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FEDERAL REGISTER

VOLUME 28 NUMBER 134

Washington, Thursday, July 11, 1963

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Presidential Documents

Title 3—THE PRESIDENT

Proclamation 3543

CAPTIVE NATIONS WEEK, 1963

By the President of the United States of America

A Proclamation

WHEREAS by a joint resolution approved July 17, 1959 (73 Stat. 212) the Congress has authorized and requested the President of the United States of America to issue a proclamation, designating the third week in July 1959 as "Captive Nations Week", and to issue a similar proclamation each year until such time as freedom and independence shall have been achieved for all the captive nations of the world; and

WHEREAS the cause of human rights and dignity remains a universal aspiration and

WHEREAS justice requires the elemental right of free choice and

WHEREAS this nation has an abiding commitment to the principles of national self-determination and human freedom.

NOW, THEREFORE, I, JOHN F. KENNEDY, President of the United States of America, do hereby designate the week beginning July 14, 1963, as Captive Nations Week.

I invite the people of the United States of America to observe this week with appropriate ceremonies and activities, and I urge them to give renewed devotion to the just aspirations of all people for national independence and human liberty.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the City of Washington this fifth day of July in the year of our Lord nineteen hundred and sixty-three, and [SEAL] of the Independence of the United States of America the one hundred and eighty-eighth.

JOHN F. KENNEDY

By the President:

DEAN RUSK,
Secretary of State.

[F.R. Doc. 63-7341; Filed, July 9, 1963; 1:43 p.m.]

Rules and Regulations

Title 7—AGRICULTURE

Subtitle A—Office of the Secretary of Agriculture

[Amdt. 6]

PART 7—AGRICULTURAL STABILIZATION AND CONSERVATION COMMITTEES

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

TERMS OF OFFICE

By virtue of the authority vested in the Secretary of Agriculture by the Soil Conservation and Domestic Allotment Act of 1936, as amended, the regulations in this subpart published in the FEDERAL REGISTER of March 23, 1961 (26 F.R. 2451), June 22, 1961 (26 F.R. 5555), April 25, 1962 (27 F.R. 3911), July 21, 1962 (27 F.R. 6921), November 16, 1962 (27 F.R. 11312), and March 1, 1963 (28 F.R. 1979) are amended by removing the requirement that the pledge to be signed by county committeemen and alternate county committeemen before taking office contain a provision that they will support the programs which they are called upon to administer. The regulations contained in § 7.18 of this subpart are, therefore, amended to read as follows:

§ 7.18 County and community committeemen.

The terms of office of county and community committeemen and alternates to such office shall begin on the first day of the month next after their election: *Provided, however,* That before any such county committeeman or alternate county committeeman may take office he shall sign a pledge that he will faithfully, fairly, and honestly perform to the best of his ability all of the duties devolving on him as a committeeman. A term office shall continue for 12 months or until a successor has been elected and qualified.

(Sec. 4, 49 Stat. 164, as amended; 16 U.S.C. 590d. Interpret or apply sec. 8, 49 Stat. 1149, as amended; 16 U.S.C. 590h)

Effective on publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on July 5, 1963.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 63-7283; Filed, July 10, 1963; 8:51 a.m.]

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

SUBCHAPTER B—MARKETING OF PERISHABLE AGRICULTURAL COMMODITIES

PART 46—REGULATIONS (OTHER THAN RULES OF PRACTICE) UNDER THE PERISHABLE AGRICULTURAL COMMODITIES ACT, 1930

On April 4, 1963, a notice of proposed rule making was published in the FEDERAL REGISTER (28 F.R. 3266) proposing the revision of §§ 46.1 through 46.38 of the regulations, other than rules of practice (7 CFR, §§ 46.1–46.42) issued pursuant to the authority contained in the Perishable Agricultural Commodities Act, 1930 (46 Stat. 531 et seq., as amended; 7 U.S.C. 499a et seq.).

After consideration of all data, views and comments presented, the following regulations are hereby promulgated pursuant to the authority contained in section 15, 46 Stat. 537, as amended; 7 U.S.C. 499o:

Section 46.39 is redesignated as 46.41.
Section 46.40 is redesignated as 46.42.
Section 46.41 is redesignated as 46.43.
Section 46.42 is redesignated as 46.44.
Section 46.1 through 46.38 are hereby amended as follows:

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AUTHORITY: §§ 46.1 to 46.40 issued under sec. 15, 46 Stat. 537; 7 U.S.C. 499o.

DEFINITIONS

§ 46.1 Words in singular form.

