paragraph from producers who are members of such association, is at least 50 percent of the milk delivered by dairy farmer-members of such association to all pool plants and to the receiving plant for which pooling qualification pursuant to this subdivision is requested in writing on or before the 15th day of such month: *Provided,* That a receiving plant which has pooling status under this subdivision may be a nonpool plant for the month if the operating association submits, on or before the 15th day of the month to which nonpool status is to apply, a written request to the market administrator to withdraw such plant from pool plant status, and, if so withdrawn, such plant may not requalify under this subdivision prior to the next following July: *And provided further,* That qualification for pooling under this subdivision shall not affect in any way the requirements of subdivision (v) of this subparagraph for unit pooling.

(d) "Regulated plant" means (1) any pool plant, or (2) any other plant (except the plant of a producer-handler under any Federal order) with route disposition in the marketing area in the month of not less than 10 percent of its total receipts of fluid milk products and with total Class I disposition in the month or in either of the two preceding months of at least 50 percent of its total receipts of fluid milk products in the corresponding month, unless the market administrator determines that such plant disposed of a greater proportion of its Class I milk in another marketing area on routes.

2. In § 1015.22(c), subparagraph (2) is revised as follows:

§ 1015.22 Transfers and diversions of fluid milk products.

* * * * *

(c) * * *

(2) In Class II milk to the extent it is not assigned to Class I–B (i) if diverted or transferred in bulk, or (ii) if transferred as a packaged fluid milk product containing at least 3 percent butterfat, to a pool plant as defined in Federal Order No. 2 or to any plant from which a greater aggregate quantity of fluid milk products is disposed of on routes in the New York-New Jersey marketing area under Order No. 2 than is disposed of in the Connecticut marketing area: *Provided,* That such skim milk or butterfat so transferred or diverted shall be classified as Class I milk to the extent that it is assigned to Class I–A under Federal Order No. 2 and not subject to charges specified in § 1002.83 of such order.

3. In § 1015.41(a) the word "continental" in subparagraph (2) is changed to "the" and subparagraph (1) is revised as follows:

§ 1015.41 Computation of New England basic Class I price.

* * * * *

(a) * * *

(1) Divide by 1.0025 the monthly wholesale price index for all commodities as reported by the Bureau of Labor Statistics, United States Department of Labor, with the years 1957–59 as the base period.

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

Effective date: July 1, 1962.

Signed at Washington, D.C., on June 27, 1962.

JOHN P. DUNCAN, JR.,
Assistant Secretary.

[F.R. Doc. 62-6418; Filed, June 29, 1962; 8:52 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter II—Civil Aeronautics Board

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. No. ER-358]

PART 288—EXEMPTION OF AIR CARRIERS FOR SHORT NOTICE MILITARY CONTRACTS

Standard Mileage

JUNE 27, 1962.

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 27th day of June 1962.

Part 288 of the Board's Economic Regulations, 14 CFR Part 288, exempts air carriers, subject to certain conditions, limitations and requirements, from sections 401 and 403 of the Federal Aviation Act of 1958, to enable such carriers to perform charter services for the Military Air Transport Service (MATS) on short notice.

Section 288.7 of Part 288, conditions the exemptions on a minimum reasonable level of compensation for such services and prescribes minimum charges per passenger-mile and per cargo ton-mile, the minimum amount of traffic on which these charges must be based, and the computation of mileages to which such charges apply. The minimum charges set forth in § 288.7 are also considered as the fair and reasonable charges for the granting of individual exemptions to air carriers for the purpose of performing long term charter services for MATS. The Board's policy for granting such exemptions is set forth in § 399.36 of the Board's Statements of Policy, 14 CFR Part 399.

This section was amended, first to establish a standard mileage rule, including a minimum mileage standard for transpacific services with no required intermediate stops (Amendment 1, ER-342), and second, to provide for reduced minimum charges, a new definition of "round-trip services", and to specify the minimum passenger and cargo loads for additional aircraft types (Amendment 2, ER-347). Prior to the effective date of Amendment 2, the Board received from Slick Airways, Inc. (Slick) and The Flying Tiger Line Inc. (Flying Tiger), petitions for reconsideration and motions for stay of the Amendment insofar as it established a reduced minimum charge of 21.5 cents per ton-mile for one-way cargo charters. The Board in Amendment 3 to Part 288 (ER-349), effective February 1, 1962, postponed the effective date of this provision insofar as it related to one-way cargo charters in transpacific operations. The Board's decision to postpone the effective date of this provision of Amendment 2 was largely based upon the allegations of Slick and Flying Tiger that they received an unreasonably low level of compensation as a result of the excessive amount of mileage they must absorb in their transpacific cargo operations.

The Board on May 17, 1962, adopted Amendment 4 to Part 288, ER-356[1] which is to become effective on July 1, 1962. Amendment 4 established, inter alia, a series of standard routings to be used in determining the rate-making mileage between transpacific points and provided that operations at rates computed via North Pacific routings must normally be flown via that routing. The basic purpose was to provide a rule whereby air carriers could substantially reduce the amount of mileage which they are required to absorb under the presently effective rule and accordingly receive a reasonable level of compensation for the service they provide. Amendment 4 allows the 21.5-cent rate to go into effect.

World Airways, Inc. (World) and Slick have filed petitions requesting reconsideration and motions for stay of Amendment 4 of Part 288 insofar as the amendment changes the presently effective standard mileage rule to require a carrier to operate a North Pacific route where the award is priced on the basis of North Pacific mileage. Slick and World in their petitions allege that the North Pacific route is more hazardous and costly to operate than the mid-Pacific routing, and that the "dual mileage" concept embodied in Amendment 4 will result in considerable inconvenience and added cost to MATS. Both of these carriers submitted information and data in support of these allegations. These carriers did not request restoration of the 22.5-cent per ton-mile rate for one-way cargo operations.

Flying Tiger has filed a petition for reconsideration and a motion for stay of Amendment 4 urging the Board to keep effective the 22.5-cent per ton-mile rate as the minimum for one-way cargo operations or in the alternative to raise the minimum available cabin load for CL-44 aircraft engaged in cargo operations from 28 tons to 31 tons, and the minimum available cabin load for L-1049H aircraft from 18 tons to 20 tons. Slick filed an answer in support of Flying Tiger's petition insofar as Flying Tiger urges an increase in minimum available cabin load for CL-44 and L-1049H aircraft.

The Board has decided to make Amendment 4 effective on July 1, 1962. However, we are amending the standard mileage rule contained therein insofar as transpacific operations are involved to permit air carriers to base their bids on mileage computed via the north-Pacific routings, but operate their aircraft via mid-Pacific routings.

The Board is denying Flying Tiger's motion for stay of the effective date of the 21.5-cent minimum rate. Although Amendment 4 was issued by the Board on May 17, 1962, Flying Tiger did not file its petition for reconsideration and motion for stay until June 14, 1962. Nor has petitioner made any claim that it will suffer serious financial losses during the period required for the Board to evaluate the petition on the merits.

With respect to Flying Tiger's petition for reconsideration of the 21.5-cent rate, we are not persuaded that that rate is uneconomic for this carrier. The rate was developed on the basis of industry-wide operating results and other data, and Flying Tiger has not established why such rate would be uneconomic for it, especially considering the fact that due to the range of its equipment it is not in a position where it must operate short flight stages and, therefore, does not have to absorb significant amounts of circuitous mileage for the bulk of its operations. Moreover, the carrier operates the most modern and efficient turbine-powered all-cargo aircraft which should enable it to operate at reduced costs. We will therefore deny the request for an increase in the rate, but will defer action on Flying Tiger's request insofar as it seeks an increase in the available cabin load for CL-44 and L-1049H aircraft until we have made a detailed analysis of the information and data contained in Flying Tiger's petition.

The Board has been advised since the adoption of Amendment 4 that the bulk of the military traffic moving under MATS contract awards across the Pacific during fiscal year 1963 will be moved in aircraft with north-Pacific capability. Thus, 80 percent of all cargo traffic will be moved in CL-44 aircraft and 74 percent of all passenger traffic will be moved in pure jet and CL-44 aircraft. These percentages represent a substantial increase over last year of the amount of traffic moving in aircraft with north-Pacific capability. This will reduce the incidence of involuntary mileage absorption by bidders who are not capable of flying the northern route.

The amendment to the standard mileage rule adopted herein will minimize mileage absorption by air carriers, even after elimination of the requirement that services provided on this basis of north-Pacific mileage be operated via that routing. In Amendment 4 the Board established a routing chart (Schedule A to § 288.7(d)(2)) which sets forth routings between various points to which MATS traffic is moved. This routing chart will become effective under the revised standard mileage rule adopted herein. Thus, air carriers will be required to base the mileage factor in their bids on the mileage via the routings set forth in Schedule A as amended herein to eliminate the dual mileage concept. For example, under the presently effective rule a carrier may bid on traffic originating at Travis with a destination of Thailand, on the basis of the direct statute miles from Travis to Anchorage and Thailand. Since the carrier must operate over a much longer route in order to arrive at its destination in Thailand, the carrier would absorb a substantial amount of mileage. However, the routing chart will not permit such excessive absorption. Thus, a carrier bidding on traffic moving from Travis to Thailand must base its bid on the mileage via Anchorage, Japan, Clark AFB, and Thailand.

[1] 27 F.R. 4806.

In light of the foregoing, the Board now is of the view that the rate making principle of charging a single fare or rate between two points irrespective of the route operated can and should remain applicable to the type of operation now conducted by air carriers for the military in the transpacific. This rate making principle is well established and has for years been applied by air carriers engaged in regularly scheduled service between the west coast of the United States and Japan. The Board can no longer find any justification for deviating from the principle with respect to transpacific military charter operations, particularly since the carriers now engaged in such operations either have the aircraft capability of operating over the North Pacific route or prefer the mid-Pacific route on the basis of their cost experience. For the above reason, the Board is of the view that the proper standard should be the mileage via the shorter north-Pacific route.

The Board is aware that the instant amendment constitutes a relaxation of the stringency of the mileage standard, correspondingly increasing the area of management discretion of the carriers. The new rule does not foreclose all possibilities of uneconomic bids of carriers. The responsibility for not undertaking operations which will economically weaken the carrier lies therefore with management. However, the Board will closely monitor developments and may at any time require any carrier to submit information on its operations under this rule. In case effects are observed to flow from this Amendment which are contrary to the public interest, the Board will take corrective action.

Since the action taken herein relieves air carriers of an existing restriction, notice and public procedure thereon are unnecessary and this amendment may be made effective on less than 30 days' notice.

Accordingly, the Board hereby amends §§ 288.7(d)(2) and 288.8(c) adopted in Amendment 4 to Part 288 (ER–356) of the Board's Economic Regulations, 14 CFR Part 288, effective July 1, 1962, by

1. Amending § 288.7(d)(2) to read:

(2) *Transpacific services.* In the case of transpacific services between the 48 contiguous states and points beyond Alaska or Hawaii, the general rule shall not apply but the mileage shall be computed as prescribed in Schedule A incorporated in this paragraph and attached hereto.

2. Deleting paragraph (c) *Deviation report,* of § 288.8.

(Secs. 204(a), and 416 of the Federal Aviation Act of 1958; 72 Stat. 743, 771; 49 U.S.C. 1324, 1386)

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON, *Secretary.*

TRANSPACIFIC ROUTINGS

Between	And									
	Thailand	South Viet Nam	Philippine Islands	Guam	Wake	Hawaii	Formosa	Okinawa	Japan	Alaska
U.S. west coast [1]	8 or 5	8 or 5	7 or 4	7	6	1	14 or 4	7 or 4	7 or 2	1
Alaska	15	15	3				3	3	1	
Japan	12	12	1	1	1	9	1	1		
Okinawa	12	12	1	1	1	9	1			
Formosa	12	12	1	1	11	10				
Hawaii	13	13	9	9	1					
Wake	12	12	1	1						
Guam	12	12	1							
Philippine Islands	1	1								
South Viet Nam	1									

Routings

1. Direct.
2. Via Anchorage.
3. Via Tachikawa.
4. Via Anchorage—Tachikawa.
5. Via Anchorage—Tachikawa—Clark.
6. Via Honolulu.
7. Via Honolulu—Wake.
8. Via Honolulu—Wake—Clark.
9. Via Wake.
10. Via Wake—Guam.
11. Via Guam.
12. Via Clark.
13. Via Wake—Clark.
14. Via Honolulu—Wake—Guam.
15. Via Tachikawa—Clark.

NOTE: Alternative routings 7, 8, and 14 are to be used for calculation of the mileage if MATS requires that an intermediate point along the mid-Pacific route be served.

[1] Any place in the States of California, Oregon or Washington.

[F.R. Doc. 62–6401; Filed, June 29, 1962; 8:50 a.m.]

Chapter III—Federal Aviation Agency

SUBCHAPTER C—AIRCRAFT REGULATIONS

[Reg. Docket No. 1273; Amdt. 458]

PART 507—AIRWORTHINESS DIRECTIVES

Curtiss-Wright C–46 Series Aircraft

Amendment 427, 27 F.R. 3799 (AD 62–10–2), requires correction of fire protection deficiencies on Curtiss-Wright C–46 Series aircraft. Certain modifications are required within 250 hours' time in service after the effective date of the AD. However, it has subsequently been determined that this period of time does not provide the operators with sufficient time to secure the necessary parts and materials to accomplish the required modifications and that such compliance time may be extended to 500 hours time in service without adversely affecting safety. The compliance time for paragraphs (a) (1), (2) and (3) and (b)(4)(vi) is changed from 250 to 500 hours' time in service. An explanatory notation also is being added to paragraph (b)(4) to further identify the fire detectors which are to be removed.

Since this amendment relaxes a requirement and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective upon publication in the FEDERAL REGISTER.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (25 F.R. 6489), § 507.10(a) of Part 507 (14 CFR Part 507), is hereby amended as follows:

Amendment 427, 27 F.R. 3799, Curtiss-Wright C–46 Series aircraft, is amended by

1. Deleting the first and second compliance statements and inserting in lieu thereof the following compliance statement to read:

Compliance required within the next 500 hours of time in service after May 22, 1962.

2. Changing paragraph (b)(4) to read as follows:

(b)(4) The Fenwal continuous type fire detectors (non-repeatable, fusible-alloy, obsoleted in 1950), which were originally provided, must be removed and replaced with unit or continuous type fire detectors conforming with FAA Technical Standard Order, TSO-C11. Such detectors shall also meet the requirements specified in subparagraphs (i) through (vi). If unit type detectors are used, they shall be spaced as specified in subparagraphs (i) and (ii) and continuous type detectors, if used, shall be so installed as to provide the same coverage.

This amendment shall become effective June 30, 1962.

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

Issued in Washington, D.C., on June 25, 1962.

G. S. MOORE, *Acting Director, Flight Standards Service.*

[F.R. Doc. 62–6347; Filed, June 29, 1962; 8:45 a.m.]

SUBCHAPTER E—AIR NAVIGATION REGULATIONS

[Airspace Docket No. 62–WE–85]

PART 601—DESIGNATION OF CONTROLLED AIRSPACE, REPORTING POINTS, POSITIVE CONTROL ROUTE SEGMENTS, AND POSITIVE CONTROL AREAS

Alteration of Control Area Extension

The purpose of this amendment to § 601.1301 of the regulations of the Administrator is to alter the Winslow, Ariz., control area extension.

The Winslow control area extension is presently designated, in part, with reference to the Winslow radio range. The Federal Aviation Agency has scheduled the conversion of the Winslow radio range to a nondirectional radio beacon. Accordingly, action is taken herein to substitute the 174° and 354° True bearings from the Winslow radio beacon for the north and south courses of the Winslow radio range in the description of the control area extension.

Since the change effected by this amendment is minor in nature, and imposes no additional burden on any person, notice and public procedure hereon are unnecessary. However, since it is necessary that sufficient time be allowed to permit appropriate changes to be made on aeronautical charts, this amendment 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 (25 F.R. 12582), § 601.1301 (14 CFR 601.1301) is amended to read:

§ 601.1301 Control Area Extension (Winslow, Ariz.).

Within 5 miles either side of the 174° and 354° bearings from the Winslow, Ariz., RBN extending from 25 miles N to 25 miles S of the RBN; within 5 miles either side of the Winslow VORTAC 134° and 314° radials extending from 25 miles NW to 25 miles SE of the VORTAC; and the airspace NE of Winslow within a 20-mile radius of the Winslow VORTAC extending clockwise from VOR Federal airway No. 95 to VOR Federal airway No. 12.

This amendment shall become effective 0001 e.s.t., August 23, 1962.

(Sec. 307(a), 72 Stat. 749; 49 U.S.C. 1348)

Issued in Washington, D.C., on June 26, 1962.

D. D. THOMAS,
Director, Air Traffic Service.

[F.R. Doc. 62-6348; Filed, June 29, 1962; 8:45 a.m.]

[Airspace Docket No. 62-EA-46]

PART 601—DESIGNATION OF CONTROLLED AIRSPACE, REPORTING POINTS, POSITIVE CONTROL ROUTE SEGMENTS, AND POSITIVE CONTROL AREAS

Alteration of Control Zone

The purpose of this amendment to § 601.2202 of the regulations of the Administrator is to alter the description of the North Philadelphia, Pa., control zone.

The North Philadelphia control zone is designated, in part, with reference to the North Philadelphia radio range. The Federal Aviation Agency is planning to convert this facility to a nondirectional radio beacon. Because of technical and budgetary considerations, the date for conversion is uncertain at this time. However, to provide the scheduling flexibility necessary to effect this conversion, action is taken herein to substitute geographical coordinates for the radio range in the description of the North Philadelphia control zone.

Since this amendment is editorial in nature, and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and it may be made effective immediately.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator, § 601.2202 (14 CFR 601.2202) is amended to read:

§ 601.2202 North Philadelphia, Pa., control zone.

Within a 5-mile radius of the North Philadelphia Airport (latitude 40°04'45" N., longitude 75°00'35" W.); within 2 miles either side of the North Philadelphia VOR 039° radial, extending from the 5-mile radius zone to 12 miles NE of the VOR; and within 2 miles either side of the 048° bearing from latitude 40°-06'47" N., longitude 74°58'04" W., extending from the 5-mile radius zone to 12 miles NE of latitude 40°06'47" N., longitude 74°58'04" W., excluding the portion which coincides with the Willow Grove, Pa., control zone.

This amendment shall become effective upon the date of publication in the FEDERAL REGISTER.

(Sec. 307(a), 72 Stat. 749; 49 U.S.C. 1348)

Issued in Washington, D.C., on June 26, 1962.

D. D. THOMAS,
Director, Air Traffic Service.

[F.R. Doc. 62-6349; Filed, June 29, 1962; 8:45 a.m.]

[Airspace Docket No. 62-SW-31]

PART 601—DESIGNATION OF CONTROLLED AIRSPACE, REPORTING POINTS, POSITIVE CONTROL ROUTE SEGMENTS, AND POSITIVE CONTROL AREAS

Revocation of Control Zone

The purpose of this amendment to Part 601 of the regulations of the Administrator is to revoke the Harlingen, Texas, control zone.

The Department of the Air Force has advised that all military flying activities ceased at the Harlingen Air Force Base on June 9, 1962. Therefore, the Federal Aviation Agency has determined that the Harlingen control zone is no longer required as an assignment of controlled airspace and action is taken herein to revoke the Harlingen control zone.

Since the change effected by this amendment is less restrictive in nature than present requirements, and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and it may be made effective immediately.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (25 F.R. 12582) Part 601, (14 CFR Part 601) is amended by revoking the following section: § 601.-2404 *Harlingen, Tex., control zone.*

This amendment shall become effective upon the date of publication in the FEDERAL REGISTER.

(Sec. 307(a), 72 Stat. 749; 49 U.S.C. 1348)

Issued in Washington, D.C., on June 25, 1962.

D. D. THOMAS,
Director, Air Traffic Service.

[F.R. Doc. 62-6350; Filed, June 29, 1962; 8:45 a.m.]

[Airspace Docket No. 62-WE-12]

PART 601—DESIGNATION OF CONTROLLED AIRSPACE, REPORTING POINTS, POSITIVE CONTROL ROUTE SEGMENTS, AND POSITIVE CONTROL AREAS

Designation of Control Zone

On March 22, 1962, a notice of proposed rule making was published in the FEDERAL REGISTER (27 F.R. 2703) stating that the Federal Aviation Agency proposed to designate a control zone at Gillespie Airport, Calif.

No adverse comments were received regarding 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.

The substance of the proposed amendment having been published, therefore, pursuant to the authority delegated to me by the Administrator (25 F.R. 12582) and for the reasons stated in the notice, the following action is taken:

In the text of § 601.1983 (14 CFR 601.1983) the following is added: "San Diego, Calif.: San Diego County-Gillespie Field (latitude 32°49'26" N., longitude 116°58'18" W.), from 0600 to 2200 hours local time, daily."

This amendment shall become effective 0001 e.s.t., August 23, 1962.

(Sec. 307(a), 72 Stat. 749; 49 U.S.C. 1348)

Issued in Washington, D.C., on June 26, 1962.

D. D. THOMAS,
Director, Air Traffic Service.

[F.R. Doc. 62-6353; Filed, June 29, 1962; 8:45 a.m.]

[Airspace Docket No. 62-WA-25]

PART 602—DESIGNATION OF JET ROUTES, JET ADVISORY AREAS, AND HIGH ALTITUDE NAVIGATIONAL AIDS

Designation of Jet Advisory Area

On May 2, 1962, a notice of proposed rule making was published in the FEDERAL REGISTER (27 F.R. 4202), stating that the Federal Aviation Agency was considering the designation of an en route radar jet advisory area on the segment of Jet Route No. 13 from Albuquerque, N. Mex., to Denver, Colo.

No adverse comments were received regarding 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.

The substance of the proposed amendment having been published, therefore, pursuant to the authority delegated to me by the Administrator (25 F.R. 12582) and for the reasons stated in the notice, the following action is taken:

In § 602.200 *En route jet advisory areas* (14 CFR 602.200) the following is added:

Jet Route No. 13 jet advisory area.
Radar—Albuquerque, N. Mex., to Denver, Colo.

This amendment shall become effective 0001 e.s.t., August 23, 1962.

(Sec. 307(a), 72 Stat. 749; 49 U.S.C. 1348)

Issued in Washington, D.C., on June 26, 1962.

D. D. THOMAS,
Director, Air Traffic Service.

[F.R. Doc. 62-6351; Filed, June 29, 1962; 8:45 a.m.]

[Airspace Docket No. 61-WA-200]

PART 602—DESIGNATION OF JET ROUTES, JET ADVISORY AREAS AND HIGH ALTITUDE NAVIGATIONAL AIDS

Alteration of Jet Route Description

In Airspace Docket No. 61-WA-200, published in the FEDERAL REGISTER on May 30, 1962 (27 F.R. 5087), effective July 26, 1962, Jet Route No. 29 was redescribed in its entirety.

In the description of J-29, reference was made to Evansville, Ill. This reference should have been to Evansville, Ind., and action is taken herein to make this editorial change.

Since this action effects no substantive change to the rule as initially adopted, compliance with section 4 of the Administrative Procedure Act is unnecessary and the effective date of the final rule as initially adopted may be retained.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (25 F.R. 12582), effective immediately, Airspace Docket No. 61-WA-200 (27 F.R. 5087) is hereby modified as follows:

In Paragraph 1(c) "Evansville, Ill." is deleted and "Evansville, Ind." is substituted therefor.

(Sec. 307(a), 72 Stat. 749; 49 U.S.C. 1348)

Issued in Washington, D.C., on June 26, 1962.

D. D. THOMAS,
Director, Air Traffic Service

[F.R. Doc. 62-6352; Filed; June 29, 1962; 8:45 a.m.]

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

Department of State

Effective upon publication in the FEDERAL REGISTER, paragraph (w), subparagraphs (1) and (2), are added to § 6.302 as set out below.

§ 6.302 Department of State.

* * * * *

(w) *Office of the Inspector General, Foreign Assistance.*

(1) One Private Secretary to the Inspector General, Foreign Assistance.

(2) One Private Secretary to the Deputy Inspector General, Foreign Assistance.

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

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] MARY V. WENZEL,
Executive Assistant to the Commissioners.

[F.R. Doc. 62-6413; Filed, June 29, 1962; 8:51 a.m.]

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

National Aeronautics and Space Administration

Effective upon publication in the FEDERAL REGISTER, paragraph (e) is added to § 6.347 as set out below.

§ 6.347 National Aeronautics and Space Administration.

* * * * *

(e) One Secretary to the Special Assistant to the Administrator.

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

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] MARY V. WENZEL,
Executive Assistant to the Commissioners.

[F.R. Doc. 62-6448; Filed, June 29, 1962; 8:52 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket C-70]

PART 13—PROHIBITED TRADE PRACTICES

N. & E. Greenberg Sons, Inc., et al.

Subpart—Invoicing products falsely: § 13.1108 *Invoicing products falsely:* § 13.1108-45 *Fur Products Labeling Act.* Subpart—Misbranding or mislabeling: § 13.1255 *Manufacture or preparation:* § 13.1255-30 *Fur Products Labeling Act.* Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1865 *Manufacture or preparation:* § 13.1865-40 *Fur Products Labeling Act.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 8, 65 Stat. 179; 15 U.S.C. 45, 69f) [Cease and desist order, N. & E. Greenberg Sons, Inc., et al., New York, N.Y., Docket C-70, Feb. 2, 1962]

In the Matter of N. & E. Greenberg Sons, Inc., and Edward Greenberg, Louis Greenberg, Isadore Greenberg, Samuel Greenberg, and Harry Greenberg, Individually and as Officers of Said Corporation

Consent order requiring New York City furriers to cease violating the Fur Products Labeling Act by labeling and invoicing as natural, fur in fur products which was artificially colored, and failing to show on labels and invoices that other fur products were artificially colored.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That N. & E. Greenberg Sons, Inc., a corporation, and its officers, and Edward Greenberg, Louis Greenberg, Isadore Greenberg, Samuel Greenberg and Harry Greenberg, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction, or manufacture for introduction, into commerce, or the sale, advertising or offering for sale in commerce, or the transportation or distribution in commerce of fur products; or in connection with the sale, manufacture for sale, advertising, offering for sale, transportation or distribution of fur products which have been made in whole or in part of fur which has been shipped and received in commerce as "commerce", "fur" and "fur product" are defined in the Fur Products Labeling Act do forthwith cease and desist from:

1. Misbranding fur products by:

A. Representing directly or by implication on labels that the fur contained in the fur products is natural, when such is not the fact.

B. Failing to affix labels to fur products showing in words and figures plainly legible all the information required to be disclosed by each of the subsections of section 4(2) of the Fur Products Labeling Act.

2. Falsely or deceptively invoicing fur products by:

A. Representing directly or by implication on invoices that the fur contained in fur products is natural, when such is not the fact.

B. Failing to furnish to purchasers of fur products invoices showing all the information required to be disclosed by each of the subsections of section 5(b)(1) of the Fur Products Labeling Act.

3. Falsely or deceptively invoicing fur products by representing directly or by implication that respondents have a continuing guarantee on file with the Federal Trade Commission when such is not the fact.

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

Issued: February 2, 1962.

By the Commission.

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 62-6354; Filed, June 29, 1962; 8:46 a.m.]

[Docket C–68]

PART 13—PROHIBITED TRADE PRACTICES

Jack Levine et al.

Subpart—Invoicing products falsely: § 13.1108 *Invoicing products falsely:* § 13.1108–45 *Fur Products Labeling Act.* Subpart—Misbranding or mislabeling: § 13.1185 *Composition:* § 13.1185–90 *Wool Products Labeling Act;* § 13.1212 *Formal regulatory and statutory requirements:* § 13.1212–30 *Fur Products Labeling Act;* § 13.1212–90 *Wool Products Labeling Act.* Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1845 *Composition:* § 13.1845–30 *Fur Products Labeling Act;* § 13.1845–80 *Wool Products Labeling Act;* § 13.1852 *Formal regulatory and statutory requirements:* § 13.1852–35 *Fur Products Labeling Act;* § 13.1852–80 *Wool Products Labeling Act;* § 13.1865 *Manufacture or preparation;* § 13.1865–40 *Fur Products Labeling Act;* § 13.1880 *Old, used, or reclaimed as unused or new:* § 13.1880–40 *Fur Products Labeling Act;* § 13.1900 *Source or origin:* § 13.1900–40 *Fur Products Labeling Act:* § 13.1900–40(a) *Maker or seller;* § 13.1900–40(b) *Place.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; secs. 2–5, 54 Stat. 1128–1130; sec. 8, 65 Stat. 179; 15 U.S.C. 45, 68, 69f) [Cease and desist order, Jack Levine Furs, etc., Beverly Hills, Calif., Docket C–68, Feb. 1, 1962]

In the Matter of Jack Levine, Trading Under His Own Name and as Jack Levine Furs, Jale of California, and Jack Levine & Company

Consent order requiring a furrier in Beverly Hills, Calif., to cease violating the Fur Products Labeling Act by failing to disclose on labels and invoices the true animal name of the fur used in fur products, the country of origin of imported furs, and when furs were artificially colored; failing to identify the manufacturer, etc., on labels, and to show on invoices when products contained used fur, and to comply in other respects with labeling and invoicing requirements; and by making price and value claims in advertising in newspapers without maintaining adequate records disclosing the facts upon which such representations were based; and to cease violating the Wool Products Labeling Act by failing to disclose on labels the percentage of the total fiber weight of each of the fibers present in ladies' sweaters, and showing the fiber content of sweaters as "cashmere" without setting forth the actual percentage of cashmere fleece contained therein.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondent Jack Levine, an individual trading under his own name or as Jack Levine Furs, Jale of California, or Jack Levine & Company, or under any other name, and respondent's representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction, or manufacture for introduction, into commerce, or the sale, advertising or offering for sale in commerce, or the transportation or distribution in commerce, of any fur product; or in connection with the manufacture for sale, sale, advertising, offering for sale, transportation or distribution, of any fur product which is made in whole or in part of fur which has been shipped and received in commerce, as "commerce", "fur" and "fur product" are defined in the Fur Products Labeling Act do forthwith cease and desist from:

1. Misbranding fur products by:

A. Failing to affix labels to fur products showing in words and figures plainly legible all the information required to be disclosed by each of the subsections of section 4(2) of the Fur Products Labeling Act.

B. Representing directly or by implication that the fur contained in the fur products is natural, when such is not the fact.

C. Setting out a guaranty on labels affixed thereto that such fur products are not misbranded or falsely or deceptively invoiced or advertised under the provisions of the Fur Products Labeling Act and the Rules and Regulations promulgated thereunder, when such is not the fact.

D. Setting forth on labels affixed to fur products:

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

(2) Information required under section 4(2) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder mingled with nonrequired information.

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

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

2. Falsely and deceptively invoicing fur products by:

A. Failing to furnish invoices to purchasers of fur products showing in words and figures plainly legible all the information required to be disclosed by each of the subsections of section 5(b)(1) of the Fur Products Labeling Act.

B. Setting forth on invoices pertaining to fur products the name or names of any animal or animals other than the name or names of the animal or animals producing the fur contained in the fur products as specified in the Fur Products Name Guide and as prescribed under the rules and regulations.

C. Failing to set forth the term "Broadtail Lamb" in the manner required where an election is made to use that term instead of the word "Lamb".

D. Failing to set forth the term "Dyed Broadtail-processed Lamb" where an election is made to use that term instead of the term "Dyed Lamb".

E. Failing to disclose that fur products are "secondhand", when such is the fact.

F. Failing to set forth the item number or mark assigned to a fur product.

G. Setting forth information required under section 5(b)(1) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder in abbreviated form.

3. Making pricing claims and representations of the types covered by subsections (a), (b), (c) and (d) of Rule 44 of the rules and regulations promulgated under the Fur Products Labeling Act unless there are maintained by respondent full and adequate records disclosing the facts upon which such claims and representations are based.

It is further ordered, That respondent Jack Levine, an individual trading under his own name or as Jack Levine Furs, Jale of California, or Jack Levine & Company, or under any other name, and respondent's representatives, agents and employees directly or through any corporate or other device, in connection with the introduction into commerce, or the offering for sale, sale, transportation, or delivery for shipment, in commerce of any wool product, as "wool product" and "commerce" are defined in the Wool Products Labeling Act of 1939 do forthwith cease and desist from misbranding such products by:

1. Failing to securely affix to or place on each product, a stamp, tag, label or other means of identification showing in a clear and conspicuous manner, each element of information required to be disclosed by section 4(a)(2) of the Wool Products Labeling Act of 1939.

2. Stamping, tagging, labeling or otherwise identifying such products as containing the hair or fleece of the Cashmere goat without setting out in a clear and conspicuous manner on each such stamp, tag, label or means of identification the percentage of such Cashmere therein.

It is further ordered, That the respondent herein shall, within sixty (60) days after service upon him of this order, file with the Commission a report in writing setting forth in detail the manner and form in which he has complied with this order.

Issued: February 1, 1962.

By the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 62–6356; Filed, June 29, 1962; 8:46 a.m.]

[Docket 8421 c.o.]

PART 13—PROHIBITED TRADE PRACTICES

Regina Corp.

Subpart—Discriminating in price under Sec. 2, Clayton Act—Payment for services or facilites for processing or sale under 2(d): § 13.825 *Allowances for services or facilties.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies Sec. 2, 49 Stat. 1527; 15 U.S.C. 13) [Cease and desist order, The Regina Corpo-

ration, Rahway, N.J., Docket 8421, Feb. 2, 1962]

Consent order requiring a Rahway, N.J., distributor of floor polishers, waxers, and vacuum cleaners and parts and accessories therefor, with gross annual sales in excess of $12,000,000, to cease violating section 2(d) of the Clayton Act by giving allowances as compensation for services to certain favored customers but not to others competing with them, such as (1) a payment of $1,612 toward the salary of demonstrating sales persons hired by Abraham & Straus, (2) promotional allowances of $1,000 paid to L. R. Beavis & Co., a distributor of its products, and of $2,501 paid to Gimbel Brothers, Inc., of New York, and (3) varying amounts paid different customers in connection with advertising programs, which bore no relation to the amounts accrued by them upon purchases.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondent The Regina Corporation, a corporation, its officers, employees, agents and representatives, directly or through any corporate or other device, in the course of business in commerce, as "commerce" is defined in the Clayton Act, as amended, do forthwith cease and desist from: Paying or contracting for the payment of anything of value to, or for the benefit of, any customer of respondent as compensation or in consideration for advertising, demonstrator services, or any other services or facilities furnished by or through such customer in connection with the processing, handling, sale or offering for sale of floor polishers, waxers, vacuum cleaners, and related products manufactured, sold or offered for sale by respondent, unless such payment or consideration is made available on proportionally equal terms to all other customers competing with such favored customers in the distribution of such products.

It is further ordered, That the respondent herein shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

Issued: February 2, 1962.

By the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 62-6355; Filed, June 29, 1962; 8:46 a.m.]

[File No. 21-371]

PART 35—WALL COVERINGS INDUSTRY

Promulgation of Trade Practice Rules

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

It is now ordered, That the trade practice rules as hereinafter set forth, which have been approved by the Commission in this proceeding, be promulgated as of June 30, 1962.

Statement by the Commission. Trade practice rules for the Wall Coverings Industry as hereinafter set forth are promulgated by the Federal Trade Commission under the trade practice conference procedure. Such rules constitute a revision and extension of, and supersede, the trade practice rules for the Wall Paper Industry as promulgated by the Commission on August 21, 1931.

The industry for which these trade practice rules are established is composed of persons, firms, corporations, or organizations engaged in the manufacture, fabrication, processing, importation or sale of wall coverings composed in whole or in part of materials such as, but not limited to, paper, cloth, plastics, glass or combinations thereof which are by custom supplied in rolls or sheets and sold to consumers through retail wall covering outlets, and which are applied with an adhesive to produce a permanent or semi-permanent bond to the surface to which they have been applied. Excluded as products of the industry are ceramic and plastic tiles and commercial heavy duty wall coverings which are ordinarily sold by the manufacturers and/or distributors through building supply concerns to installers, contractors, and builders.

Proceedings for the establishment of these rules were instituted upon application of the Wallpaper Institute. A general trade practice conference was held under Commission auspices in New York, New York, on November 10, 1961, at which proposals for rules were submitted for consideration of the Commission. Thereafter, proposed rules were published by the Commission and made available to all industry members and other interested or affected parties upon public notice whereby they were afforded opportunity to present their views, including such pertinent information, suggestions or amendments as they desired to offer, and to be heard in the premises. Pursuant to such notice a public hearing was held in Washington, D.C., on May 3, 1962, and all matters there presented, or otherwise received in the proceeding, were considered by the Commission.

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

The rules, as approved, become operative ninety (90) days after the date of promulgation.

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

Sec.
35.0 Definitions.
35.1 Misrepresentation as to character of business.
35.2 Misrepresenting products as conforming to standards.
35.3 Guarantees, warranties, etc.
35.4 Imperfects, irregulars, etc:
35.5 Deceptive use or imitation or simulation of trade or corporate names, trade-marks, etc.
35.6 Commercial bribery.
35.7 False invoicing.
35.8 Substitution of products.
35.9 Defamation of competitors or false disparagement of their products.
35.10 Unfair threats of infringement suits.
35.11 Tie-in sales.
35.12 Deception (general).
35.13 Misuse of terms "jobs," "close-outs," "discontinued lines," "special bargains," etc.
35.14 Use of the word "free."
35.15 Deceptive pricing.
35.16 Disclosure of foreign origin.
35.17 Prohibited forms of trade restraints (unlawful price fixing, etc.)
35.18 Prohibited discrimination.
35.19 Aiding or abetting use of unfair trade practices.

AUTHORITY: §§ 35.0 to 35.19 issued under sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45.

§ 35.0 Definitions.

As used in these rules the terms "Industry Member" and "Industry Product" shall have the following meaning:

(a) *Industry member.* Any person, firm, corporation or organization engaged in the manufacture, fabrication, processing or sale of industry products, including screen or hand printers, importers, wholesalers, distributors, jobbers, retail dealers, decorating contractors, decorators and paperhangers.

(b) *Industry products.* Wall coverings composed in whole or in part of basic materials such as, but not limited to, paper, cloth, plastics, glass or combinations thereof, which are by custom supplied in rolls or sheets and sold to consumers through retail wall covering outlets, and which are applied with an adhesive to produce a permanent or semi-permanent bond to the surface to which they have been applied. Excluded as products of the industry are ceramic and plastic tiles and commercial heavy duty wall coverings which are ordinarily sold by the manufacturers and/or distributors through building supply concerns to installers, contractors, and builders.

§ 35.1 Misrepresentation as to character of business.

It is an unfair trade practice for any person to represent, directly or indirectly, through the use of any word or term in his corporate or trade name, in his advertising, or otherwise, that he is a manufacturer, machine, screen or hand printer, processor, converter, wholesaler, jobber, dealer contractor, decorator or importer of wall coverings or that he owns or controls a factory making or processing such products, or has connections abroad through which imports are secured, or maintains offices abroad, when such is not the fact, or in any other manner to misrepresent

the character, extent, volume, or type of his business. [Rule 1]

§ 35.2 Misrepresenting products as conforming to standards.