Words in this part in the singular form shall be deemed to import the plural, and vice versa, as the case may demand.

§ 46.2 Definitions.

The terms defined in the first section of the act shall have the same meaning as stated therein. Unless otherwise defined, the following terms whether used in the regulations, in the act, or in the trade shall be construed as follows:

(a) "Act" means the Perishable Agricultural Commodities Act, 1930, approved June 10, 1930, and legislation supplementary thereto and amendatory thereof (46 Stat. 531; 7 U.S.C. 499a–499r);

CROSS REFERENCE: For Rules of Practice under the act, see Part 47 of this chapter.

(b) "Department" means the United States Department of Agriculture.

(c) "Secretary" means the Secretary of Agriculture of the United States, or

any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

(d) "Service" means the Agricultural Marketing Service, United States Department of Agriculture.

(e) "Deputy Administrator" means the Deputy Administrator, Regulatory Programs, of the Agricultural Marketing Service, or any officer or employee of the Service, to whom authority has heretofore lawfully been delegated, or to whom authority may hereafter lawfully be delegated, to act in his stead.

(f) "Division" means the Fruit and Vegetable Division of the Service.

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

(h) "In commerce" means interstate or foreign commerce as defined in paragraphs (3) and (8) of the first section of the act.

(i) "Person" means any individual, partnership, corporation, association, or separate legal entity.

(j) "Retailer" means a person engaged in the business of selling to consumers only.

(k) "Firm" means any person engaged in business as a commission merchant, dealer, or broker.

(l) "Licensee" means any firm who holds an unrevoked and valid unsuspended license issued under the act.

(m) "Dealer" means any person engaged in the business of buying or selling produce in wholesale or jobbing quantities in commerce, and includes;

(1) Jobbers, distributors and other wholesalers;

(2) Retailers, when the invoice cost of all purchases of produce exceeds $90,000 during a calendar year. In computing dollar volume, all purchases of fresh and frozen fruits and vegetables are to be counted, without regard to quantity involved in a transaction or whether the transaction was in intrastate, interstate or foreign commerce;

(3) Growers who market produce grown by others. The term "dealer" does not include persons buying produce for canning and/or processing within the State where grown, whether or not the canned or processed product is to be shipped in interstate or foreign commerce, unless such product is frozen or packed in ice, or consists of cherries in brine.

(n) "Broker" means any person engaged in the business of negotiating sales and purchases of produce in commerce for or on behalf of the vendor or the purchaser, respectively, except that no person shall be deemed to be a "broker" within the meaning of the act if such person is an independent agent negotiating sales for or on behalf of the vendor and if the only sales of such commodities negotiated by such person are sales of frozen fruits and vegetables having an invoice value not in excess of $90,000 in any calendar year.

(o) "Shipper" means any person operating at shipping point who is engaged in the business of purchasing produce from growers or others and distributing such produce in commerce by resale or other methods, or who handles such produce on joint account with others.

(p) "Grower" means any person who raises produce for marketing.

(q) "Growers' agent" means any person operating at shipping point who sells or distributes produce in commerce for or on behalf of growers or others and whose operations may include the planting, harvesting, grading, packing, and furnishing containers, supplies, or other services.

(r) "Receiving market commission merchant" means any person operating on a receiving market who is engaged in the business of receiving produce in commerce for sale, on commission, for or on behalf of another.

(s) "Joint account transaction" means a produce transaction in commerce in which two or more persons participate under a limited joint venture arrangement whereby they agree to share in a prescribed manner the costs, profits, or losses resulting from such transaction.

(t) "Produce" means any perishable agricultural commodity, as defined in paragraph (4) of the first section of the act.

(u) "Fresh fruits and fresh vegetables" include all produce in fresh form generally considered as perishable fruits and vegetables, whether or not packed in ice or held in common or cold storage, but does not include those perishable fruits and vegetables which have been manufactured into articles of food of a different kind or character. The effects of the following operations shall not be considered as changing a commodity into a food of a different kind or character: Water or steam blanching, chopping, color adding, curing, cutting, dicing, drying for the removal of surface moisture; fumigating, gassing, heating for insect control, ripening and coloring; removal of seed, pits, stems, calyx, husk, pods, rind, skin, peel, et cetera; polishing, precooling, refrigerating, shredding, slicing, trimming, washing with or without chemicals; waxing, adding of sugar or other sweetening agents; adding ascorbic acid or other agents used to retard oxidation; mixing of several kinds of sliced, chopped, or diced fruits or vegetables for packaging in any type of containers; or comparable methods of preparation.

(v) "Frozen fruits and vegetables" include all produce defined in paragraph (u) of this section when such produce is in frozen form.

(w) "Cherries in brine" means cherries packed in an aqueous solution containing sulphur dioxide or other bleaching agent of sufficient strength to preserve the product, with or without the addition of hardening agents.

(x) "Wholesale or jobbing quantities," as used in paragraph (6) of the first section of the act, means aggregate quantities of all types of produce totaling one ton (2,000 pounds) or more in weight in any day shipped, received, or contracted to be shipped or received.

(y) "Truly and correctly to account" means, in connection with:

(1) Consignments, to account by rendering a true and correct statement showing the date of receipt and date of final sale, the quantities sold at each price, or other disposition of the produce, and the proper, usual or specifically agreed upon selling charges and expenses properly incurred or agreed to in the handling thereof, plus any other information required by § 46.29;

(2) Joint account transactions, to account by rendering a true and correct statement showing the date of receipt and date of final sale, the quantities sold at each price or other disposition of produce, the joint account cost of the produce, and the expenses properly incurred or other charges specifically agreed to in the handling thereof, plus any other information required by § 46.29;

(3) Buying brokerage transactions, to account by rendering a true and correct itemized statement showing the cost of the produce, the expenses properly incurred, and the amount of brokerage charged.

(z) "Account promptly," except when otherwise specifically agreed upon by the parties, means rendering to the principal a true and correct accounting:

(1) In connection with buying brokerage transactions, within 24 hours after the date of shipment;

(2) In connection with consignment or joint account transactions, within 10 days after the date of final sale with respect to each shipment: *Provided*, That whenever a grower's agent or a shipper distributes individual lots of produce for or on behalf of others, his accounting shall be made within 5 days after the date he is paid by the purchaser or receives the accounting on consigned or joint account transactions. Whenever a grower's agent or shipper harvests, packs, or distributes entire crops or multiple lots therefrom for or on behalf of others, he shall make interim accountings at reasonable intervals and a final accounting within a reasonable time following the close of the season's transactions: *Provided further*, That nothing in the regulations in this part shall prohibit cooperative associations from accounting to their members on the basis of seasonal pools or other arrangements provided by their regulations or bylaws; and

(3) In connection with a consignment or joint account transaction, within 10 days after the date of receipt of payment of a carrier claim filed.

(aa) "Full payment promptly" is the term used in the act in specifying the period of time for making payment without committing a violation of the act. The contracting parties have the right to agree as to when payment is due in connection with any transaction. In the absence of such agreement, "full payment promptly", for the purpose of determining violations of the act, means:

(1) Payment of the net proceeds for produce received on consignment or the pro rata share of the net profits for

produce received on joint account, within 10 days after the day on which the final sale with respect to each shipment is made;

(2) Payment by growers, growers' agents or shippers of deficits on consignments or joint account transactions, within 10 days after the day on which the accounting is received;

(3) Payment of the purchase price, brokerage, and other expenses to buying brokers who pay for the produce, within 10 days after the day on which the broker's invoice is received by the buyer;

(4) Payment of brokerage earned and other expenses in connection with produce purchased or sold, within 10 days after the day on which the broker's invoice is received by the principal;

(5) Payment for produce purchased by a buyer, within 10 days after the day on which the produce is accepted after arrival at the contract destination without complaint by the buyer; *Provided,* That if the shipment is diverted to a destination other than the contract destination, the time shall run from the scheduled time of arrival at contract destinaton or the time of actual arrival at its ultimate destination, whichever is shorter;

(6) Payment to growers, growers' agents or shippers by terminal market agents or brokers, who are selling for the account of a grower, growers' agent or shipper and are authorized to collect from the buyer or receiver, within 5 days after the agent or broker receives payment from the buyer or receiver;

(7) Payment to the principal, within 10 days after receipt, of net proceeds realized from a carrier claim in connection with a consignment transaction or, in connection with a joint account transaction, payment to the joint account partners of their share of the joint account net proceeds realized from a carrier claim;

(8) Payment by growers' agents or shippers distributing individual lots of produce for or on behalf of others, within 5 days after receipt of payment from the purchaser or receipt of the net proceeds on consigned or joint account transactions;

(9) Partial payments at reasonable intervals during the shipping season by a growers' agent or shipper who harvests, packs, or distributes entire crops or multiple lots therefrom for or on behalf of others and final payment within a reasonable time following the close of the season's transactions.