In connection with the sale or offering for sale of wall coverings it is an unfair trade practice to represent, through advertising or otherwise, that such wall coverings conform to any standards recognized in or applicable to the industry when such is not the fact. [Rule 2]

§ 35.3 Guarantees, warranties, etc.

(a) Advertising of products shall not contain representations that a product is "guaranteed" without clear and conspicuous disclosure of:

(1) The nature and extent of the guarantee, and

(2) Any material conditions or limitations in the guarantee which are imposed by the guarantor, and

(3) The manner in which the guarantor will perform thereunder, and

(4) The identity of the guarantor.

(b) Guarantees shall not be used which under normal conditions are impractical of fulfillment or which are for such a period of time or are otherwise of such nature as to have the capacity and tendency of misleading purchasers or prospective purchasers into the belief that the product so guaranteed has a greater degree of serviceability, durability or performance capability in actual use than is true in fact. [Rule 3]

§ 35.4 Imperfects, irregulars, etc.

Wall coverings which fall below quality specifications of the manufacturer for his first quality, and which are sold and offered for sale under the same trade name or designation as his first quality, shall be marked "imperfects," or with some other word or term of similar import, so as to prevent deception of purchasers and prospective purchasers as to the quality of such products. The mark or label shall be on or attached to the product, and the immediate package, if any, in which it is sold or offered for sale to consumer purchasers, and the disclosure shall be of such degree of permanency and conspicuousness as to be noticeable upon casual inspection when the wall coverings are offered for sale to consumer purchasers. A similar disclosure shall also be made on invoices, and in all advertisements relating to the wall coverings. [Rule 4]

§ 35.5 Deceptive use or imitation or simulation of trade or corporate names, trade-marks, etc.

It is an unfair trade practice for any member of the industry:

(a) To imitate or simulate the trade-marks, trade names, brands, or labels of competitors, with the capacity and tendency or effect of misleading or deceiving purchasers or prospective purchasers; or

(b) To represent by use of any trade name, trade-mark, or other trade designation, that any industry member is a manufacturer, wholesaler or importer when such is not the fact; or

(c) To use any trade name, corporate name, trade-mark, or other trade designation, which has the capacity and tendency or effect of misleading or deceiving purchasers or prospective purchasers, as to the name, nature, or origin of any product of the industry, or of any material used therein, or which is false, deceptive, or misleading in any other material respect. [Rule 5]

§ 35.6 Commercial bribery.

It is an unfair trade practice for a member of the industry, directly or indirectly, to give, or offer to give, or permit or cause to be given, money or anything of value to agents, salesclerks, employees, or representatives of customers or prospective customers of an industry member, without the knowledge of the employers or principals of such agents, salesclerks, employees, or representatives, as an inducement:

(a) To influence such employers or principals to purchase or contract to purchase wall coverings manufactured or sold by the industry member; or

(b) To influence such employers or principals to refrain from dealing in the products of competitors or from dealing or contracting to deal with competitors; or

(c) For the purpose of causing said agents, salesclerks, employees, or representatives to push and promote the resale of the industry member's wall coverings over competing products being offered for resale by the employers or principals of said agents, salesclerks, employees, or representatives. [Rule 6]

§ 35.7 False invoicing.

Withholding from or inserting in invoices or sales slips by an industry member, any statement or information by reason of which omission or insertion a false record is made, wholly or in part, of the transactions represented on the face of such invoices or sales slips, used with the capacity and tendency or effect of thereby misleading or deceiving purchasers, prospective purchasers, or the consuming public, in any material respect, is an unfair trade practice. [Rule 7]

§ 35.8 Substitution of products.

It is an unfair trade practice for a member of the industry to make unauthorized substitutions of wall coverings where such substitutions have the capacity and tendency or effect of misleading or deceiving purchasers, by:

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

(b) Falsely representing the reason for making substitutions. [Rule 8]

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

It is an unfair trade practice for any industry member:

(a) To defame competitors by falsely imputing to them dishonorable conduct, inability to perform contracts, questionable credit standing, or by other false representation; or

(b) To falsely disparage competitors' wall coverings as to grade, quality, or method of manufacture and distribution, or in any other respect; or

(c) To falsely disparage the business methods, selling prices, values, credit terms, policies, services, or conditions of employment, of competitors.

NOTE: Nothing in this section shall be construed as preventing the full, fair, and nondeceptive comparison, by demonstration or otherwise, of competitors' wall coverings with those of another industry member before purchasers or prospective purchasers. [Rule 9]

§ 35.10 Unfair threats of infringement suits.

The circulation of threats of suit for infringement of patents, trade-marks, or copyrights among competitors or customers or prospective customers of competitors, when not made in good faith but for the purpose or with the effect of thereby harassing or intimidating such customers or prospective customers, or of unduly hampering, injuring, or prejudicing competitors in their business, is an unfair trade practice. [Rule 10]

§ 35.11 Tie-in sales.

The practice of coercing the purchase of one or more wall coverings as a prerequisite to the purchase of one or more other wall coverings, where the effect may be substantially to lessen competition or tend to create a monopoly or unreasonably to restrain trade, is an unfair trade practice. [Rule 11]

§ 35.12 Deception (general).

(a) It is an unfair trade practice for members of the industry to offer for sale or sell wall coverings under any representations, description, circumstance or condition which has the capacity and tendency or effect of misleading or deceiving purchasers or prospective purchasers thereof, as to the type, kind, grade, quality, quantity, weight, color, substance, durability, serviceability, terms of sale, value, production, manufacture, or distribution of such wall coverings or which has the capacity and tendency or effect of misleading or deceiving the purchasing or consuming public in any other material respect.

(b) The prohibitions of this section are applicable to all forms of advertising, whether written or oral, in periodicals, on the radio or television, and to any form of marking or labeling of industry products or the packages or containers in which they may be shipped, offered for sale or sold. [Rule 12]

§ 35.13 Misuse of terms "jobs," "close-outs," "discontinued lines," "special bargains," etc.

It is an unfair trade practice to offer for sale, sell, advertise, describe, or otherwise represent, wall coverings as "Jobs," "Close-Outs," "Discontinued Lines," or "Special Bargains," by use of such terms, or by words or representations of similar import, when such is not true in fact; or to so offer for sale, sell, advertise, describe, or otherwise represent, industry products where the capa-

city and tendency or effect thereof is to lead the purchaser or consuming public to believe such products are being offered for sale or sold at greatly reduced prices, or at so-called "bargain" prices, when such is not the fact. [Rule 13]

§ 35.14 Use of the word "free."

In connection with the sale, offering for sale, or distribution of wall coverings, it is an unfair trade practice to use the word "free" or any other word or words of similar import, in advertisements or in other offers to the public, as descriptive of an article of merchandise, or service, which is not an unconditional gift, under the following circumstances:

(a) When all the conditions, obligations, or other prerequisites to the receipt and retention of the "free" article of merchandise or service offered are not clearly and conspicuously set forth at the outset so as to leave no reasonable probability that the terms of the offer will be misunderstood; and, regardless of such disclosure;

(b) When, with respect to any article of merchandise required to be purchased in order to obtain the "free" article or service, the offerer (1) increases the ordinary and usual price of such article of merchandise, or (2) reduces its quality, or (3) reduces the quantity thereof.

NOTE: The disclosure required by paragraph (a) of this section shall appear in close conjunction with the word "free" (or other word or words of similar import) wherever such word first appears in each advertisement or offer. A disclosure in the form of a footnote, to which reference is made by use of an asterisk or other symbol placed next to the word "free," will not be regarded as compliance.

[Rule 14]

§ 35.15 Deceptive pricing.

(a) It is an unfair trade practice for any member of the industry to represent directly or indirectly in advertising or otherwise that an industry product may be purchased for a specified price, or at a saving, or at a reduced price, when such is not the fact; or otherwise to deceive purchasers or prospective purchasers with respect to the price of any product offered for sale; or to furnish any means or instrumentality by which others engaged in the sale of industry products may make any such representation.

(b) Among the practices prohibited by this section are:

(1) Representing or implying that a stated price is the seller's usual and regular price of an industry product when in fact such stated price is in excess of the price at which such product is regularly and customarily sold by the seller in the usual and recent course of business.

NOTE: The words and phrases "regularly," "usually," "formerly," "was _____ now _____," "_____% off" and "you save $_____" when used in connection with prices constitute representations of the advertiser's former usual and customary prices in recent course of business.

(2) Representing or implying that a stated price constitutes a reduction from the trade area price unless the saving or reduction is from the usual and customary price of an industry product in the trade area, or areas where the representation is made.

NOTE: The words and phrases "manufacturer's suggested list $_____—our price $_____," "sold nationally at $_____" and "value $_____" constitute representations of an article's usual and customary retail price in the trade area where the representations are made.

(3) Representing, by preticketing a product with any price figure, or otherwise representing, contrary to the fact, that there is a usual and customary price for the product in the trade area where it is offered for sale and that the usual and customary price is the preticketed price, or preticketing a product with any price if the preticketed product is usually and customarily sold at a lower price or at a variety of prices significantly lower than the preticketed price in the trade area or areas where it is offered for sale.

(4) Disseminating preticketed price figures for use in connection with the offer for sale of products at retail by others (even though they themselves are not engaged in retail sales) when the price figures do not meet the standard set forth in this section.

(5) Placing in the hands of others a means or instrumentality by which they may mislead the public. For the purposes of this section preticketing includes the use of price figures,

(i) Affixed to the product by tag, label or otherwise, or

(ii) In such a form as to be affixed to the product by others, or

(iii) In material, such as displays or sample books which are used, or designed to be used, at point of sale to the consuming public.

EXAMPLE. A manufacturer pre-tickets his products with "Price $3.95." Although this price prevails in many trade areas, in other areas the product generally sells for $2.25. The pre-ticketed price would violate this section in any trade area where the $3.95 price was not the usual and customary retail price.

NOTE: Guides Against Deceptive Pricing adopted by the Commission October 2, 1958, are now in the process of revision. The new guides will supplement this section by affording additional guidance on the subject. When approved, the new guides will be published in the FEDERAL REGISTER and copies thereof will be furnished upon request.

[Rule 15]

§ 35.16 Disclosure of foreign origin.

(a) It is in an unfair trade practice:

(1) To misrepresent the country of manufacture of industry products or their components; or

(2) To fail to make adequate disclosure that an industry product is of foreign origin or manufacture when the failure to make such disclosure has the capacity and tendency or effect of deceiving purchasers or prospective purchasers.

(b) The disclosure required by subparagraph (2) of this paragraph will be deemed adequate when naming the foreign country in the form of a legible marking or stamping on the product, or on a label or tag attached thereto, which is of such degree of permanency as to remain on or attached to the product until consummation of consumer sale thereof, and is of such conspicuousness as to be likely observed by purchasers and prospective purchasers making casual inspection of the product. [Rule 16]

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

It is an unfair trade practice for any member of the industry, either directly or indirectly, to engage in any planned common course of action, or to enter into or take part in any understanding, agreement, combination, or conspiracy, with one or more members of the industry, or with any other person or persons, to fix or maintain the price of any goods or otherwise unlawfully to restrain trade; except as permitted under the McGuire Act, or to use any form of threat, intimidation, or coercion to induce any member of the industry or other person or persons to engage in any such planned common course of action, or to become a party to any such understanding, agreement, combination, or conspiracy. [Rule 17]

§ 35.18 Prohibited discrimination.[2]

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

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

[2] See explanatory note at end of this section.

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

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

NOTE No. 1: Cost justification to be based on net savings in cost of manufacture, sale or delivery. Cost justification under the above proviso depends upon net savings in cost based on all facts relevant to the transactions under the terms of subparagraph (2) of this paragraph. For example, if a seller regularly grants a discount based upon the purchase of a specified quantity by a single order for a single delivery, and this discount is justified by cost differences, it does not follow that the same discount can be cost justified if granted to a purchaser of the same quantity by multiple orders or for multiple deliveries.

NOTE No. 2: Credit or refund for returned goods. In determining whether a price differential based on cost savings under the above proviso is warranted there shall be taken into account any portion of the goods involved which are returned by the customer-purchaser to the seller for credit or refund. See also Note No. 2 under paragraph (e) of this section.

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

(4) That nothing contained in this paragraph shall prevent price changes from time to time where made in response to changing conditions affecting the market for or the marketability of the goods concerned, such as but not limited to obsolescence of seasonal goods, distress sales under court process, or sales in good faith in discontinuance of business in the goods concerned;

(5) That nothing contained in this section shall prevent the meeting in good faith of an equally low price of a competitor.

NOTE No. 1: Subsection (b) of section 2 of the Clayton Act, as amended, reads as follows: "Upon proof being made at any hearing on a complaint under this section, that there has been discrimination in price or services or facilities furnished, the burden of rebutting the prima facie case thus made by showing justification shall be upon the person charged with a violation of this section, and unless justification shall be affirmatively shown, the Commission is authorized to issue an order terminating the discrimination: *Provided, however,* That nothing herein contained shall prevent a seller rebutting the prima facie case thus made by showing that his lower price or the furnishing of services or facilities to any purchaser or purchasers was made in good faith to meet an equally low price of a competitor, or the services or facilities furnished by a competitor."

NOTE No. 2: In complaint proceedings, justification of price differentials under subparagraphs (2), (4), and (5) of this paragraph is a matter of affirmative defense to be established by the person or concern charged with price discrimination.

(b) *Examples of prohibited price differential practices.* The following are examples of price differential practices to be considered as subject to the prohibitions of paragraph (a) of this section when involving goods of like grade and quality which are sold for use, consumption, or resale within any place under the jurisdiction of the United States, and which are not purchased by schools, colleges, universities, public libraries, churches, hospitals, and charitable institutions not operated for profit, as supplies for their own use and when:

(1) The commerce requirements specified in paragraph (a) of this section are present; and

(2) The price differential has a reasonable probability of substantially lessening competition or tending to create a monopoly in any line of commerce, or of injury, destroying, or preventing competition with the industry member or with the customer receiving the benefit of the price differential, or with customers of either of them; and

(3) The price differential is not justified by cost savings (see paragraph (a) (2) of this section); and

(4) The price differential is not made in response to changing conditions affecting the market for or the marketability of the goods concerned (see paragraph (a) (4) of this section); and

(5) The lower price was not made to meet in good faith an equally low price of a competitor (see paragraph (a) (5) of this section).

Example No. 1. An industry member sells goods to one or more of his customers at a higher price than he charges other customers for like merchandise. It is immaterial whether the goods sold at the lower price are classified by the industry member as "seconds," "secondary line," "rejects," or are otherwise represented by the industry member as inferior, if the goods are in fact of like grade and quality as the goods sold at the higher price.

Example No. 2. Terms of 2%/10 net 60 are granted by an industry member to some customers on goods purchased by them from the industry member. Another customer or customers are, nevertheless, allowed to take a 5% instead of a 2% discount when making payment to the industry member within the time prescribed.

Example No. 3. An industry member sells goods to one or more of his customers at a lower price than he charges other customers therefor, basing his justification for the price difference solely on the fact that the goods sold at the lower price bear the private brand name of customers.

Example No. 4. An industry member invoices goods to all his customers at the same price but supplies additional quantities of such goods at no extra charge to one or more, but not to all, such customers; or supplies other goods or premiums to one or more, but not to all, such customers for which he makes no extra charge and which effects an actual price difference in favor of certain of his customers.

NOTE: As previously indicated, the foregoing are examples of practices to be considered violative of the prohibitions of paragraph (a) of this section.

(c) *Prohibited brokerage and commissions.* It is an unfair trade practice for any member of the industry engaged in commerce, in the course of such commerce, to pay or grant, or to receive or accept anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, except for services rendered in connection with the sale or purchase of goods, wares, or merchandise, either to the other party to such transaction or to an agent, representative, or other intermediary therein where such intermediary is acting in fact for or in behalf, or is subject to the direct or indirect control, of any party to such transaction other than the person by whom such compensation is so granted or paid.

(d) *Prohibited advertising or promotional allowances, etc.* It is an unfair trade practice for any member of the industry engaged in commerce to pay or contract for the payment of advertising or promotional allowances or any other thing of value to or for the benefit of a customer of such member in the course of such commerce as compensation or in consideration for any services or facilities furnished by or through such customer in connection with the processing, handling, sale, or offering for sale of any products or commodities manufactured, sold, or offered for sale by such member, unless such payment or consideration is made known to and is available on proportionally equal terms to all other customers competing in the distribution of such products or commodities.

NOTE No. 1: Industry members giving allowances for advertising or sales promotion must, in addition to according same to all competing customers on proportionally equal terms, exercise precaution and diligence in seeing that all such allowances are used by the customers for such purpose. Customers receiving such allowances must not use same for any other purpose.

When an allowance is made ostensibly for advertising or sales promotion of products and is not in fact used for that purpose the practice may constitute a price discrimination. In such case, the party giving the allowance may violate paragraph (a) of this section and the party receiving same may violate paragraph (f) of this section.

NOTE No. 2: When an industry member gives allowances to competing customers for advertising in a newspaper or periodical, the fact that a lower advertising rate for equivalent space is available to one or more, but not all, such customers, is not to be regarded by the industry member as warranting the retention by such customers of any portion of the allowance for his or their personal use or benefit.

(e) *Prohibited discriminatory services or facilities.* It is an unfair trade practice for any member of the industry engaged in commerce to discriminate in favor of one purchaser against another purchaser or purchasers of a commodity bought for resale, with or without processing, by contracting to furnish or furnishing, or by contributing to the furnishing of, any services or facilities connected with the processing, handling, sale, or offering for sale of such commodity so purchased upon terms not accorded to all competing purchasers on proportionally equal terms.

NOTE No. 1: Subsection (b) of section 2 of the Clayton Act, as amended, which is set forth in the note concluding paragraph (a)

of this section is applicable to paragraph (e) of this section.

NOTE No. 2: Among the practices prohibited by paragraph (e) of this section is that of an industry member according to one or more customers the privilege of returning for credit or refund any or all of the goods purchased by them and failing to accord the same privilege to another or other competing customers on proportionally equal terms. In this connection see also Note No. 2 under cost justification proviso (paragraph (a)(2) of this section).

(f) *Inducing or receiving an illegal discrimination in price, advertising or promotional allowances, or services or facilities.* It is an unfair trade practice for any member of the industry engaged in commerce, in the course of such commerce, knowingly to induce or receive a discrimination in price, advertising or promotional allowances, or services or facilities, prohibited by the foregoing provisions of this section. [Rule 18]

§ 35.19 Aiding or abetting use of unfair trade practices.

It is an unfair trade practice for any person, firm or corporation to aid, abet, coerce, or induce another, directly or indirectly, to use or promote the use of any unfair trade practice prohibited in the foregoing part. [Rule 19]

Authorized: June 26, 1962.

By the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 62-6368; Filed, June 29, 1962; 8:46 a.m.]

[File No. 21-437]

PART 60—METALLIC WATCH BAND INDUSTRY

Promulgation of Trade Practice Rules

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

It is now ordered, That the trade practice rules as hereinafter set forth, which have been approved by the Commission in this proceeding, be promulgated as of June 30, 1962.

Statement by the Commission. Trade practice rules for the Metallic Watch Band Industry, as hereinafter set forth, are promulgated by the Federal Trade Commission under its Trade Practice Conference procedure.

Proceedings for the establishment of rules for this industry were authorized by the Commission pursuant to an application therefor by the Watch Attachment Manufacturers' Association. The Manufacturing Jewelers and Silversmiths of America, Inc., and Jewelers Vigilance Committee, also advocated, and participated in, such proceedings. It is estimated that the members of these three associations account for in excess of 85 percent of the total domestic production of the products involved.

A general industry trade practice conference was held, and thereafter proposed rules were released by the Commission and public hearings were held thereon pursuant to public notice. The views and suggestions of industry members and other interested parties, expressed at such conference and hearings, or otherwise submitted during the pendence of the proceedings, were duly considered, and thereafter, and upon full consideration of the entire matter, final action was taken by the Commission whereby it approved rules for the industry in the form hereinafter set forth.

Such rules are designed to give guidance to the industry members as to the requirements of statutes administered by the Commission having application to their trade practices. Appropriate proceedings in the public interest will be taken by the Commission against industry members subject to its jurisdiction who engage in practices prohibited by such rules.

The rules hereinafter set forth become operative thirty (30) days from the date of their promulgation.

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

Sec.

60.0 The industry and its products defined.
60.1 Deception (general).
60.2 Deception as to metallic content.
60.3 Misuse of "corrosion proof," "noncorrosive," "corrosion resistant," "rust proof," "rust resistant," etc.
60.4 Deception as to origin or place of manufacture.
60.5 Misrepresentation as to character of business.
60.6 Deceptive pricing.
60.7 Deception as to identity of manufacturer or seller.
60.8 Misrepresenting products as conforming to standard.
60.9 Guarantees, Warranties, etc.
60.10 Prohibited forms of trade restraints (unlawful price fixing, etc.).
60.11 Defamation of competitors or false disparagement of their products.
60.12 Prohibited discrimination.

AUTHORITY: §§ 60.0 to 60.12 issued under sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45.

§ 60.0 The industry and its products defined.

(a) Members of this industry are persons, firms, corporations, or organizations which engage in the manufacture, sale, offering for sale or distribution of industry products as the term "industry products" is defined in the paragraph which immediately follows.

(b) The term "industry products," as used in the foregoing paragraph and in the following rules, includes any kind of metallic wrist bands which are designed for holding wrist watches to the wrists of human beings and which are not permanently attached to the cases of such watches. When permanently attached to the cases of wrist watches, by soldering or otherwise, they are not subject to the rules for this industry, and are to be regarded as among the products which are subject to the rules promulgated by the Commission for the Watch Case Industry on January 30, 1948.

§ 60.1 Deception (general).

(a) It is an unfair trade practice for any industry member to sell or offer for sale any industry product under any representation, circumstance, or condition having the capacity and tendency or effect of deceiving purchasers or prospective purchasers in any material respect.

(b) The prohibitions of this section are applicable to all forms of advertising, whether in periodicals, on the radio or television, and whether written or oral, and to any form of marking or labeling of the products, or their containers or display cards. [Rule 1]

§ 60.2 Deception as to metallic content.

(a) In the sale, offering for sale, or distribution of industry products, it is an unfair trade practice to:

(1) Misrepresent the kind, quantity, quality, fineness, thickness, or manner of application, of any metal or metal alloy contained in an industry product or part thereof; or

(2) Fail to adequately and nondeceptively disclose the metallic composition of an industry product, or part thereof, which has an exposed surface of the appearance of gold and is not throughout of pure (24 Kt.) gold.[1]

(3) Use the words "gold," "karat," "carat," "silver," "solid silver," "sterling," "sterling silver," "coin," "coin silver," "platinum," "iridium," "palladium," "ruthenium," "rhodium," or "osmium," or any abbreviation thereof, either alone or in conjunction with the words "plated," "plate," "filled," "overlay," "electroplate," "electroplated" or any abbreviation thereof, except in accord with the requirements and provisions relating thereto which are hereinafter set forth.

(b) Use of "Silver," "Solid Silver," "Sterling," "Sterling Silver," "Coin," and "Coin Silver": Industry products or parts thereof shall not be marked, described, or otherwise represented as being "silver," "solid silver," "sterling,"

[1] Such disclosure shall be in the form of a legible and permanent marking on the product which is so positioned, and of such conspicuousness, as to conform with the requirements relating to quality markings which are set forth in paragraph (g) of this section. When the composition is wholly of a base metal having the appearance of gold, the marking may be either "Base Metal" or by use of a generally understood identification of the kind of base metal present (such as, "Anodized Aluminum"; "Brass"; etc.). When of a base metal having a surface plating or coating of gold alloy, a marking of "Gold Filled", "Gold Plated", "Gold Plate", "Gold Overlay", "Rolled Gold Plated", "Rolled Gold Plate", "Gold Electroplated", "Gold Electroplate", "Heavy Gold Electroplated", or "Heavy Gold Electroplate", will be considered adequate when the use of such term is in full accord with the respective requirements and provisions relating thereto which are set forth in paragraphs (d), (e), (f), and (g), of this section.

or "sterling silver," unless they are throughout of silver of not less than 925/1000ths fineness. Nor shall they be marked, described, or otherwise represented as being "coin" or "coin silver" unless they are throughout of silver of not less than 900/1000ths fineness. The terms "sterling" and "coin" shall not be used as a marking on, or as descriptive of, products or parts which are of base metal on a surface or surfaces of which there has been applied a plating or coating of silver. When an industry product or part is marked or described as "silver plated" or "silver plate," all significant surfaces thereof shall have a plating or coating of silver of a high degree of fineness, and such plating or coating shall be of substantial thickness. Abbreviations of any of the mentioned terms are to be regarded as subject to the same requirements. (Additional requirements for use of these terms as markings on products are set forth in paragraph (g) of this section.)

(c) Use of "Platinum," "Iridium," "Palladium," Rhodium," "Ruthenium," and "Osmium": These words, and their abbreviations, shall not be used in any manner, or under any circumstance or condition, having the capacity and tendency or effect of deceiving purchasers or prospective purchasers as to the true metallic composition of an industry product or part thereof.

NOTE: Commercial Standard, CS66–38, issued by the National Bureau of Standards of the U.S. Department of Commerce, covers the marking of articles made wholly or in part of platinum, and markings on industry products which are in compliance with applicable provisions of said CS66–38, and the additional requirements of paragraph (g) of this section, will be considered as proper.

(d) Use of "Gold," "Karat," "Carat," "Gold Filled," "Gold Plated," "Gold Plate," "Gold Overlay," "Rolled Gold Plated," "Rolled Gold Plate," "Gold Electroplated," "Gold Electroplate," "Heavy Gold Electroplated," and "Heavy Gold Electroplate": Industry members shall not use any of these words or terms, or any abbreviations thereof, under any circumstances or condition, or in any manner, which has the capacity and tendency or effect of deceiving purchasers or prospective purchasers as to presence of gold or gold alloy in any industry product or part thereof, or as to the extent or fineness of gold or gold alloy in any industry product or part thereof, and shall regard, as among the practices prohibited, the following:

(1) Use of the unqualified word "Gold," or any abbreviation thereof, as descriptive of any industry product, or part thereof, which is not composed throughout of fine (24 karat) gold.

(2) Use of the word "Gold," or any abbreviation thereof, as descriptive of any industry product, or part thereof, which is composed throughout of an alloy of gold, unless a correct designation of the karat fineness of the alloy immediately precedes the word "Gold," or abbreviation thereof, and such fineness designation is of at least equal conspicuousness therewith.

(3) Use of the word "Gold," or any abbreviation thereof, as descriptive of any industry product, or part thereof, which is not composed throughout of gold or gold alloy, but is surface-plated or coated with gold alloy, unless the word "Gold," or abbreviation thereof, is so qualified as adequately and nondeceptively to disclose that the product or part is but surface-plated or coated with an alloy of gold; and, when such plating has been mechanically applied, unless such word "Gold," or abbreviation thereof, is immediately preceded by a correct designation of the karat fineness of the alloy and such fineness designation is of at least equal conspicuousness therewith.

NOTE: See acceptable forms of markings and descriptions for such products set out in paragraph (e) (2) of this section.

(4) Use of the terms "Gold Filled," "Rolled Gold Plate," "Rolled Gold Plated," "Gold Overlay," "Gold Plated," or "Gold Plate," as descriptive of an industry product or part thereof, unless such product or part contains a surface-plating of gold alloy applied by a mechanical process which is of such thickness and extent of surface coverage that use of the term as descriptive of the product or part will not have the capacity and tendency of deceiving purchasers or prospective purchasers, and unless the term is immediately preceded by a correct designation of the karat fineness of the alloy and such designation is of at least equal conspicuousness as the term used.

NOTE: See acceptable forms of markings and descriptions for such products set out in paragraph (e) (2) of this section.

(5) Use of the term 'Gold Electroplate," or "Gold Electroplated," as descriptive of any industry product or part thereof, unless such product or part is plated or coated with gold or a gold alloy and such plating or coating is of such karat fineness, thickness, and extent of surface coverage that the use of the term will not have the capacity and tendency of deceiving purchasers or prospective purchasers.

NOTE: See acceptable forms of markings and descriptions for such products set out in paragraph (e) (3) of this section.

(6) Representing, directly or by implication, by use of any name, terminology, or otherwise, that an industry product is equal or superior to, or different than, a known and established type of industry product with reference to its gold content or method of manufacture, unless the representation is true in fact (namely, that it is equal or superior to or different than the established type in the respects represented or implied).

NOTE: Requirements for use of the word "Gold," or any abbreviation thereof, as above set forth, are applicable to "Duragold," "Diragold," "Noblegold," "Goldine," or any words or terms of similar import.

NOTE: See also paragraph (g) of this section entitled "Additional Requirements Relating to Markings."

(e) Markings and descriptions of industry products or parts thereof will be considered as proper when meeting applicable requirements of paragraph (g) of this section and in conformity with the following:

(1) An industry product or part thereof composed throughout of an alloy of gold of not less than 10 karat fineness may be marked and described as "Gold" when such word "Gold," wherever appearing, is immediately preceded by a correct designation of the karat fineness of the alloy and such karat designation is of equal conspicuousness as the word "Gold" (as, for example, "14 Karat Gold"; "14 K. Gold"; and "14 Kt. Gold"). Such a product may also be marked and described by a designation of the karat fineness of the gold alloy unaccompanied by the word "Gold" (as, for example, "14 Karat," "14 Kt.," and "14 K.").

NOTE: When the term "Gold," or any abbreviation thereof, is used as descriptive of any product or part of a product which is composed throughout of gold alloy but contains a concealed hollow center or interior, the term or its abbreviation shall also be immediately accompanied by a disclosure of the fact that the product or part contains a hollow center or interior (as, for example, "14 Karat Gold-Hollow Center" and "14 K. Gold Tubing," when of a gold alloy tubing of such a karat fineness), when the failure to make such disclosure has the capacity and tendency or effect of deceiving purchasers or prospective purchasers. Such products must not be marked or described as "solid" or as being solidly of gold or of a gold alloy. For example, though the composition of such product is 14 karat gold alloy, it shall not be described or marked as either "14 Kt. Solid Gold" or as "Solid 14 Kt. Gold."

(2) An industry product or part thereof on which there has been affixed on all significant surfaces, by soldering, brazing, welding, or other mechanical means, a plating of gold alloy of not less than 10 karat fineness which is of substantial thickness [2] may be marked or described as "Gold Filled," "Gold Plate," "Gold Plated," "Gold Overlay," "Rolled Gold Plate," or adequate abbreviations thereof, when such plating constitutes at least $\frac{1}{20}$th of the weight of the metal in the entire article, and when the term is immediately preceded by a designation of the karat fineness of the plating which is of equal conspicuousness as the term used (as, for example, "14 Kt. Gold Filled," "14 Kt. G.F.," "14 Kt. Gold Plated," "14 Kt. G.P.," and "14 Kt. Gold Overlay"). When conforming to all such requirements except the specified minimum of $\frac{1}{20}$th of the weight of the metal in the entire article, the terms "Gold Plate," "Gold Plated," "Rolled Gold Plate," and "Gold Overlay" may be used when the karat fineness designation is immediately preceded by a fraction which accurately discloses the portion of the weight of the metal in the entire article accounted for by the plating, and when such fraction is of equal conspicuousness as the term used (as, for example, "$\frac{1}{40}$ 12 Kt. Rolled Gold Plate," and "$\frac{1}{40}$ 12 Kt. R.G.P.").

[2] As here used, the term "substantial thickness" is to be construed as requiring that all areas of the plating be of such thickness as to assure of a durable coverage of the base metal to which it has been affixed. Since industry products embrace items having surfaces and parts of surfaces which are subject to different degrees of wear, this requirement of substantial thickness may not necessitate uniformity of thickness of plating for all items or for different areas of the surface or surfaces of individual items.

Examples of Proper Markings for Expansion Bands of Specified Composition and Construction. A substantial portion of metallic watch bands are of the expansion type and consist of a skeleton (containing links, springs, rivets, and other small parts) of a base metal; top caps and end pieces which are of a base metal and to the exterior surfaces of which there have been affixed, by a mechanical process, platings of yellow gold alloy of 10 karat fineness; and bottom caps which are of stainless steel and which do not have the appearance of yellow gold.

When such platings of the top caps and end pieces are of substantial thickness and account for not less than 1/20th of the total weight of the base metal and gold alloy in each such cap and end piece, a proper marking on the band would be—

"10 Karat Gold Filled Top Caps and End Pieces. Stainless Steel Bottom Caps."

or

"10 K. G. F. Top Caps and End Pieces."

or

"10 K. G. F. Top Caps.";

and when such platings of the top caps and end pieces are of substantial thickness and account for 1/30th of the total weight of the base metal and gold alloy in each such top cap and end piece, a proper marking on the band would be—

"1/30 10 Karat Rolled Gold Plate Top Caps and End Pieces. Stainless Steel Bottom Caps."

or

"1/30 10 K. R. G. P. Top Caps and End Pieces."

or

"1/30 10 K. R. G. P. Top Caps.";

Provided, however, That the size and placement of any such markings shall conform to the requirements of paragraph (g) of this section.

NOTE: When the plated top caps are affixed, by swedging or otherwise, to a base metal reinforcement lining, the weight of such lining shall be included in the weight used for determining the weight ratio and proper term to be used.

(3) An industry product or part thereof, all significant surfaces on which there has been affixed by an electrolytic process a coating or plating of gold, or of a gold alloy of not less than 10 karat fineness, the minimum thickness throughout of which is equivalent to 7/1,000,000th of an inch of fine gold, may be marked or described as "Gold Electroplate" or "Gold Electroplated." When the coating or plating meets the minimum fineness, but not the minimum thickness, above specified, the marking or description may be "Gold Flashed" or "Gold Washed," and when of the minimum fineness above specified and of a minimum thickness throughout which is equivalent to 100/1,000,000th of an inch of fine gold, the marking or description may be "Heavy Gold Electroplate" or "Heavy Gold Electroplated." When coatings or platings qualify for the term "Gold Electroplate" (or "Gold Electroplated"), or the term "Heavy Gold Electroplate" (or "Heavy Gold Electroplated"), and have been applied by use of a special kind of electrolytic process, the designation for which the coating or plating is qualified may be accompanied by an identification of the process used, as for example, "Gold Electroplated (X Process)"; "Heavy Gold Electroplated (Y Process)."

(f) Tolerances and exemptions: The requirements of this section relating to markings and descriptions of industry products and parts thereof are subject to the tolerances applicable thereto under the National Stamping Act (15 U.S. Code, sections 294, et seq.). Such requirements are also subject to exemptions applicable thereto under section 10(a) of Commercial Standard CS 67–38, relating to articles made of karat gold, and under section 12(a) of Commercial Standard CS 47–34, relating to articles having mechanically-applied surface platings of gold alloy; and also to the exemptions applicable thereto enumerated in section 8 of Commercial Standard CS 118–44 (relating to marking of Jewelry and Novelties of Silver) and section 8(a) of Commercial Standard CS 51–35 (relating to marking of articles made of silver in combination with gold).

(g) Additional requirements relating to markings. As used in this paragraph, the term "quality marking" means any marking on an industry product which indicates or suggests that the product contains precious metal or an alloy thereof. Included are the words "gold", "karat", "carat", "duragold", "diragold", "noblegold", "goldine", "silver", "sterling", "coin", "coin silver", "platinum", "irridium", "palladium", "ruthenium", "rhodium", and "osmium", and any abbreviation of any such word, whether used alone or in conjunction with such terms as "filled", "plated", "overlay", "electroplated", or any abbreviation thereof.

(1) *Markings to be legible, conspicuous, and of adequate permanency.* Quality markings on industry products shall be legible and of such degree of permanancy as to remain on the products until consummation of consumer sale thereof. They shall also be of such size and conspicuousness as to likely be observed and read by purchasers and prospective purchasers making casual inspection of the products; provided, however, that when markings of such size and conspicuousness would seriously impair the appearance of the product, they may be of less size and conspicuousness if also appearing on a tag or label attached or affixed to the product in such a manner as to remain thereon until consummation of consumer purchase and of such size and conspicuousness as to be likely observed and read by purchasers and prospective purchasers. When the marking on or attached to the product is concealed or obscured because of the manner in which the product is packaged, or mounted in a container or on a display card, and is offered for consumer sale in such form with consequence of likely deception of purchasers or prospective purchasers as to the true metallic composition of the product, the marking shall also appear on the outside of the packaging, or on the container or display card on which the product is mounted, in such a position as to be clearly applicable to the product and in such size and conspicuousness as to be likely observed and read by purchasers and prospective purchasers.

(2) *Deception by reason of difference in size of letters or words in the markings.* Words and letters in quality markings shall not appear in larger type than other words and letters in such markings when such size difference has the capacity and tendency or effect of deceiving purchasers or prospective purchasers as to the true metallic content of the product. (An example of such improper marking is where the product is marked as gold electroplate with the word "GOLD" in large type and the word "electroplate" in small type.)

(3) *When exposed parts are of similar appearance but of different composition.* When watch bands contain two or more parts having exposed surfaces of the same composition appearance but which in fact are of different composition, any marking as to the composition of one of such parts shall be accompanied by a disclosure of the composition of the other part or parts. Thus, when a band has top caps and end pieces of 14 karat yellow gold and bottom caps of yellow gold electroplate, a proper marking would be "14 K. Gold Top Caps and End Pieces. Gold Electroplated Bottom Caps"; and when the top caps and end pieces are 14 karat white gold, and the bottom caps are of stainless steel which has the appearance of white gold, a proper marking would be "14 K. White Gold Top Caps and End Pieces. Stainless Steel Bottom Caps". [Rule 2]

§ 60.3 Misuse of "corrosion proof," "non-corrosive," "corrosion resistant," "rust proof," "rust resistant," etc.

(a) In the sale, offering for sale, or distribution of industry products, it is an unfair trade practice:

(1) To use the terms "corrosion proof," "non-corrosive," "rust proof," or any word or term of equivalent import, as descriptive of an industry product, unless all parts thereof will be immune from rust and other forms of corrosion during the life expectancy of the product; or

(2) To use the terms "corrosion resistant," "rust resistant," or any word or term of equivalent import, as descriptive of an industry product unless all parts of the product are of such composition as to not be subject to material damage by corrosion or rust during the major portion of the life expectancy of the product under normal conditions of use.

(b) Among the metals which may be considered as corrosion (and rust) resistant are:

Pure Nickel.
Gold Alloys of not less than 10 Kt. fineness.
Austenitic stainless steels.

[Rule 3]

§ 60.4 Deception as to origin or place of manufacture.

In the sale, offering for sale, or distribution of industry products, it is an unfair trade practice:

(a) To misrepresent the origin or place of manufacture of an industry product or any part thereof; or

(b) Subject to the exemptions hereinafter specified, to fail to adequately disclose to purchasers and prospective purchasers that an industry product, or

substantial part thereof [3] is of foreign origin, or has been manufactured, processed, or assembled in a foreign country.