Nothing in the regulations in this part shall limit the seller's privilege of shipping under a closed or advise bill of lading or other arrangement requiring cash on delivery unless there has been specific prior agreement to the contrary between the parties; or prohibit cooperative associations from settling with their members on the basis of seasonal pools or other arrangements provided by their regulations or bylaws. Payment in connection with any transaction or situation not specifically covered herein shall be made within a reasonable time; and, if there is a dispute concerning a transaction, the foregoing time periods apply only to the undisputed amount.

(bb) "Reject without reasonable cause" means in connection with purchases, consignments, or joint account transactions: (1) Refusing or failing without legal justification to accept produce within a reasonable time; (2) advising the seller, shipper, or his agent that produce, complying with contract, will not be accepted; (3) indicating an intention not to accept produce through an act or failure to act inconsistent with the contract; or (4) any rejection following an act of acceptance.

(cc) "Reasonable time", as used in paragraph (bb) of this section, means:

(1) For frozen fruits and vegetables with respect to rail shipments, 48 hours after notice of arrival and the produce is made accessible for inspection, and with respect to truck shipments, not to exceed 12 hours after the receiver or a responsible representative is given notice of arrival and the produce is made accessible for inspection;

(2) For fresh fruits and vegetables with respect to rail shipments, not to exceed 24 hours after notice of arrival and the car has been placed in a location where the produce is made accessible for inspection; and with respect to truck shipments, not to exceed 8 hours after the receiver or a responsible representative is given notice of arrival and the produce is made accessible for inspection; and, with respect to boat shipments, not to exceed 24 hours after the produce is unloaded and made accessible for inspection and the receiver is given notice thereof;

(3) If, within the applicable period, the receiver cannot make a thorough inspection due to adverse weather condition or applies for but cannot obtain Federal inspection before the end of this period, and so notifies the consignor within the applicable period, the period shall be extended until weather conditions permit inspection or until Federal inspection is made, as the case may be, plus two hours after either an oral or written report of the results of such inspection is made available to the receiver; and

(4) In computing the time periods specified above, (i) for shipments arriving on non-work days or after the close of regular business hours on work days when a representative of the receiver having authority to reject shipments is not present, non-working hours preceding the start of regular business hours on the next working day shall not be included; and (ii) for shipments arriving during regular business hours when a representative of the receiver having authority to reject shipments customarily is present, the period shall run without interruption except that, for shipments arriving less than two hours before the close of regular business hours, the unexpired balance of the time period shall be extended and run from the start of regular business hours on the next working day.

(dd) "Acceptance" means:

(1) Any act by the consignee signifying acceptance of the shipment, including diversion or unloading;

(2) Any act by the consignee which is inconsistent with the consignor's ownership, but if such act is wrongful against the consignor it is acceptance only if ratified by him; or

(3) Failure of the consignee to give notice of rejection to the consignor within a reasonable time as defined in paragraph (cc) of this section: *Provided,* That acceptance shall not affect any claim for damages because of failure of the produce to meet the terms of the contract.

(ee) "Employ" and "employment" mean any affiliation of any person with the business operations of a licensee, with or without compensation, including ownership or self-emplcyment.

(ff) "Responsibly connected" means affiliation as individual owner, partner in a partnership, or officer, director or holder of more than 10 percent of the outstanding stock of a corporation or association.

LICENSES

§ 46.3 License required.

(a) No person shall at any time carry on the business of a commission merchant, dealer, or broker without a license which is valid and effective at such time.

(b) Separate licenses are required for each person. More than one trade name may be used by the same person only after such trade names have been approved in writing by the Director.

(c) Joint account arrangements between two or more licensees are not considered to result in separate firms and, therefore, do not require separate licenses.

§ 46.4 Application for license.

(a) Any person who desires to obtain a license shall make application therefor on the currently approved form to be obtained from the Director or his representatives.

(b) The applicant shall furnish the following information:

(1) Name or names in which business is conducted; place of business; mailing address; name and location of branches, divisions, or affiliates; name of firm succeeded and whether the applicant assumes responsibility of settling any complaints filed under the act against the firm succeeded.

(2) Type of business (i.e., wholesale, retail, trucking, processing, commission merchant, or broker), and whether the fruits and/or vegetables handled are fresh or frozen, or cherries in brine.

(3) Type of ownership: If a corporation, applicant shall furnish (i) the month, day and year incorporated; (ii) the State in which incorporated; (iii) the name in which incorporated, and (iv) the address of the principal office.

(4) Full legal name, all other names used, if any, and home address of the owner. If a partnership, the applicant shall furnish the full legal names, all other names used, if any, and home address of all partners, indicating whether general, limited or special partners; or if an association or corporation the applicant shall furnish the full legal names, all other names used, if any, and home address of all officers, directors and holders of more than 10 per centum of the outstanding stock and percentage of stock held by each such person. Female

married persons responsibly connected with the applicant shall also furnish the full legal names of their husbands. Minors shall also furnish the full name and home address of their guardian. If the applicant is a trust the name of the trust and full name and home address of the trustee shall be furnished.

(5) Date when first became subject to the act. If business was conducted subject to the act prior to the filing of an application for a license, applicant shall furnish an explanation for such violation as prescribed in section 3(a) of the act.

(6) Whether the applicant, or in case the applicant is a partnership, any partner, or in case the applicant is an association or corporation, any officer, director, or holder of more than 10 per centum of the outstanding stock, has prior to the filing of the application;

(i) Been connected with any firm whose license is under suspension or has been revoked. If so, he shall furnish the name and address of the firm whose license is under suspension or has been revoked and the details of such connection, including the dates thereof;

(ii) Been an officer, director, stockholder, partner, or owner of a firm against which there is an unpaid reparation award under the act. If so, he shall furnish the name and address of the firm against which the reparation was issued and the details of such connection, including the dates thereof;

(iii) Been an officer, director, stockholder, partner, or owner of a firm against which there is a pending complaint under the act known to the applicant. If so, he shall furnish the name and address of the firm against which there is a pending complaint;

(iv) Within three years been adjudicated or discharged as a bankrupt or was an officer, director, stockholder, partner or owner of a firm adjudicated or discharged as a bankrupt. If so, he shall furnish a copy of the petition in bankruptcy, including the schedule of creditors, the date of adjudication and certificate of discharge. He shall also furnish the estimated value of produce that will be handled by the new firm during an average operating month, percentage of business that will be handled on consignment or joint account, and amount of credit that will be incurred during an average operating month to provide a basis for determining the amount of the bond required.

(v) Been convicted of one or more felonies in any State or Federal court. If so, he shall furnish the name and date of birth of the party convicted, alias if any, name, location of court and date convicted, nature of felony, sentence imposed, where and length of time served; if paroled, date parole terminated;

(vi) Ever been licensed under the act. If so, he shall furnish the name and address of licensee and whether license is still in effect.

(7) Whether any person employed by the applicant has been responsibly connected with any firm whose license has been revoked, or is currently under suspension, or who has been found after notice and opportunity for hearing to have committed any flagrant or repeated violation of section 2 of the act, or against whom there is an unpaid reparation award which has been issued within the past two years, subject to his right of appeal. If so, he shall furnish the full legal name of the person, the name of the firm involved, and the details of such connection, including the dates thereof.

(8) Any other information the Director deems necessary to establish the identity and eligibility of the applicant to obtain a license.

(c) The application shall be signed by the owner, all general partners, or, in case the applicant is an association or corporation, a duly authorized official.

(d) The application and fees shall be forwarded to the Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington 25, D.C., or to his representative. An application which does not contain full or complete answers to all the questions, or is not properly signed, or not accompanied by the proper fee, or bond as required under paragraphs (c) and (e) of section 4 of the act shall not be considered a valid application for license. The "period not to exceed 30 days" as prescribed in section 4(d) of the act shall commence on the day that a valid application for license is received by the Director or his representative.

(e) If the application is incomplete, the Director may return the application to the applicant with a request that the application be completed by furnishing the missing data. If the applicant does not respond to this request within 30 days after it is mailed by the Director, the fees submitted shall be refunded.

(f) If the Director has reason to believe that the application contains inaccurate information, he may afford the applicant an opportunity to submit a corrected application or verify or explain information contained in the application. If the applicant submits a corrected application, the original application shall be considered withdrawn. If the applicant, in response to the Director's request, submits additional or corrected information for consideration in connection with his original application, the original application plus such information shall be considered as constituting a new application.

(g) Fees shall be refunded whenever an application is withdrawn without the filing of a new application.

(h) When a valid application is received and the provisions of paragraphs (b) and (c) of section 4 of the act are applicable, the Director shall notify the applicant by letter of the pertinent provisions of this section and the reasons for denial of license and shall refund the fee.

(i) If the Director disapproves the use of a trade name which, in his opinion, is deceiving, misleading or confusing to the trade, he shall return the application to the applicant for the selection of a different trade name. If the applicant does not return the application within thirty days after it was mailed by the Director, the fees submitted shall be refunded. The "period not to exceed thirty days" as prescribed in section 4(d) of the act shall commence on the date that the application for license under the new name is received by the Director or his representative.