NOTE: The disclosure required by paragraph (b) of this section shall be in the form of a legible marking or stamping on the industry product, or on a label or tag affixed thereto, which is of such degree of permanency as to remain on or attached to the product, in legible form, until consummation of the consumer sale thereof, and of such conspicuousness as to be likely observed and read by purchasers and prospective purchasers making casual inspection of the product; and if such marking or stamping is concealed or obscured by packaging of the product, or by the manner in which it is mounted in a container or on a display card, and is offered for consumer sale in such form, then the marking or stamping shall also appear on the front or face of such packaging, container, or display card, and be so positioned as to clearly have application to the product so packaged or mounted, and shall also be of such degree of permanency as to remain thereon until consummation of consumer sale of the product, and of such conspicuousness as to be likely observed and read by purchasers and prospective purchasers making casual inspection of the product as so packaged or mounted. The disclosure shall name the foreign country of origin or manufacture, and when not applicable to the entire product shall specify the part or parts to which it has applicability.

Exemptions. To be regarded as exempt from the disclosure requirements of paragraph (b) of this section are:

Sheet, strip, wire, tubing, and similar basic material when imported in that form;

Parts of industry products which after their importation are subjected to processing or manufacturing in this country, or are merged with another or other parts of domestic manufacture, and as a consequence of such processing, manufacturing, or merger, no longer retain the appearance and essential characteristics possessed by them at the time of their importation.

NOTE: The affixing in this country of domestically manufactured caps and end pieces to imported skeletons of expansion type bands is not to be regarded as so changing the appearance and essential characteristics of such skeletons as to exempt them from the disclosure requirements of paragraph (b) of this section.

Rivets, springs, screws, bolts, washers, and similar small parts which are imported in an unassembled state;

Natural stones and cultured pearls which are used as decorative settings of industry products.

NOTE: Nothing in this section is to be construed as relieving any industry member from compliance with the requirements of custom laws of the U.S. having application to industry products and parts imported from a foreign country.

[Rule 4]

§ 60.5 Misrepresentation as to character of business.

It is an unfair trade practice for any industry member, in the course of or in connection with the sale of industry products, to represent, directly or indirectly, that he is a manufacturer of industry products, unless he owns and operates or directly controls a factory wherein such products are made, or in any other manner to misrepresent the character, extent, or type of his business. [Rule 5]

§ 60.6 Deceptive pricing.

(a) It is an unfair trade practice for any member of the industry to represent directly or indirectly in advertising or otherwise that an industry product may be purchased for a specified price, or at a saving, or at a reduced price, when such is not the fact; or otherwise to deceive purchasers or prospective purchasers with respect to the price of any product offered for sale; or to furnish any means or instrumentality by which others engaged in the sale of industry products may make any such representation.

(b) Among the practices prohibited by this section are:

(1) Representing or implying that a stated price is the seller's usual and regular price of an industry product when in fact such stated price is in excess of the price at which such product is regularly and customarily sold by the seller in the usual and recent course of business.

NOTE: The words and phrases "regularly," "usually," "formerly," "was _____ now _____," "_____% off" and "you save $_____" when used in connection with prices constitute representations of the advertiser's former usual and customary prices in recent course of business.

(2) Representing or implying that a stated price constitutes a reduction from the trade area price unless the saving or reduction is from the usual and customary price of an industry product in the trade area, or areas where the representation is made.

NOTE: The words and phrases "manufacturer's suggested list $_____—our price $_____," "sold nationally at $_____" and "value $_____" constitute representations of an article's usual and customary retail price in the trade area where the representations are made.

(3) Preticketing a product with any price figure or otherwise representing, contrary to the fact, that there is a usual and customary price for the product in the trade area where it is offered for sale and that the usual and customary price is the preticketed price, or preticketing a product with any price if the preticketed product is usually and customarily sold at a lower price or at a variety of prices significantly lower than the preticketed price in the trade area or areas where it is offered for sale.

(4) Disseminating preticketed price figures for use in connection with the offer for sale of products at retail by others (even though they themselves are not engaged in retail sales) when the price figures do not meet the standard set forth in this section.

(5) Placing in the hands of others a means or instrumentality by which they may mislead the public. For the purposes of this section preticketing includes the use of price figures,

(i) Affixed to the product by tag, label or otherwise, or

(ii) In such a form as to be affixed to the product by others, or

(iii) In material, such as display placards, which are used, or designed to be used, with the product at point of sale to the consuming public.

EXAMPLE. A manufacturer pre-tickets his products with "Price $12.95." Although this price prevails in many trade areas, in other areas the product generally sells for $10.95. The pre-ticketed price would violate this section in any trade area where the $12.95 price was not the usual and customary retail price.

NOTE: Guides Against Deceptive Pricing adopted by the Commission October 2, 1958, are now in the process of revision. The new guides will supplement this section by affording additional guidance on the subject. When approved, the new guides will be published in the FEDERAL REGISTER and copies thereof will be furnished upon request.

[Rule 6]

§ 60.7 Deception as to identity of manufacturer or seller.

In the sale, offering for sale, or distribution of industry products, it is an unfair trade practice for any member of the industry to use any corporate name, trade name, trade-mark, slogan or other means of identification, which, by reason of its similarity with the corporate name, trade name, trade-mark, slogan, or other means of identification used by another party, which has the capacity and tendency or effect of deceiving purchasers or prospective purchasers as to the identity of the manufacturer or vendor of any industry product which is sold or offered for sale by the industry member. [Rule 7]

§ 60.8 Misrepresenting products as conforming to standard.

It is an unfair trade practice to represent, through advertising or otherwise, that any product of the industry conforms to any standard recognized in or applicable to the industry when such is not the fact. [Rule 8]

§ 60.9 Guarantees, warranties, etc.

(a) It is an unfair trade practice to represent in advertising or otherwise that a product is "guaranteed" without clear and conspicuous disclosure of:

(1) The nature and extent of the guarantee, and

(2) Any material conditions or limitations in the guarantee which are imposed by the guarantor, and

(3) The manner in which the guarantor will perform thereunder, and

(4) The identity of the guarantor.

Representations that a product is "guaranteed for life" or has a "lifetime guarantee" in addition to meeting the above requirements, shall contain a conjunctive and conspicuous disclosure of the meaning of "life" or "lifetime" as used (whether that of the purchasers, the product or otherwise).

(b) Guarantees shall not be used which under normal conditions are impractical of fulfillment or which are for such a period of time or are otherwise of such nature as to have the capacity and tendency of misleading purchasers or prospective purchasers into

[3] Parts which are to be considered as substantial include the skeletons or interliners of the expansion type bands, whether of the entire length of the band or but a substantial portion of such length, and whether caps and end pieces are affixed thereto before or after the importation of such skeletons or interliners.

the belief that the product so guaranteed has a greater degree of serviceability, durability or performance capability in actual use than is true in face.

(c) This section has application not only to "guarantees" but also to "warranties," to purported "guarantees" and "warranties," and to any promise or representation in the nature of a "guarantee" or "warranty". [Rule 9]

§ 60.10 Prohibited forms of trade restraints (unlawful price fixing, etc.)[4]

Members of the industry, either directly or indirectly, shall not engage in any planned common course of action, or enter into or take part in any understanding, agreement, combination, or conspiracy, with one or more members of the industry, or with any other person or persons, to fix or maintain the price of any industry products or otherwise unlawfully to restrain trade; or use any form of threat, intimidation, or coercion to induce any member of the industry or other person or persons to engage in any such planned common course of action, or become a party to any such understanding, agreement, combination, or conspiracy. [Rule 10]

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

Members of the industry shall not defame competitors by falsely imputing to them dishonorable conduct, inability to perform contracts, questionable credit standing, or by other false representations, nor shall such members falsely disparage the products of competitors in any respect, nor their business methods, selling prices, values, credit terms, policies or services. [Rule 11]

§ 60.12 Prohibited discrimination.

(a) *Prohibited discriminatory prices, rebates, discounts, etc.* No member of the industry engaged in commerce, in the course of such commerce, shall grant or allow, secretly or openly, directly or indirectly, any rebate, refund, discount, credit, or other form of price differential, where such rebate, refund, discount, credit, or other form of price differential effects a discrimination in price between different purchasers of goods of like grade and quality, where either or any of the purchasers involved therein are in commerce, and where the effect thereof may be substantially to lessen competition or tend to create a monopoly in any line of commerce, or to injure, destroy, or prevent competition with any person who either grants or knowingly receives the benefit of such discrimination, or with customers of either of them: *Provided, however,*

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

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

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

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

(4) That nothing contained in this paragraph shall prevent price changes from time to time where made in response to changing conditions affecting the market for or the marketability of the goods concerned, such as but not limited to obsolescence of seasonal goods, distress sales under court process, or sales in good faith in discontinuance of business in the goods concerned;

(5) That nothing contained in this section shall prevent the meeting in good faith of an equally low price of a competitor.

NOTE: Subsection (b) of section 2 of the Clayton Act, as amended, reads as follows: "Upon proof being made, at any hearing on a complaint under this section, that there has been discrimination in price or services or facilities furnished, the burden of rebutting the prima facie case thus made by showing justification shall be upon the person charged with a violation of this section, and unless justification shall be affirmatively shown, the Commission is authorized to issue an order terminating the discrimination: *Provided, however,* That nothing herein contained shall prevent a seller rebutting the prima facie case thus made by showing that his lower price or the furnishing of services or facilities to any purchaser or purchasers was made in good faith to meet an equally low price of a competitor, or the services or facilities furnished by a competitor."

(b) *Prohibited brokerage and commissions.* No member of the industry engaged in commerce, in the course of such commerce, shall pay or grant, or receive or accept, anything of value as a commission, brokerage, or other compensation or any allowance or discount in lieu thereof, except for services rendered in connection with the sale or purchase of goods, wares, or merchandise, either to the other party to such transaction or to an agent, representative, or other intermediary therein where such intermediary is acting in fact for or in behalf, or is subject to the direct or indirect control, of any party to such transaction other than the person by whom such compensation is so granted or paid.

(c) *Prohibited advertising or promotional allowances, etc.* No member of the industry engaged in commerce shall pay or contract for the payment of advertising or promotional allowances or any other thing of value to or for the benefit of a customer of such member in the course of such commerce as compensation or in consideration for any services or facilities furnished by or through such customer in connection with the processing, handling, sale, or offering for sale of any products or commodities manufactured, sold or offered for sale by such member, unless such payment or consideration is made known to and is available on proportionally equal terms to all other customers competing in the distribution of such products or commodities.

(d) *Prohibited discriminatory services or facilities.* No member of the industry engaged in commerce shall discriminate in favor of one purchaser against another purchaser or purchasers of a commodity bought for resale, with or without processing, by contracting to furnish or furnishing, or by contributing to the furnishing of, any services or facilities including, but not limited to, displays exhibits, and promotional material connected with the processing, handling, sale, or offering for sale of such commodity so purchased upon terms not made known to and accorded to all competing purchasers on proportionally equal terms.

NOTE: Subsection (b) of section 2 of the Clayton Act, as amended, which is set forth in the note concluding paragraph (a) of this section, is applicable to paragraph (d) of this section.

(e) *Inducing or receiving an illegal discrimination in price.* No member of the industry engaged in commerce, in the course of such commerce, shall knowingly induce or receive a discrimination in price, advertising or promotional allowances, or services or facilities, which is prohibited by the foregoing provisions of this section. [Rule 12]

Authorized: June 26, 1962.

By the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 62-6377; Filed, June 29, 1962; 8:47 a.m.]

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

[File No. 21-543]

PART 62—REBUILT, RECONDITIONED AND OTHER USED AUTOMOTIVE PARTS INDUSTRY

Promulgation of Trade Practice Rules

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

It is now ordered, That the trade practice rules as hereinafter set forth, which have been approved by the Commission in this proceeding, be promulgated as of June 30, 1962.

Statement by the Commission. Trade practice rules for the Rebuilt, Reconditioned and Other Used Automotive Parts Industry, as hereinafter set forth, are promulgated by the Federal Trade Commission under the trade practice conference procedure.

The industry for which rules are established is composed of the persons, firms, corporations and organizations engaged in the sale or distribution of automotive parts and automotive assemblies which have been used or which contain used parts, whether such assemblies or parts have been rebuilt, remanufactured, reconditioned, relined or otherwise. The terms "automotive parts" and "automotive assemblies" as herein used embraces all parts, and assemblies containing more than one part, designed for an automobile, truck, motorcycle, tractor or similar self-propelled vehicle. Industry products include, but are not limited to, armatures, generators, starters, carburetors, clutches, distributors, connecting rods, crankshafts, cylinder blocks, engine assemblies, fuel pumps, brakes, master and wheel brake cylinders, power brakes, shock absorbers, starter drives, solenoids, automatic transmissions, regulators, spark plugs, springs, windshield wiper motors and water pumps. Automobile tires are not products of the industry.

Proceedings to establish these rules were instituted pursuant to industry applications. Proposed rules for the industry were published by the Commission and made available to all industry members and other interested or affected parties upon public notice whereby they were afforded opportunity to present their views, including such pertinent information, suggestions, or amendments as they desired to offer, and to be heard in the premises. Pursuant to such notice a public hearing was held in Chicago, Illinois, and all matters there presented or otherwise received in the proceeding were considered by the Commission.

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

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

The rules. These rules promulgated by the Commission are designed to foster and promote the maintenance of fair competition in the interest of protecting industry, trade, and the public. The practices prohibited by the provisions of these rules are considered to be unfair methods of competition and unfair or deceptive acts or practices prohibited by the Federal Trade Commission Act, and appropriate proceedings in the public interest will be taken by the Commission to prevent the use by any person, partnership, corporation, or other organization, subject to its jurisdiction, of such unlawful practices in commerce.

Sec.

62.0 Definitions.
62.1 Deception as to previous use of products.
62.2 Deception as to identity of rebuilder, remanufacturer, reconditioner or reliner.
62.3 Misrepresentation as to condition of products and misuse of the terms "rebuilt," "factory rebuilt," "remanufactured," etc.

AUTHORITY: §§ 62.0 to 62.3 issued under sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U.S.C 45.

§ 62.0 Definitions.

(a) *Industry member.* Any person, firm, corporation or organization engaged in the sale or distribution of any industry product as defined below.

(b) *Industry products.* Industry products are automotive parts and automotive assemblies which have been used or which contain used parts, whether such parts or assemblies have been rebuilt, remanufactured, reconditioned, relined, or otherwise. The terms "automotive parts" and "automotive assemblies" as herein used mean any part or assembly designed for an automobile, truck, motorcycle, tractor or similar self-propelled vehicle. Industry products include, but are not limited to, armatures, generators, starters, carburetors, clutches, distributors, connecting rods, crankshafts, cylinder blocks, engine assemblies, fuel pumps, brakes, master and wheel brake cylinders, power brakes, shock absorbers, starter drives, solenoids, automatic transmissions, regulators, spark plugs, springs, windshield wiper motors and water pumps. Automobile tires are not products of the industry.

§ 62.1 Deception as to previous use of products.

(a) It is an unfair trade practice to represent, directly or by implication, that any industry product is new or unused, or that any part of an industry product is new or unused when such is not the fact, or to misrepresent the extent of previous use thereof.

(b) It is an unfair trade practice for an industry member to offer for sale or sell any industry product unless a clear and conspicuous disclosure that such product has been used or contains used parts is made in all the industry member's advertising, sales promotional literature and invoices concerning the product, on the container in which the product is packed and, if the product has been rebuilt, remanufactured, reconditioned or has the appearance of being new, on the product with sufficient permanency to remain thereon after installation for a reasonable period of time under ordinary conditions of use, and in such manner that said disclosure cannot be easily removed or obliterated.

(1) *Form of disclosure.* The disclosure that an industry product has been used or contains used parts as required by this section may be made by use of a word such as, but not limited to, "Used," "Secondhand," "Repaired," "Remanufactured," "Reconditioned," "Rebuilt," or "Relined," whichever is applicable to the product involved. On invoices to the trade only the disclosure required by this section may be made by use of any number, mark, or other symbol which is clearly understood by all purchasers receiving such invoices as meaning that the products, or parts thereof, identified on the invoices have been used.

(2) *Conspicuousness of disclosure.* The disclosure required by this section shall be of such size or color contrast and so placed as to be readily noticeable to purchasers or prospective purchasers reading advertising, sales promotional literature, or invoices containing same, or reading any representation as to content on the container in which an industry product is packed, or inspecting an industry product before installation, or with a minimum of disassembly after installation.

(c) It is an unfair trade practice to place any means or instrumentality in the hands of others whereby they may mislead purchasers or prospective purchasers as to the previous use of industry products or parts thereof. [Rule 1]

§ 62.2 Deception as to identity of rebuilder, remanufacturer, reconditioner or reliner.

(a) It is an unfair trade practice to misrepresent the identity of the rebuilder, remanufacturer, reconditioner or reliner of an industry product.

(b) In connection with the sale or offering for sale of an industry product if the identity of the original manufacturer of the product, or the identity of the manufacturer for which the product was originally made, is revealed and the product was rebuilt, remanufactured, reconditioned or relined by other than the manufacturer so identified, it is an unfair trade practice to fail to disclose such fact wherever either of said manufacturers is identified in advertising and sales promotional literature concerning the product, on the container in which the product is packed, and on the product, in close conjunction with, and of the same permanency and conspicuousness as, the disclosure of previous use of the product required by this section. Examples of disclosures considered to be in compliance with the requirements of this section are as follows:

(1) Disclosure of the identity of the rebuilder as, for example:

Rebuilt
by
John Doe Co.

(2) Disclosure that the product was rebuilt by an independent rebuilder as, for example:

Rebuilt
by an
Independent Rebuilder

(3) Disclosure that the product was rebuilt by other than the manufacturer so identified as, for example:

Rebuilt
by other than
XYZ Motors

(4) Disclosure that the product was rebuilt for the identified manufacturer, if such is the case, as for example:

Rebuilt
for
XYZ Motors

[Rule 2]

§ 62.3 Misrepresentation as to condition of products and misuse of the terms "rebuilt," "factory rebuilt," remanufactured," etc.

(a) It is an unfair trade practice to use, or cause or promote the use of, any statement or representation in advertising, on containers, on industry products, or elsewhere, which has the capacity and tendency or effect of misleading or deceiving purchasers or prospective purchasers as to the condition of an industry product, or the extent that an industry product has been repaired or reconstructed.

(b) It is an unfair trade practice to use the words "Rebuilt," "Remanufactured," or words of similar import, as descriptive of an industry product which, since it was last subjected to any use, has not been dismantled and reconstructed as necessary, all of its internal and external parts cleaned and made free from rust and corrosion, all impaired, defective or substantially worn parts restored to a sound condition or replaced with new, rebuilt[1] or unimpaired used parts, all missing parts replaced with new, rebuilt[1] or unimpaired used parts, and such rewinding or machining and other operations performed as are necessary to put the industry product in sound working condition.

(c) It is an unfair trade practice to represent an industry product as "Factory Rebuilt" unless the product was rebuilt as described in paragraph (b) of this section at a factory generally engaged in the rebuilding of such products. (See also § 62.2) [Rule 3]

Authorized: June 26, 1962.

By the Commission.

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 62-6365; Filed, June 29, 1962; 8:46 a.m.]

[1] In accord with the provisions of this paragraph (b).

[File No. 21-220]

PART 105—TOBACCO DISTRIBUTING INDUSTRY

Promulgation of Trade Practice Rules

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

It is now ordered, That the trade practice rules as hereinafter set forth, which have been approved by the Commission in this proceeding, be promulgated as of June 30, 1962.

Statement by the Commission. The revised trade practice rules for the Tobacco Distributing Industry, formerly known as the Wholesale Tobacco Trade, are promulgated by the Federal Trade Commission as hereinafter set forth.

The industry is composed of persons, firms, corporations, and organizations engaged in the distribution of various forms of finished tobacco for human use. Such products include cigarettes, cigars, pipe tobacco, chewing tobacco and snuff.

The rules constitute a revision of those promulgated for the Wholesale Tobacco Trade on September 28, 1935. Numerous changes embodying clarification of the applicable requirements of laws administered by the Commission have been made.

The primary objective of the rules is the maintenance of free and fair competition in the industry and elimination and prevention of unfair methods of competition, unfair acts or practices, and other trade abuses. They are to be applied to such end, and to the exclusion of any acts or practices which suppress competition, or which otherwise restrain trade. The rules are designed to meet particular needs of the industry and should not be construed as covering all acts or practices prohibited by the laws administered by the Commission.

Proceedings for revision of the trade practice rules for the industry were instituted upon application made by the National Association of Tobacco Distributors. Proposed rules were published by the Commission and made available to all industry members and interested or affected parties upon public notice whereby they were afforded opportunity to present their views, including such pertinent information, suggestions, amendments, or objections as they desire to offer, and to be heard in the premises. Pursuant to such notice, the public hearing was held in Miami Beach, Florida on April 2, 1962, and all matters presented or otherwise received in the proceeding were duly considered.

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

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

Sec.
105.0 Definitions.
105.1 Misrepresentation and deception in general.
105.2 False invoicing.
105.3 Misrepresentation as to character of business.
105.4 Deceptive Use or imitation or simulation of trade or corporate names, trade-marks, etc.
105.5 False and misleading price quotations, etc.
105.6 Defamation of competitors or false disparagement of their products.
105.7 Commercial bribery.
105.8 Inducing breach of contract.
105.9 Tie-in sales—coercing purchase of one product as a prerequisite to the purchase of other products.
105.10 Prohibited discrimination.
105.11 Prohibited forms of trade restraints (unlawful price fixing, etc.)
105.12 Aiding or abetting use of unfair trade practices.

AUTHORITY: §§ 105.0 to 105.12 issued under sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45.

§ 105.0 Definitions.

(a) Industry member. Any person, firm, corporation or organization engaged in the distribution of industry products as defined below.

(b) Industry products. Industry products consist of all forms of finished tobacco for human use and include cigarettes, cigars, pipe tobacco, chewing tobacco and snuff.

§ 105.1 Misrepresentation and deception in general.

It is an unfair trade practice to use, or cause or promote the use of, any trade promotional literature, advertising matter, guarantee, warranty, mark, brand, label, trade name, picture, design or device, designation, or other type of oral or written representation, however disseminated or published, which directly or by implication, or through failure to disclose material information has the capacity and tendency or effect of misleading or deceiving purchasers or prospective purchasers with respect to the type, kind, brand, grade, quality, quantity, size, weight, nature, substance, origin, preparation, production, manufacture, distribution, or customary and usual price, of any product of the industry, or which otherwise has the capacity and tendency or effect of misleading or deceiving purchasers or prospective purchasers. [Rule 1]

§ 105.2 False invoicing.

Withholding from or inserting in invoices any statements or information by reason of which omission or insertion a false record is made, wholly or in part, of the transactions represented on the face of such invoices, when having the capacity and tendency or effect of thereby misleading or deceiving purchasers, prospective purchasers, or the consuming public, in any material respect, is an unfair trade practice. [Rule 2]

§ 105.3 Misrepresentation as to character of business.

(a) It is an unfair trade practice for any member of the industry, in connection with the distribution of industry products, to misrepresent, directly or indirectly, by means of advertising, letterheads, telephone listings, oral statements, or otherwise, the character, extent, or type of his business.

(b) When an industry member sells industry products at both wholesale and at retail in the same establishment, it is an unfair trade practice for such industry member to sell any such products under circumstances having the capacity and tendency or effect of causing purchasers to believe that they are buying at

wholesale prices when such is not the case. [Rule 3]

§ 105.4 Deceptive use or imitation or simulation of trade or corporate names, trade-marks, etc.

It is an unfair trade practice for any member of the industry:

(a) to imitate or simulate the trade-marks, trade names, brands, or labels of competitors, with the capacity and tendency or effect of misleading or deceiving purchasers or prospective purchasers; or

(b) to use any trade name, corporate name, trade-mark, or other trade designation, which has the capacity and tendency or effect of misleading or deceiving purchasers or prospective purchasers as to the name, nature, or origin of any product of the industry, or of any material used therein, or which is false, deceptive, or misleading in any other material respect. [Rule 4]

§ 105.5 False and misleading price quotations, etc.

The publishing or circulating to purchasers or prospective purchasers by any member of the industry of false or misleading price quotations, price lists, or terms or conditions of sale, with the capacity and tendency or effect of thereby misleading or deceiving purchasers or prospective purchasers, is an unfair trade practice. [Rule 5]

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

The defamation of competitors by falsely imputing to them dishonorable conduct, inability to perform contracts, questionable credit standing, or by other false representations, or the false disparagement of the products of competitors in any respect, or of their business methods, selling prices, values, credit terms, policies, or services, is an unfair trade practice. [Rule 6]

§ 105.7 Commercial bribery.

It is an unfair trade practice for a member of the industry, directly or indirectly, to give, or offer to give, or permit or cause to be given, money or anything of value to agents, employees, or representatives of customers or prospective customers, or to agents, employees, or representatives of competitors' customers or prospective customers, without the knowledge of their employers or principals, as an inducement to influence their employers or principals to purchase or contract to purchase products manufactured or sold by such industry member or the maker of such gift or offer, or to influence such employers or principals to refrain from dealing in the products of competitors or from dealing or contracting to deal with competitors. [Rule 7]

§ 105.8 Inducing breach of contract.

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

(b) Nothing in this section is intended to imply that it is improper for any industry member to solicit the business of a customer of a competing industry member; nor is the section to be construed as in anywise authorizing any agreement, understanding, or planned common course of action by two or more industry members not to solicit business from, or to sell to, the customers of either of them, or customers of any other industry member. [Rule 8]

§ 105.9 Tie-in sales—coercing purchase of one product as a prerequisite to the purchase of other products.

The practice of coercing the purchase of one or more products as a prerequisite to the purchase of one or more other products, where the effect may be substantially to lessen competition or tend to create a monopoly or unreasonably to restrain trade, is an unfair trade practice. [Rule 9]

§ 105.10 Prohibited discrimination.

(a) *Prohibited discriminatory prices, rebates, discounts, etc.* No member of the industry engaged in commerce, in the course of such commerce, shall grant or allow, secretly or openly, directly or indirectly, any rebate, refund, discount, credit, or other form of price differential, where such rebate, refund, discount, credit, or other form of price differential, effects a discrimination in price between different purchasers of goods of like grade and quality, where either or any of the purchases involved therein are in commerce, and where the effect thereof may be substantially to lessen competition or tend to create a monopoly in any line of commerce, or to injure, destroy, or prevent competition with any person who either grants or knowingly receives the benefit of such discrimination, or with customers of either of them: *Provided, however,*

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

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

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

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

(4) That nothing contained in this paragraph shall prevent price changes from time to time where made in response to changing conditions affecting the market for or the marketability of the goods concerned, such as but not limited to obsolescence of seasonal goods, distress sales under court process, or sales in good faith in discontinuance of business in the goods concerned;

(5) That nothing contained in this section shall prevent the meeting in good faith of an equally low price of a competitor.

NOTE: Subsection (b) of section 2 of the Clayton Act, as amended, reads as follows: "Upon proof being made, at any hearing on a complaint under this section, that there has been discrimination in price or services or facilities furnished, the burden of rebutting the prima facie case thus made by showing justification shall be upon the person charged with a violation of this section, and unless justification shall be affirmatively shown, the Commission is authorized to issue an order terminating the discrimination: *Provided, however,* That nothing herein contained shall prevent a seller rebutting the prima facie case thus made by showing that his lower price or the furnishing of services or facilities to any purchaser or purchasers was made in good faith to meet an equally low price of a competitor, or the services or facilities furnished by a competitor."

(b) *Prohibited brokerage and commissions.* No member of the industry engaged in commerce, in the course of such commerce, shall pay or grant, or receive or accept, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, except for services rendered in connection with the sale or purchase of goods, wares, or merchandise, either to the other party to such transaction or to an agent, representative, or other intermediary therein where such intermediary is acting in fact for or in behalf, or is subject to the direct or indirect control, of any party to such transaction other than the person by whom such compensation is so granted or paid.

(c) *Prohibited advertising or promotional allowances, etc.* No member of the industry engaged in commerce shall pay or contract for the payment of advertising or promotional allowances or any other thing of value to or for the benefit of a customer of such member in the course of such commerce as compensation or in consideration for any services or facilities furnished by or through such customer in connection with the processing, handling, sale, or offering for sale of any products or commodities manufactured, sold, or offered for sale by such member, unless such payment or consideration is made known to and is available on proportionally equal terms to all other customers competing in the distribution of such products or commodities.

(d) *Prohibited discriminatory services or facilities.* No member of the industry engaged in commerce shall discriminate in favor of one purchaser against another purchaser or purchasers of a

commodity bought for resale, with or without processing, by contracting to furnish or furnishing, or by contributing to the furnishing of, any services or facilities including, but not limited to, displays, exhibits, and promotional material connected with the processing, handling, sale, or offering for sale of such commodity so purchased upon terms not accorded to all competing purchasers on proportionally equal terms.

NOTE: Subsection (b) of section 2 of the Clayton Act as amended, which is set forth in the note concluding paragraph (a) of this section is applicable to paragraph (d) of this section.

(e) *Inducing or receiving an illegal discrimination in price, advertising or promotional allowances, or services or facilities.* No member of the industry engaged in commerce, in the course of such commerce, shall knowingly induce or receive a discrimination in price, advertising or promotional allowances, or services or facilities, which is prohibited by the foregoing provisions of this section. [Rule 10]

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

It is an unfair trade practice for any member of the industry, either directly or indirectly, to engage in any planned common course of action, or to enter into or take part in any understanding, agreement, combination, or conspiracy, with one or more members of the industry, or with any other person or persons, to fix or maintain the price of any goods or otherwise unlawfully to restrain trade; or to use any form of threat, intimidation, or coercion to induce any member of the industry or other person or persons to engage in any such planned common course of action, or to become a party to any such understanding, agreement, combination, or conspiracy. [Rule 11]

§ 105.12 Aiding or abetting use of unfair trade practices.

It is an unfair trade practice for any person, firm, or corporation to aid, abet, coerce, or induce another, directly or indirectly, to use or promote the use of any unfair trade practice prohibited by this part. [Rule 12]

Authorized: June 26, 1962.

By the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 62-6378; Filed, June 29, 1962; 8:47 a.m.]

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

[File No. 21-265]

PART 118—MIRROR INDUSTRY

Promulgation of Trade Practice Rules

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

It is now ordered, That the trade practice rules as hereinafter set forth, which have been approved by the Commission in this proceeding, be promulgated as of June 30, 1962.

Statement by the Commission. Trade practice rules for the Mirror Industry, as hereinafter set forth, are promulgated by the Federal Trade Commission under the trade practice conference procedure. Such rules constitute a revision of, and supersede, the trade practice rules for this industry as promulgated by the Commission July 19, 1939.

The industry for which these rules are established is composed of persons, firms, corporations and organizations engaged in the manufacture, sale, offering for sale, or distribution of all kinds and types of glass mirrors, both utilitarian and decorative.

Proceedings for the establishment of these rules were instituted upon application of the National Association of Mirror Manufacturers. Proposed revised rules for the industry were published by the Commission and made available to all industry members and other interested or affected parties upon public notice whereby they were afforded opportunity to present their views, including such pertinent information, suggestions, or amendments as they desired to offer, and to be heard in the premises. Pursuant to such notice a public hearing was held and all matters there presented, or otherwise received in the proceeding, were considered by the Commission.

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

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

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

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

Sec.

118.0 Definitions.
118.1 Deception (general).
118.2 Misrepresentation of quality of industry products.
118.3 Disclosure of foreign origin.
118.4 Disclosure of fact that products are "rejects," "seconds," etc.
118.5 Misrepresenting products as conforming to standard.
118.6 Deceptive pricing.
118.7 Deceptive use or imitation or simulation of trade or corporate names, trade-marks, etc.
118.8 False invoicing.
118.9 Guarantees, warranties, etc.
118.10 Substitution of products.
118.11 Commercial bribery.
118.12 Procurement of competitors' confidential information by unfair means and wrongful use thereof.
118.13 Unfair threats of infringement suits.
118.14 Inducing breach of contract.
118.15 Prohibited forms of trade restraints (unlawful price fixing, etc.)
118.16 Prohibited discrimination.
118.17 Aiding or abetting use of unfair trade practices.

AUTHORITY: §§ 118.0 to 118.17 issued under sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45.

§ 118.0 Definitions.

As used in these rules the terms "Industry Member" and "Industry Products" shall have the following meaning:

(a) *Industry member:* Any person, firm, corporation or organization (including manufacturers, wholesalers, jobbers, importers, retailers, etc.) engaged in the manufacture, sale, offering for sale, or distribution of industry products as defined below.

(b) *Industry products:* All kinds and types of mirrors both utilitarian and decorative.

(c) For the purposes of these rules the following definitions shall apply:

Plate glass: A transparent glass which has been drawn, rolled, or cast then ground and polished on both sides to the desired thickness and to the degree that its surfaces are plane and parallel, and provide clear and undistorted vision and reflection.

Float glass: A transparent glass, the two surfaces of which are flat, parallel and fire polished so that they give clear and undistorted vision and reflection, manufactured by floating hot glass in ribbon form upon a heated liquid of greater density than that of glass.

Window glass: A transparent glass which has been drawn or rolled, has glossy, fire polished surfaces and a characteristic waviness of its surfaces which is visible when viewed at an acute angle or in reflected light. Window glass is sometimes referred to in the industry as sheet or shock glass.

§ 118.1 Deception (general).

It is an unfair trade practice for any industry member in connection with the sale, offering for sale, or distribution of industry products to use any advertisement[1] or representation which is false, or which by failure to disclose material facts has the capacity, tendency or effect of misleading purchasers or prospective purchasers with respect to the type, grade, quality, quantity, use, size, design, material, finish, strength, backing, silvering, thickness, composition, origin, preparation, manufacture, value, or distribution of any product of the industry, or in any other material respect. [Rule 1]

§ 118.2 Misrepresentation of quality of industry products.

It is an unfair trade practice for any member of the industry to sell, offer for sale, or distribute any industry product under any representation or circumstance having the capacity and tendency or effect of misleading or deceiving purchasers or prospective purchasers in any respect with regard to the kind or type of glass contained in any industry product, or the kind or type of backing affixed thereto.

(a) *Misrepresentation as to quality of glass.* (1) (i) It is an unfair trade practice to sell, offer for sale, or distribute any industry product containing "float glass", or "window glass", unless such product is marked, labeled or stamped so as to clearly reveal the kind or type of glass contained in the product, as for example "window glass."

(ii) The disclosure required by this section must be made on the product and be of such conspicuousness and legibility as to readily come to the attention of the casual observer, and of such permanence, and so affixed, as to remain on the product until consummation of consumer sale thereof. Such disclosure is not required upon industry products 72 square inches or less in size.

(2) In the sale, offering for sale, or distribution of industry products it is an unfair trade practice to represent that a product contains "crystal" or "crystale" glass, when, contrary to the representation, such product contains a different kind or type of glass e.g., "plate glass," "float glass" or "window glass."

(3) In the sale, offering for sale, or distribution of industry products it is an unfair trade practice to represent window glass as "distortion free," or to represent any other kind of glass as "distortion free," when such is not the fact.

(4) In the sale, offering for sale, or distribution of industry products it is an unfair trade practice to describe the glass contained in an industry product as "shatter proof" unless the glass is so constituted or treated so as in fact to prevent, in the event of breakage, the shattering and dispersal of particles of the glass.

(b) *Misrepresentation as to backing.* (1) In the sale, offering for sale, or distribution of industry products it is an unfair trade practice to represent that an industry product is "copper backed", or is backed with "metallic copper" or has a "copper electroplated" back, or to similarly use any other word, term or legend of like import as descriptive of the backing of an industry product, unless the electroplating of the copper backing is accomplished by an electrolytic process.

NOTE: For the purposes of this part it is established that both the "galvanic," or "contact" method, of electroplating (i.e., the plating method using a self induced electric current), and the method using an external source of current, are truly electroplating processes. Both processes are equally well defined by the definition of Electroplating established by the American Society for Testing Materials, as follows:

"Electroplating: The electro-deposition of an adherent metallic coating upon an electrode for the purpose of securing a surface with properties or dimensions different from those of the basic metal."

No useful purpose can be served by attempting to establish a differentiation between the mirror backing produced by these two methods.

(2) Nothing in this section shall be construed as prohibiting the use of representations that any backing on products of the industry contains copper, which has been applied mechanically or by means other than the use of electric current when such is the fact, provided that a clear and conspicuous disclosure is made in conjunction with such representations as to the manner of application of the backing, as for example, "window glass mirror, painted back."

(3) The disclosure of the kind or type of glass and the kind and type of backing thereof required under this section may be in the form of a stamp, tag, mark or label on or attached to the product and shall be of such size type and so situated that it will come to the attention of the casual observer and be so affixed as to remain on the product until consummation of consumer sale.

(4) The following are examples of the marks, stamps or labels which will be regarded as meeting the requirements of this section: An industry product containing "plate glass," copper backed by an electrolytic process may be marked or described "plate glass-copper electroplated," or "float glass-copper backed"; an industry product containing window glass backed by an electrolytic process may be marked or described "window glass-copper plated back" or "sheet glass-copper plated back," or an article containing plate glass backed with a copper plating which has been applied mechanically or by means other than the use of electric current may be marked or described as "plate glass-painted back." [Rule 2]

§ 118.3 Disclosure of foreign origin.

(a) It is an unfair trade practice to misrepresent the country of manufacture of industry products or their components.

(b) It is also an unfair trade practice to offer for sale, sell, or distribute any industry product manufactured in a foreign country, or any industry product containing a substantial or material part manufactured in a foreign country, without clear and adequate disclosure of such fact, when the failure to make such disclosure has the capacity and tendency or effect of misleading or deceiving purchasers or prospective purchasers.

(c) Disclosure of foreign origin as and when required under paragraphs (a) and (b) of this section, may be in the form of a stamping or marking on the product itself, or on a label or tag securely attached to the product. Such disclosure shall clearly identify the foreign country in which the product, or part thereof, was manufactured and shall be of such conspicuousness as to be noticeable and readable on casual inspection and of such permanence as to remain on the product until consummation of consumer sale.

NOTE 1: Paragraph (b) of this section is not to be construed as requiring disclosure as to foreign manufacture or processing when, by reason of further manufacturing or processing operations in this country, or merger with another part or other parts, the imported product or part does not retain the appearance and essential characteristics which it possessed at the time of its importation.

NOTE 2: Nothing in this section shall be construed as relieving any member of the industry (or other party) of the necessity of complying with the requirements of the customs laws or regulations, or other applicable provisions of law or regulation, relating to marking of imported articles.

[Rule 3]

§ 118.4 Disclosure of fact that products are "rejects," "seconds," etc.

An industry product not equalling the manufacturer's standard for his first quality products shall not be represented as being of first quality and shall be marked or labeled as being a "second" or "reject," or by some other term which adequately makes known the fact that it is not first quality. Such disclosure shall be in the form of a legible stamping or marking on the product itself, or on a label or tag securely attached to the product, and be sufficiently conspicuous as to be likely noticed and read on casual inspection of the product, and be so placed on or affixed to the product as to remain thereon until consummation of consumer sale. Disclosure that such products are "seconds" or "rejects," shall also be made in advertisements, price lists, other sales promotional literature, and radio and television advertisements relating to such products. [Rule 4]

§ 118.5 Misrepresentating products as conforming to standard.