§ 46.5 Bonds.

Bonds prescribed in paragraphs (c) and (e) of section 4 and paragraph (b) of section 8 of the act shall be in the form of cash or surety bonds in the form and amount satisfactory to the Director, and shall not be less than $5,000. When cash is posted as surety, it shall be deposited into a special account of the United States Treasury and no interest is to accrue or be paid the licensee. When surety bonds are furnished, the surety shall be a company holding a certificate of authority from the Secretary of Treasury under Act of Congress approved July 30, 1947 (6 U.S.C. secs. 6–13) as acceptable surety on Federal bonds.

§ 46.6 License fee.

The annual license fee is thirty six dollars ($36). The Director may require the fee be submitted in the form of a money order, bank draft, cashier's check, or certified check made payable to Agricultural Marketing Service. Authorized representatives of the Division may accept fees and issue receipts therefor.

§ 46.7 Issuance of license.

Upon receipt of a valid application accompanied by the proper fee for a license, and bond, if required, the Director shall, if the applicant is found to be eligible, issue a license certifying that the licensee is authorized to engage in the business of a commission merchant, dealer, or broker. All fees, and any additional sums assessed by the Director in accordance with the act, shall be deposited in a special fund designated as the "Perishable Agricultural Commodities Act fund."

§ 46.8 Copies of licenses.

Copies of licenses may be issued upon request and upon the payment of a fee of two dollars ($2) for each copy. Each copy shall bear the word "copy" in conspicuous letters on its face and shall be certified by the Director as a true copy of the original.

§ 46.9 Termination, suspension, revocation, cancellation of licenses; notice; renewal.

(a) Under section 3(c) of the act the license can be suspended if the licensee continues to use a trade name after being notified by the Director that such trade name has been disapproved.

(b) Under section 4(a) of the act, after October 1, 1962, the license of any individual, corporation or association shall automatically terminate on the date of discharge in bankruptcy and the license of any partnership shall automatically terminate on the date of the discharge in bankruptcy of any of the general partners in the partnership.

(c) Under section 4(c) of the act if a license is issued under a bond and the bond is terminated for any reason with-

out the approval of the Director, within four years from the date of the issuance of the license, the license shall be automatically cancelled as of the date of termination and no new license shall be issued to such person during the four-year period without a new surety bond covering the remainder of such period. Also, if the Director notifies the licensee that a bond in an increased amount is required and the licensee fails to provide such a bond within the specified time the license of such licensee shall be automatically suspended until such bond is provided.

(d) Under section 8(a) of the act a license can be suspended or revoked for violations of section 2 of the act or when the licensee is found guilty in a Federal Court of having violated section 14(b) of the act.

(e) Under section 8(b) of the act a license can be suspended or revoked if the licensee continues to employ any person in violation of the provisions of this section. Also, if any licensee is authorized to employ any person under a bond in accordance with this section and is notified by the Director subsequently to provide a bond in an increased amount and fails to provide such a bond within the time specified, approval of employment shall automatically terminate.

(f) Under section 8(c) of the act a license can be revoked for any false or misleading statement, or through a misrepresentation or concealment or withholding of facts in connection with an application for a license.

(g) Under section 9 of the act a license can be suspended if the licensee fails to keep such accounts, records, and memoranda as fully and correctly disclose all transactions involved in his business including the true ownership of such business by stock-holding or otherwise.

(h) Under section 13(a) of the act a license can be suspended if the licensee refuses to permit inspection of his records or of any lot of produce under his ownership or control.

(i) Under section 4(a) of the act at least thirty days prior to the anniversary date of a valid and effective license, the Director shall mail a notice to the licensee at the last known address advising that the license will automatically terminate on its anniversary date unless the annual fee is paid on or before such date. If the annual fee is not paid by the anniversary date, the licensee may obtain a renewal of that license at any time within 30 days of that date by paying the annual fee, plus five dollars ($5). Within 60 days after the termination date of a valid and effective license, the former licensee shall be notified of such termination, unless a new license has been obtained in the meantime.

§ 46.10 Nonlicensed person; liability; penalty.

Any commission merchant, dealer, or broker who violates the act by engaging in business subject to the act without a license may settle his liability, if such violation is found by the Director not to have been willful but was due to inadvertence, by paying the amount of fees that he would have paid had he obtained and maintained a license during the period that he engaged in business subject to the act, plus an additional sum not in excess of twenty-five dollars ($25) as may be determined by the Director.