In the sale, offering for sale, or distribution of industry products, it is an unfair trade practice to represent, through advertising or otherwise, that such products conform to any standards recognized in or applicable to the industry when such is not the fact. [Rule 5]

[1] The word "advertisement" as here used includes any written or verbal statement, notice, presentation, illustration, or depiction which directly or indirectly promotes the sale of any industry product, or creates an interest in the purchase of any such product, whether same appears in a newspaper, magazine, catalog, letter, sales promotional literature, radio or television broadcast, or in any other media.

§ 118.6 Deceptive pricing.

(a) It is an unfair trade practice for any member of the industry to represent directly or indirectly in advertising or otherwise that an industry product may be purchased for a specified price, or at a saving, or at a reduced price, when such is not the fact; or otherwise to deceive purchasers or prospective purchasers with respect to the price of any product offered for sale; or to furnish any means or instrumentality by which others engaged in the sale of industry products may make any such representation.

(b) Among the practices prohibited by this section are:

(1) Representing or implying that a stated price is the seller's usual and regular price of an industry product when in fact such stated price is in excess of the price at which such product is regularly and customarily sold by the seller in the usual and recent course of business.

NOTE: The words and phrases "regularly," "usually," "formerly," "was _____ now _____," "_____% off" and "you save $_____" when used in connection with prices constitute representations of the advertiser's former usual and customary prices in recent course of business.

(2) Representing or implying that a stated price constitutes a reduction from the trade area price unless the saving or reduction is from the usual and customary price of an industry product in the trade area, or areas where the representation is made.

NOTE: The words and phrases "manufacturer's suggested list $_____—our price $_____," "sold nationally at $_____" and "value $_____" constitute representations of an article's usual and customary retail price in the trade area where the representations are made.

(3) Pre-ticketing a product with any price figure, or otherwise representing, contrary to the fact, that there is a usual and customary price for the product in the trade area where it is offered for sale and that the usual and customary price is the pre-ticketed price, or pre-ticketing a product with any price if the pre-ticketed product is usually and customarily sold at a lower price or at a variety of prices significantly lower than the pre-ticketed price in the trade area or areas where it is offered for sale.

(4) Disseminating pre-ticketed price figures for use in connection with the offer for sale of products at retail by others (even though they themselves are not engaged in retail sales) when the price figures do not meet the standard set forth in this section.

(5) Placing in the hands of others a means or instrumentality by which they may mislead the public. For the purposes of this section pre-ticketing includes the use of price figures:

(i) Affixed to the product by tag, label or otherwise, or

(ii) In such a form as to be affixed to the product by others, or

(iii) In material, such as display placards, which are used, or designed to be used, with the product at point of sale to the consuming public.

EXAMPLE: A manufacturer pre-tickets his products with "Price $3.95." Although this price prevails in many trade areas, in other areas the product generally sells for $2.25. The pre-ticketed price would violate this section in any trade area where the $3.95 price was not the usual and customary retail price.

NOTE: Guides Against Deceptive Pricing adopted by the Commission October 2, 1958, are now in the process of revision. The new guides will supplement this section by affording additional guidance on the subject. When approved, the new guides will be published in the Federal Register and copies thereof will be furnished upon request.

[Rule 6]

§ 118.7 Deceptive use or imitation or simulation of trade or corporate names, trade-marks, etc.

It is an unfair trade practice for any member of the industry:

(a) To imitate or simulate the trade-marks, trade names, brands, or labels of competitors, with the capacity and tendency or effect of misleading or deceiving purchasers or prospective purchasers; or

(b) To represent by use of any trade name, trade-marks, or other trade designation, that any industry member is a manufacturer, wholesaler or importer when such is not the fact; or

(c) To use any trade name, corporate name, trade-mark, or other trade designation, which has the capacity and tendency or effect of misleading or deceiving purchasers or prospective purchasers as to the name, nature, or origin of any product of the industry, or of any material used therein, or which is false, deceptive, or misleading in any other material respect. [Rule 7]

§ 118.8 False invoicing.

Withholding from or inserting in invoices or sales slips any statements or information by reason of which omission or insertion a false record is made, wholly or in part, of the transactions represented on the face of such invoices or sales slips, with the capacity and tendency or effect of thereby misleading or deceiving purchasers, prospective purchasers, or the consuming public in any material respect, is an unfair trade practice. [Rule 8]

§ 118.9 Guarantees, warranties, etc.

(a) Advertising of products shall not contain representations that a product is "guaranteed" without clear and conspicuous disclosure of:

(1) The nature and extent of the guarantee, and

(2) Any material conditions or limitations in the guarantee which are imposed by the guarantor, and

(3) The manner in which the guarantor will perform thereunder, and

(4) The identity of the guarantor.

(b) Guarantees shall not be used which under normal conditions are impractical of fulfillment or which are for such a period of time or are otherwise of such nature as to have the capacity and tendency of misleading purchasers or prospective purchasers into the belief that the product so guaranteed has a greater degree of serviceability, durability or performance capability in actual use than is true in fact. [Rule 9]

§ 118.10 Substitution of products.

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

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

(b) Falsely representing the reason for making substitutions. [Rule 10]

§ 118.11 Commercial bribery.

It is an unfair trade practice for a member of the industry, directly or indirectly, to give, or offer to give, or permit or cause to be given, money or anything of value to agents, employees, or representatives of customers or prospective customers, or to agents, employees, or representatives of competitors' customers or prospective customers, without the knowledge of their employers or principals, as an inducement to influence their employers or principals to purchase or contract to purchase products imported, manufactured, or sold by such industry member or the maker of such gift or offer, or to influence such employers or principals to refrain from dealing in the products of competitors or from dealing or contracting to deal with competitors. [Rule 11]

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

It is an unfair trade practice for any member of the industry to obtain information concerning the business of a competitor by bribery of an employee or agent of such competitor, by the impersonation of one in authority, or by any other unfair means, and to use the information so obtained so as substantially to injure a competitor or unreasonably restrain trade. [Rule 12]

§ 118.13 Unfair threats of infringement suits.

The circulation of threats of suit for infringement of patents or trade-marks among customers or prospective customers of competitors, not made in good faith but for the purpose and with the effect of harassing or intimidating such customers or prospective customers, or of unduly hampering, injuring, or prejudicing competitors in their business, is an unfair trade practice. [Rule 13]

§ 118.14 Inducing breach of contract.

(a) Knowingly inducing or attempting to induce the breach of existing lawful contracts between competitors and their customers, or between competitors and their suppliers, or interfering with or obstructing the performance of any such contractual duties or services, under any circumstance having the capacity and tendency or effect of substantially in-

juring or lessening competition, is an unfair trade practice.

(b) Nothing in this section is intended to imply that it is improper to solicit the business of a customer of a competing industry member; nor is the section to be construed as in anywise authorizing any agreement, understanding, or planned common course of action by two or more industry members not to solicit business from the customers of either of them, or from customers of any other industry member. [Rule 14]

§ 118.15 Prohibited forms of trade restraints (unlawful price fixing, etc.)[4]

It is an unfair trade practice for any member of the industry, either directly or indirectly, to engage in any planned common course of action, or to enter into or take part in any understanding, agreement, combination, or conspiracy with one or more members of the industry, or with any other person or persons, to fix or maintain the price of any goods or otherwise unlawfully to restrain trade; or to use any form of threat, intimidation, or coercion to induce any member of the industry or other person or persons to engage in any such planned common course of action, or to become a party to any such understanding, agreement, combination, or conspiracy. [Rule 15]

§ 118.16 Prohibited discrimination.

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

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

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

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

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

(4) That nothing contained in this paragraph shall prevent price changes from time to time where made in response to changing conditions affecting the market for or the marketability of the goods concerned, such as but not limited to obsolescence of seasonal goods, distress sales under court process, or sales in good faith in discontinuance of business in the goods concerned;

(5) That nothing contained in this section shall prevent the meeting in good faith of an equally low price of a competitor.

NOTE: Subsection (b) of section 2 of the Clayton Act, as amended, reads as follows: "Upon proof being made, at any hearing on a complaint under this section, that there has been discrimination in price or services or facilities furnished, the burden of rebutting the prima facie case thus made by showing justification shall be upon the person charged with a violation of this section, and unless justification shall be affirmatively shown, the Commission is authorized to issue an order terminating the discrimination: *Provided, however,* That nothing herein contained shall prevent a seller rebutting the prima facie case thus made by showing that his lower price or the furnishing of services or facilities to any purchaser or purchasers was made in good faith to meet an equally low price of a competitor, or the services or facilities furnished by a competitor."

(b) The following are examples of price differential practices to be considered as subject to the prohibitions of paragraph (a) of this section when involving goods of like grade and quality which are sold for use, consumption, or resale within any place under the jurisdiction of the United States, and which are not purchased by schools, colleges, universities, public libraries, churches, hospitals, or charitable institutions not operated for profit, as supplies for their own use, and when:

(1) The commerce requirements specified in paragraph (a) of this section are present; and

(2) The price differential has a reasonable probability of substantially lessening competition or tending to create a monopoly in any line of commerce, or of injuring, destroying, or preventing competition with the industry member or with the customer receiving the benefit of the price differential, or with customers of either of them; and

(3) The price differential is not justified by cost savings (see paragraph (a) (2) of this section); and

(4) The price differential is not made in response to changing conditions affecting the market for or the marketability of the goods concerned (see paragraph (a) (4) of this section; and

(5) The lower price was not made to meet in good faith an equally low price of a competitor (see paragraph (a) (5) of this section):

EXAMPLE No. 1. At the end of a given period an industry member grants a discount to a customer equivalent to a fixed percentage of the total of the customer's purchases during such period and fails to grant a discount of the same percentage to other customers on their purchases during such period.

EXAMPLE No. 2. An industry member sells goods to one or more of his customers at a higher price than he charges other customers for like merchandise. It is immaterial whether or not such discrimination is accomplished by misrepresentation as to the grade and quality of the products sold.

(c) *Prohibited brokerage and commissions.* It is an unfair trade practice for any member of the industry engaged in commerce, in the course of such commerce, to pay or grant, or to receive or accept, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, except for services rendered in connection with the sale or purchase of goods, wares or merchandise, either to the other party to such transaction or to an agent, representative, or other intermediary therein where such intermediary is acting in fact for or in behalf, or is subject to the direct or indirect control, of any party to such transaction other than the person by whom such compensation is so granted or paid.

(d) *Prohibited advertising or promotional allowances, etc.* It is an unfair trade practice for any member of the industry engaged in commerce to pay or contract for the payment of advertising or promotional allowances or any other thing of value to or for the benefit of a customer of such member in the course of such commerce as compensation or in consideration for any services or facilities furnished by or through such customer in connection with the processing, handling, sale, or offering for sale of any products or commodities manufactured, sold, or offered for sale by such member, unless such payment or consideration is made known to and is available on proportionally equal terms to all

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

other customers competing in the distribution of such products or commodities.

NOTE 1: Industry members giving advertising allowances to competing customers must exercise precaution and diligence in seeing that all of such allowances are used in accordance with the terms of their offers.

NOTE 2: When an industry member gives allowances to competing customers for advertising in a newspaper or periodical, the fact that a lower advertising rate for equivalent space is available to one or more, but not all, such customers, is not to be regarded by the industry member as warranting the retention by such customer or customers of any portion of the allowance for his or their personal use or benefit.

(e) *Prohibited discriminatory services or facilities.* It is an unfair trade practice for any member of the industry engaged in commerce to discriminate in favor of one purchaser against another purchaser or purchasers of a commodity bought for resale, with or without processing, by contracting to furnish or furnishing, or by contributing to the furnishing of, any services or facilities connected with the processing, handling, sale, or offering for sale of such commodity so purchased upon terms not accorded to all competing purchasers on proportionally equal terms.

NOTE: Subsection (b) of section 2 of the Clayton Act, as amended, which is set forth in the note concluding paragraph (a) of this section is applicable to paragraph (e) of this section.

(f) (1) The following is presented for the purpose of clarifying the requirements of paragraphs (d) and (e) of this section with respect to the supplying of marketing services, facilities or allowances by industry members to their customers but it is not intended to imply by such presentation that other methods which assure of proportional equality of treatment of competing customers may not also be used.

(2) An industry member may simultaneously offer to each of his customers competing in the resale of his products the same kind of promotional service, facility or allowance of a cost value equal to a uniform percentage of the sales (or purchases) of the industry member's products by each customer during a specified and identical period of time: *Provided, however,* That when the service, facility or allowance offered is of a type which under reasonable terms and conditions is not usable or suitable to the facilities and business of all customers, and is offered to any one customer, the member offer each of those customers to whom the service, facility or allowance is not usable or suitable an alternative type of promotional service, facility or allowance which is of equivalent measurable cost, is usable by the customer, and is suitable to his facilities and business, and promptly inform all competing customers of the kind and amount of services, facilities or allowances which he has offered to each and the respective terms and conditions under which such services, facilities or allowances are to be furnished by the industry member: *And provided, further,* That when the offer of any service, facility or allowance to any customer is conditioned on such customer supplying some reciprocal service, facility or payment, a reciprocal service, facility or payment be required in the offers to all other customers and there be an equality of ratio among all customers as to the measureable cost of that which is supplied by the industry member and the reciprocal service, facility or payment required by any customer. The industry member must take every reasonable precaution to see that services, facilities or allowances which he furnished to customers are used in accord with the terms of his offer; and upon failure of the customer to perform any obligation on his part the industry member must cease supplying the customer any further service, facility or allowance.

(g) *Inducing or receiving an illegal discrimination in price, advertising or promotional allowances, or services or facilities.* It is an unfair trade practice for any member of the industry engaged in commerce, in the course of such commerce, knowingly to induce or receive a discrimination in price, advertising or promotional allowances, or services or facilities, prohibited by the the foregoing provisions of this section. [Rule 16]

§ 118.17 Aiding or abetting use of unfair trade practices.

It is an unfair trade practice for any person, firm, or corporation to aid, abet, coerce, or induce another, directly or indirectly, to use or promote the use of any unfair trade practice prohibited by this part. [Rule 17]

Authorized: June 26, 1962.

By the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 62-6367; Filed, June 29, 1962; 8:46 a.m.]

[File No. 21-359]

PART 154—LUGGAGE AND RELATED PRODUCTS INDUSTRY

Promulgation of Trade Practice Rules

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

It is now ordered, That the trade practice rules as hereinafter set forth, which have been approved by the Commission in this proceeding, be promulgated as of June 30, 1962.

Statement by the Commission. Trade practice rules for the Luggage and Related Products Industry, as hereinafter set forth, are promulgated by the Federal Trade Commission under the trade practice conference procedure. Such rules constitute a revision of, and supersede, the trade practice rules for this industry as promulgated by the Commission September 17, 1941.

The industry for which these rules are established is composed of persons, firms, corporations and organizations engaged in the manufacture, sale or distribution of any kind or type of trunks, suitcases, traveling bags, sample cases, instrument cases, brief cases, ring binders, billfolds, wallets, key cases, coin purses, card cases, French purses, dressing cases, stud boxes, tie cases, jewel boxes, travel kits, gadget bags, camera bags, and similar articles, of any composition. Ladies' handbags are not included.

Proceedings for the establishment of these rules were instituted pursuant to an industry application. Proposed revised rules for the industry were published by the Commission and made available to all industry members and other interested or affected parties upon public notice whereby they were afforded opportunity to present their views, including such pertinent information, suggestions, or amendments as they desired to offer, and to be heard in the premises. Pursuant to such notice a public hearing was held and all matters there presented, or otherwise received in the proceeding, were considered by the Commission.

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

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

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

The practices prohibited by the provisions of these rules are considered to be unfair methods of competition, unfair or deceptive acts or practices, or other illegal practices, prohibited under laws administered by the Federal Trade Commission, and appropriate proceedings in the public interest will be taken by the Commission to prevent the use, by any person, partnership, corporation, or other organization subject to its jurisdiction, of such unlawful practices in commerce.

Sec.

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154.12 Deceptive use and imitation of trade or corporate names, trade-marks, etc.
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AUTHORITY: §§ 154.0 to 154.27 issued under sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45.

§ 154.0 Definitions.

Industry member. Any person, firm, corporation or organization engaged in the manufacture, sale or distribution of any industry products as defined below.

Industry products. Industry products consist of all kinds and types of trunks, suitcases, traveling bags, sample cases, instrument cases, brief cases, ring binders, billfolds, wallets, key cases, coin purses, card cases, French purses, dressing cases, stud boxes, tie cases, jewel boxes, travel kits, gadget bags, camera bags, and similar articles, of any composition. Ladies' handbags are not included.

§ 154.1 Deception (general).

It is an unfair trade practice to sell, offer for sale, or distribute industry products by any method, or under any circumstance or condition which has the capacity and tendency or effect of misleading or deceiving the purchasing or consuming public with respect to the kind, grade, quality, quantity, material content, thickness, finish, serviceability, durability, price, origin, size, weight, ease of cleaning, construction, manufacture, processing, or distribution of any product of the industry or part thereof, or in any other material respect. [Rule 1]

§ 154.2 Deception as to composition.

(a) In the sale, offering for sale, or distribution of industry products, it is an unfair trade practice to misrepresent the composition of any industry product or part thereof, or to fail to disclose, in the manner hereinafter set forth, (see paragraph (b) (9) of this section), material facts concerning the composition of an industry product when the failure to do so has the capacity and tendency or effect of deceiving purchasers or prospective purchasers.

(b) The foregoing provisions of this section are to be construed as, but not limited to:

(1) *Split leather.* Requiring disclosure [1] of the fact that an industry product, or part thereof, is made of split leather if the split leather is visible or if any representation is made as to the composition thereof. For example, a disclosure such as,

Split Cowhide

NOTE: For purposes of this part leather from portions of hides or skins which have been split into two or more thicknesses, other than the grain or hair side, shall be considered split leather.

(2) *Imitation or simulated leather.* Requiring that when an industry product or part thereof is made of non-leather material which has the appearance of leather, disclosure [1] be made either of the fact that the material is not leather, or of the general nature of the material as will clearly show that it is not leather, as, for example:

Not leather
Imitation leather
Simulated leather
Vinyl
Vinyl coated fabric
Plastic

(3) *Embossed or processed leather.* Requiring disclosure [1] of the kind and type of leather of which an industry product or part thereof is made when such leather has been embossed, dyed, or otherwise processed, so as to simulate the appearance of a different kind or type of leather, as, for example:

(i) An industry product made wholly of top grain cowhide which has been processed so as to imitate pigskin may be represented as being made of:

Top Grain Cowhide

(ii) Any additional representation as may be made concerning the simulated appearance of an industry product composed of leather shall be immediately accompanied by the required disclosure of the kind and type of leather in the product, as, for example:

Top Grain Cowhide
Simulated Pigskin Grain

(4) *Backing material.* Requiring disclosure [1] that any material in an industry product is backed with another kind of material when the backing is not apparent to purchasers or prospective purchasers upon casual inspection of the product, or when representations are made which, in the absence of such disclosure, would be deceptive as to the composition of the product. For example, disclosures such as,

Top Grain Cowhide Backed With Split Cowhide

or

Split Cowhide Backed With Simulated Leather

or

Vinyl Backed With Other Material

If the different backing material used is visible and is split leather, non-leather material which has the appearance of leather, or leather processed so as to simulate a different kind of leather, disclosure as is required by subparagraphs (1), (2) or (3) of this paragraph, whichever is applicable, must also be made.

(5) *Fictitious animal designations.* Prohibiting any representation or implication that an industry product is made in whole or in part from the skin or hide of an animal which in fact is non-existent.

(6) *Misuse of trade names, etc.* Prohibiting the use of any trade name, coined name, trade-mark, or other word or term, or any depiction or device, which has the capacity and tendency or effect of deceiving purchasers or prospective purchasers into believing that an industry product is made in whole or in part from the skin or hide of an animal or that material in an industry product is leather, top grain leather, split leather, plastic, fiber-glass, nylon or other material, when such is not the case. This prohibition shall include, among other practices, the use of a stamping, tag, label, card, or other device in the shape of a tanned hide or skin or in the shape of a silhouette of an animal in connection with any industry product having the appearance of leather but which is not made wholly or in substantial part from the skin or hide of an animal.

(7) *Misrepresentation that product is wholly of a particular composition.* Prohibiting any representation or implication that an industry product is made wholly of a particular composition when such is not the case.

A representation as to the composition of a particular part of a product must clearly indicate the part to which the representation is properly applicable.

(i) Where a product is made principally of top grain leather or of split leather with the exception of certain non-leather parts thereof which have the appearance of leather, the product may be described as made of top grain leather or split leather, as the case may be, except for such designated non-leather parts when accompanied by disclosure [1] either of the fact that the designated parts are not leather or of the general nature of such parts as will clearly show that they are not leather. For example: A brief case made of top grain cowhide except for frame covering, gussets and partitions which are made of plastic but have the appearance of leather may be described as—

Top Grain Cowhide
With Plastic Frame Covering, Gussets and Partitions

or

Top Grain Cowhide
With Gussets, Frame Covering and Partitions Made of Non-leather Material

A zipper binder made throughout, except for hardware, of vinyl backed with split cowhide may be described as—

Vinyl
Backed With
Split Cowhide

(See also disclosure requirements concerning use of backing material set forth in subparagraph (4) of this paragraph.) A billfold made of top grain cowhide except for partitions and stay which are made of plastic coated fabric but have the appearance of leather may be described as—

Top Grain Cowhide
With Partitions and Stay Made of Non-Leather Material

or

[1] See subparagraph (9) of this paragraph.

Top Grain Cowhide
With Partitions and Stay Made
of Plastic Coated Fabric

(ii) Where a product is made principally of top grain leather and the only other parts thereof which have the appearance of leather are made of split leather, the product may be described as made of top grain leather except for the designated parts made of split leather when accompanied by disclosure[1] that such parts are made of split leather. For example: A brief case made of top grain cowhide except for frame covering, gussets and partitions which are made of split cowhide may be described as—

Top Grain Cowhide
With Split Cowhide Frame Covering,
Gussets and Partitions

(8) *Ground, pulverized or shredded leather.* Prohibiting any representation directly or by implication that a material in an industry product is leather, if such material contains ground, pulverized or shredded leather and thus is not wholly the hide of an animal. This provision shall not be construed as preventing an accurate representation as to the ground, pulverized or shredded leather content of the material. However, if the material has the appearance of being leather it must be accompanied by disclosure[1] as is required by subparagraph (2) of this paragraph. For example: A brief case made of a composition material consisting of shredded leather fibers held together with a rubber adhesive and coated with vinyl may be described as—

Composition Material Containing Shredded Leather Fibers, Rubber Adhesive and Vinyl Coating.

(9) *Form of required disclosures under this Section.* All disclosures required by provisions of this section shall appear in the form of a stamping on the product, or on a tag, label, or card attached thereto, and be affixed with such degree of permanence as to remain on or attached to the product until it is received by the consumer purchaser. All disclosures so required on industry products shall also appear in all advertising of such products irrespective of the media used whenever statements, representations or depictions appear in such advertising which in the absence of such disclosures serve to create a false impression that the products, or parts thereof, are of a certain kind of composition. The disclosures affixed to products and made in advertising must be of such conspicuousness and clarity as to be noted by purchasers and prospective purchasers casually inspecting the products or casually reading, or listening to, such advertising. A disclosure required in connection with any representation must be in close conjunction therewith. [Rule 2]

§ 154.3 Deceptive practices as to aniline finish, graining, embossing and processing.

In the sale, offering for sale or distribution of industry products, it is an unfair trade practice to represent, directly or by implication:

(a) That any such product is colored, finished, or dyed with aniline dye when such is not true in fact; or

(b) That any such product or any part thereof is dyed, embossed, grained, processed, finished or stitched in a certain manner when such is not true in fact. [Rule 3]

§ 154.4 Deception as to hardware, frame or box.

In the sale, offering for sale or distribution of industry products, it is an unfair trade practice to represent, directly or by implication:

(a) That the hardware or any item thereof contained in an industry product is brass, solid brass, or some other designated material when such is not true in fact or when such hardware is only plated or coated with the material designated and the remaining metal therein is of a different kind; or

(b) That the box or frame of an industry product is made in whole or in part of a certain kind of material when such is not true in fact. [Rule 4]

§ 154.5 Misuse of the terms "waterproof," "dustproof," "warpproof," "scuffproof" and "scratchproof."

It is an unfair trade practice to:

(a) Use the term "Waterproof" as descriptive of an industry product or the material of which an industry product is made unless such product or material, whichever is so designated, is impermeable to water and moisture.

(b) Use the term "Dustproof" as descriptive of an industry product unless such product is so constructed that when it is closed dust cannot enter the product.

(c) Use the term "Warpproof" as descriptive of an industry product or part thereof unless the product or part so designated is such that it cannot warp.

(d) Use the term: "Scuffproof" or "Scratchproof" as descriptive of an industry product unless the outside surface of the product is immune to scratches or scuff marks. [Rule 5]

§ 154.6 False invoicing.

Withholding from or inserting in invoices or sales slips any statements or information by reason of which omission or insertion a false record is made, wholly or in part, of the transactions represented on the face of such invoices or sales slips, with the capacity and tendency or effect of thereby misleading or deceiving purchasers, prospective purchasers, or the consuming public in any material respect, is an unfair trade practice. [Rule 6]

§ 154.7 Substitution of products.

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

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

(b) Falsely representing the reason for making substitutions. [Rule 7]

§ 154.8 Commercial bribery.

It is an unfair trade practice for a member of the industry, directly or indirectly, to give, or offer to give, or permit or cause to be given, money or anything of value to agents, employees, or representatives of customers or prospective customers, or to agents, employees, or representatives of competitors' customers or prospective customers, without the knowledge of their employers or principals, as an inducement to influence their employers or principals to purchase or contract to purchase products sold or offered for sale by such industry member, or to influence such employers or principals to refrain from dealing in the products of competitors or from dealing or contracting to deal with competitors. [Rule 8].

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

The defamation of competitors by falsely imputing to them dishonorable conduct, inability to perform contracts, questionable credit standing, or by other false representations, or the false disparagement of the quality, grade, origin, use, construction, design, manufacture, or distribution of the products of competitors, or of their business methods, selling prices, values, credit terms, policies, or services, is an unfair trade practice. [Rule 9]

§ 154.10 Procurement of competitors' confidential information.

It is an unfair trade practice for any member of the industry to obtain information concerning the business of a competitor by bribery of an employee or agent of such competitor, by the impersonation of one in authority, or by any other unfair means, and to use the information so obtained so as substantially to injure a competitor or unreasonably restrain trade. [Rule 10]

§ 154.11 Unfair threats of infringement suits.

The circulation of threats of suit for infringement of patents or trade-marks among competitors, or customers or prospective customers of competitors, not made in good faith but for the purpose and with the effect of harassing or intimidating such competitors, or customers or prospective customers, or of hampering, injuring, or prejudicing competitors in their business, is an unfair trade practice. [Rule 11]

§ 154.12 Deceptive use and imitation of trade or corporate names, trademarks, etc.

It is an unfair trade practice for any member of the industry to use any trade name, corporate name, trade-mark, or other trade designation, which has the capacity and tendency or effect of misleading or deceiving purchasers or prospective purchasers as to the character, name, nature, manufacture or origin of any product of the industry, or of any

[1] See subparagraph (9) of this paragraph.

material used therein, or which is false or misleading in any material respect. (See also § 154.16.) [Rule 12]

§ 154.13 Guarantees, warranties, etc.

(a) It is an unfair trade practice to represent in advertising or otherwise that a product is "guaranteed" without clear and conspicuous disclosure in conjunction therewith of:

(1) the nature and extent of the guarantee, and

(2) any material conditions or limitation in the guarantee which are imposed by the guarantor, and

(3) the manner in which the guarantor will perform thereunder, and

(4) the identity of the guarantor.

Representations that a product is "guaranteed for life" or has a "lifetime guarantee" in addition to meeting the above requirements, shall contain a conjunctive and conspicuous disclosure of the meaning of "life" or "lifetime" as used (whether that of the purchaser, the product or otherwise).

(b) Guarantees shall not be used which under normal conditions are impractical of fulfillment or which are for such a period of time or are otherwise of such nature as to have the capacity and tendency of misleading purchasers or prospective purchasers into the belief that the product so guaranteed has a greater degree of serviceability, durability or performance capability in actual use than is true in fact.

(c) This section has application not only to "guarantees" but also to "warranties," to purported "guarantees" and "warranties," and to any promise or representation in the nature of a "guarantee" or "warranty." [Rule 13]

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

The practice of coercing the purchase of one or more products as a prerequisite to the purchase of one or more other products, where the effect may be substantially to lessen competition or tend to create a monopoly or unreasonably to restrain trade, is an unfair trade practice. [Rule 14]

§ 154.15 Inducing breach of contract.

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

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

§ 154.16 Misrepresentation as to character of business.

It is an unfair trade practice for any industry member, in the course of or in connection with the sale of industry products, to represent, directly or indirectly, that he is a manufacturer of industry products, unless he owns and operates or directly controls a factory wherein such products are made, or to represent that he is a wholesaler of industry products when such is not a fact, or in any other manner to misrepresent the character, extent, or type of his business. [Rule 16]

§ 154.17 Deception in distribution of special lots.

In the case of lots or quantities of industry products advertised or offered for sale at so-called special or bargain sales or reduced price sales or otherwise, it is an unfair trade practice to use advertisements or representations thereof which represent, import or imply that such merchandise consists entirely or in substantial or greater part of products or articles of well-known manufacturers or of well-known or reputable brands or of products or articles of certain high quality, grade, or price, when no such products or articles are contained in said lot or quantity of merchandise or when only a relatively small quantity or number thereof is contained in such merchandise, or when such advertisements or representations otherwise have the capacity and tendency or effect of misleading or deceiving the purchasing or consuming public. [Rule 17]

§ 154.18 Use of the word "free."

In connection with the sale, offering for sale, or distribution of industry products, it is an unfair trade practice to use the word "free," or any other word or words of similar import, in advertisements or in other offers to the public, as descriptive of an article of merchandise, or service, which is not an unconditional gift, under the following circumstances:

(a) When all the conditions, obligations, or other prerequisites to the receipt and retention of the "free" article of merchandise or service offered are not clearly and conspicuously set forth at the outset so as to leave no reasonable probability that the terms of the offer will be misunderstood; and, regardless of such disclosure:

(b) When, with respect to any article of merchandise required to be purchased in order to obtain the "free" article or service, the offerer (1) increases the ordinary and usual price of such article of merchandise, or (2) reduces its quality, or (3) reduces the quantity or size thereof.

NOTE: The disclosure required by paragraph (a) of this section shall appear in close conjunction with the word "free" (or other word or words of similiar import) wherever such word first appears in each advertisement or offer. A disclosure in the form of a footnote, to which reference is made by use of an asterisk or other symbol placed next to the word "free," will not be regarded as compliance.

[Rule 18]

§ 154.19 Deceptive pricing.

(a) It is an unfair trade practice for any member of the industry to represent directly or indirectly in advertising or otherwise that an industry product may be purchased for a specified price, or at a saving, or at a reduced price, when such is not the fact; or otherwise to deceive purchasers or prospective purchasers with respect to the price of any product offered for sale; or to furnish any means or instrumentality by which others engaged in the sale of industry products may make any such representation.

(b) Among the practices prohibited by this section are:

(1) Representing or implying that a stated price is the seller's usual and regular price of an industry product when in fact such stated price is in excess of the price at which such product is regularly and customarily sold by the seller in the usual and recent course of business.

NOTE: The words and phrases "regularly," "usually," "formerly," "was _____ now _____," "_____% off" and "you save $_____" when used in connection with prices constitute representations of the advertiser's former usual and customary prices in recent course of business.

(2) Representing or implying that a stated price constitutes a reduction from the trade area price unless the saving or reduction is from the usual and customary price of an industry product in the trade area, or areas where the representation is made.

NOTE: The words and phrases "manufacturer's suggested list $_____—our price $_____," "sold nationally at $_____" and "value $_____" constitute representations of an article's usual and customary retail price in the trade area where the representations are made.

(3) Preticketing a product with any price figure or otherwise representing, contrary to the fact, that there is a usual and customary price for the product in the trade area where it is offered for sale and that the usual and customary price is the pre-ticketed price, or preticketing a product with any price if the preticketed product is usually and customarily sold at a lower price or at a variety of prices significantly lower than the preticketed price in the trade area or areas where it is offered for sale.

(4) Disseminating preticketed price figures for use in connection with the offer for sale of products at retail by others (even though they themselves are not engaged in retail sales) when the price figures do not meet the standard set forth in this section.

(5) Placing in the hands of others a means or instrumentality by which they may mislead the public. For the purposes of this section preticketing includes the use of price figures:

(i) Affixed to the product by tag, label or otherwise, or

(ii) In such a form as to be affixed to the product by others, or

(iii) In material, such as display placards, which are used, or designed to be used, with the product at point of sale to the consuming public.

EXAMPLE: A manufacturer pretickets his products with "Price $12.95." Although this price prevails in many trade areas, in other areas the product generally sells for $10.95. The preticketed price would violate this section in any trade area where the $12.95 price was not the usual and customary retail price.

NOTE: Guides Against Deceptive Pricing adopted by the Commission October 2, 1958, are now in the process of revision. The new guides will supplement this section by affording additional guidance on the subject. When approved, the new guides will be published in the FEDERAL REGISTER and copies thereof will be furnished upon request.

[Rule 19]

§ 154.20 Use of gift enterprise or lottery schemes.

The offering or giving of prizes, premiums, or gifts in connection with the sale or distribution of industry products, or as an inducement thereto, by any method which involves a lottery or gift enterprise, and the sale or distribution of industry products by any method or plan which involves a lottery or gift enterprise, are unfair trade practices. [Rule 20]

§ 154.21 Prohibited forms of trade restraints (unlawful price fixing, etc.)[2]

It is an unfair trade practice for any member of the industry, either directly or indirectly, to engage in any planned common course of action, or to enter into or take part in any understanding, agreement, combination, or conspiracy, with one or more members of the industry, or with any other person or persons, to fix or maintain the price of any goods or otherwise unlawfully to restrain trade; or to use any form of threat, intimidation, or coercion to induce any member of the industry or other person or persons to engage in any such planned common course of action, or to become a party to any such understanding, agreement, combination, or conspiracy. [Rule 21]

§ 154.22 Unfair interference.

It is an unfair trade practice for any member of the industry, by means of any monopolistic practice, or through combination, conspiracy, coercion, boycott, threats, or any other unlawful means, directly or indirectly, to interfere with a competitor's right to purchase his materials and supplies from whomsoever he chooses, or to sell to whomsoever he chooses. [Rule 22]

§ 154.23 Prohibited discrimination.

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

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

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

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

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

(4) That nothing contained in this paragraph shall prevent price changes from time to time where made in response to changing conditions affecting the market for or the marketability of the goods concerned, such as but not limited to obsolescence of seasonal goods, distress sales under court process, or sales in good faith in discontinuance of business in the goods concerned;

(5) That nothing contained in this section shall prevent the meeting in good faith of an equally low price of a competitor.

NOTE: Subsection (b) of section 2 of the Clayton Act, as amended, reads as follows: "Upon proof being made, at any hearing on a complaint under this section, that there has been discrimination in price or services or facilities furnished, the burden of rebutting the prima facie case thus made by showing justification shall be upon the person charged with a violation of this section, and unless justification shall be affirmatively shown, the Commission is authorized to issue an order terminating the discrimination: *Provided, however,* That nothing herein contained shall prevent a seller rebutting the prima facie case thus made by showing that his lower price or the furnishing of services or facilities to any purchaser or purchasers was made in good faith to meet an equally low price of a competitor, or the services or facilities furnished by a competitor."

(b) Prohibited brokerage and commissions: It is an unfair trade practice for any member of the industry engaged in commerce, in the course of such commerce, to pay or grant, or to receive or accept, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, except for services rendered in connection with the sale or purchase of goods, wares, or merchandise, either to the other party to such transaction or to an agent, representative, or other intermediary therein where such intermediary is acting in fact for or in behalf, or is subject to the direct or indirect control, of any party to such transaction other than the person by whom such compensation is so granted or paid.

(c) Prohibited advertising or promotional allowances, etc.: It is an unfair trade practice for any member of the industry engaged in commerce to pay or contract for the payment of advertising or promotional allowances or any other thing of value to or for the benefit of a customer of such member in the course of such commerce as compensation or in consideration for any services or facilities furnished by or through such customer in connection with the processing, handling, sale, or offering for sale of any products or commodities manufactured, sold, or offered for sale by such member, unless such payment or consideration is made known to and is available on proportionally equal terms to all other customers competing in the distribution of such products or commodities.

NOTE 1: Industry members giving advertising allowances to competing customers must exercise precaution and diligence in seeing that all of such allowances are used in accordance with the terms of their offers.

NOTE 2: When an industry member gives allowances to competing customers for advertising in a newspaper or periodical, the fact that a lower advertising rate for equivalent space is available to one or more, but not all, such customers, is not to be regarded by the industry member as warranting the retention by such customer or customers of any portion of the allowance for his or their personal use or benefit.

(d) Prohibited discriminatory services or facilities: It is an unfair trade practice for any member of the industry engaged in commerce to discriminate in favor of one purchaser against another purchaser or purchasers of a commodity bought for resale, with or without processing, by contracting to furnish or furnishing, or by contributing to the fur-

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

nishing of, any services or facilities connected with the processing, handling, sale, or offering for sale of such commodity so purchased upon terms not accorded to all competing purchasers on proportionally equal terms.

NOTE: Subsection (b) of section 2 of the Clayton Act as amended, which is set forth in the note concluding paragraph (a) of this section is applicable to this paragraph.

(e) (1) The following is presented for the purpose of clarifying the requirements of paragraphs (c) and (d) of this section with respect to the supplying of marketing services, facilities or allowances by industry members to their customers, but it is not intended to imply by such presentation that other methods which assure of proportional equality of treatment of competing customers may not also be used.

(2) An industry member may simultaneously offer to each of his customers competing in the resale of his products the same kind of promotional service, facility or allowance of a cost value equal to a uniform percentage of the sales (or purchases) of the industry member's products by each customer during a specified and identical period of time: *Provided, however,* That when the service, facility or allowance offered is of a type which under reasonable terms and conditions is not usable or suitable to the facilities and business of all customers, and is offered to any one customer, the member offer each of those customers to whom the service, facility or allowance is not usable or suitable an alternate type of promotional service, facility or allowance which is of equivalent measurable cost, is usable by the customer, and is suitable to his facilities and business, and promptly inform all competing customers of the kind and amount of services, facilities or allowances which he has offered to each and the respective terms and conditions under which such services, facilities or allowances are to be furnished by the industry member; and provided, further, that when the offer of any service, facility or allowance to any customer is conditioned on such customer supplying some reciprocal service, facility or payment, a reciprocal service, facility or payment be required in the offers to all other customers and there be an equality of ratio among all customers as to the measurable cost of that which is supplied by the industry member and the reciprocal service, facility or payment required of any customer. The industry member must take every reasonable precaution to see that services, facilities or allowances which he furnishes to customers are used in accord with the terms of his offer; and upon failure of the customer to perform any obligation on his part the industry member must cease supplying the customer any further service, facility or allowance.