§ 46.11 What constitutes valid license, form and use.

Each license shall bear a serial number, the names in which authorized to conduct business, type of ownership; if the business is individually owned, the name of the owner; if a partnership, the names of all general partners; the facsimile signature of the Director, the seal of the Department and shall be duly countersigned. The licensee may place upon his stationery, trucks, or business sign an inscription indicating that he is licensed under the act, but such inscription must not be of such form or arrangement as to be deceptive or misleading to the public, nor shall any such inscription be displayed or used unless the person using the inscription has a license valid and effective at the time.

§ 46.12 Forms of inscriptions.

The following inscriptions, for use with or without the license number, meet the foregoing requirements and may be used by licensees: "Licensed by the U.S. Department of Agriculture under the Perishable Agricultural Commodities Act", or "Licensed under the PACA."

§ 46.13 Address, ownership, trade name, or membership changes, and bankruptcy.

The licensee shall (a) promptly notify the Director in writing of any changes of address or any change in the officers, directors, and holders of more than 10 percent of the outstanding stock of a corporation, with the percentage of the stock held by each such person, (b) obtain approval of the Director prior to using any trade name, and (c) report promptly to the Director when the licensee, or if the licensee is a partnership, any partner, is subject to proceedings under the bankruptcy laws. A new license is required in case of a change in the ownership of a business, an addition or withdrawal of members of a partnership, or in case business is conducted under a different corporate charter from that under which the license was originally issued.

ACCOUNTS AND RECORDS (GENERAL)

§ 46.14 General.

(a) Every commission merchant, dealer, and broker shall prepare and preserve for a period of two years from the closing date of the transaction the accounts, records, and memoranda required by the act, which shall fully and correctly disclose all transactions involved in his business. Licensees shall keep records which are adapted to the particular business that the licensee is conducting and in each case such records shall fully disclose all transactions in the business in sufficient detail as to be readily understood and audited. It is impracticable to specify in detail every class of records which may be found essential since many different types of business are conducted in the produce industry and many different types of contracts are made covering a wide range of services by agents and others. The responsibility is placed on every licensee to maintain records which will disclose all essential facts regarding the transactions in his business.

(b) Every commission merchant, dealer, and broker shall prepare and preserve records and memoranda required by the Act which shall fully and correctly disclose the true ownership and management of such business during the preceding four years. In the case of a corporation, such records shall include the corporate charter, record of stock subscription and stock issued, the amounts paid in for stock and minutes of stockholders' and directors' meetings showing the election of directors and officers, resignations and other pertinent corporate actions. In the case of a partnership, the records shall contain a copy of the partnership agreement showing the type of partnership, the full names and addresses of all partners including general, special or limited partners, the partnership interest of each individual and any other pertinent records of the partnership.

§ 46.15 Documents to be preserved.

Bills of lading, diversion orders, paid freight and other bills, car manifests, express receipts, confirmations and memorandums of sales, letter and wire correspondence, inspection certificates, invoices on purchases, receiving records, sales tickets, copies of statements (bills) of sales to customers, accounts of sales, papers relating to loss and damage claims against carriers, records as to reconditioning, shrinkage and dumping, daily inventories by lots, a consolidated record of all rebates and allowances made or received in connection with shipments handled for the account of another, an itemized daily record of cash receipts, ledger records in which purchases and sales can be verified, and all other pertinent papers relating to the shipment, handling, delivery, and sale of each lot of produce shall be preserved for a period of 2 years.

§ 46.16 Method of preservation or storage of records.

All records required to be preserved under the act shall be stored in an orderly manner and in keeping with sound business practices. The records being currently used shall be filed in order of dates, by serial numbers, alphabetically or by any other proper method which will enable the licensee to promptly locate and produce the records. Records in dead storage should be arranged in an orderly fashion, be packaged or wrapped to insure proper preservation, be adequately marked or identified, and stored in a safe, dry location. When part of the records are forwarded to others (such as accountants, traffic agencies, attorneys, etc.), proper notations should be filed in appropriate places in the records identifying the missing records and stating where they can be located.

§ 46.17 Inspection of records.

Each licensee shall, during ordinary business hours, promptly upon request, permit any duly authorized representative of the Department to enter his place of business and inspect such accounts, records, and memoranda as may be material (a) in the investigation of complaints under the act, or (b) to the determination of ownership, control, packer, or State, country or region of origin in connection with commodity inspections, or (c) to ascertain whether there is compliance with section 9 of the act, or (d) in administering the licensing and bonding provisions of the act. Any necessary facilities for such inspection shall be extended to such representative by the licensee, his agents, and employees.