(f) Inducing or receiving an illegal discrimination in price, advertising or promotional allowances, or services or facilities: It is an unfair trade practice for any member of the industry engaged in commerce, in the course of such commerce, knowingly to induce or receive a discrimination in price, advertising or promotional allowances, or services or facilities, prohibited by the foregoing provisions of this section. [Rule 23]

§ 154.24 Discriminatory returns.

It is an unfair trade practice for any member of the industry to discriminate in favor of one customer-purchaser against another customer-purchaser of industry products, bought from such member of the industry for resale, by contracting to furnish, or furnishing in connection therewith, upon terms not accorded to all customer-purchasers on proportionally equal terms, the service or facility whereby such favored customer is accorded the privilege of returning industry products so purchased and receiving therefor credit or refund of purchase price: *Provided, however,* That nothing in this part shall prohibit or be used to prevent the return of merchandise by purchaser for credit or refund of purchase price: *Provided, however,* That merchandise has not been properly labeled by the seller in accordance with this part or has been otherwise falsely or deceptively labeled or represented, or when and because such merchandise is defective in material, workmanship, or in any other respect is contrary to warranty or purchase contract: *And provided, further,* That nothing herein shall prohibit a purchaser from exchanging the current season's merchandise for different sizes of the same style number in order to balance purchaser's stock. (Nothing in this section is intended to modify or affect any of the requirements of § 154.23 entitled "Prohibited Discrimination.") [Rule 24]

§ 154.25 Consignment distribution.

(a) It is an unfair trade practice for any member of the industry to employ the practice of shipping industry products on consignment without the express request or prior consent of the purchasers.

(b) Nothing in this section shall be construed to authorize any understanding or agreement, combination or conspiracy, or planned common course of action, by and between industry members, mutually to conform or restrict their practice of shipping goods on consignment. [Rule 25]

§ 154.26 Exclusive dealing.

It is an unfair trade practice for any member of the industry engaged in commerce, in the course of such commerce, to lease or make a sale or contract for sale of any industry product, for use, consumption, or resale within any place under the jurisdiction of the United States, or fix a price charged therefor, or discount from, or rebate upon, such price, on the condition, agreement, or understanding that the lessee or purchaser thereof shall not use or deal in the goods of a competitor or competitors of the lessor or seller, where the effect of such lease, sale, or contract for sale, or such condition, agreement, or understanding, may be to substantially lessen competition or tend to create a monopoly in any line of commerce. [Rule 26]

§ 154.27 Aiding or abetting use of unfair trade practices.

It is an unfair trade practice for any person, firm, or corporation to aid, abet, coerce, or induce another directly or indirectly, to use or promote the use of any unfair trade practice prohibited by this part. [Rule 27]

Authorized: June 19, 1962.

By the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 62-6366; Filed, June 29, 1962; 8:46 a.m.]

PART 192—OPTICAL PRODUCTS INDUSTRY

Promulgation of Trade Practice Rules

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

It is now ordered, That the trade practice rules as hereinafter set forth, which have been approved by the Commission in this proceeding, be promulgated as of June 30, 1962.

Statement by the Commission. Trade practice rules for the Optical Products Industry, hereinafter set forth, are promulgated by the Federal Trade Commission under its trade practice conference procedure. They constitute a revision and extension of the trade practice rules promulgated for the Wholesale Optical Industry on June 30, 1950 and supersede and replace such rules.

The industry members and products, to which the rules now promulgated have application, are defined in § 192.0 (a) and (b) which immediately precede such rules.

Proceedings for the establishment of rules for the Optical Products Industry were instituted pursuant to an application from an industry trade association. An industry trade practice conference was held in Chicago, Illinois, on January 19, 1962, under auspices of the Commission. Subsequently proposed rules were released by the Commission and a public hearing was held thereon, pursuant to public notice, in the Federal Trade Commission Building, Washington, D.C., on May 14, 1962, at which industry members and other interested and affected parties were afforded opportunity to express their views, objections, and suggestions concerning the coverage and form and content of such proposed rules. Thereafter, and upon full consideration of the entire matter, final action was taken by the Commission whereby it approved rules for the industry in the form hereinafter set forth and directed that same be promulgated.

The rules are interpretive of requirements of laws administered by the Commission. They define and proscribe various practices deemed to be violative of such laws, and are thus designed to be of assistance to the industry members in

keeping their trade practices and business behavior in full consonance with legal requirements.

Such rules become operative thirty (30) days from the date of their promulgation.

The rules. The rules which follow are based on statutes administered by the Commission. Their application is subject to jurisdictional requirements specified in such statutes.[1] When such jurisdictional requirements are present, appropriate proceedings will be taken by the Commission in the public interest to prevent any member of the industry from engaging in any practice proscribed by such rules. When a formal complaint proceeding is instituted, the complaint charge will be that of violation of the statutory provision on which the rule is based.

Sec.
192.0 The industry and its products defined.
192.1 Deception (general).
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192.3 False advertising of contact lenses.
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192.14 Commercial bribery.
192.15 False disparagement of competitors or their products.
192.16 Coercing purchase of one product as a prerequisite to purchase of another or other products.
192.17 Inducing breach of contract.
192.18 Enticing away employees of competitors.
192.19 Deceptive use or imitation or simulation of trade or corporate names, trade-marks, etc.
192.20 Prohibited forms of trade restraints (unlawful price fixing, etc.)
192.21 Exclusive dealing.

AUTHORITY: §§ 192.0 to 192.21 issued under sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45.

§ 192.0 The industry and its products defined.

(a) Members of the industry are persons, firms, corporations, or organizations engaged in the manufacture, processing, assembly, sale, offering for sale, or distribution of any kind of industry products as the term "industry products" is defined in paragraph (b) of this section.

(b) The term "industry products," as used in paragraph (a) of this section and in the following sections, includes eyeglasses and contact lenses which are designed to provide correction and improvement of eyesight, and parts (lenses, frames, etc.) or accessories therefor. As here used, the term "eyeglasses" includes spectacles and eyeglass clip-ons having nonprescription magnifying lenses, as well as eyeglasses with prescription lenses. Sunglasses, goggles and safety spectacles which are designed solely for the protection of eyes or eyesight, as distinguished from correction or improvement of eyesight, are not included; nor are precision lenses for telescopes, binoculars, etc., to be considered as included.

NOTE: It is to be understood that the word "sale," as used in paragraph (a) of this section and in the sections which follow, is to be construed as including the dispensing of prescription eyeglasses or contact lenses by ophthalmologists, oculists, physicians, or optometrists, to their patients, as well as the dispensing of such products by opticians to their customers.

§ 192.1 Deception (general).

(a) It is an unfair trade practice for any industry member to sell or offer for sale any industry product under any representation, circumstance, or condition, having the capacity and tendency or effect of deceiving a purchaser or prospective purchaser in any material respect.

(b) Among the practices which are to be regarded as prohibited by paragraph (a) of this section are advertisements and sales presentations in newspapers, magazines, catalogues, telephone directories, radio or television broadcasts, or otherwise, which deceive purchasers or prospective purchasers with respect to:

(1) The composition, construction, design, type, quality, durability, or efficacy of any industry product or part thereof;

(2) The identity of the manufacturer, processor, or distributor of any industry product or part thereof;

(3) The conformance of contact lenses, and lenses and frames of eyeglasses, to the requirements of the purchaser as prescribed by an ophthalmologist, oculist, physician, or optometrist;

(4) The extent of vision improvement that may reasonably be expected from use of the advertised eyeglasses or contact lenses;

(5) The probable length of time that the lenses of an advertised product will be satisfactory for use by the wearer without need for polishing, processing, or replacement; or

(6) The immunity or degree of resistance possessed by an industry product, or part thereof, with respect to breakage, discoloration, tarnish, or corrosion. [Rule 1]

§ 192.2 False advertising of non-prescription magnifying spectacles.

It is an unfair trade practice for any industry member to publish, or cause to be published, any advertisement or sales presentation relating to non-prescription magnifying spectacles (sometimes referred to as ready-made spectacles) which represents, directly or by implication, that the spectacles so offered will correct, or are capable of correcting, defects in vision of persons, unless it is clearly and conspicuously disclosed in the advertisement or sales presentation that the correction of defects in vision by such products is limited to persons approximately 40 years of age and older who do not have astigmatism or diseases of the eye and who require only simple magnifying or reducing lenses; or to publish or cause to be published any advertisement or sales presentation which has the capacity and tendency or effect of deceiving purchasers or prospective purchasers in any other material respect. [Rule 2]

§ 192.3 False advertising of contact lenses.

It is an unfair trade practice, in the offering for sale, sale, or distribution of contact lenses, for an industry member to publish or cause to be published any advertisement which represents directly or by implication that contact lenses:

(a) Are suitable and safe for all persons, regardless of their age, health, or eye condition;

(b) Can be worn satisfactorily and without discomfort by all, or nearly all, persons;

(c) Can be fitted without any discomfort;

(d) Can be worn for any short or long period without discomfort unless the advertisement clearly reveals that prac-

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[1] This part is based on sections 5, 12, and 15 of the Federal Trade Commission Act, as amended, and sections 2 and 3 of the Clayton Act, as amended.

For application of the prohibitions of section 5 of the Federal Trade Commission Act, as amended, it is requisite that the practice be "in commerce." The term "commerce" is defined in said Act as follows:

" 'Commerce' means commerce among the several States or with foreign nations, or in any Territory of the United States or in the District of Columbia, or between any such Territory and another, or between any such Territory and any State or foreign nation, or between the District of Columbia and any State or Territory or foreign nation."

Industry products are "devices" as the term is defined in section 15 of the Act. Under section 12 of the Act, the Commission has authority to take corrective action respecting any false advertisement of such products which is disseminated "by the United States mails, or in commerce by any means, for the purpose of inducing, or which is likely to induce, directly or indirectly" a purchase of the advertised product; and under section 13 of the Act, it also has authority to bring court suits t enjoin dissemination of false advertisements of such products pending the issuance by it (the Commission) of a formal complaint.

Though having authority to take corrective action respecting the mislabeling, as well as false advertising, of the industry products, it is the Commission's general policy to not exercise its authority respecting the mislabeling of the products, and to thus avoid duplication, and possible conflict, of effort with the Food and Drug Administration of the Department of Health, Education and Welfare, such Administration having responsibilities under specific statutes relating to the mislabeling of the products. This general policy is not to be considered as applicable to price preticketing violative of § 192.6 of this part, nor to deception as to origin or place of manufacture violative of § 192.9 of this part; and there may be additional situations in which the Commission will exercise its jurisdiction over mislabeling of the products.

For application of the prohibitions of sections 2 and 3 of the Clayton Act, as amended, it is requisite that the party be "engaged in commerce" and that the practice be "in the course of such commerce."

tically all persons will experience some discomfort when first wearing them and that in a significant number of cases the discomfort period may be prolonged;

(e) Can be worn all day without discomfort by any person except after that person has become fully adjusted thereto and unless such is the fact;

(f) Will completely replace eyeglasses in all, or nearly all, cases, or will provide better correction of vision than eyeglasses in all, or nearly all, cases;

(g) Which are bifocal are as satisfactory to the wearer as prescription eyeglasses having bifocal lenses;

(h) Will correct all defects in vision;

(i) Will stay in place under all conditions; or under any specified conditions when such is not the fact;

(j) Are unbreakable in all circumstances; or are unbreakable in any indicated circumstances when such is not the fact;

(k) Can be adequately tried without financial obligation, unless such is the fact;

(l) Will protect the eyes, unless such representation is limited in application to the portion of the eyes covered by such lenses and does not denote or connote a greater degree of protection to such portion, than is in fact the case;

(m) Do not rest upon, or have contact with, the eyes;

(n) Are more comfortable than all other types or kinds of contact lenses; (When represented as more comfortable than all other types or kinds, they must be of unique design or construction or have unique features, which assure of comfort during wear superior to that of any other contact lenses currently available for purchase;)

(o) Or which is misleading in any other material respect. [Rule 3]

§ 192.4 Bait advertising.

It is an unfair trade practice for an industry member to offer for sale any industry product when the offer is not a bona fide effort to sell the product so offered as advertised and at the advertised price.

NOTE: In determining whether there has been a violation of this section, consideration will be given to acts or practices indicating that the offer was not made in good faith for the purpose of selling the advertised product, but was made for the purpose of contacting prospective purchasers and selling them a product or products other than the product offered. Among acts or practices which will be considered in making that determination are the following:

(a) The creation, through the initial offer or advertisement, of a false impression of the grade, quality, make, value, currency of model, size, usability, or origin of the product offered;

(b) The refusal to show, demonstrate, or sell the product offered in accordance with the terms of the offer;

(c) The disparagement, by acts or words, of the product offered, or the disparagement of the guarantee, credit terms, availability of service, repairs or parts, or in any other respect, in connection with it;

(d) The showing, demonstrating, and in the event of sale, the delivery, of a product which is unusable or impractical for the purpose represented or implied in the offer;

(e) The refusal, in the event of sale of the product offered, to deliver such product to the buyer within a reasonable time thereafter;

(f) The failure to have available a quantity of the advertised product at the advertised price sufficient to meet reasonably anticipated demands.

It is not necessary that each act or practice set forth above be present in order to establish that a particular offer is violative of this section.

[Rule 4]

§ 192.5 Guarantees, warranties, etc.

(a) It is an unfair trade practice to represent in advertising or otherwise that a product is "guaranteed" without clear and conspicuous disclosure of:

(1) The nature and extent of the guarantee, and

(2) Any material conditions or limitations in the guarantee which are imposed by the guarantor, and

(3) The manner in which the guarantor will perform thereunder, and

(4) The identity of the guarantor.

(b) Guarantees shall not be used which under normal conditions are impractical of fulfillment or which are for such a period of time or are otherwise of such nature as to have the capacity and tendency of misleading purchasers or prospective purchasers into the belief that the product so guaranteed has a greater degree of serviceability, durability or performance capability in actual use than is true in fact.

(c) This section has application not only to "guarantees" but also to "warranties," to purported "guarantees" and "warranties," and to any promise or representation in the nature of a "guarantee" or "warranty." [Rule 5]

§ 192.6 Deceptive pricing.

(a) It is an unfair trade practice for any member of the industry to represent directly or indirectly in advertising or otherwise that an industry product may be purchased for a specified price, or at a saving, or at a reduced price, when such is not the fact; or otherwise to deceive purchasers or prospective purchasers with respect to the price of any product offered for sale; or to furnish any means or instrumentality by which others engaged in the sale of industry products may make any such representation.

(b) Among the types of practices to be regarded as prohibited by paragraph (a) of this section are the following:

(1) Statements in advertising which represent or imply that a specified price for prescription eyeglasses or contact lenses includes the cost to the buyer of necessary eye examination and test by an ophthalmologist or optometrist for the purpose of determining his visual defects and prescribing suitable lenses for the relief or correction thereof, when such is not the case;

(2) Statements in advertising which represent or imply that complete eyeglasses are purchasable for a specified price when an additional price is charged for a component part of the complete eyeglasses (such as the frames thereof);

(3) Statements in advertising which represent or imply that a specified price is applicable to all types and kinds of eyeglasses or contact lenses when a higher price is charged for certain kinds or types (e.g., when the stated price has applicability to eyeglasses with single vision lenses and a higher price is charged for eyeglasses with bifocal lenses);

(4) Statements in advertising which represent or imply that contact lenses may be purchased at a specified price when an additional and undisclosed charge is made for processing and fitting services that are necessary and made evident after first use by the buyer and during the period required for his adjustment to the use of such lenses;

(5) Statements in advertising which represent or imply that products may be purchased on credit for the same price that is applicable to cash sales; that no down payment is required in the case of credit sales; that no finance charge or interest is required when products are sold on credit or an installment payment plan; or that a finance or interest charge in the case of sales on credit will not exceed a specified amount or rate; when any such statement is false or misleading;

(6) Statements in advertising which represent or imply that the price at which an industry product may be purchased from the seller by a consumer purchaser is the "factory" or "manufacturer's" price when such price is higher than the usual and customary price paid by wholesalers or others purchasing directly from the factory in the trade area or areas where the representation is made.

(7) Representing or implying that a stated price is the seller's usual and regular price of an industry product when in fact such stated price is in excess of the price at which such product is regularly and customarily sold by the seller in the usual and recent course of business.

NOTE: The words and phrases "regularly," "usually," "formerly," "was _____ now _____," "_____% off" and "you save $_____" when used in connection with prices constitute representations of the advertiser's former usual and customary prices in recent course of business.

(8) Representing or implying that a stated price constitutes a reduction from the trade area price unless the saving or reduction is from the usual and customary price of an industry product in the trade area, or areas where the representation is made.

NOTE: The words and phrases "manufacturer's suggested list $_____—our price $_____," "sold nationally at $_____" and "value $_____" constitute representations of an article's usual and customary retail price in the trade area where the representations are made.

(9) Pre-ticketing a product with any price figure or otherwise representing, contrary to the fact, that there is a usual and customary price for the product in the trade area where it is offered for sale and that the usual and customary price is the preticketed price, or preticketing a product with any price if the preticketed product is usually and customarily sold at a lower price or at a variety of prices significantly lower than

the preticketed price in the trade area or areas where it is offered for sale.

(10) Disseminating preticketed price figures for use in connection with the offer for sale of products at retail by others (even though they themselves are not engaged in retail sales) when the price figures do not meet the standard set forth in this section.

(11) Placing in the hands of others a means or instrumentality by which they may mislead the public. For the purposes of this section preticketing includes the use of price figures:

(i) Affixed to the product by tag, label or otherwise, or

(ii) In such a form as to be affixed to the product by others, or

(iii) In material, such as display placards, which are used, or designed to be used, with the product at point of sale to the consuming public.

EXAMPLE: A manufacturer pretickets his products with "Price $12.95." Although this price prevails in many trade areas, in other areas the product generally sells for $10.95. The preticketed price would violate this section in any trade area where the $12.95 price was not the usual and customary retail price.

NOTE: Guides Against Deceptive Pricing adopted by the Commission October 2, 1958, are now in the process of revision. The new guides will supplement this section by affording additional guidance on the subject. When approved, the new guides will be published in the FEDERAL REGISTER and copies thereof will be furnished upon request.

[Rule 6]

§ 192.7 Prohibited payments by dispensers to doctors: prohibited tying of refractions with dispensing, etc.

(a) As used in this section, the word "doctor" makes reference to any ophthalmologist, oculist, physician, or optometrist, who makes ophthalmic refractions for a patient and prescribes eyeglasses or contact lenses for the correction or improvement of the vision of such patient, and the word "dispenser" makes reference to any party who supplies eyeglasses or contact lenses, so prescribed, to any such patient. The terms are to be understood as embracing any agent, representative, or employee of the doctor or dispenser, and any employer, principal, or associate, corporate or otherwise, for which either acts or purports to act.

(b) It is an unfair trade practice for any dispenser to make or give directly or indirectly, to any doctor (whether such dispenser acts or purports to act as an agent of the doctor or otherwise), any payment arising out of or connected with his (the dispenser's) sale or dispensing of eyeglasses or contact lenses to a patient of such doctor, whether such payment be in the form of, or is described or regarded as, a rebate, credit, credit balance, gift, dividend, participation in or share in profits, or otherwise; or for a dispenser to enter into or participate in any agreement, understanding, scheme, plan, or concert of action, with any doctor, or with any other party or parties, which provides for, or facilitates, any such payments.

NOTE 1: It is to be understood that paragraph (b) of this section does not have application to the dispensing of eyeglasses or contact lenses by a doctor (either himself or through a bona fide employee) in his own professional offices. Such dispensing is, however, to be considered as among the practices which are subject to the prohibitions of paragraph (c) of this section.

NOTE 2: In 1951, in actions instituted by the Department of Justice, decrees were entered in the United States District Court for the Northern District of Illinois, Eastern Division, which have application to oculists an ophthalmologists as a class, as well as other defendants, including ophthalmic dispensers. These decrees perpetually enjoin such doctors:

"(a) From accepting, directly or indirectly, or designating any person to thus accept, from any dispenser (whether such dispenser acts or purports to act as an agent of the doctor, or otherwise), any payment arising out of or connected with dispensing to any patient of such defendant doctor, whether such payment is in the form of, or is described or regarded as, a rebate, credit, credit balance, gift, dividend, participation in or share in profits, or otherwise;

(b) Entering into or participating in any plan, arrangement, or scheme whereby said defendant doctor receives from any dispenser (whether such dispenser acts or purports to act as agent of the doctor, or otherwise) directly or indirectly in any form (including any of the forms and methods referred to above) any payment arising out of or connected with dispensing to any patient of such defendant doctor."

with explanation that the term "dispenser," as so used, does not have application "to a refractionist who engages in dispensing in his own professional offices (either himself or through a bona fide employee) to his own patients only." These decrees remain in force and effect, and nothing in this section, or any of the other sections, is to be construed as relieving any industry member or other party subject to such decrees from complying with the requirements and provisions thereof. In the interest of clarifying certain of the requirements of these decrees the Department has issued opinions in the form of three letters bearing dates of May 28, 1951, September 10, 1951, and September 24, 1951, which are set forth in an appendix to this part.

(c) It is an unfair trade practice to tie in or condition eye refraction service for a patient with the dispensing of the prescribed eyeglasses or contact lenses to the patient, when such practice effects, or has a reasonable probability of effecting, substantial injury to competition, or creates or tends to create a monopoly, at any competitive level in the trade area or areas where the practice is employed.

NOTE: To be considered as subject to the prohibitions of paragraph (c) of this section, when effecting, or having a reasonable probability of effecting, substantial injury to competition at any competitive level in the trade area or areas where the practice is employed, are tyings of dispensing with refractions which are accomplished by:

(1) Refusal of the doctor to perform refractions, or to supply prescriptions based thereon, when and because the patient desires to have the dispensing of the product done by another party lawfully qualified to dispense same.

(2) The doctor requiring a higher fee for his refraction service when he does not dispense the products he prescribes than when he does dispense such products.

(3) The doctor falsely disparaging the competency or workmanship of others competing with him in the dispensing of the products.

See also § 192.15 of this part, entitled "False Disparagement of Competitors or Their Products," § 192.16 of this part, entitled "Coercing Purchase of One Product as a Prerequisite to the Purchase of Another or Other Products," § 192.20 of this part, entitled "Prohibited Forms of Trade Restraints (Unlawful Price Fixing, Etc.)" and § 192.21 of this part, entitled "Exclusive Dealing," which are applicable to all industry members. [Rule 7]

§ 192.8 Prohibited discrimination.

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

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

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

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

NOTE 2: *Credit or refund for returned goods.* In determining whether a price differential based on cost savings under the above proviso is warranted there shall be taken into account any portion of the goods involved which are returned by the customer-purchaser to the seller for credit or refund. See also Note under paragraph (e) of this section.

(3) That nothing contained in this section shall prevent persons engaged in selling goods, wares, or merchandise

in commerce from selecting their own customers in bona fide transactions and not in restraint of trade;

(4) That nothing contained in this paragraph shall prevent price changes from time to time where made in response to changing conditions affecting the market for or the marketability of the goods concerned, such as but not limited to obsolescence of seasonal goods, distress sales under court process, or sales in good faith in discontinuance of business in the goods concerned;

(5) That nothing contained in this section shall prevent the meeting in good faith of an equally low price of a competitor.

NOTE 1: In complaint proceedings, justification of price differentials under subparagraphs (2), (4) and (5) of this paragraph is a matter of affirmative defense to be established by the person or concern charged with price discrimination.

NOTE 2: Subsection (b) of section 2 of the Clayton Act, as amended, reads as follows: "Upon proof being made, at any hearing on a complaint under this section, that there has been discrimination in price or services or facilities furnished, the burden of rebutting the prima facie case thus made by showing justification shall be upon the person charged with a violation of this section, and unless justification shall be affirmatively shown, the Commission is authorized to issue an order terminating the discrimination: *Provided, however,* That nothing herein contained shall prevent a seller rebutting the prima facie case thus made by showing that his lower price or the furnishing of services or facilities to any purchaser or purchasers was made in good faith to meet an equally low price of a competitor, or the services or facilities furnished by a competitor."

(b) The following are examples of some of the price differential practices which are to be considered as subject to the prohibitions of paragraph (a) of this section when:

(1) The commerce requirements specified in paragraph (a) of this section are present; and

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

(3) The price differential has a reasonable probability of substantially lessening competition or tending to create a monopoly in any line of commerce, or of injuring, destroying, or preventing competition with the industry member or with the customer knowingly receiving the benefit of the price differential, or with customers of either of them; and

(4) The price differential is not justified by cost savings (see paragraph (a) (2) of this section); and

(5) The price differential is not made in response to changing conditions affecting the market for or the marketability of the goods concerned (see paragraph (a) (4) of this section); and

(6) The lower price was not made to meet in good faith an equally low price of a competitor (see paragraph (a) (5) of this section).

EXAMPLE 1: Payment terms of 2/10th prox. are granted by an industry member to some customers on goods purchased by them from the industry member. Another customer or customers are, nevertheless, allowed to take a 5% instead of a 2% discount when making payment to the industry member within the time prescribed.

EXAMPLE 2: An industry member sells goods to one or more of his customers at a lower price than he charges other customers therefor, basing his justification for the price difference solely on the fact that the goods sold at the lower price bear the private brand name of customers.

EXAMPLE 3: An industry member sells goods to one or more of his customers at a higher price than he charges other customers for like merchandise. It is immaterial whether the goods sold at the lower price are classified by the industry member as "seconds," "secondary line," "rejects," or are otherwise represented by the industry member as inferior, if in fact of like grade and quality as the goods sold at the higher price.

EXAMPLE 4: An industry member sells, to a customer, which operates as both a wholesaler and a retailer, industry products which the customer resells in its capacity as a retailer, and the industry member charges such customer a lower price therefor than such industry member charges other retailers for like products.

(c) Prohibited brokerage and commission: It is an unfair trade practice for any member of the industry engaged in commerce, in the course of such commerce, to pay or grant, or to receive or accept, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, except for services rendered in connection with the sale or purchase of goods, wares, or merchandise, either to the other party to such transaction or to an agent, representative, or other intermediary therein where such intermediary is acting in fact for or in behalf, or is subject to the direct or indirect control, of any party to such transaction other than the person by whom such compensation is so granted or paid.

(d) Prohibited advertising or promotional allowances, etc.: It is an unfair trade practice for any member of the industry engaged in commerce to pay or contract for the payment of advertising or promotional allowances or any other thing of value to or for the benefit of a customer of such member in the course of such commerce as compensation or in consideration for any service or facilities furnished by or through such customer in connection with the processing, handling, sale, or offering for sale of any products or commodities manufactured, sold, or offered for sale by such member, unless such payment or consideration is made known to and is available on proportionally equal terms to all other customers competing in the distribution of such products or commodities.

NOTE 1: Industry members giving allowances for advertising or sales promotion must, in addition to according same to all competing customers on proportionally equal terms, exercise precaution and diligence in seeing that all such allowances are used by the customers for such purpose. Customers receiving such allowances must not use same for any other purpose.

When an allowance is made ostensibly for advertising or sales promotion of products and is not in fact used for that purpose the practice may constitute a price discrimination. In such case, the party giving the allowance may violate paragraph (a) of this section and the party receiving same may violate paragraph (f) of this section.

NOTE 2: When an industry member gives allowances to competing customers for advertising in a newspaper or periodical, the fact that a lower advertising rate for equivalent space is available to one or more, but not all, such customers, is not to be regarded by the industry member as warranting the retention by such customer or customers of any portion of the allowance for his or their personal use or benefit.

(e) Prohibited discriminatory services or facilities: It is an unfair trade practice for any member of the industry engaged in commerce to discriminate in favor of one purchaser against another purchaser or purchasers of a commodity bought for resale, with or without processing, by contracting to furnish or furnishing or by contributing to the furnishing of, any services or facilities connected with the processing, handling, sale, or offering for sale of such commodity so purchased upon terms not made known to and accorded to all competing purchasers on proportionally equal terms.

NOTE No. 1: Subsection (b) of section 2 of the Clayton Act, as amended, which is set forth in the note concluding paragraph (a) of this section is applicable to paragraph (e) of this section.

NOTE No. 2: Among the practices prohibited by paragraph (e) of this section is that of an industry member according to one or more customers the privilege of returning for credit or refund any or all of the goods purchased by them and failing to accord the same privilege to another or other competing customers on proportionally equal terms. In this connection see also Note No. 2 under cost justification proviso (paragraph (a) (2) of this section).

(f) Inducing or receiving an illegal discrimination in price, advertising or promotional allowances, or services or facilities: It is an unfair trade practice for any member of the industry engaged in commerce, in the course of such commerce, knowingly to induce or receive a discrimination in price, advertising or promotional allowances, or services or facilities, prohibited by the foregoing provisions of this section. [Rule 8]

§ 192.9 Deception as to origin or place of manufacture.

(a) In the sale, offering for sale, or distribution of industry products, it is an unfair trade practice:

(1) To misrepresent the origin or place of manufacture of an industry product or any part thereof; or

(2) Subject to the exemptions hereinafter specified, to fail to adequately disclose that an industry product, or any substantial part thereof, is of foreign origin, or has been manufactured, processed, or assembled in a foreign country, when the failure to make such disclosure has the capacity and tendency or effect of deceiving purchasers or prospective purchasers.

(b) The disclosure required by paragraph (a) (2) of this section shall be in the form of a legible marking or stamping on the industry product, or on a label or tag which is affixed thereto with such degree of permanency as to remain on

or attached to the product, in legible form, until consummation of the consumer sale thereof, and shall be of such conspicuousness as to be likely observed by purchasers and prospective purchasers making casual inspection of the product. The disclosure shall name the foreign country of origin or manufacture, and when not applicable to the entire product, shall specify the part or parts to which it has applicability. If such disclosure on the product is concealed or obscured by reason of packaging or manner in which it is mounted in a container or on a display card, and is displayed and offered for consumer sale in such form, then the disclosure shall also appear on such packaging, container, or display card with such conspicuousness as to be likely observed by consumer purchasers and prospective consumer purchasers before consummation of their purchase of the product.

EXEMPTIONS: To be regarded as exempt from the disclosure requirements of paragraph (a) (2) of this section are:

Sheet, wire, tubing, and similar basic material, whether of plastic, metal, or other substance, when imported in that form; and

Rivets, springs, screws, bolts, brads, washers and similar small parts of eyeglass frames, when imported in an unassembled state and thereafter used in the manufacture of eyeglass frames;

Small and basically decorative and nonfunctional imported parts; and

Imported parts, which because of substantial domestic processing or merger with other parts after importation, no longer retain the appearance and essential characteristics possessed by them at the time of their importation.

NOTE: In this connection it is to be understood that the installation of lenses into frames in this country, though involving cutting, edging, and beveling of the lenses, and boring of holes in the frames or edges of the lenses, does not exempt from the requirements of paragraph (a) (2) of this section when either the lenses or frames so assembled, or both such parts, have been imported from a foreign country.

NOTE: Nothing in this section is to be construed as relieving any industry member from compliance with the requirements of custom laws of the U.S. having application to industry products and parts imported from a foreign country.

[Rule 9]

§ 192.10 Misrepresenting products as conforming to a standard.

In the sale, offering for sale or distribution of industry products, it is an unfair trade practice to represent, directly or indirectly, that any such product, or any part thereof, has been designed or constructed so as to conform to a standard when:

(a) No disclosure is made of the identity of the standard (whether private, official, or otherwise); or

(b) The standard to which reference is made has been rescinded, amended, or superseded, and no disclosure is made of such fact; or

(c) The product or part does not fully conform to the requirements of the standard. [Rule 10]

§ 192.11 Misrepresentation as to character of business.

It is an unfair trade practice for any industry member, in connection with his sale, offering for sale, or distribution of industry products, to misrepresent the character, extent, or type of his business. [Rule 11]

§ 192.12 False invoicing.

(a) It is an unfair trade practice to withhold from or insert in invoices any statements or information by reason of which omission or insertion a false record is made, wholly or in part, of the transactions represented on the face of such invoices, with the capacity and tendency or effect of thereby misleading or deceiving purchasers, prospective purchasers, or the buying public in any material respect.

(b) In order to prevent misunderstanding, confusion, or deception, the invoice or billing should disclose that the products of the industry covered thereby are seconds, defective, or other than first-quality merchandise, when such is the fact. [Rule 12]

§ 192.13 Consignment distribution.

(a) It is an unfair trade practice for any member of the industry to employ the practice of shipping industry products on consignment without the express request or prior consent of the purchasers.

(b) Nothing in this section shall be construed as authorizing any understanding or agreement, combination or conspiracy, or planned common course of action, by and between industry members, mutually to conform or restrict their practice of shipping goods on consignment. [Rule 13]

§ 192.14 Commercial bribery.

It is an unfair trade practice for a member of the industry, directly or indirectly, to give, or offer to give, or permit or cause to be given, money or anything of value to agents, employees, or representatives of customers or prospective customers, or to agents, employees, or representatives of competitors' customers or prospective customers, without the knowledge of their employers or principals, as an inducement to influence their employers or principals to purchase or contract to purchase products sold or offered for sale by such industry member, or to influence such employers or principals to refrain from dealing in the products of competitors or from dealing or contracting to deal with competitors. [Rule 14]

§ 192.15 False disparagement of competitors or their products.

It is an unfair trade practice for any industry member to represent or imply that a competitor is incompetent or not qualified to make, process, or fit industry products, or certain kinds or types of industry products, or that a competitor's products are inferior to those of the industry member, when such is not the case; or in any other manner to falsely disparage a competitor or his products. [Rule 15]

§ 192.16 Coercing purchase of one product as a prerequisite to purchase of another or other products.

The practice of coercing the purchase of one or more products as a prerequisite to the purchase of one or more other products, where the effect may be to substantially lessen competition or tend to create a monopoly or to unreasonably restrain trade, is an unfair trade practice. [Rule 16]

§ 192.17 Inducing breach of contract.

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

(b) Nothing in this section is intended to imply that it is improper to solicit the business of a customer of a competing industry member; nor is the section to be construed as in anywise authorizing any agreement, understanding, or planned common course of action by two or more industry members not to solicit business from, or to sell to, the customers of either of them, or customers of any other industry member. [Rule 17]

§ 192.18 Enticing away employees of competitors.

It is an unfair trade practice for any member of the industry wilfully to entice away employees or sales-contract personnel of competitors with the intent and effect of thereby unduly hampering or injuring competitors in their business and destroying or substantially lessening competition: *Provided:* That nothing in this section shall be construed as prohibiting employees from seeking more favorable employment, or as prohibiting employers from hiring or offering employment to employees of a competitor in good faith and not for the purpose of inflicting injury on such competitor. [Rule 18]

§ 192.19 Deceptive use or imitation or simulation of trade or corporate names, trade-marks, etc.

It is an unfair trade practice for any member of the industry:

(a) To imitate or simulate the trademarks, trade names, brands, or labels of competitors, with the capacity and tendency or effect of misleading or deceiving purchasers or prospective purchasers; or

(b) To represent by use of any trade name, corporate name, trade-mark, or other trade designation that any industry member is a manufacturer, wholesaler or importer when such is not the fact; or

(c) To use any trade name, corporate name, trade-mark, or other trade designation, which has the capacity and tendency or effect of misleading or deceiving purchasers or prospective purchasers as to the name, nature, or origin of any product of the industry, or of any material used therein, or which is false, deceptive, or misleading in any other material respect. [Rule 19]

§ 192.20 Prohibited forms of trade restraints (unlawful price fixing, etc.)[2]

It is an unfair trade practice for any member of the industry, either directly or indirectly, to engage in any planned common course of action, or to enter into or take part in any understanding, agreement, combination, or conspiracy, with one or more members of the industry, or with any other person or persons, to fix or maintain the price of any goods or otherwise unlawfully to restrain trade; or to use any form of threat, intimidation, or coercion to induce any member of the industry or other person or persons to engage in any such planned common course of action, or to become a party to any such understanding, agreement, combination, or conspiracy. [Rule 20]

§ 192.21 Exclusive dealing.

It is an unfair trade practice for any member of the industry to contract to sell or sell any industry product, or fix a price charged therefor, or discount from, or rebate upon, such price, on the condition, agreement, or understanding that the purchaser thereof shall not use or deal in the products of a competitor or competitors of such industry member, where the effect of such sale or contract for sale, or of such condition, agreement, or understanding, may be substantially to lessen competition or tend to create a monopoly in any line of commerce. [Rule 21]

APPENDIX

Set forth below are copies of the letters of the Department of Justice which are referred to in "Note 2" of § 192.7 of this part of the foregoing trade practice rules for the Optical Products Industry.

DEPARTMENT OF JUSTICE

Suite 820, 208 South La Salle Street
Chicago 4, Illinois

MAY 28, 1951.

Re: [Title of case]

DEAR DOCTOR: I am enclosing a copy of the final judgment which has been approved by the Court and entered in this case. Certain provisions of this judgment are binding upon you as a defendant class doctor and therefore this letter, which has been approved by the Court, is being written to you, in order that you may understand why the judgment is binding upon you, as well as the purpose and effect of the judgment, as it affects you.

Final judgments containing identical provisions forbidding doctors from sharing profits connected with the sale of glasses have been approved and entered in all six of the "Optical Rebating" cases which were brought by the Government. These cases are United States v. Bausch & Lomb Optical Company et al., United States v. American Optical Company et al., United States v. House of Vision-Belgard-Spero, Inc., et al., United States v. Uhlemann Optical Company et al. (all filed in Chicago), United States v. N. P. Benson Optical Company et al. (filed in Minneapolis, Minnesota), and United States v. The White-Haines Optical Company et al. (Filed in Columbus, Ohio). These six final judgments directly bind you, and the approximately 4,000 other doctors who were sued in those cases. These judgments were entered with the consent of the parties who had signed them (and for that reason frequently are called "consent decrees"), but they have the same binding effect as a judgment entered by the Court after trial.

When the complaints in this case and the related cases were first filed, the Government anticipated trying them in court. A date was set by the Court for the trial of the first of these cases and the Government made extensive preparations for trial in all six cases. Counsel representing the defendants in the various cases then opened negotiations with the Government with a view to disposing of the cases by consent instead of undergoing what undoubtedly would be lengthy trials. The final judgment which you now have is the result of negotiations which extended over a period of more than two years.

As you know, this case and the five other Optical Rebating cases are "class actions." Only a selected number of doctors (in no one case more than 30) were named in each of the complaints that were filed in the cases, but those were chosen as being representative of a much larger "class" of doctors. This is the authorized procedure where a number of persons sued in a case is large. Clearly it would have been impractical to name as individual defendants the approximately 4,000 doctors who we knew had received rebates and to require each one of them to appear in court to file answers and otherwise defend themselves in the suits.

All of the doctors in this case who were sued individually and as representatives of the "class doctors" have consented to the entry of this final judgment. Of the 75 doctors who were sued as representatives of the class doctors in the six cases, all have agreed to the entry of similar judgments. In each of the six cases a considerable number of "class doctors," i.e., those not named as individual defendants in the complaint, voluntarily filed statements submitting to the jurisdiction of the court and agreeing to be bound by whatever judgment might be entered. The remaining "class doctors" were served with "show cause orders" which informed the doctor as to his status in this case. These "show cause orders" also gave him the right, if he objected to being represented by the doctors named as representative defendants in the complaint or to being bound by a final judgment entered in the case, to answer the complaint and defend himself as an individual defendant. It is noteworthy that not a single doctor of the 4,000 involved in the six cases availed himself of the "day in court" afforded by the show cause order.

Over two years after the show cause orders were issued, one doctor (who shortly thereafter died and whose position was assumed by two doctors) filed a motion attacking the theory and operation of the class action in this case and seeking to have this case dismissed as to all "class doctors." The Court denied the motion and upheld the class suit as being a valid and proper one. A copy of the Court's memorandum opinion on that question is sent you herewith. Considering all the foregoing, it is the Government's opinion that the final judgment in this case is as binding on you as if you had been personally present in court as an individual defendant and had in that capacity given your assent to its entry against you.

Your attention is called particularly to paragraph III of this final judgment and to the relevant definitions contained in paragraph II. These are the provisions which will probably be of greatest interest to you and the other doctors. Paragraph III is the order of the Court enjoining the individual and class defendant doctors from accepting, directly or indirectly, from any dispenser any payment, however described, arising out of or connected with dispensing to any person and further enjoining any entry into or participation in any plan, arrangement, or scheme under which any defendant doctor receives any such payment from any dispenser.

The final judgment does not prevent you from following the normal professional practice and procedure of prescribing lenses for your patients and giving the prescription to the patient, who then takes the prescription to an optical supply company (dispensing optician) to be filled. The optical supply company then fulfills the purely business function of filling the prescription, selling the glasses to the patient, and making the necessary fitting of the glasses to the patient's face. Doctors continue to be free to follow this procedure. They are, of course, subject to those provisions in the final judgment which prohibit the rebating practice in all its forms.

In our opinion, the provisions of this final judgment would not prevent any individual doctor from doing his own dispensing in his own professional offices (either himself or through a bona fide full time employee) to his own patients only. The same holds true as to doctors who operate through a partnership for purely professional purposes, or in a clinic, or through other similar arrangements involving the occupancy by the doctors in the group of common, or contiguous and inter-connected professional office space, and the sharing of such common facilities as the reception room, telephone operator, receptionist, stenographic help, and the like. Such "group practice" doctors could likewise share in the common utilization of the services of a bona fide employee of such doctors who does dispensing to the patients of such doctors only, in the professional offices of such doctors.

It is clear to us, however, that the individual doctors or "group practice" doctors as described above, who do their own dispensing or use a bona fide employee to do such dispensing to patients of such doctors only, could not enter into any agreement or understanding or concert of action with any other persons, including other doctors or other dispensers, with respect to the prices to be charged for the spectacles and parts thereof dispensed.

It is also clear to us that all forms of arrangements between doctors (other than the above arrangements associated with "group practice"), directed at setting up or utilizing a dispenser whose services shall be shared by more than one doctor and from whom such doctors derive any payments arising out of or connected with such dispensing to their patients, whether such payment be in the form of or regarded as a rebate, credit, credit balance, gift, dividend,

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

participation in or share in profits or otherwise, would be prohibited under the decree.

Sincerely yours,

H. G. MORISON,
Assistant Attorney General.
By WILLIS L. HOTCHKISS,
Chief, Midwest Office
Antitrust Division.

(TEXT OF DEPARTMENT'S SEPTEMBER 24, 1951, LETTER PERTAINING TO INVESTMENT BY DOCTORS IN CORPORATIONS ENGAGED IN DISPENSING)

* * * * *

Your second inquiry concerns the applicability of the Judgments to the investment by doctors in corporations engaged in dispensing. The situation which you describe may be summarized as follows:

Four doctors and a layman form a corporation which is to engage in optical dispensing. Each of these persons pays $2,000 for 20% of the stock. The doctors direct their patients to the company without disclosing their ownership interest therein. Each doctor and the layman receives dividends proportionate to the amount of stock held by each, without regard to the number of referrals. The doctor-stock-holders "have no connection whatsoever with the prices charged."

It is not our general practice to give our construction of a consent judgment except with respect to the facts of specific and identified cases involving parties to the judgment. However, it is our view that the "stock investment" plan outlined in the preceding paragraph would be in violation of the Optical Rebating Judgments.

Sincerely yours,

H. G. MORISON,
Assistant Attorney General.

(TEXT OF DEPARTMENT'S SEPTEMBER 10, 1951, LETTER ON CHARGE AND SEND PLANS)

Since receiving your letter requesting an opinion on the question whether the final judgment in this case applies to the type of "charge and send" plan you describe, we have had a number of inquiries relating to variations of the same plan asking whether such plans are permissible under the final judgments entered in the optical rebating cases. These inquiries have provided us with considerable information on the operation and effect of the various plans.

The basic "charge and send" plan consists of the following procedure:

(a) the doctor makes a refraction for which he charges the patient a professional fee, writes a prescription, and sends the patient to a designated optical house to have it filled;

(b) the optical house makes the necessary measurements, displays the frames and mountings from which the patient makes his selection, quotes the patient the consumer price for the finished glasses, grinds the lenses to the prescription and mounts them;

(c) the patient later returns to the optical house to have the glasses fitted and adjusted, and the optical house then sends the glasses to the doctor rather than turning them over to the patient;

(d) the patient returns to the doctor who turns the glasses over to the patient and collects the consumer price for them, remits to the optical house the wholesale price plus the fitting fee, and retains for himself the difference between that amount and the consumer price.

You have described a variant whereby the doctor would keep a case of sample frames in his professional office from which the patient would make his selection, with the doctor then quoting to the patient the consumer price.

It is our opinion that the basic "charge and send" plan is prohibited under the optical rebating judgments. The same is true as to the variations which you describe, and those variations similar thereto, such as the "C.O.D. charge and send." Each of these procedures constitutes a plan, arrangement, or scheme whereby the doctor obtains a financial return arising out of or connected with dispensing to his patient, with the doctor performing no real function in the dispensing procedure other than collecting the consumer price. The procedures accomplish by indirection, and by a complex and artificial procedure, what was done directly and simply under the old rebate system. The procedures therefore come under the prohibition of the final judgments in this and the related optical rebating cases.

Sincerely yours,

H. G. MORISON,
Assistant Attorney General.
By WILLIS L. HOTCHKISS,
Chief, Midwest Office
Antitrust Division.

Authorized: June 26, 1962.

By the Commission.

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 62-6369; Filed, June 29, 1962; 8:46 a.m.]

Title 17—COMMODITY AND SECURITIES EXCHANGES

Chapter II—Securities and Exchange Commission

[Release 34-6820, 33-4499]

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

Filing of Quarterly Reports by Certain Real Estate Companies

The Securities and Exchange Commission has adopted two new rules and a new quarterly report form under the Securities Exchange Act of 1934.

The new rules, designated Rules 13a-15 and 15d-15 (§§ 240.13a-15 and 240.15d-15 of Title 17, CFR) require certain real estate companies to file with the Commission pursuant to sections 13 and 15(d) of the Act quarterly reports on Form 7-K (§ 249.307) with respect to distributions made to shareholders. Such reports are required to be filed within 45 days after the end of the fiscal quarter for which they are filed. Such reports are not required, however, by investment companies registered under the Investment Company Act of 1940 or partnerships all of whose properties are under long term lease to other persons.

The text of the Commission's action is set forth below.

I. Section 240.13a-15 is adopted to read as follows:

§ 240.13a-15 Quarterly reports of certain real estate companies.

(a) Except as provided in paragraph (b) of this section every issuer of a security registered on a national securities exchange (1) which is a real estate investment trust, as defined in section 856 of the Internal Revenue Code, or (2) whose business is primarily that of acquiring and holding for investment real estate or interests in real estate or interests in other issuers whose business is primarily that of acquiring and holding real estate or interests in real estate for investment, shall file a report on Form 7-K (§ 249.307) for each fiscal quarter ending on or after June 1, 1962, or the date on which a class of securities of the issuer first becomes effectively registered on a national securities exchange, whichever date is later. Such reports shall be filed not more than 45 days after the end of the fiscal quarter for which they are filed.

(b) Notwithstanding paragraph (a) of this section, no report need be filed pursuant to this rule with respect to:

(1) Any investment company registered under the Investment Company Act of 1940; or,

(2) Any partnership all of whose properties are under long term lease to other persons.

(c) Notwithstanding § 240.13a-13, any issuer which files quarterly reports pursuant to this rule for the first two fiscal quarters of any fiscal year need not file a semiannual report on Form 9-K (listed in § 249.309) for the period covered by such quarterly reports.

II. Section 240.15d-15 is adopted to read as follows:

§ 240.15d-15 Quarterly reports of certain real estate companies.

(a) Except as provided in paragraph (b) of this section, every issuer which, by reason of an undertaking contained in a registration statement under the Securities Act of 1933, is required to file periodic information, documents and reports pursuant to section 15(d) of the Securities Exchange Act of 1934, and (1) which is a real estate investment trust, as defined in section 856 of the Internal Revenue Code, or (2) whose business is primarily that of acquiring and holding for investment real estate or interests in real estate or interests in other issuers whose business is primarily that of acquiring and holding real estate or interests in real estate for investment, shall file a report on Form 7-K (§ 249.307) for each fiscal quarter ending on or after June 1, 1962, or the date on which such registration statement becomes effective, whichever date is later. Such reports shall be filed not more than 45 days after the end of the fiscal quarter for which they are filed.

(b) Notwithstanding paragraph (a) of this section, no report need be filed pursuant to this rule with respect to:

(1) Any investment company registered under the Investment Company Act of 1940; or

(2) Any partnership all of whose properties are under long term lease to other persons.

(c) Notwithstanding § 240.15d-13, any issuer which files quarterly reports pursuant to this rule for the first two fiscal quarters of any fiscal year need not file a semiannual report on Form 9-K (listed in § 249.309) for the period covered by such quarterly reports.

III. Section 249.307 is adopted, to read as follows.

§ 249.307 Form 7–K, for quarterly reports of certain real estate companies.

(a) *General instructions*—(1) *Rule as to use of Form 7–K.* (i) Form 7–K is to be used for the quarterly reports required by Rules 13a–15 and 15d–15 of the general rules and regulations under the Securities Exchange Act of 1934 (§§ 240.13a–15 and 240.15d–15). Reports are to be prepared and filed in accordance with Rules 12b–11 and 12b–12 (§§ 240.12b–11, 12b–12) within 45 days after the end of the period covered thereby.

(ii) This is not a blank form to be filled in. It is a guide copy to be used in preparing the report in accordance with Rules 12b–11 and 12b–12 (§§ 240.12b–11, 12b–12). The Commission does not furnish blank copies of this form to be filled in for filing.

(iii) These general instructions are not to be filed with the report. The instructions to the various captions of the form are also to be omitted from the report as filed.

(2) *Persons for whom the information is to be given.* (i) The required information is to be given as to the registrant or, if the registrant files consolidated financial statements with its annual reports, it shall be given for the registrant and its consolidated subsidiaries. If the information is given for the registrant and its consolidated subsidiaries, it need not be given separately for the registrant.

(ii) The required information shall also be given separately as to each unconsolidated subsidiary or group of such subsidiaries for which separate individual or group statements are required to be filed with the registrant's annual reports. It need not be furnished, however, for any such unconsolidated subsidiary which would not be required to file semi-annual reports if it were a registrant.

(3) *Presentation of information.* The information is not required to be certified and may carry a notation to that effect and any other qualification considered necessary or appropriate. Except where amounts are required to be stated on a per share basis, amounts may be stated in thousands of dollars (000 omitted), provided it is stated that such has been done.

(4) *Incorporation by reference to published statements.* If the registrant makes available to its stockholders or otherwise publishes, within the period prescribed for filing the report, a quarterly financial statement containing the information required by this form, the information called for may be incorporated by reference to such published statement provided copies thereof are filed as an exhibit to the report on this form.

(5) *Delay in filing information.* (i) If the registrant has securities registered on a national securities exchange and publishes, pursuant to the regulations of such exchange, a quarterly statement which it desires to incorporate by reference pursuant to Instruction (4), above, the filing of a report on this form may be deferred until the statement becomes available, provided the report is filed immediately thereafter.

(ii) If a delay in filing the report or in furnishing any of the required information becomes necessary under any other circumstances, a request for an extension of time shall be made pursuant to Rule 12b–25 (§ 240.12b–25).

(b) *Cover sheet of report.*

SECURITIES AND EXCHANGE COMMISSION

WASHINGTON 25, D.C.

Form 7–K

QUARTERLY REPORT

Pursuant to section 13 or 15(d) of the Securities Exchange Act of 1934 for the fiscal quarter ended _____

_____

(Exact name of registrant as specified in charter)

_____

(Address of registrant's principal executive offices)

(c) *Body of report.*

Company or Group of Companies for Which Report Is Filed

(I) Profit and loss statement, cash generated, cash distributions to stockholders and cash balance.

	Period Income (loss)	Period Cash generated
(1) Income	$------	$------
Instruction: State separately material amounts of rental income, mortgage interest, and management fees.		
(2) Deductions	------	------
Instruction: State separately in the appropriate columns material amounts of operating expenses, real estate taxes, depreciation, interest expense and income taxes.		
(3) Extraordinary items	------	------
Instruction: State separately any material amounts of other income or deductions of an unusual or nonrecurring nature included in the determination of net income or loss and cash generated during the period covered by the report. Profits from syndications shall be included herein.		
(4) Net income (loss)	------	
Instruction: Indicate clearly whether the amount stated represents income or loss.		
(5) Cash generated before special items	------	
(6) Special items	------	
Instruction: State separately and describe each material item not included in Items (4) and (5). Profits or losses from sales of properties shall be included herein. Cash generated from profits shall exclude recovery of accumulated depreciation. Any balance of the proceeds from sales of properties shall be shown under caption (13).		
(7) Net income (loss) and special items	------	
(8) Cash generated (total of captions 5 and 6)	------	
(9) Principal payments on mortgages	------	
(10) Balance of cash generated	------	
(11) Cash distributions to shareholders		$------
Instruction: Include a tabulation of the amounts per share and the number of shares outstanding at each distribution date. A note to this item shall indicate the amounts representing income and the amounts representing a return of invested capital.		
(12) Excess (deficiency) of cash generated over distributions		------
(13) Other sources of funds		------
Instruction: State separately any item of a material amount.		
(14) Total		------
(15) Other disposition of funds		------
Instruction: State separately any item of a material amount.		
(16) Net increase (decrease)		------
(17) Cash balance at beginning of quarterly period covered by this report		------
(18) Cash balance at close of quarterly period covered by this report		------

(II) Cumulative amounts of excess (deficiency) of cash generated over distributions.

(19) Excess (deficiency) of cash generated over distributions at the beginning of the fiscal year	$------
(20) Net increase (decrease) from beginning of the fiscal year to end of period covered by this report	------
(21) Excess (deficiency) of cash generated over distribution at end of fiscal period to date	------
(22) Per share amounts declared at the date of this report for distribution in the forthcoming period(s). List separately the declaration by payment period.	

(d) *Remarks.* Under "remarks" furnish any material information necessary to make the information called for by this form not misleading.

(e) *Registrant's name and signature.*

_____
(Registrant)

By _____
(Signature)*

*Print name and title of signing officer under his signature.

(f) *Date.* _____

(Secs. 13, 15, 23(a), 48 Stat. 894, 895, 901, as amended; 15 U.S.C. 78m, 78o, and 78w)

The Commission deems it necessary in the interest of investors that the filing of the reports required by the foregoing rules and form be commenced as soon as possible. Accordingly the Commission finds that notice and procedure pursuant to the Administrative Procedure Act with respect thereto is not necessary in the public interest or for the protection of investors and that such rules and form should be made effective immediately. However, the Commission will consider all views and comments submitted with respect to the rules and form by interested persons and will make such changes, if any, as it may deem neces-

sary or appropriate in the light of such views and comments. In view of the foregoing, the rules and form shall become effective immediately upon publication June 12, 1962. Copies of the form may be obtained from the Commission.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

JUNE 12, 1962.

[F.R. Doc. 62-6321; Filed, June 29, 1962; 8:45 a.m.]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 19—CHEESES; PROCESSED CHEESES; CHEESE FOODS; CHEESE SPREADS, AND RELATED FOODS; DEFINITIONS AND STANDARDS OF IDENTITY

Muenster Cheese for Manufacturing; Identity

Correction

In F.R. Doc. 62-6186, appearing at page 5985 of the issue for Tuesday, June 26, 1962, § 19.551 should read as set forth below:

§ 19.551 Muenster cheese for manufacturing, munster cheese for manufacturing; identity.

Muenster cheese for manufacturing conforms to the definition and standard of identity for muenster cheese prescribed by § 19.550, except that the milk is not pasteurized and the provisions of paragraphs (d) and (e) of that section do not apply.

PART 120—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Tolerances for Residues of Demeton

A petition was filed with the Food and Drug Administration by Chemagro Corporation, P.O. Box 4913, Kansas City 20, Missouri, requesting the establishment of tolerances of 5 parts per million for residues of the insecticide demeton in or on barley (green fodder and straw), oats (green fodder and straw), and wheat (green fodder and straw) and 0.75 part per million in or on barley grain, oat grain, and wheat grain.

The Secretary of Agriculture has certified that this pesticide chemical is useful for the purposes for which tolerances are being established.

After consideration of the data submitted in the petition and other relevant material which show that the tolerances established in this order will protect the public health, and by virtue of the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 408 (d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)), and delegated to the Commissioner of Food and Drugs by the Secretary (25 F.R. 8625), the regulations for tolerances for pesticide chemicals in or on raw agricultural commodities (21 CFR 120.105; 26 F.R. 6917) are amended by inserting the term "the insecticide" in the introduction to the section and by adding to the section tolerances for residues of demeton in or on the aforementioned raw agricultural commodities. As amended, the affected portions of § 120.105 read as follows:

§ 120.105 Tolerances for residues of demeton.

Tolerances for residues of the insecticide demeton (a mixture of *O,O*-diethyl *O*(and *S*)-2-(ethylthio)ethyl phosphorothioates) in or on raw agricultural commodities are established as follows:

* * * * *

5 parts per million in or on almond hulls, barley (green fodder and straw), fresh alfalfa, fresh clover, oats (green fodder and straw), sugar beet tops, and wheat (green fodder and straw).

* * * * *

0.75 part per million in or on almonds, apples, apricots, barley grain, broccoli, brussels sprouts, cabbage, cauliflower, celery, cottonseed, grapefruit, lemons, lettuce, muskmelons, oat grain, oranges, peaches, pears, peas, pecans, peppers, plums (fresh prunes), potatoes, strawberries, tomatoes, walnuts, wheat grain.

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington 25, D.C., written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed in quintuplicate.

Effective date. This order shall be effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 408(d)(2), 6 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: June 22, 1962.

JOHN L. HARVEY,
Deputy Commissioner, of Food and Drugs.

[F.R. Doc. 62-6384; Filed, June 29, 1962; 8:48 a.m.]

PART 120—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Diphenylamine; Amendment of Tolerance

No comment having been received on the proposal of the Commissioner of Food and Drugs published in the FEDERAL REGISTER of May 9, 1962 (27 F.R. 4428), with reference to amending the tolerance for residues of diphenylamine in or on apples for scald control, and no request having been received for referral of the proposal to an advisory committee: *It is ordered,* That the regulations for tolerances for pesticide chemicals in or on raw agricultural commodities be amended by changing § 120.190 (21 CFR 120.190; 27 F.R. 883) to read as follows:

§ 120.190 Tolerances for residues of diphenylamine.

Tolerances for residues of diphenylamine are established as follows:

10 parts per million in or on apples from preharvest or postharvest use, including use of impregnated wraps, for scald control.

Zero in milk and meat.

This action is taken pursuant to the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 408(e), 68 Stat. 514; 21 U.S.C. 346a(e)), and delegated to the Commissioner by the Secretary (25 F.R. 8625).

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington 25, D.C., written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed in quintuplicate.

Effective date. This order shall be effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 408(e), 68 Stat. 514; 21 U.S.C. 346a(e))

Dated: June 22, 1962.

JOHN L. HARVEY,
Deputy Commissioner of Food and Drugs.

[F.R. Doc. 62-6385; Filed, June 29, 1962; 8:48 a.m.]

PART 120—TOLERANCES AND EXEMTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Tolerances for Residues of O,O-Diethyl S-2-(Ethylthio)Ethyl Phosphorodithioate

A petition was filed with the Food and Drug Administration by Chemagro Corporation, Post Office Box 4913, Kansas City 20, Missouri, requesting the establishment of tolerances of 5 parts per million for residues of the insecticide *O,O*-diethyl *S*-2-(ethylthio)ethyl phosphorodithioate, calculated as demeton, in or on barley (green fodder and straw), oats (green fodder and straw), and pea vines, and 0.75 part per million in or on barley grains, beans (dry, green, and lima), brussels sprouts, cauliflower, lettuce, oats, peas, and tomatoes. The petition was later amended to include bean vines at 5 parts per million.

The Secretary of Agriculture has certified that this pesticide chemical is useful for the purposes for which tolerances are being established.

After consideration of the data submitted in the petition and other relevant material which show that the tolerances established in this order will protect the public health, and by virtue of the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)) and delegated to the Commissioner of Food and Drugs by the Secretary (25 F.R. 8625), the regulations for tolerances for pesticide chemicals in or on raw agricultural commodities (21 CFR 120.183; 26 F.R. 9131) are amended by inserting the words "the insecticide" in the introduction to the section and by adding thereto tolerances for residues of the subject pesticide chemical in or on the aforementioned raw agricultural commodities. As amended, the affected portions of § 120.183 read as follows:

§ 120.183 Tolerances for residues of *O,O*-diethyl *S*-2-(ethylthio)ethyl phosphorodithioate.

Tolerances for residues of the insecticide *O,O*-diethyl *S*-2-(ethylthio)ethyl phosphorodithioate, calculated as demeton, in or on raw agricultural commodities are established as follows:

5 parts per million in or on barley (green fodder and straw), bean vines, oats (green fodder and straw), pea vines.

* * * * *

0.75 part per million in or on barley grain, beans (dry), beans (snap), beans (lima), brussels sprouts, cabbage, cauliflower, cottonseed, lettuce, oat grain, peas, potatoes, tomatoes.

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington 25, D.C., written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed in quintuplicate.

Effective date. This order shall be effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: June 22, 1962.

JOHN L. HARVEY,
Deputy Commissioner of Food and Drugs.

[F.R. Doc. 62-6386; Filed, June 29, 1962; 8:49 a.m.]

PART 121—FOOD ADDITIVES

Boiler Water Additives

The Commissioner of Food and Drugs, having evaluated data available to the Food and Drug Administration, and based in part on data submitted by Armour Chemical Division, Armour and Company, 1355 West Thirty-first Street, Chicago 9, Illinois; Betz Laboratories, Inc., Gillingham and Worth Streets, Philadelphia 24, Pennsylvania; Dearborn Chemical Company, 375 Merchandise Mart Plaza, Chicago 54, Illinois; Hagen Chemicals & Controls, Inc., P.O. Box 1346, Pittsburgh 30, Pennsylvania; and Union Carbide Chemicals Company, P.O. Box 65, Tarrytown, New York, and other relevant information, concludes that a regulation should issue concerning safe uses of boiler compounds employed in the preparation of steam that contacts food. Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), (d), 72 Stat. 1786, 1787; 21 U.S.C. 348(c)(1), (d), and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (25 F.R. 8625), Subpart D is amended by adding thereto the following new section:

§ 121.1088 Boiler water additives.

Boiler water additives may be safely used in the preparation of steam that will contact food, under the following conditions:

(a) The amount of additive is not in excess of that required for its functional purpose, and the amount of steam in contact with food does not exceed that required to produce the intended effect in or on the food.

(b) The compounds are prepared from substances identified in paragraphs (c) and (d) of this section, and are subject to the limitations, if any, prescribed:

(c) List of substances:

	Limitations
Ammonium alginate	
Potassium carbonate	
Sodium acetate	
Sodium alginate	
Sodium aluminate	
Sodium carbonate	
Sodium hexametaphosphate	
Sodium hydroxide	
Sodium lignosulfonate	
Sodium nitrate	
Sodium phosphate (mono-, di-, tri-)	
Sodium silicate	
Sodium sulfate	
Sodium sulfite (neutral or alkaline)	
Sodium tripolyphosphate	
Tannin (including quebracho extract)	
Tetrasodium pyrophosphate	

(d) Substances used alone or in combination with substances in paragraph (c) of this section:

	Limitations
Cyclohexylamine	Not to exceed 10 parts per million in steam, and excluding use of such steam in contact with milk and milk products.
Morpholine	Do.
Octadecylamine	Not to exceed 3 parts per million in steam, and excluding use of such steam in contact with milk and milk products.

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington 25, D.C., written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. All documents should be filed in quintuplicate.

Effective date. This order shall be effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 409(c)(1), (d), 72 Stat. 1786; 21 U.S.C. 348(c)(1)(d))

Dated: June 22, 1962.

JOHN L. HARVEY,
Deputy Commissioner of Food and Drugs.

[F.R. Doc. 62-6383; Filed, June 29, 1962; 8:48 a.m.]

PART 121—FOOD ADDITIVES

Subpart D—Food Additives Permitted in Food for Human Consumption

POTASSIUM IODIDE

The Commissioner of Food and Drugs has reviewed the information submitted by Mallinckrodt Chemical Works, St. Louis 7, Missouri, concerning the re-

quirement in § 121.1073 for adequate directions for use on the labeling of packages of potassium iodide. The data furnished indicates that there is no need for directions for use on commercial packages. Likewise, data shows that the use of the phrase "food grade" on the label of the additive, is not necessary to insure safety. The Commissioner, therefore, concludes that the regulation should be amended to relieve these requirements.

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(d), 72 Stat. 1787, 21 U.S.C. 348(d)), and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (25 F.R. 8625), § 121.1073(b) (21 CFR 121.1073) is amended to read as follows:

§ 121.1073 Potassium iodide.

* * * * *

(b) To assure safe use of the additive, in addition to the other information required by the act, the label of the additive shall bear:

(1) The name of the additive.

(2) A statement of the concentration of the additive in any mixture.

Notice and public procedure and delayed effective date are not necessary prerequisites to the promulgation of this order, and I so find, since the amendment relaxes existing requirements.

Effective date. This order shall be effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 409(d), 72 Stat. 1787; 21 U.S.C. 348(d))

Dated: June 22, 1962.

JOHN L. HARVEY,
Deputy Commissioner of Food and Drugs.

[F.R. Doc. 62-6387; Filed, June 29, 1962; 8:50 a.m.]

SUBCHAPTER D—HAZARDOUS SUBSTANCES

PART 191—HAZARDOUS SUBSTANCES; DEFINITIONS AND PROCEDURAL AND INTERPRETATIVE REGULATIONS

Collapsible Metal Tubes; Temporary Suspension of Effective Date

The Commissioner of Food and Drugs pursuant to the provisions of the Federal Hazardous Substances Labeling Act (sec. 10, 74 Stat. 378; 15 U.S.C. 1269) and under the authority delegated to him by the Secretary of Health, Education, and Welfare (25 F.R. 8625), on March 15, 1962, prescribed the placement on collapsible metal tubes of the label information required by section 2(p)(1) of the act and by § 191.101 of the regulations. This regulation was to become effective August 1, 1962.

On the basis of the evidence submitted to him and by independent investigation the Commissioner finds that many hazardous substances in collapsible metal tubes intended or suitable for household use now in the channels of commerce, either through label revision or by the use of sticker labels, approach full compliance with § 191.101. There are, however, a substantial number of collapsible metal tubes that, although bearing the warnings required by the regulations, do not have the information with the placement required by § 191.101(e). The Commissioner therefore finds that more time is necessary to meet these requirements and, accordingly, the effective date of § 191.101(e) is extended to February 1, 1963. Articles subject to the act shall bear all the mandatory labeling required by the statute and regulations thereunder, but the placement of this labeling as required by the above-referenced regulation will not be enforced until February 1, 1963.

Effective date. This order will become effective on the date of signature.

(Sec. 10, 74 Stat. 378; 15 U.S.C. 1269)

Dated: June 22, 1962.

JOHN L. HARVEY,
Deputy Commissioner of Food and Drugs.

[F.R. Doc. 62-6388; Filed, June 29, 1962; 8:50 a.m.]

Title 31—MONEY AND FINANCE: TREASURY

Chapter V—Foreign Assets Control, Department of the Treasury

PART 500—FOREIGN ASSETS CONTROL REGULATIONS

Certain Persons in United States Unblocked

The Foreign Assets Control Regulations, 31 CFR 500.101-500.808 are being amended as follows:

Section 500.505 of the Foreign Assets Control Regulations is being amended to unblock those designated nationals who are Chinese refugees and who are paroled into the United States by the Attorney General.

Section 500.505 is hereby amended to read as follows:

§ 500.505 Certain persons in the United States unblocked.

The following are hereby licensed as unblocked nationals:

(a) Any individual in the United States except an individual who on or after the "effective date" was in, or who, on or since such date, has acted or purported to act directly or indirectly for the benefit of or on behalf of any designated foreign country.

(b) Any individual in the United States who has been paroled into the United States pursuant to section 212(d)(5) of the Immigration and Nationality Act by the Attorney General: *Provided,* That this subsection shall not apply:

(1) To any individual who after such parole has acted or purported to act directly or indirectly for the benefit of or on behalf of any designated foreign country; or,

(2) To any individual whose parole has been revoked, after the date of such revocation.

(c) Any partnership, association, corporation or other organization which is a national of a designated foreign country solely by reason of the interest of persons licensed by this section.

(Sec. 5, 40 Stat. 415, as amended; 50 U.S.C., App. 5. E.O. 9193, July 6, 1942, 7 F.R. 5205; 3 CFR 1943 Cum. Supp., E.O. 9989, Aug. 20, 1948, 13 F.R. 4891; 3 CFR 1948 Supp.)

[SEAL] DOUGLAS DILLON,
Secretary of the Treasury.

[F.R. Doc. 62-6394; Filed, June 29, 1962; 8:50 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

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

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 2667]

ALASKA

Withdrawing Lands at Whittier for Alaska Railroad and Department of the Army

Correction

In F.R. Doc. 62-4455, appearing at page 4425 of the issue for Wednesday, May 9, 1962, the following correction is made in the first paragraph of Parcel No. 1, under paragraph (a) of the land description for Anchorage 047336: The measurement now reading "509.35 feet" should read "509.85 feet".

[Public Land Order 2713]

ALASKA

Withdrawing Lands for Protection of Facilities of Federal Aviation Agency

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952, and in furtherance of the objectives of section 4 of the act of May 24, 1928 (45 Stat. 728; 49 U.S.C. 214), it is ordered as follows:

1. Subject to existing valid rights, the following described lands are hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws, and reserved under jurisdiction of the Secretary of the Interior for the protection of air navigation facilities erected on the lands or on adjacent lands and being operated and maintained by the Federal Aviation Agency:

a.

[Anchorage 050312]

SEWARD MERIDIAN

POINT WORONZOF AREA

T. 13 N., R. 4 W.,
Sec. 28, W½;
Sec. 29, lots 1, 2, 3, SE¼NE¼, E½SE¼, and SW¼SE¼.
Containing 592.87 acres.

SEWARD MERIDIAN

KING SALMON AREA

b. [Anchorage 046709]

T. 17 S., R. 45 W., S.M. (Unsurveyed),
Sec. 5, S½SW¼, S½N½SW¼, SW¼SE¼, S½NW¼SE¼, W½SE¼SE¼, and SW¼NE¼SE¼;
Sec. 8, NW¼W½NE¼, and W½E½NE¼.

Containing 490 acres.

[Anchorage 050813]

T. 17 S., R. 45 W., S.M. (Unsurveyed),
Sec. 6, N½SE¼NE¼NW¼.

Containing 5 acres.

c. [Anchorage 041869]

SEWARD MERIDIAN

HOMER AREA

T. 5 S., R. 13 W., S.M.,
Sec. 26, S½S½SW¼NW¼;
Sec. 27, NE¼SE¼;
Sec. 34, NE¼NE¼;
Sec. 35, NE¼NW¼.

Containing 130 acres.

d. [Anchorage 042420]

SEWARD MERIDIAN

TALKEETNA AREA

T. 26 N., R. 4 W., S.M.,
Sec. 30, lot 5, SE¼SW¼, SW¼SE¼;
Sec. 31, lots 1, 2, 3, E½NW¼, W½NW¼NE¼, and N½NE¼SW¼.

Containing 347.81 acres.

The areas described in this order contain in the aggregate approximately 1,565 acres.

2. The Bureau of Land Management shall administer the lands under the public land laws and may issue leases and permits for the surface and subsurface use thereof, provided, that no use shall be authorized which may interfere unreasonably with the paramount objectives of this order, and provided further, that the Federal Aviation Agency shall have exclusive jurisdiction and control of its structures and improvements on any of the lands together with the lands occupied thereby.

JOHN A. CARVER, Jr.,
Assistant Secretary of the Interior.

JUNE 26, 1962.

[F.R. Doc. 62-6357; Filed, June 29, 1962; 8:46 a.m.]

Title 49—TRANSPORTATION

Chapter I—Interstate Commerce Commission

[Sixth Rev. S.O. No. 95]

PART 95—CAR SERVICE

Appointment of Refrigerator Car Agent

At a session of the Interstate Commerce Commission, Safety and Service Board No. 1, in Washington, D.C., on the 25th day of June A.D. 1962.

It appearing, the matter of car service (section 1, paragraphs 10 to 17, inclusive) of the Interstate Commerce Act being under consideration, that car service will be promoted in the interest of the public and commerce of the people by the appointment of an agent with the authority and duties herein described.

§ 95.95 Appointment of refrigerator car agent.

(a) D. W. Benton, Assistant to Chairman, Car Service Division, Association of American Railroads, 59 East Van Buren Street, Chicago 5, Illinois, is hereby designated and appointed refrigerator car agent of the Interstate Commerce Commission. As agent he is required to provide the Commission with current information, through its Director of the Bureau of Safety and Service, with respect to the supply of and the need for refrigerator cars in all sections of the United States. As agent, he is authorized and directed to determine and advise the Commission through its Director of the Bureau of Safety and Service concerning measures which will reduce the time of loading and unloading refrigerator cars or increase the efficiency and economy of such cars' utilization, operation and movement.

(b) Application: The provisions of this order shall apply to shipments moving in intrastate commerce as well as to those moving in interstate commerce.

(c) Effective date: This order shall become effective at 12:01 a.m., July 1, 1962.

(d) Expiration date: This order shall expire at 11:59 p.m., June 30, 1963, unless otherwise modified, changed, suspended or annulled by order of this Commission.

(Secs. 1, 12, 15, 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15. Interprets or applies secs. 1(10–17), 15(4), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4)).

It is further ordered, That this order shall vacate and supersede Fifth Revised Service Order No. 95, as amended on the effective date hereof, and that a copy of this order and direction be served upon the Association of American Railroads, Car Service Division, as Agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this order be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Safety and Service Board No. 1.

[SEAL] HAROLD D. McCOY,
Secretary.

[F.R. Doc. 62-6370; Filed, June 29, 1962; 8:46 a.m.]

[S.O. No. 928; Amdt. 7]

PART 95—CAR SERVICE

Indiana Harbor Belt Railroad Co.; Authority To Operate Over Certain Trackage

At a session of the Interstate Commerce Commission, Safety and Service Board No. 1, held in Washington, D.C., on the 25th day of June A.D. 1962.

Upon further consideration of Service Order No. 928 (24 F.R. 4995, 7404; 25 F.R. 80, 6361; 26 F.R. 26; 26 F.R. 6027; 26 F.R. 12576), and good cause appearing therefor:

It is ordered, That: § 95.928 *Indiana Harbor Belt Railroad Company authorized to operate over certain trackage of the Chicago Aurora and Elgin Railway Company,* of Service Order No. 928, be, and it is hereby amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., December 31, 1962, unless otherwise modified, changed, suspended, or annulled by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., June 30, 1962.

(Secs. 1, 12, 15, 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15. Interprets or applies secs. 1(10–17), 15(4), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4))

It is further ordered, That a copy of this amendment shall be served upon the Illinois Commerce Commission and upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this order shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Safety and Service Board No. 1.

[SEAL] HAROLD D. McCOY,
Secretary.

[F.R. Doc. 62-6371; Filed, June 29, 1962; 8:47 a.m.]

[S.O. No. 930; Amdt. 7]

PART 95—CAR SERVICE

Chicago, Milwaukee, St. Paul and Pacific Railroad Co.; Authority To Operate Over Certain Trackage

At a session of the Interstate Commerce Commission, Safety and Service Board No. 1, held in Washington, D.C., on the 25th day of June A.D. 1962.

Upon further consideration of Service Order No. 930 (24 F.R. 4996, 7405; 25 F.R. 80, 6361; 26 F.R. 26, 6027; 26 F.R. 12576), and good cause appearing therefor:

It is ordered, That: § 95.930 *Chicago, Milwaukee, St. Paul and Pacific Railroad Company authorized to operate over certain trackage of the Chicago Aurora and Elgin Railway Company,* of Service Order No. 930, be and it is hereby amended by substituting the following paragraph (g) for paragraph (g) thereof.

(g) *Expiration date.* This order shall expire at 11:59 p.m., December 31, 1962, unless otherwise modified, changed, suspended, or annulled by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., June 30, 1962.

(Secs. 1, 12, 15, 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15. Interprets or applies secs. 1(10–17), 15(4), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4))

It is further ordered, That copies of this amendment shall be served upon the Illinois Commerce Commission and upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this order shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Safety and Service Board No. 1.

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

[F.R. Doc. 62–6372; Filed, June 29, 1962; 8:47 a.m.]

[S.O. No. 940]

PART 95—CAR SERVICE

Chicago, Milwaukee, St. Paul and Pacific Railroad Co.; Authority To Operate Over Certain Trackage

At a session of the Interstate Commerce Commission, Safety and Service Board No. 1, held in Washington, D.C., on the 26th day of June A.D. 1962.

It appearing, that because of a bridge out of service, the Fort Dodge, Des Moines & Southern Railway Company is unable to transport traffic over certain portions of its lines and that the Chicago, Milwaukee, St. Paul and Pacific Railroad has requested authority to operate over trackage of the Fort Dodge, Des Moines & Southern Railway Company beginning at point of interchange between Chicago, Milwaukee, St. Paul and Pacific Railroad Company and the Fort Dodge, Des Moines & Southern Railway Company at Rockwell City, Iowa, thence southeasterly over the Fort Dodge, Des Moines & Southern Railway Company main line for a distance of approximately 500 feet, together with approximately 1600 feet of secondary track. The Commission is of the opinion that there is need for service over this line of railroad and that operation of this line will best promote the service in the interest of the public and the commerce of the people; and that notice and public procedure are impracticable and contrary to the public interest and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered. That:

§ 95.940 The Chicago, Milwaukee, St. Paul and Pacific Railroad Company authorized to operate over certain trackage of Fort Dodge, Des Moines & Southern Railway Company.

(a) The Chicago, Milwaukee, St. Paul and Pacific Railroad Company be, and it is hereby authorized to operate over trackage of the Fort Dodge, Des Moines & Southern Railway Company beginning at point of interchange between Chicago, Milwaukee, St. Paul and Pacific Railroad Company and Fort Dodge, Des Moines & Southern Railway Company at Rockwell City, Iowa, thence southeasterly over the Fort Dodge, Des Moines & Southern Railway Company main line for a distance of approximately 500 feet, together with approximately 1,600 feet of secondary track in order to serve the public and the commerce of the people.

(b) Application: The provisions of this order shall apply to intrastate and foreign traffic as well as interstate traffic.

(c) Effective date: This order shall become effective at 12:01 a.m., June 28, 1962.

(d) Expiration date: The provisions of this order shall expire at 11:59 p.m., December 31, 1962, unless otherwise modified, changed, suspended or annulled by order of this Commission.

(Secs. 1, 12, 15, 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15. Interprets or applies secs. 1(10–17), 15(4), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4))

It is further ordered, That copies of this order and direction shall be served upon the Iowa State Commerce Commission, Illinois Commerce Commission and upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this order shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Safety and Service Board No. 1.

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

[F.R. Doc. 62–6393; Filed, June 29, 1962; 8:50 a.m.]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[9 CFR Part 201]

REGULATIONS UNDER PACKERS AND STOCKYARDS ACT

Deductions for Meat Promotional Programs; Notice of Proposed Rule Making

Under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), the Department of Agriculture has the responsibility to assure that the practices of packers, market agencies, and dealers are not unfair, unjustly discriminatory, or deceptive. It is not the function of the Department to determine whether livestock shippers should contribute to meat promotional agencies or, if such contributions are made, to whom or in what amount such contributions are made. The Department cannot require a packer, market agency, or dealer to make a deduction from a shipper's proceeds for contribution to a promotional agency, irrespective of whether the shipper authorizes or requests that such deduction be made.

Notice is hereby given, pursuant to section 4 of the Administrative Procedure Act (5 U.S.C. 1003), that in order to specify under what circumstances deductions may be made from shipper's proceeds for meat promotional purposes, it is proposed to amend § 201.39 of the regulations issued pursuant to the provisions of the Act (9 CPR 201.39) in the following respects:

1. A new paragraph (c) would be added to such section reading as follows:

(c) The following requirements shall be applicable to deductions by any packer, market agency, or dealer from shippers' proceeds for payment to an organization for meat promotional purposes:

(1) The packer, market agency, or dealer, or the organization to which the payment is to be made, shall hold a written authorization for such deduction and payment, executed by the owner of the livestock, or his duly authorized agent, prior to or immediately following the consignment of the livestock:

(2) A packer, market agency, or dealer may not make a deduction for a shipper who wishes to contribute to one promotional agency selected by him or the packer, market agency, or dealer, and refuse to make a deduction for a shipper who wishes to contribute to a different promotional agency; *Provided,* That a packer, market agency, or dealer who chooses to make such deductions may restrict the number of deductions to be made from the proceeds from any one consignment and may establish such other conditions and rules with respect thereto as are not unfair or unjustly discriminatory;

(3) Each packer, market agency, and dealer who makes any deductions for meat promotional purposes shall file a report concerning such deductions quarterly with the Division on prescribed forms not later than 30 days following the end of the calendar quarter or, if the records are kept on a fiscal year basis, not later than 30 days after the close of the fiscal quarter. Such reports shall include the following: (i) the names of the organizations for which deductions were made during the quarter; (ii) the total amounts withheld and paid to each such organization during the reporting period; and (iii) a statement that, prior to making each such deduction, the packer, market agency, or dealer held, or ascertained that the organization to which the payment was to be made held, the written authorization specified in subparagraph (1) of this paragraph. If the packer, market agency, or dealer in any instance failed to comply with the provisions of this paragraph, the report shall include a full explanation of the reasons therefor, including the name of the shipper, the date of the transaction, and any factors explaining the failure to comply with the specified requirements.

2. The headnote of § 201.39 would be amended to read: "Payment of Shippers' Proceeds."

Any person who wishes to submit written data, views or arguments concerning the proposed amendment may do so by filing them with the Director, Packers and Stockyards Division, Agricultural Marketing Service, United States Department of Agriculture, Washington 25, D.C., within 20 days after publication hereof in the FEDERAL REGISTER.

Done at Washington, D.C., this 29th day of June 1962.

JOHN P. DUNCAN, Jr.,
Assistant Secretary.

[F.R. Doc. 62-6495; Filed, June 29, 1962; 12:00 m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 120]

TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

DDT on Peppermint Hay and Spearmint Hay; Notice of Proposal To Establish Tolerance

Oregon State University, Agricultural Experiment Station, Corvallis, Oregon, has requested that action be taken to establish a tolerance for the residues of the insecticide DDT in or on peppermint hay and spearmint hay. The United States Department of Agriculture advises that DDT is useful for the purposes proposed. Data in the petition indicates that the residues in or on peppermint hay and spearmint hay from use of DDT as proposed do not exceed 50 parts per million. The residues will not constitute a hazard to health.

The petition proposes that the treated hay will be used only for the extraction of mint oil and that neither the hay nor spent hay will be fed to livestock.

After consideration of the data in the petition and by virtue of the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 408(c), 68 Stat. 512; 21 U.S.C. 346a(c)) and delegated to the Commissioner of Food and Drugs by the Secretary (25 F.R. 8625), it is proposed by the Commissioner that the regulations for tolerances for pesticide chemicals in or on raw agricultural commodities be amended by inserting the word "insecticide" in the introduction to § 120.147, and by adding to the section a new item, reading as set forth below:

§ 120.147 **Tolerances for residues of DDT.**

Tolerances for residues of the insecticide DDT (a mixture of 1,1,1-trichloro-2,2-bis(*p*-chlorophenyl) ethane and 1,1,1-trichloro-2-(*o*-chlorophenyl)-2-(*p*-chlorophenyl) ethane are established in or on raw agricultural commodities, as follows:

50 parts per million in or on peppermint hay, spearmint hay.

Any person who has registered or who has submitted an application for the registration of an economic poison under the Federal Insecticide, Fungicide, and Rodenticide Act containing DDT may request, within 30 days from the publication of this proposal in the FEDERAL REGISTER, that the proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Any interested person may, within thirty days from the date of publication of this notice in the FEDERAL REGISTER, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue, SW., Washington 25, D.C., written comments on the proposal. Comments may be accompanied by a memorandum or brief in support thereof. All documents shall be filed in quintuplicate.

Dated: June 22, 1962.

JOHN L. HARVEY,
Deputy Commissioner of Food and Drugs.

[F.R. Doc. 62-6382; Filed, June 29, 1962; 8:48 a.m.]

[21 CFR Part 121]

FOOD ADDITIVES

Notice of Filing of Petition

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348 (b)(5)), notice is given that a petition (FAP 703) has been filed by United States Rubber Company, Elm Street, Naugatuck, Connecticut, proposing the issuance of a regulation to provide for the safe use of a carboxylated butadiene-styrene copolymer latex coating for paper and paperboard used in packaging and handling food.

Dated: June 26, 1962.

J. K. KIRK,
Assistant Commissioner of Food and Drugs.

[F.R. Doc. 62-6396; Filed, June 29, 1962; 8:50 a.m.]

[21 CFR Part 121]

FOOD ADDITIVES

Notice of Filing of Petition

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348 (b)(5)), notice is given that a petition (FAP 791) has been filed by Elanco Products Company, Division of Eli Lilly and Company, Indianapolis 6, Indiana, proposing an amendment of § 121.217 (a)(1) of the food additive regulations to provide for the feeding of tylosin phosphate to swine, by weight, as follows:

Quantity	Limitations	Indications for use
(1) In swine feed:		
Grams per ton		
(i) 10–20	Finisher ration	Growth promotion and feed efficiency.
(ii) 20–100	Starter/grower ration.	Do.

Dated: June 25, 1962.

J. K. KIRK,
Assistant Commissioner of Food and Drugs.

[F.R. Doc. 62-6380; Filed, June 29, 1962; 8:47 a.m.]

[21 CFR Part 121]

FOOD ADDITIVES

Notice of Filing of Petition

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348 (b)(5)), notice is given that a petition (FAP 855) has been filed by The Upjohn Company, 7000 Portage Road, Kalamazoo, Michigan, proposing the issuance of a regulation to provide for the safe use of mannitol in chewable multiple vitamin tablets.

Dated: June 25, 1962.

J. K. KIRK,
Assistant Commissioner of Food and Drugs.

[F.R. Doc. 62-6381; Filed, June 29, 1962; 8:47 a.m.]

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Classification No. 61; Offer No. 23]

NEW MEXICO

Small Tract Classification

1. Pursuant to authority delegated to me by Bureau Order No. 684, dated August 28, 1961 (26 F.R. 8216), I hereby offer for sale at public auction under the Small Tract Act of June 1, 1938 (52 Stat. 609; 43 U.S.C. 682a), as amended, 330 tracts listed in Part 3 of this order.

2. The lands lie 42 miles northeast of Farmington, New Mexico, 17 miles south of Ignacio, Colorado, 4 miles north of the Navajo Dam, and 1 mile west of the Pine River which will become part of the Navajo Reservoir. These tracts are accessible by an improved county road traversing the west portion of the lands. The terrain varies from nearly flat to rolling to very steep canyon slopes and bluffs. Vegetation consists primarily of sagebrush, pinon juniper, and browse. Culinary water is not available within reasonable depths. Electric power will be available from 2 miles south of these lands as soon as the demand merits the extension of the line to the area. The highest and best use of these tracts is for summer cabin sites because of the proximity of the Pine River boat-landing dock which is one of three proposed public-use facilities at the Navajo Reservoir. Also, the area affords good deer hunting during the hunting season. All minerals will be reserved to the United States. The tracts will be patented subject to existing rights-of-way, together with rights-of-way shown under Part 3, hereof.

3. The unit numbers, legal description by lot number, sides with right-of-way reservations, and the appraised value are shown below.

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

[T. 31 N., R. 8 W., Sec. 24]

Unit	Lot	Acres	33′ R/W	Value
1	9	2.38		
	10	2.38	(*)	$450
[1] 2	11	2.38	(*)	
	12	2.38		450
3	13	2.38	South	250
4	14	2.38	do	325
5	15	2.39	do*	375
6	16	2.39	do*	325
7	17	2.42	West*	375
8	18	2.42	East	375
9	19	2.42	West	375
10	20	2.42	East	375
11	21	2.42		375
12	22	2.42		250
13	23	2.43	West	375
14	24	2.43	East	375
15	25	2.43	do	375
16	26	2.43	West	375
17	27	2.43	East	375
18	28	2.42	West	375
19	29	2.43	East	375
20	30	2.43	West	375
21	31	2.43	East*	375
22	32	2.42	West*	250
23	33	2.39	North	325
24	34	2.39	North	$325
25	35	2.39	North, East	375
26	36	2.39	West, South	325
27	37	2.39		
	38	2.39		225
28	39	2.38	(*)	
	40	2.38	(*)	325
29	41	2.39	(*), (**)	
	42	2.39	(**)	225
[1] 30	43	2.39		
	44	2.39		225
[1] 31	45	2.39	North	
	68	2.40		325
[1] 32	46	2.40		
	67	2.40		450
33	47	2.40	South	325
[1] 34	48	2.40	do	325
35	49	2.42	do	325
36	50	2.42	do*	325
[1] 37	51	2.42	South, West*	375
38	52	2.42	East	375
39	53	2.42	West	375
40	54	2.43	East	375
[1] 41	55	2.43	West	375
42	56	2.43	East	
42	57	2.43	County Road, East	450
43	58	2.43	West	375
44	59	2.43	East	
	86	2.42	East, South*	450
45	60	2.43	West*	375
46	61	2.43	East*	
	84	2.42	South, East	450
47	62	2.43	West, North	375
48	63	2.43	North	375
[1] 49	64	2.42	do	325
[1] 50	65	2.40	do	375
[1] 51	66	2.40	do	250
[1] 52	69	2.40	(**)	150
[1] 53	70	2.40	(**)	150
[1] 54	71	2.40	(**)	150
[1] 55	72	2.39	(**)	150
[1] 56	73	2.40	(**)	150
[1] 57	74	2.40	(**)	150
[1] 58	75	2.40	(**)	150
[1] 59	76	2.40	South**	150
[1] 60	77	2.40	do	250
[1] 61	78	2.40	do	325
[1] 62	79	2.40	do	250
[1] 63	80	2.41	do	375
[1] 64	81	2.42	do	375
65	82	2.42	do	325
66	83	2.42	South, West	375
67	85	2.42	West, South*	325
68	87	2.42	South, County Road	
	88	2.43	South	450
[1] 69	89	2.43	North	375
[1] 70	90	2.43	do	325
71	91	2.43	County Road, North*	
	92	2.43	North	450
72	93	2.43	East, North	375
73	94	2.43	West, North	375
74	95	2.43	North, East	375
[1] 75	96	2.42	North, West	375
[1] 76	97	2.41	North, East	375
[1] 77	98	2.41	North, West	325
[1] 78	99	2.41	North, East	250
[1] 79	100	2.40	North, West	250
[1] 80	101	2.40	North	250
[1] 81	102	2.40	North, South	150
[1] 82	103	2.40		
	106	2.41	South, West	450
[1] 83	104	2.40	(**)	
	105	2.40		325
[1] 84	107	2.41	South, East	325
[1] 85	108	2.41	South	250
[1] 86	109	2.41	South, West	325
[1] 87	110	2.41	East	250
[1] 88	111	2.41	West	325
[1] 89	112	2.41	East	375
90	113	2.42	West	375
91	114	2.42	East	375
92	115	2.42	West	375
93	116	2.42	South, East	375
94	117	2.42	South	375
95	118	2.42	County Road, South	325
96	119	2.42	South	325
97	120	2.43	do	375
[1] 98	121	2.43	North	250
99	122	2.43	do	325
100	123	2.43	North, County Road	375
[1] 101	124	2.43	do	375
102	125	2.43	North	375
103	126	2.43		375
104	127	2.42		250
105	128	2.42		250
[1] 106	129	2.42		250
[1] 107	130	2.41		250

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

[T. 31 N., R. 8 W., Sec. 24]

Unit	Lot	Acres	33′ R/W	Value
[1] 108	131	2.41	East	$325
[1] 109	132	2.41	West, North	

[T. 31 N., R. 8 E., Sec. 25]

	5	2.43		$450

[T. 31 N., R. 8 W.]

	Sec. 24			
[1] 110	133	2.41	North	
	Sec. 25			
	4	2.42		$450
	Sec. 24			
[1] 111	134	2.41	North, East	
	Sec. 25			
	3	2.43		450
	Sec. 24			
[1] 112	135	2.41	North, West	325
113	136	2.41		
	Sec. 25			
	1	2.43		225

[T. 31 N., R. 8 W., Sec. 25]

[1] 114	2	2.42		$150
[1] 115	6	2.42		250
[1] 116	7	2.42		325
117	8	2.42	South	325
118	9	2.43	do	250
119	10	2.43	do	325
120	11	2.43	do	375
121	12	2.43	do	375
122	13	2.43	South, County Road	325
123	14	2.43	South	375
[1] 124	15	2.43	do	
	16	2.43		325
125	17	2.43		375
126	18	2.42	North	375
127	19	2.43	do	375
128	20	2.42	North, County Road	
	21	2.43	North	450
[1] 129	22	2.42	do	375
[1] 130	23	2.43	do	325
[1] 131	24	2.42	North, East	325
[1] 132	25	2.42	North, West, South	250
133	26	2.42	South	250
134	27	2.42	do	250
135	28	2.42	do	250
136	29	2.42	do	250
137	30	2.42	do	250
[1] 138	31	2.42	South, East	250
[1] 139	32	2.42	South, West	250
140	33	2.41	North, West	250
141	34	2.41	North, East	250
142	35	2.41	North, West	250
143	36	2.41	North, East	250
144	37	2.41	North	250
145	38	2.41	do	
	59	2.40		325
[1] 146	39	2.41	North	
	58	2.41		325
147	40	2.41	North	
	57	2.40		325
148	41	2.43		325
[1] 149	42	2.43		375
[1] 150	43	2.43		375
151	44	2.43		
	45	2.43	South, County Road	450
152	46	2.43	South	375
153	47	2.43	do	375
154	48	2.43		375
155	49	2.43		375
156	50	2.42	North	325
157	51	2.43	do	375
158	52	2.42	North, County Road	375
159	53	2.43	East	375
160	54	2.42	West	375
161	55	2.42	East	375
162	56	2.42	West	375
163	60	2.41		
	69	2.40		325
164	61	2.41	South, East	150
165	62	2.41	South, West	150
166	63	2.41	South	150
[1] 167	64	2.41		150

See footnotes at end of table.

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

[T. 31 N., R. 8 W., Sec. 25]

Unit	Lot	Acres	33' R/W	Value
[1] 168	65	2.40		$150
[1] 169	66	2.40	North	150
[1] 170	67	2.40	do	150
[1] 171	68	2.40	do	150
172	70	2.40	do	325
173	71	2.40	West*	325
174	72	2.40	East*	325
175	73	2.43	West*	375
176	74	2.43	East, South*	375
177	75	2.43	South, West	375
178	76	2.43	South, East	375
[1] 179	77	2.43	South, County Road	375
180	78	2.43	South	375
181	79	2.43	do	375
182	80	2.43	do	325
183	81	2.43	North, East	325
184	82	2.42	North, West	375
185	83	2.43	North	375
186	84	2.42	do	375
[1] 187	85	2.42	North, County Road*	325
[1] 188	86	2.42	North*	375
[1] 189	87	2.42	do*	375
190	88	2.42		375
[1] 191	89	2.39	East	325
[1] 192	90	2.39	South, West	325
[1] 193	91	2.39	South	250
[1] 194	92	2.39	do	250
[1] 195	93	2.39	do	250
[1] 196	94	2.40	do	150
[1] 197	95	2.39	do	150
[1] 198	96	2.40		250
[1] 199	97	2.39	South	325
[1] 200	98	2.39	North, South	150
[1] 201	99	2.39	do	150
[1] 202	100	2.39	do	250
[1] 203	101	2.39	do	250
[1] 204	102	2.38	do	250
[1] 205	103	2.39	do	325
[1] 206	104	2.38	South	375
[1] 207	105	2.43	do	375
208	106	2.43	do	375
[1] 209	107	2.43	do	375
210	108	2.43	South, County Road	325
[1] 211	109	2.43	South	375
212	110	2.43	do	375
213	111	2.43	South, West	375
214	112	2.43	East	375
215	113	2.43		325
216	114	2.42	North	325
217	115	2.43	do	375
218	116	2.42	do	375
219	117	2.42	do	375
[1] 220	118	2.42	North, County Road	375
[1] 221	119	2.42	North	375
[1] 222	120	2.42	do	250
[1] 223	121	2.38	do	325
[1] 224	122	2.38	do	250
[1] 225	123	2.38	do	250
[1] 226	124	2.38	do	250
[1] 227	125	2.38	do	250
[1] 228	126	2.38	do	250
[1] 229	127	2.38	do	250
[1] 230	128	2.38	do	325
[1] 231	129	2.41	South	325
[1] 232	130	2.40	do	325
[1] 233	131	2.40	do	325
[1] 234	132	2.40	do	325
[1] 235	133	2.40	do	325
[1] 236	134	2.40		375
[1] 237	135	2.39		
	136	2.39		225
[1] 238	137	2.44	South	
	138	2.44	do	450
[1] 239	139	2.44	South, County Road	375
240	140	2.43	South	375
241	141	2.43	do	375
242	142	2.43	do	375
243	143	2.43	do	375
244	144	2.43	do	375
245	145	2.42	North	
	176	2.43		450
246	146	2.43	North	
	175	2.43		450
247	147	2.43	North, East	
	174	2.43		450
248	148	2.43	North, West	325
249	149	2.43	North	325
[1] 250	150	2.43	North, County Road	375
[1] 251	151	2.43	North	325
[1] 252	152	2.43	do	325
[1] 253	153	2.40		
	168	2.41	South	450
[1] 254	154	2.40		
	167	2.41	South	225
[1] 255	155	2.40		
	166	2.41		225
[1] 256	156	2.40	North	
	165	2.41		225
[1] 257	157	2.40	North, East	375
258	158	2.41	North, West	375
[1] 259	159	2.41	North, East	375
260	160	2.41	North, West	375
261	161	2.42		
	192	2.42		450
262	162	2.41		
	191	2.42		450
263	163	2.41	West	

See footnotes at end of table.

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

[T. 31 N., R. 8 W., Sec. 25]

Unit	Lot	Acres	33' R/W	Value
263	190	2.40	West	$450
264	169	2.44	South	250
265	170	2.44	do	250
266	171	2.44	South, County Road	325
267	172	2.43		250
268	173	2.43		
	180	2.43		450
269	177	2.42		375
270	178	2.43		
	179	2.43		450
271	181	2.43		
	204	2.43		450
272	182	2.43	North, County Road	325
273	183	2.43	North	325
274	184	2.43	do	
	201	2.44	South	450
275	185	2.40	North	
	186	2.41	do	450
276	187	2.41		
	198	2.42	South	450
277	188	2.41		
	197	2.42	South, East	325
278	193	2.43		
	224	2.43		325
279	194	2.43		
	223	2.43		325
280	195	2.42		
	196	2.42	West	450
281	199	2.42	South	375
282	200	2.42	do	375
283	202	2.43	do	375
284	203	2.43	South, County Road	375
[1] 285	205	3.43		250
286	206	2.43		325
287	207	2.43	West	325
288	208	2.43	East	375
289	209	2.42	East *	375
[1] 290	210	2.42	West *	
	211	2.42	East *	450
[1] 291	212	2.43	West *	
	213	2.43	(*)	450
292	214	2.43	North, County Road	375
293	215	2.43	North	325
294	216	2.43	do	325
295	217	2.42	North, East	375
296	218	2.42	North, West	375
297	219	2.42	North	375
298	220	2.43	do	325
299	221	2.43		
	222	2.43		450
300	225	2.44	West	
	256	2.44	(*)	450
301	226	2.44	East*	375
302	227	2.44	(*)	375
303	228	2.43	South*	375
304	229	2.43	South	325
[1] 305	230	2.43	do	375
[1] 306	231	2.43	South, West	375
[1] 307	232	2.43	South, East	375
308	233	2.44	South	375
[1] 309	234	2.43	do	325
[1] 310	235	2.43	South, County Road	375
[1] 311	236	2.43		375
312	237	2.43	West	375
313	238	2.43	East	325
314	239	2.43	West	375
315	240	2.43	East	375
316	241	2.42	do	375
317	242	2.42	West	375
318	243	2.42	East	375
319	244	2.43	West	375
320	245	2.43		375
[1] 321	246	2.43	North, County Road	375
[1] 322	247	2.43	North	375
[1] 323	248	2.43	do	375
[1] 324	249	2.43	do	375
[1] 325	250	2.43	do	375
[1] 326	251	2.44	do	375
327	252	2.44	do*	325
328	253	2.44	do*	250
329	254	2.44		325
330	255	2.44	(*)	325
			Total 330 tracts	109,500

[1] Preference applicants covered by applications from persons entitled to preference right as provided by 43 CFR 257.5.

Rights-of-Way Reservations

County Road—66 feet in width.

*=Pipeline R/W road as per R/W reservation.

**=Access road R/W reservation for a distance of 33 feet on each side of a center line which is described as follows: Beginning at the pipeline road along the east boundary of Lot 41, Section 24, thence south along lot boundary 2 chains; thence S. 70° W., 5 chains (into Lot 72); thence S. 88° W., 0.73 chains; thence N. 62° W., 3.00 chains (into Lot 71); thence S. 42° W., 2.72 chains (into Lot 71); thence south on west boundary of Lot 71 for 2.1 chains; thence S. 39° W., 1.5 chains; thence S. 66° W., 1.25 chains; thence N. 65° W., 2.72 chains (into Lot 70); thence S. 36° W., 1 chain (across canyon bottom); thence S. 40° E., 1 chain; thence S. 77° E., 4 chains (across Lot 75); thence S. 52° E., 2.9 chains; thence N. 67° E., 1 chain; thence S. 70° E., 1.27 chains (across Lot 74); thence N. 89° E., 0.5 chain; thence along canyon bottom to east boundary of Lot 73.

4. The above-described units will be sold at public auction at a public sale to be held at the City Hall, Farmington, New Mexico, beginning at 10:00 a.m. on September 18, 1962.

Bids may be made personally by the bidder or his agent at the sale or may be mailed. Bids sent by mail will be considered only if received at the Santa Fe Land Office, Bureau of Land Management, prior to 10:00 a.m. on September 17, 1962. (See mailing address below.) No sealed bid will be accepted if it is less than the appraised value of the tract. Oral bidding will be in increments to be announced at the sale. See part 3 above for appraised values.

5. Persons who have previously acquired a tract under the Small Tract Act are not qualified to purchase a tract at the sale unless they can make a showing satisfactory to the Bureau of Land Management that the acquisition of another tract is warranted in the circumstances.

6. Each bid sent by mail must clearly show (a) the name and post office address of the bidder, (b) Offer No. 23, and (c) the land description of the tract for which the bid is made, described in accordance with Paragraph 3 of this order. Each bid must be accompanied by the full amount bid in the form of a certified or cashier's check, post office money order, or bank draft made payable to the Bureau of Land Management. Each bid must be enclosed in a separate envelope but payment need accompany only the highest bid, provided all other bids designate the envelope containing the payment. Each envelope must carry on its reverse the following information and nothing else: (a) Offer No. 23, September 18, 1962, (b) the number of the tract for which the bid is made, described in accordance with Paragraph 3 of this order.

7. Each tract will be awarded to the highest qualified bidder. If the highest bid is oral, the bidder will be required to make payment for the tract at the close of bidding and a personal check will be acceptable for that purpose. Any person who is declared high bidder for any tract will automatically be disqualified from consideration for other tracts at the sale.

8. Any tracts not sold when offered in the course of bidding (and on which no qualifying mailed bid has been received) will be reoffered at public auction upon the motion of any qualified bidder beginning at 10:30 a.m., September 26, 1962, at the Bureau of Land Management, Greer Building, 113 Washington Avenue, Santa Fe, New Mexico. The remaining tracts will continue to be subject to nomination and auction at that place each succeeding Wednesday at 10:30 a.m. (except holidays) until all tracts are sold or until the termination of the sale, March 13, 1963.

9. Inquiries concerning these lands should be addressed to the Manager, Land Office, Bureau of Land Management, Post Office Box 1251, Santa Fe, New Mexico.

Dated: June 19, 1962.

CHESLEY P. SEELY,
State Director.

[F.R. Doc. 62-6273; Filed, June 29, 1962; 8:45 a.m.]

DISTRICT MANAGERS, STATE OF NEVADA

Delegation of Authority

In accordance with section 1.1(a) of BLM Order No. 684 (26 F.R. No. 168, August 31, 1961), as amended, I hereby authorize the District Managers, State of Nevada, effective July 1, 1962, to perform the functions which are delegated to me in section 1.5(a) of the above cited order. The authority delegated may not be redelegated.

Dated: June 13, 1962.

J. R. PENNY,
State Director, Nevada,

Approved: June 25, 1962.

H. R. HOCHMUTH,
Acting Director,
Bureau of Land Management.

[F.R. Doc. 62-6376; Filed, June 29, 1962; 8:47 a.m.]

Office of the Secretary

[Administrative Management Reg. No. 4]

DIRECTOR, DIVISION OF PROPERTY MANAGEMENT

Delegation of Authority

JUNE 26, 1962.

SECTION 1. *Authority.* The Director, Division of Property Management, Office of the Administrative Assistant Secretary, is hereby authorized, without power of redelegation, to make the determinations provided for in Federal Procurement Regulations, Part 1-2.406-3 and Part 1-2.406-4, as follows:

A. In the event of mistake in a responsive bid alleged after opening and before award—

(1) A determination may be made permitting the bidder to withdraw his bid where the bidder requests permission to do so and clear and convincing evidence establishes the existence of a mistake. However, if the evidence is clear and convincing both as to the existence of a mistake and as to the bid actually intended, and if the bid, both as uncorrected and corrected, is the lowest received, a determination may be made to correct the bid and not permit its withdrawal.

(2) A determination may be made permitting the bidder to correct his bid where the bidder requests permission to do so and clear and convincing evidences establishes both the existence of a mistake and the bid actually intended. However, if such correction would result in displacing one or more lower bids, the determination shall not be made unless the existence of the mistake and the bid actually intended are ascertainable substantially from the invitation and bid itself. If the evidence is clear and convincing only as to the mistake, but not as to the intended bid, a determination permitting the bidder to withdraw his bid may be made.

(3) If the evidence does not warrant a determination under subparagraph (1) or (2) of this paragraph, a determination may be made that a bidder may neither withdraw nor correct his bid.

B. In the event a mistake in a contractor's bid is not discovered until after the award—

(1) A determination may be made to rescind a contract where the original contract price does not exceed $1,000.

(2) A determination may be made to reform a contract, irrespective of amount, (i) to delete the item or items involved in the mistake where such deletion does not reduce the contract price by more than $1,000, or (ii) to increase the price where such increase does not exceed $1,000 and if the contract price, as corrected, does not exceed that of the next lowest acceptable bid under the original invitation for bids.

(3) If the evidence does not warrant a determination under (1) or (2) of this subsection, a determination may be made that no change shall be made in the contract as awarded.

C. Each proposed determination made hereunder shall before becoming effective be approved by the Solicitor, an Assistant Solicitor, or comparable legal officer of the Department.

D. Records shall be maintained of all administrative determinations made in accordance with these provisions, and copies of all such administrative determinations, with the facts involved, shall be included in the case file. Where a contract is awarded under section 1 hereof, the General Accounting Office copy of the contract shall be accompanied by a signed copy of any related determination.

E. The said Director, Division of Property Management, may not redelegate the authority herein delegated to him.

SEC. 2. *Effective date.* This regulation is effective June 26, 1962 (Subpar. 210.1.4B, Delegations of Authority by Secretary of the Interior).

D. OTIS BEASLEY,
Administrative Assistant Secretary.

[F.R. Doc. 62-6358; Filed, June 29, 1962; 8:46 a.m.]

DEPARTMENT OF AGRICULTURE

Office of the Secretary

CALIFORNIA

Extension of Period for Emergency Loans

For the purpose of making emergency loans pursuant to section 321(a) of Public Law 87-128 (7 U.S.C. 1961) it has been determined that in the hereinafter named counties in the State of California, the natural disaster for which said counties were designated (26 F.R. 5079, 5433, 6397, and 6609) has resulted in a continuing need in those counties for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

CALIFORNIA

Amador.	Napa.
Butte.	Nevada.
Calaveras.	Orange.
Colusa.	Placer.
Contra Costa.	Riverside.
Del Norte.	Sacramento.
El Dorado.	San Bernadino.
Fresno.	San Diego.
Glenn.	San Joaquin.
Humboldt.	San Luis Obispo.
Imperial.	Santa Barbara.
Inyo.	Solano.
Kern.	Sonoma.
Kings.	Stanislaus.
Lake.	Sutter.
Los Angeles.	Tulare.
Madera.	Tuolumne.
Marin.	Ventura.
Mariposa.	Yolo.
Mendocino.	Yuba.
Merced.	

Pursuant to the authority set forth above, emergency loans will not be made in the above-named counties after June 30, 1963, except to applicants who previously received emergency or special livestock loan assistance and who can qualify under established policies and procedures.

Done at Washington, D.C., this 26th day of June, 1962.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 62-6391; Filed, June 29, 1962; 8:50 a.m.]

MINNESOTA

Extension of Period for Emergency Loans

For the purpose of making emergency loans pursuant to section 321(a) of Public Law 87-128 (7 U.S.C. 1961) it has been determined that in the hereinafter named counties in the State of Minnesota a recent natural disaster has resulted in a continuing need in those counties for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

MINNESOTA

Beltrami.	Norman.
Clay.	Pennington.
Clearwater.	Polk.
Kittson.	Red Lake.
Lake of the Woods.	Roseau.
Marshall.	Wilkin.

Pursuant to the authority set forth above, emergency loans will not be made in the above-named counties after June 30, 1963, except to applicants who previously received emergency or special livestock loan assistance and who can qualify under established policies and procedures.

Done at Washington, D.C., this 26th day of June 1962.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 62-6390; Filed, June 29, 1962; 8:50 a.m.]

DEPARTMENT OF COMMERCE

Maritime Administration

TRADE ROUTE NO. 19, U.S. GULF/CARIBBEAN AND EAST COAST MEXICO

Notice of Conclusions and Determinations Regarding Essentiality and United States Flag Service Requirements

Notice is hereby given that on June 25, 1962, the Maritime Administrator acting pursuant to section 211 of the Merchant Marine Act, 1936, as amended, found and determined the essentiality and United States flag service requirements of United States foreign Trade Route No. 19 and ordered that the following conclusions and determinations be published in the FEDERAL REGISTER:

1. Trade Route No. 19 as described below is reaffirmed as an essential foreign trade route of the United States:

Trade Route No. 19—U.S. Gulf/Caribbean and East Coast Mexico. Between United States Gulf ports (Key West to Mexican border) and foreign ports in the Gulf of Mexico, Caribbean Sea and the Guianas (Mexico to southern border of French Guiana, all islands of the Caribbean and West Indies except Puerto Rico, and other nearby islands including Barbados, Trinidad and Tobago, and Cristobal, C.Z.).

2. Requirements for United States flag operations on Trade Route No. 19 are approximately 13 sailings per month of freight ships serving the route exclusively or predominantly, with some supplemental service by other regularly scheduled sailings of U.S. flag combination passenger-cargo and freight ships serving the route in part only.

3. Existing C–1 and C–2 and Victory type freight ships are suitable for operation on Trade Route No. 19 pending replacement.

Dated: June 25, 1962.

By order of the Maritime Administrator.

JAMES S. DAWSON, Jr.,
Secretary.

[F.R. Doc. 62–6364; Filed, June 29, 1962; 8:46 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration

AUSTRIA

Notice of Finding Regarding Foreign Social Insurance and Pension System

Section 202(t)(2) of the Social Security Act (42 U.S.C. 402(t)(2)) authorizes and requires the Secretary of Health, Education, and Welfare to find whether a foreign country has in effect a social insurance or pension system which is of general application in such country and under which periodic benefits, or the actuarial equivalent thereof, are paid on account of old age, retirement, or death; and whether individuals who are citizens of the United States but not citizens of such foreign country and who qualify for such benefits are permitted to receive such benefits or the actuarial equivalent thereof while outside such foreign country without regard to the duration of the absence.

Pursuant to authority duly vested in him by the Secretary of Health, Education, and Welfare, the Commissioner of Social Security has considered evidence relating to the social insurance or pension system of Austria, from which evidence it appears that Austria prior to December 31, 1957, had, and again beginning with July 12, 1961, has, a social insurance or pension system of general application which pays periodic benefits on account of old age, retirement, or death, and under which citizens of the United States, not citizens of Austria, who leave Austria, are permitted to receive benefits or their actuarial equivalent while outside that country, but that during the period from December 31, 1957, through July 11, 1961, not all United States citizens who qualified under the social insurance or pension system of Austria in effect during this period could receive benefits or their actuarial equivalent while outside of Austria, if outside that country for more than 2 months in any one calendar year.

Accordingly, it is hereby determined and found that Austria had a social insurance or pension system prior to December 31, 1957, which met the requirements of section 202(t)(2) of the Social Security Act (42 U.S.C. 402(t)(2)) and that it again has a social insurance or pension system which meets such requirements beginning with July 12, 1961, but that Austria did not have a social insurance or pension system which met the requirements of section 202(t)(2) during the period from December 31, 1957, through July 11, 1961.

This notice supersedes the notice of finding regarding the social insurance or pension system of Austria published in the FEDERAL REGISTER of March 5, 1959 (24 F.R. 1664).

[SEAL] ROBERT M. BALL,
Commissioner of Social Security.

Approved: June 26, 1962.

ABRAHAM RIBICOFF,
Secretary of Health, Education, and Welfare.

[F.R. Doc. 62–6395; Filed, June 29, 1962; 8:50 a.m.]

Food and Drug Administration

DECACHLOROOCTAHYDRO-1,3,4-METHENO-2H-CYCLOBUTA(CD) PENTALEN-2-ONE

Notice of Establishment of Temporary Tolerance

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(j), 68 Stat. 516; 21 U.S.C. 346a(j)) and in accordance with authority delegated to the Commissioner of Food and Drugs by the Secretary of Health, Education, and Welfare (25 F.R. 8625), notice is given that at the request of Allied Chemical Corporation, New York, New York, a temporary tolerance of 0.1 part per million is established for residues of the insecticide decachlorooctahydro-1,3,4-metheno-2H-cyclobuta(cd)pentalen-2-one in or on potatoes. While this temporary tolerance is in effect, decachlorooctahydro-1,3,4-metheno-2H-cyclobuta(cd)pentalen-2-one is considered to be a member of the class of chlorinated organic compounds (§ 120.3(e)(4)). Included in the conditions of granting the temporary tolerance are:

1. The pesticide will not be marketed for general sale, but will be supplied to qualified persons as permitted in the experimental permit issued by the U.S. Department of Agriculture for bona fide experimental use.

2. The total amount of the finished product containing 50 percent decachlorooctahydro-1,3,4,-metheno-2H-cyclobuta(cd)pentalen-2-one to be used under experimental permit will not exceed 20,000 pounds.

This temporary tolerance expires June 11, 1963.

Dated: June 22, 1962.

JOHN L. HARVEY,
Deputy Commissioner of Food and Drugs.

[F.R. Doc. 62–6379; Filed, June 29, 1962; 8:47 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50–194]

PETROLITE CORP.

Notice of Proposed Issuance of Construction Permit

Please take notice that the Atomic Energy Commission proposes to issue to Petrolite Corporation a construction permit substantially in the form set forth below. This license authorizes construction of a 10 kilowatt (thermal) pool-type nuclear reactor located at Webster Groves, Missouri.

The Commission has found that the application as amended complies with the requirements of the Atomic Energy Act of 1954, as amended, and the Commission's regulations set forth in Title 10, Chapter 1, CFR.

Within fifteen (15) days from the date of publication of this notice in the FEDERAL REGISTER, the applicant may file a request for a hearing, and any person whose interest may be affected by the proposed issuance of this construction permit may file a petition for leave to intervene. A request for a hearing and petitions to intervene shall be filed in accordance with the provisions of the Commission's regulations (10 CFR Part 2). If a request for a hearing or a petition for leave to intervene is filed within the time prescribed in this notice, a notice of hearing or an appropriate order will be issued. If no request for a hearing or a petition for leave to intervene is

filed within the time prescribed in the notice, the Director of Regulation will issue the construction permit fifteen (15) days from the date of publication of this notice in the FEDERAL REGISTER.

For further details with respect to this proposed issuance see (1) the application and amendments thereto and (2) the related hazards analysis prepared by the Research and Power Reactor Safety Branch of the Division of Licensing and Regulation, all of which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. A copy of Item (2) above may be obtained at the Commission's Public Document Room, or upon request addressed to the Atomic Energy Commission, Washington 25, D.C., Attention: Director, Division of Licensing and Regulation.

Dated at Germantown, Md., this 22d day of June 1962.

For the Atomic Energy Commission.

ROBERT H. BRYAN,
Chief, Research and Power Reactor Safety Branch, Division of Licensing and Regulation.

PROPOSED CONSTRUCTION PERMIT

1. By application dated December 15, 1961, and amendments thereto dated January 26, 1962, March 21, 1962, and April 17, 1962 (hereinafter collectively referred to as "the application") Petrolite Corporation requested a Class 104 license, authorizing construction and operation on their plant property in Webster Groves, Missouri, of a 10 kilowatt (thermal) pool-type nuclear reactor (hereinafter referred to as "the reactor").

2. The Atomic Energy Commission (hereinafter referred to as "the Commission") finds that:

A. The reactor will be a utilization facility as defined in the Commission's regulations contained in Title 10, Chapter 1, CFR, Part 50, "Licensing of Production and Utilization Facilities";

B. The reactor will be used in the conduct of research and development activities of the types specified in section 31 of the Atomic Energy Act of 1954, as amended (hereinafter referred to as "the Act");

C. Petrolite Corporation is financially qualified to construct and operate the reactor in accordance with the regulations contained in Title 10, Chapter 1, CFR, to assume financial responsibility for the payment of Commission charges for special nuclear material and to undertake and carry out the proposed use of such material for a reasonable period of time;

D. Petrolite Corporation is technically qualified to design, construct and operate the reactor;

E. Petrolite Corporation has submitted sufficient information to provide reasonable assurance that a reactor of the general type proposed can be constructed and operated at the proposed location without undue risk to the health and safety of the public, and that the omitted information necessary to complete the application will be supplied; and

F. The issuance of a construction permit to Petrolite Corporation will not be inimical to the common defense and security or to the health and safety of the public.

3. Pursuant to the Act and Title 10, Chapter 1, CFR, Part 50, "Licensing of Production and Utilization Facilities", the Commission hereby issues a construction permit to Petrolite Corporation to construct the reactor in accordance with the application. This permit shall be deemed to contain and be subject to the conditions specified in sections 50.54 and 50.55 of said regulations; is subject to all applicable provisions of the Act and rules, regulations, and orders of the Commission now or hereafter in effect; and is subject to the additional conditions specified below:

A. The earliest completion date of the reactor is three months after issuance of the construction permit. The latest date for completion of the reactor is nine months after issuance of the construction permit The term "completion date" as used herein, means the date on which construction of the reactor is completed except for the introduction of the fuel material.

B. The reactor shall be constructed and located on the plant property of Petrolite Corporation in Webster Groves, Missouri, specified in the application.

4. This permit is provisional to the extent that a license authorizing operation of the facility will not be issued by the Commission unless Petrolite Corporation has submitted to the Commission (by amendment of the application) additional data required to complete the hazards analysis of operating the proposed facility and the Commission has found the final design provides reasonable assurance that the health and safety of the public will not be endangered by operation of the reactor in accordance with the specified procedures.

5. Upon completion (as defined in paragraph "3.A." above) of the construction of the reactor in accordance with the terms and conditions of this permit, upon filing of the additional information needed to bring the original application up-to-date, and upon finding that the reactor authorized has been constructed and will operate in conformity with the application as amended and in conformity with the provisions of the Act and of the rules and regulations of the Commission, and in the absence of any good cause being shown to the Commission why the granting of a license would not be in accordance with the provisions of the Act, the Commission will issue a Class 104 license to Petrolite Corporation pursuant to section 104c of the Act, which license shall expire forty (40) years after the date of this construction permit.

6. Pursuant to § 50.60 of the regulations in Title 10, Chapter 1, CFR, the Commission has allocated to Petrolite Corporation for use in connection with the operation of the reactor, 4.7 kilograms of uranium-235 contained in fully enriched uranium and a one-curie antimony-beryllium source canned in aluminum.

For the Atomic Energy Commission.

[F.R. Doc. 62-6346; Filed, June 29, 1962; 8:45 a.m.]

CIVIL AERONAUTICS BOARD

BAGGAGE LIABILITY CASE

[Docket No. 7031]

Notice of Prehearing Conference

Notice is hereby given, that a prehearing conference in the above-entitled matter is assigned to be held on July 12, 1962, at 10 a.m., e.d.s.t., in Room 911, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before Examiner Edward T. Stodola.

Dated at Washington, D.C., June 27, 1962.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 62-6398; Filed, June 29, 1962; 8:50 a.m.]

[Docket No. 12078]

FRONTIER AIRLINES, INC., "USE IT OR LOSE IT" INVESTIGATION

Notice of Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in the above-entitled proceeding is assigned to be heard on July 18, 1962, at 10 a.m., e.d.s.t., in Room 1027, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C.

Dated at Washington, D.C., June 27, 1962.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 62-6399; Filed, June 29, 1962; 8:50 a.m.]

[Docket No. 13674]

NORTH CENTRAL AIRLINES, INC., "USE IT OR LOSE IT" INVESTIGATION OF TRANSBORDER ROUTE 86F

Notice of Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on July 17, 1962 at 10 a.m., e.d.s.t., in Room 911, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before Examiner Barron Fredricks.

Dated at Washington, D.C., June 27, 1962.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 62-6400; Filed, June 29, 1962; 8:50 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 14644; FCC 62M-890]

BAY SHORE BROADCASTING CO.

Order on Procedural Dates

In re application of Keith Moyer and James Hilderbrand d/b as Bay Shore Broadcasting Company, Hayward, California, Docket No. 14644, File No. BP-14113; for construction permit.

Pursuant to agreement of counsel for all participants at the prehearing conference held on June 21, 1962: *It is ordered*, This 22d day of June 1962, that the following procedural dates are established:

Preliminary exchange of applicant's engineering data to be secured as a result of the setting up of a test transmitter by applicant, September 12, 1962.

Informal conference among counsel for all parties in Room 7502, New Post Office Building, Washington, D.C., September 25, 1962 (10:00 a.m.).

Final exchange of applicant's entire direct case exhibits in written form with copies to the Hearing Examiner, October 5, 1962.

Commencement of hearing, October 17, 1962 (10:00 a.m.).

It is further ordered, That the hearing, now scheduled to commence on July 25, 1962, is continued to 10:00 a.m., October 17, 1962.

Released: June 25, 1962.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 62-6402; Filed, June 29, 1962; 8:51 a.m.]

[Docket Nos. 14678-14683; FCC 62M-900]

DENISON BROADCASTING CO. (KDSN) ET AL.

Order Scheduling Hearing and Prehearing Conference

In re applications of The Denison Broadcasting Company (KDSN), Denison, Iowa, Docket No. 14678, File No. BP-14189; Norton Broadcasting, Inc., Norton, Kansas, Docket No. 14679, File No. BP-14239; David N. Osborne, Lincoln, Nebraska, Docket No. 14680, File No. BP-14764; H & M Broadcasting Co., Lincoln, Nebraska, Docket No. 14681, File No. BP-14983; Modern Air Communicative Electronics, Inc., Lincoln, Nebraska, Docket No. 14682, File No. BP-15075; Merlin J. Meythaler, Merton J. Gonstead, Rex N. Eyler and James B. Goetz, d/b as Lancaster County Broadcasting Company, Lincoln, Nebraska, Docket No. 14683, File No. BP-15083; for construction permits.

It is ordered, This 25th day of June 1962, that H. Gifford Irion will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on September 13, 1962, in Washington, D.C.; *And it is further ordered,* That a prehearing conference in the proceeding will be convened by the presiding officer at 9:00 a.m., Thursday, July 26, 1962.

Released: June 26, 1962.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 62-6403; Filed, June 29, 1962; 8:51 a.m.]

[Docket No. 14672; FCC 62M-896]

HAYWOOD COUNTY BROADCASTING CO.

Order Scheduling Hearing and Prehearing Conference

In re application of R. M. McKay, Jr., tr/as Haywood County Broadcasting Company, Brownsville, Tennessee, Docket No. 14672, File No. BP-14492; for construction permit.

It is ordered, This 25th day of June 1962, that Elizabeth C. Smith will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on September 11, 1962, in Washington, D.C.; *And it is further ordered,* That a prehearing conference in the proceeding will be convened by the presiding officer at 9:00 a.m., Thursday, July 26, 1962.

Released: June 26, 1962.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 62-6404; Filed, June 29, 1962; 8:51 a.m.]

[Docket Nos. 14684-14686; FCC 62M-901]

NORTHFIELD BROADCASTING CO. ET AL.

Order Scheduling Hearing and Prehearing Conference

In re applications of Kingsley H. Murphy, Jr., and Carroll E. Crawford, d/b as Northfield Broadcasting Company, Northfield, Minnesota, Docket No. 14684, File No. BP-13872; Hastings Broadcasting Company, Hastings, Minnesota, Docket No. 14685, File No. BP-14823; Albert Lea Broadcasting Company (KATE), Albert Lea, Minnesota, Docket No. 14686, File No. BP-14870; for construction permits.

It is ordered, This 25th day of June 1962, that Walther W. Guenther will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on September 19, 1962, in Washington, D.C.; *And it is further ordered,* that a prehearing conference in the proceeding will be convened by the presiding officer at 9:00 a.m., Monday, July 30, 1962.

Released: June 26, 1962.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 62-6405; Filed, June 29, 1962; 8:51 a.m.]

[Docket No. 14677; FCC 62M-899]

POPLAR BLUFF BROADCASTING CO. (KWOC)

Order Scheduling Hearing and Prehearing Conference

In re application of Poplar Bluff Broadcasting Company (KWOC), Poplar Bluff, Missouri, Docket No. 14677, File No. BP-14495; for construction permit.

It is ordered, This 25th day of June 1962, that Millard F. French will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on September 13, 1962, in Washington, D.C.; *And it is further ordered,* That a prehearing conference in the proceeding will be convened by the presiding officer at 9:00 a.m., Thursday, July 26, 1962.

Released: June 26, 1962.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 62-6406; Filed, June 29, 1962; 8:51 a.m.]

[Docket Nos. 14673-14675; FCC 62M-897]

RELIABLE BROADCASTING CO. ET AL.

Order Scheduling Hearing and Prehearing Conference

In re applications of Thurman F. Chitwood, Paul J. Smith and Vern L. Kuhlman d/b as Reliable Broadcasting Co., Calhoun, Georgia, Docket No. 14673, File No. BP-14483; Blue Ridge Mountain Broadcasting Company, Inc., Ellijay, Georgia, Docket No. 14674, File No. BP-14942; Allen Woodall tr/as Radio Canton, Canton, Georgia, Docket No. 14675, File No. BP-15266; for construction permits.

It is ordered, This 25th day of June 1962, that Chester F. Naumowicz will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on September 11, 1962, in Washington, D.C.: *And it is further ordered,* That a prehearing conference in the proceeding will be convened by the presiding officer at 9:00 a.m., Wednesday, July 25, 1962.

Released: June 26, 1962.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 62-6407; Filed, June 29, 1962; 8:51 a.m.]

[Docket Nos. 14676; FCC 62M-898]

ST. MARTIN BROADCASTING CO.

Order Scheduling Hearing and Prehearing Conference

In re application of Dierrell Hamm, tr/as St. Martin Broadcasting Co., St. Martinville, Louisiana, Docket No. 14676, File No. BP-14207; for construction permit.

It is ordered, This 25th day of June 1962, that Thomas H. Donahue will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on September 17, 1962, in Washington, D.C.; *And it is further ordered,* That a prehearing conference in the proceeding will be convened by the presiding officer at 9:00 a.m., Friday, July 27, 1962.

Released: June 26, 1962.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 62-6408; Filed, June 29, 1962; 8:51 a.m.]

[Docket Nos. 14669-14671; FCC 62M-895]

WIDE WATER BROADCASTING CO., INC., ET AL.

Order Scheduling Hearing and Prehearing Conference

In re applications of Wide Water Broadcasting Co., Inc., East Syracuse, New York, Docket No. 14669, File No. BP-14212; Fred S. Grunwald, tr/as Onondaga Broadcasters, Syracuse, New York, Docket No. 14670, File No. BP-

15146; Radio Voice of Central New York, Inc., Syracuse, New York, Docket No. 14671, File No. BP–15147; for construction permits.

It is ordered, This 25th day of June 1962, that Thomas H. Donahue will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on September 12, 1962, in Washington, D.C.; *And it is further ordered,* That a prehearing conference in the proceeding will be convened by the presiding officer at 9:00 a.m., Wednesday, July 25, 1962.

Released: June 26, 1962.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 62–6409; Filed, June 29, 1962; 8:51 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATION FOR RELIEF

JUNE 27, 1962.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 37816: *Asphalt from Montana points to Mitchell, S. Dak.* Filed by Northern Pacific Railway Company (No. 124), for itself and interested rail carriers. Rates on asphalt (asphaltum), natural, byproduct or petroleum (other than paint, stain or varnish), in tank-car loads, subject to aggregate shipment in one day of twenty tank-car loads, from Billings, East Billings and Laurel, Mont., to Mitchell, S. Dak.

Grounds for relief: Carrier competition.

Tariff: Supplement 15 to Northern Pacific Railway Company tariff I.C.C. 9977.

By the Commission.

[SEAL] HAROLD D. MCCOY,
Secretary.

[F.R. Doc. 62–6373; Filed, June 29, 1962; 8:47 a.m.]

[No. 34046]

MINIMUM WEIGHT LIMITS

Prescription

At a session of the Interstate Commerce Commission, Division 2, held at its office in Washington, D.C., on the 18th day of June A.D. 1962.

It appearing that a petition, dated April 12, 1962, has been filed by the New England Motor Rate Bureau, on behalf of its membership seeking the institution of an investigation directed to the stabilization of the system of less-than-truckload weight breakdowns and truckload minimum weights applicable in connection with the New England Territory commodity rate structure, and replies having been filed thereto; and for good cause appearing:

It is ordered, That a proceeding of investigation be, and it is hereby, instituted into and concerning the stabilization of the commodity rate weight breakdown structure, including truckload minimum weights between points in New England Territory and between points in New England Territory and the Metropolitan New York-New Jersey Area;

And it is further ordered, That all common carriers of property by motor vehicle, except those of Household Goods as defined by the Commission, Livestock, Lumber and Commodities in bulk transported in dump or tank trucks, in interstate and foreign commerce be, and they are hereby, made respondents; that a copy of this order be forthwith served upon said respondents and that a notice of the proceeding be given to the public by posting a copy of this order in the office of the Secretary of the Commission and by filing a copy with the Director, Division of Federal Register.

And it is further ordered, That this proceeding be assigned for hearing at such time and place as may hereafter be fixed.

By the Commission, Division 2.

[SEAL] HAROLD D. MCCOY,
Secretary.

[F.R. Doc. 62–6374; Filed, June 29, 1962; 8:47 a.m.]

[Notice 656]

MOTOR CARRIER TRANSFER PROCEEDINGS

JUNE 27, 1962.

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 65013. By order of June 21, 1962, the Transfer Board approved the transfer to Vale Transportation Co., Inc., Brooklyn, N.Y., of Certificates Nos. MC 69822 and MC 69822 Sub 2, issued January 6, 1954 and July 28, 1960, respectively, in the name of Marco Caccavale and Joseph Caccavale, a partnership, doing business as J & M Trucking, Brooklyn, N.Y., authorizing the transportation, over irregular routes, of bar, restaurant, pool room, bowling alley fixtures and equipment, between New York, N.Y., and points in New Jersey within 25 miles of New York, N.Y., on the one hand, and, on the other, points in that part of New Jersey, New York, Connecticut, Massachusetts, and Pennsylvania within 250 miles of the City Hall, New York, N.Y.; new and used store fixtures and parts thereof, from New York, N.Y., to points in New York, New Jersey, those in Connecticut west of the Connecticut River, and those in Pennsylvania east of a line beginning at Penn.-N.Y. State line and extending along U.S. Highway 15 to Northumberland, Pa., and thence along Susquehanna River to Penn-Md. State line, including points on the indicated portion of specified highways; paints and putty, from New York, N.Y., to points in Bergen, Essex, Hudson, Passaic, and Union Counties, N.J.; and damaged, defective, and returned shipments of paints and putty, on return. Charles H. Trayford, 220 East 42d Street, New York 17, N.Y., representative for applicants.

No. MC–FC 65020. By order of June 19, 1962, the Transfer Board approved the transfer to John R. Hafner, doing business as Motor Service Company, Coshocton, Ohio, of the operating rights in Certificate No. MC 107188 Sub-2, issued June 22, 1955, to J. Lawrence Hughes, doing business as Moore's Trailer Transport, Toledo, Ohio, authorizing the transportation, over irregular routes, of trailers, designed to be drawn by passenger automobiles, in initial movements, in truckaway service, from Alma, Cassopolis, Owosso, Flint, and Wahjamega, Mich., to all points in Ohio, and trailers, designed to be drawn by passenger automobiles, in secondary movements, in truckaway service, from Toledo, Ohio, and points in Ohio within 60 miles of Toledo, to all points in Indiana and Michigan. Thos. W. Maxson, 30 East Broad Street, Columbus 15, Ohio, applicants' attorney.

No. MC–FC 65007. By order of June 21, 1962, the Transfer Board approved the transfer to David C. Peachey, Belleville, Pa., of Permits Nos. MC 104912 and MC 104912 Sub-4, issued October 18, 1949 and August 19, 1958, respectively, to Irvin R. Yoder, Belleville, Pa., authorizing the transportation of fertilizer, over regular route, from Baltimore, Md., to Belleville, Pa., meat scrap, tankage, bone meal, linseed oil meal, beans, fertilizer, seeds, cotton seed meal, linseed meal, feeds, oyster shells, bone charcoal, and seed potatoes, over irregular routes, between Belleville, Pa., on the one hand, and, on the other, points in New Jersey, Delaware, and Maryland, and those in New York south and east of a line beginning at the N.Y.-Penn. State line and extending north to Binghamton, thence along N.Y. Highway 12 to Sangerfield, and thence along U.S. Highway 20 to the N.Y.-Mass. State line, including points on the indicated portions of the highways specified; flour, in shipments of not less than 20,000 pounds, over irregular routes, from Belleville, Pa., to points in Delaware, Maryland, New Jersey, and New York; cotton seed meal, over irregular routes, from points in North Carolina, to Belleville, Pa., and points within 15 miles thereof; and rejected shipments of cotton seed meal, from Belleville, Pa., and points within 15 miles thereof, to points in North Carolina.

Albert Houck, 5 West Market Street, Lewistown, Pa., attorney for applicants.

No. MC–FC 65101. By order of June 20, 1962, the Transfer Board approved the transfer to Jerry Cereghino, Inc., New York, N.Y., of Certificate No. MC 19565, issued June 26, 1951, to Jerry Cereghino and Gerald Cereghino, a partnership, doing business as J. C. Trucking Co., New York, N.Y., authorizing the transportation, over irregular routes, of paper boxes, from New York, N.Y., to points in Bergen, Hudson, Essex, Union, and Middlesex Counties, N.J., and Fairfield County, Conn.; advertising matter, from New York, N.Y., to points in Bergen, Hudson, Essex, Union and Middlesex Counties, N.J.; and paper box machinery, requiring special handling, equipment, or rigging, because of size or weight, between New York, N.Y., on the one hand, and, on the other, Philadelphia, Pa., points in New Jersey and Massachusetts, those in Bucks and Montgomery Counties, Pa., and those in that part of Connecticut on the west of U.S. Highway 5. Abraham Ellis, 200 Fifth Avenue, New York 10, N.Y., attorney for applicants.

No. MC–FC 65107. By order of June 21, 1962, the Transfer Board approved the transfer to Lomar Transportation Co., Inc., Philadelphia, Pa., of Certificate No. MC 3189, issued December 8, 1953, to Edwin Thompson, doing business as Thompson Trucking, Philadelphia, Pa., authorizing the transportation of: Corrugated boxes, from Philadelphia, Pa., to Brooklyn, N.Y., and points in New Jersey. Morris J. Winokur, 1920—Two Penn Center Plaza, Philadelphia 2, Pa., attorney for applicants.

No. MC–FC 65138. By order of June 21, 1962, the Transfer Board approved the transfer to Anthony S. Petruzzello, doing business as Petruzzello Transport, Shelton, Conn., of Certificate No. MC 32775 Sub-4, issued February 23, 1950, to Hermann Forwarding Company, a corporation, New Brunswick, N.J., authorizing the transportation over irregular routes of general commodities, from New York, N.Y. to points in Fairfield County, Conn.; and sugar from New York, N.Y., to New Haven and Waterbury, Conn., and from Edgewater, N.J., to Stamford, Bridgeport, New Haven, Fairfield, Greenwich, Waterbury, Norwalk, and South Norwalk, Conn. Thomas W. Murrett, 410 Asylum Street, Hartford, Conn., attorney for transferee. Bert Collins, 140 Cedar Street, New York 6, N.Y., representative for transferor.

No. MC–FC 65143. By order of June 20, 1962, the Transfer Board approved the transfer to Chicago-Aurora Motor Service, Inc., Aurora, Ill., of Certificate No. MC 14277, issued July 7, 1953, to Harry E. Dullinger, doing business as Chicago-Aurora Motor Service, Aurora, Ill., authorizing the transportation of general commodities excluding household goods and commodities in bulk, over irregular routes, between Chicago, Ill., on the one hand, and, on the other, points in that part of Illinois bounded by a line beginning at Chicago and extending along Illinois Highway 64 to junction Illinois Highway 31, thence along Illinois Highway 31 to Kane County line, thence along Kane County line to DuPage County line, thence along DuPage County line to U.S. Highway 66, thence along U.S. Highway 66 to point of beginning, including points on the indicated portions of the highways specified. Paul J. Maton, 10 South LaSalle Street, Suite 1149, Chicago 3, Ill., attorney for applicants.

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

[F.R. Doc. 62–6375; Filed, June 29, 1962; 8:47 a.m.]

[Rev. S.O. No. 562, Taylor's I.C.C. Order No. 144]

FORT DODGE, DES MOINES & SOUTHERN RAILWAY CO.

Rerouting of Traffic

In the opinion of Charles W. Taylor, Agent, Fort Dodge, Des Moines & Southern Railway Company is unable to transport traffic routed over its line, because of bridge out between Gowrie and Rockwell City, Iowa.

It is ordered, That:

(a) Rerouting traffic: The Fort Dodge, Des Moines & Southern Railway Company, being unable to transport traffic in accordance with shippers' routing because of bridge washed out between Gowrie and Rockwell City, Iowa, are hereby authorized to divert or reroute such traffic over any available route to expedite the movement, regardless of the routing shown on the waybill. The billing covering all such cars rerouted shall carry a reference to this order as authority for the rerouting.

(b) Concurrence of receiving roads to be obtained: The railroad desiring to divert or reroute traffic under this order shall confer with the proper transportation officer of the railroad or railroads to which such traffic is to be diverted or rerouted, and shall receive the concurrence of such other railroads before the rerouting or diversion is ordered.

(c) Notification to shippers: The carrier diverting or rerouting cars in accordance with this order shall notify each shipper at the time each car is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic by said Agent is deemed to be due to carrier's disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipments on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic; divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with the pertinent authority conferred upon it by the Interstate Commerce Act.

(f) Effective date: This order shall become effective at 12:01 a.m., June 28, 1962.

(g) Expiration date: This order shall expire at 11:59 p.m., December 31, 1962, unless otherwise modified, changed, suspended or annulled.

It is further ordered, That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement and by filing it with the Director, Office of the Federal Register.

Issued at Washington, D.C., June 27, 1962.

INTERSTATE COMMERCE COMMISSION,
[SEAL] CHARLES W. TAYLOR, *Agent.*

[F.R. Doc. 62–6392; Filed, June 29, 1962; 8:50 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 70–4031; 37–22]

COLUMBIA GAS SYSTEM SERVICE CORP. AND COLUMBIA GAS SYSTEM, INC.

Notice of Filing of Application-Declaration Regarding Proposed Expansion of Servicing Activities by Subsidiary Service Company and Issuance and Acquisition of Securities

JUNE 25, 1962.

Notice is hereby given that Columbia Gas System Service Corporation ("Columbia Service"), a wholly owned subsidiary service company of The Columbia Gas System, Inc. ("Columbia Gas"), a registered holding company, and Columbia Gas, 120 East 41st Street, New York 17, N.Y., have filed with this Commission a joint application-declaration and amendments thereto, pursuant to the Public Utility Holding Company Act of 1935 ("Act"), and have specified sections 6(a), 7, 9, 10 and 13 of the Act and Rules 40(b) and 50 promulgated thereunder as applicable thereto.

All interested persons are referred to the joint application-declaration, as amended, on file at the office of the Commission for a statement of the proposed transactions, which are summarized as follows:

By its order dated March 11, 1943, the Commission continued its authorization of the organization and conduct of business, as modified, of Columbia Service (formerly Columbia Engineering Corp.) subject to certain conditions which provided, among other things, that no change may be made in the scope or character of services to be rendered by Columbia Service to associate companies without prior approval by the Commission. Columbia Service now requests permission to expand the scope of accounting services presently being ren-

dered to associate companies, including the speeding up (to 16 times the present rate) of the centralized computer processing of the operating subsidiary companies' monthly billings to their 1.5 million gas customers, and the centralization and mechanization by Columbia Service of other customer revenue accounting functions now carried on by the operating subsidiary companies. Columbia Service will construct an addition to its Marble Cliff office building near Columbus, Ohio to house the larger electronic computer and related equipment required for the proposed increases in servicing activities and to provide more efficient space for the company's customer service personnel training school which will be transferred from another location.

Columbia Service proposes to increase its authorized common capital stock of $100 par value from 13,000 shares to 19,000 shares. The company further proposes to issue and sell to Columbia Gas, and Columbia Gas proposes to purchase, 6,000 shares of such additional stock for $600,000 and $1,850,000 principal amount of installment promissory notes at the face amount thereof. The notes will be dated the date of their issue and may be prepaid at any time, in whole or in part, without premimum.

An aggregate principal amount of $1,450,000 of the aforesaid notes will be issued in 1962 and will be payable in 25 equal annual installments on January 15 of each of the years 1964–1988, inclusive. The interest rate on such notes will be 4.5 percent per annum (the cost of money to Columbia Gas with respect to its last sale of Senior Debentures on June 7, 1962). The remaining $400,000 principal amount of the aforesaid notes will be issued during the years 1963 through 1966 in an amount estimated not to exceed $100,000 in any one calendar year, and such notes will be payable in 25 equal annual installments beginning January 15, 1965, 1966, 1967 and 1968, respectively. The interest rate on each of these notes shall be equal to the approximate cost of money with respect to Columbia Gas' then most recent sale of Senior Debentures.

Columbia Service will use the proceeds of the proposed issuance and sale of its securities (1) to repay an open account indebtedness to Columbia Gas in the amount of $100,000, (2) to supply $350,000 additional working capital required in 1962, (3) to supply additional working capital of approximately $100,000 in each of the four years from 1963 to 1966, inclusive, and (4) to pay the estimated cost of $1,600,000 of the proposed additions to the company's office facilities and equipment. Columbia proposes to maintain its working capital at a level equivalent to approximately 45 to 60 days' billings.

It is estimated that the proposed additional servicing activities, together with the plans of associate operating companies to convert customer meter reading from a monthly to a bi-monthly basis, will result in annual savings of nearly $1,700,000 in system customer accounting costs.

The amended joint application-declaration states that the estimated fees and expenses to be incurred in connection with the proposed transactions are $100 by Columbia Gas and $860 by Columbia Service and that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than July 9, 1962, request in writing that a hearing be held in respect of such matters, stating the nature of his interest, the reasons for such request, and the issues of fact or law which he desires to controvert; or he may request that he be notified should the Commission order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D.C. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon applicants-declarants, and proof of service (by affidavit or, in case of an attorney-at-law, by certificate) should be filed contemporaneously with the request. At any time after said date, the amended joint application-declaration, as filed or as it may be further amended, may be granted and permitted to become effective as provided by Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rule as provided by Rules 20(a) and 100 thereof, or take such other action as it may deem appropriate.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 62–6359; Filed, June 29, 1962; 8:46 a.m.]

[File No. 811–1112]

PRESTIGE CAPITAL CORP.

Notice of Filing of Application for Order Declaring That Company Has Ceased To Be an Investment Company

JUNE 25, 1962.

Notice is hereby given that Prestige Capital Corporation ("Applicant"), 485 Fifth Ave., New York 17, New York, a small business investment company organized under New York law and registered under the Investment Company Act of 1940 ("Act") has filed an application pursuant to section 8(f) of the Act for an order declaring that the applicant has ceased to be an investment company.

Applicant makes the following representations in its application:

Applicant has withdrawn its pending registration statement under the Securities Act of 1933 and it is not presently proposing a public offering of its stock which is held by fewer than 100 shareholders. Applicant therefore asserts that it is not an investment company within the Act's definitions and exemptions.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission upon application finds that a registered investment company has ceased to be an investment company, it shall so declare by order and upon the taking effect of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than July 12, 1962, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such a request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall hold a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D.C. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon applicant. Proof of such service (by affidavit or in case of an attorney-at-law by certificate) should be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the showing contained in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 62–6360; Filed, June 29, 1962; 8:46 a.m.]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Area 387]

NEBRASKA

Declaration of Disaster Area

Whereas, it has been reported that during the month of June, 1962, because of the effects of certain disasters, damage resulted to residences and business property located in Cherry County in the State of Nebraska;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the area affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such area constitute a catastrophe within the purview of the Small Business Act.

Now, therefore, as Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b)(1) of the Small Business Act may be received and considered by the Offices below indicated from persons or firms whose property, situated in the aforesaid County and areas adjacent thereto, suffered damage or destruction resulting from tornado and accompanying conditions occurring on or about June 15, 1962.

Offices:
Small Business Administration Regional Office,
Home Savings Building, Fifth Floor,
1006 Grand Avenue,
Kansas City 6, Mo.
Small Business Administration Branch Office,
Federal Building, Room 7425,
215 North 17th Street,
Omaha 2, Nebr.

2. Applications for disaster loans under the authority of this Declaration will not be accepted subsequent to December 31, 1962.

Dated: June 21, 1962.

JOHN E. HORNE,
Administrator.

[F.R. Doc. 62-6361; Filed, June 29, 1962; 8:46 a.m.]

[Delegation of Authority No. 30 (Rev. 7)]

REGIONAL DIRECTORS

Delegation of Authority To Conduct Program Activities in Regional Offices

I. Pursuant to the authority vested in the Administrator by the Small Business Act (1958), 72 Stat. 384, as amended; the Small Business Investment Act of 1958, 72 Stat. 689, as amended; there is hereby delegated to each regional director within his region, the authority:

A. *Financial assistance.*

1. To approve the following:

a. Direct loans not exceeding $50,000.

b. Participation loans not exceeding $150,000.

c. Limited loan participation not exceeding $25,000.

d. Small loans not exceeding $25,000.

e. Disaster loans not exceeding $50,000.

2. To decline direct and participation business and disaster loans of any amount.

3. To disburse approved loans.

4. To enter into business loan and disaster loan participation agreements with banks.

5. To execute loan authorizations for Washington approved loans and for loans approved under delegated authority, said execution to read as follows:

(Name), *Administrator.*
By ----------,
(Name)
Regional Director.

6. To cancel, reinstate, modify and amend authorizations for business or disaster loans.

7. To extend the disbursement period on all loan authorizations or undisbursed portions of loans.

8. To approve, when requested, in advance of disbursement, conformed copies of notes and other closing documents; and certify to the participating bank that such documents are in compliance with the participation authorization.

9. To approve service charges by participating bank not to exceed 2 percent per annum on the outstanding balance on construction loans and loans involving accounts receivable and inventory financing.

10. To establish disaster field offices upon receipt of advice of the designation of a disaster area; to advise on the making of disaster loans; to apopint as a processing representative any bank in the disaster area; and to close disaster field offices when no longer advisable to maintain such offices.

11. To take all necessary actions in connection with the administration, servicing, collection and liquidation of all loans and other obligations or assets, including collateral purchased; and to do and perform and to assent to the doing and performance of, all and every act and thing requisite and proper to effectuate the granted powers, including without limiting the generality of the foregoing:

a. The assignment, endorsement, transfer and delivery (but in all cases without representation, recourse or warranty) of notes, claims, bonds, debentures, mortgages, deeds of trust, contracts, patents and applications therefor, licenses, certificates of stock and of deposit, and any other liens, powers, rights, charges on and interest in or to property of any kind, legal and equitable, now or hereafter held by the Small Business Administration or its Administrator;

b. The execution and delivery of contracts of sale or of lease or sublease, quit-claim, bargain and sale or special warranty deeds, bills of sale, leases, subleases, assignments, subordinations, releases (in whole or part) of liens, satisfaction pieces, affidavits, proofs of claim in bankruptcy or other estates and such other instruments in writing as may be appropriate and necessary to effectuate the foregoing.

B. *Investment program.*

1. To disburse section 502 loans.

2. To extend the disbursement period on section 502 loan authorization or undisbursed portions of section 502 loans.

3. To cancel wholly or in part undisbursed balances of partially disbursed section 502 loans.

4. To do and to perform all and every act and thing requisite, necessary and proper to be done for the purpose of effecting the servicing and administration of section 502 loans.

C. *Procurement and technical assistance.*

1. To determine joint set-asides for Government procurements and sales.

**2. To deny an application for a Certificate of Competency when the regional director agrees with an adverse survey report as to production or credit, unless application for an SBA loan is being filed, which loan must be approved in the Washington Office.

D. *Administration.*

1. To administer oaths of office.

**2. To advertise regarding the public sale of (a) collateral in connection with the liquidation of loans, and (b) acquired property.

**3. To purchase reproductions of loan documents, chargeable to the revolving fund, requested by United States Attorneys in foreclosure cases.

4. To approve (a) annual and sick leave; (b) advanced sick leave, **(b) not to exceed 30 days; (c) advanced annual leave, not to exceed **(c) the amount of annual leave the employee would earn during the **(e) leave year; (d) leave without pay, not to exceed 30 days; and (e) overtime for employees under his supervision.

5. To (a) make emergency purchases chargeable to the Administrative expense fund, not in excess of $50 in any one object class in any one instance but more than $100 in any one month for total purchases in all object classes; (b) make purchases not in excess of $10 in any one instance for "one-time use items" not carried in stock subject to the total limitations set forth in (a) of this paragraph; and (c) to contract for the repair and maintenance of equipment and furnishings in an amount not to exceed $25 in any one instance.

6. In connection with the establishment of Disaster Loan Offices, to (a) obligate Small Business Administration to reimburse General Services Administration for the rental of office space; (b) rent office equipment; and (c) procure (without dollar limitation) emergency supplies and materials.

7. To administratively approve all types of vouchers, invoices and bills submitted by public creditors of the Agency for articles or service rendered.

8. To (a) authorize or approve official travel; **(b) approve expenses incident to change of official duty station; and (c) administratively approve travel reimbursement claims.

9. To procure from General Services Administration all standard forms and all supply items listed in Part I of the SBA Index of Standard Supply Items.

10. To rent motor vehicles from the General Services Administration and to rent garage space for the storage of such vehicles when not furnished by this administration.

**11. To authorize expenditures for registration fees not in excess of $25 each.

**12. To approve all personnel actions for all non-technical positions of his region at grades GS-7 and below, except the following: All adverse actions including but not limited to change to lower grade, removal, suspension, reduction in force, separation for failure to accompany functions, etc. Such actions shall be accomplished by the Director, Office of Personnel.

**13. To clear applicants for nonsensitive, nontechnical positions in grades GS-7 and below and grant security clearance to employees when the security investigation discloses no derogatory information.

14. To establish and classify all nontechnical positions subject to the Classification Act of 1949, as amended, in grades GS-1 through GS-7.

**15. To approve in-service training where the cost of such training does not exceed $50, exclusive of travel and per diem costs, for each employee concerned.

E. *Eligibility.*

1. To make original determinations and determinations upon the reconsideration thereof as to which concerns are small business within the meaning of the Small Business Size Standards Regulation, as amended, except no determinations will be made in those cases which

involve questions of dominance, questions relating to cooperatives, and questions involving franchise, license or other contractual agreements, unless otherwise authorized. This authorization does not permit the issuance of Small Business Certificates.

2. To determine eligibility of applicants for assistance under any program of the Agency in accordance with Small Business Administration standards and policies.

**II. The specific authority delegated in subsection I.A.10; subsection I.C.2; and subsections I.D.2; 3; 4 b, c, and e; 8b; 11; 12; 13; and 15 cannot be redelegated. These are indicated by asterisks (**). The specific authority in the other subsections may be redelegated to the appropriate positions within the regional and branch offices.

III. All authority delegated herein may be exercised by any Small Business Administration employee designated as Acting Regional Director.

IV. All previous authority delegated by the Administrator to each Regional Director by Delegation of Authority No. 30 (Revision 6) is hereby rescinded without prejudice to actions taken under such Delegation of Authority prior to the date hereof.

Effective date: June 20, 1962.

JOHN E. HORNE,
Administrator.

[F.R. Doc. 62-6362; Filed, June 29, 1962; 8:46 a.m.]

[Delegation of Authority No. 54-3]

CHIEF, DEVELOPMENT COMPANY ACTIVITIES DIVISION

Delegation Relating to the Investment Program

I. Pursuant to the authority delegated to the Director, Office of Investment, by the Deputy Administrator, Investment Division, by Delegation of Authority No. 54 (Revision 2) as amended (27 F.R. 1779, 2658) there is hereby redelegated to the Chief, Development Company Activities Division, the following authority:

A. *Development.*

1. To take any and all action necessary to effect the disbursement of loans approved under section 502 of the Small Business Investment Act.

2. To approve changes and modifications in terms and conditions of loan authorizations except where such changes affect the amount of the loan or the collateral pledged.

B. *Administrative.*

1. To approve (a) sick and annual leave, (b) leave without pay not in excess of 30 days, and (c) overtime work for employees under his supervision.

II. The authority delegated I. A. 1 and I. B. 1 may not be redelegated.

III. All authority delegated herein may be exercised by any SBA employee designated as Acting Chief, Development Company Activities Division.

IV. All previous authority delegated to the Chief, Development Company Activities Division, is hereby rescinded without prejudice to actions taken under such Delegation prior to the date hereof.

Effective date: March 1, 1962.

LAWRENCE S. CASAZZA,
Director Office of Investment.

[F.R. Doc. 62-6363; Filed, June 29, 1962; 8:46 a.m.]

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UNITED STATES STATUTES AT LARGE

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Order from Superintendent of Documents, Government Printing Office, Washington 25, D.C.