RECORDS OF MARKET RECEIVERS

§ 46.18 Record of produce received.

Market receivers shall keep in the order of receipt a record of all produce received and this record shall be in the form of a book (preferably a bound book) with numbered pages or comparable business record. This record shall clearly show for each lot the date of arrival and unloading; whether received by freight, express, truck, or otherwise; the car initials and number; the truck license number and the driver's name or the name of the trucking firm; the number of packages or the quantity received; the kind of produce; the name and address of the consignor or seller; whether the produce was purchased; consigned or received on joint account; and the disposition of the produce, whether jobbed or sold in carlots or trucklots, and the lot number assigned to the shipment by the receiver (as required by § 46.20).

§ 46.19 Sales tickets.

Sales tickets shall bear printed serial numbers running consecutively and shall be used in numerical order so far as practicable. No serial number shall be repeated within a 90-day period. The sales tickets shall be prepared and all the details of the sale shall be entered on the tickets in a legible manner in order that an audit can be readily made. Erasures, strike-outs, changes, etc., should be held to the minimum. When errors are made in preparing sales tickets, the tickets should be voided. Each sales ticket shall show the date of sale, the purchaser's name (so far as practicable), the kind, quantity, the unit price, and the total selling price of the produce. Each sales ticket shall show the lot number of the shipment if the produce is being handled on consignment or on joint account. Sales tickets on all other lots of the same commodity which are on hand at the same time shall also show a lot number. The original or a legible carbon copy of each sales ticket, including those voided or unused, shall be accounted for and shall be filed or stored either by dates of sales or in the order of the serial numbers for a period of two years.

§ 46.20 Lot numbers.

An identifying lot number shall be assigned to each shipment of produce to be sold on consignment or joint account or for the account of another person or firm. A lot number should be assigned to any purchased shipment in dispute between the parties to assist in proving damages. A lot number shall be assigned to each purchased shipment of similar produce on hand at that time or received later while the consigned or joint account or disputed lot is being sold. A lot number shall be assigned to each purchased shipment which is reconditioned if the seller is to be charged with the shrinkage or loss. The lot number shall be entered on the receiving record in connection with each shipment and entered on all sales tickets identifying and segregating the sales from the various shipments on hand. The lot number shall be entered on the sales tickets by the salesmen at the time of sale or by the produce dispatcher, and not by bookkeepers or others after the sales have been made. No lot number shall be repeated within a period of 30 days after the last sale from the preceding lot to which such number was assigned.

§ 46.21 Returns, rejections, or credit memorandums on sales.

In the event of the rejection and return of any produce sold for or on behalf of another, on consignment, or on joint account, or of any necessary allowance or adjustment being made to the buyers thereof, a credit memorandum showing the buyer's name, sales ticket number, lot number, date of the granting of the allowance, and amount of the credit or adjustment, with reasons therefor, shall be made or a notation shall be made on the original sales ticket referring to the adjustment and showing where the credit memorandum is filed. The credit memorandum shall be on a regular form, in a ledger book, or on a sales ticket or invoice properly completed to show the facts and shall be approved by a duly authorized person. Credits granted shall be entered in the same records as the original sales tickets.

§ 46.22 Accounting for dumped produce.

A clear and complete record shall be maintained showing justification for dumping of produce received on joint account, on consignment, or handled for or on behalf of another person if any portion of such produce regardless of percentage cannot be sold due to poor condition or is lost through re-sorting or reconditioning. In addition to the foregoing, if five percent or more of a shipment is dumped, an official certificate, or other adequate evidence, shall be obtained to prove the produce was actually without commercial value, unless there is a specific agreement to the contrary between the parties. The original certificate or other adequate evidence justifying dumping shall be forwarded to the consignor or joint account partner with the accounting and a copy shall be retained by the receiver.

§ 46.23 Evidence of dumping.

Reasonable cause for destroying any produce exists when the commodity has no commercial value or when it is dumped by order of a local health officer or other authorized official or when the shipper has specifically consented to such disposition. The term "commercial value" means any value that a commodity may have for any purpose that can be ascertained by the exercise of due diligence without unreasonable expense or loss of time. When produce is being handled for or on behalf of another person, proof as to the quantities of produce destroyed or dumped in excess of five percent of the shipment shall be provided by procuring an official certificate showing that the produce has no commercial value from any person authorized by the Department to inspect fruits and vegetables. Where such inspection service is not available certification may be obtained from (a) any health officer or food inspector of any State, county, parish, city or municipality or of the District of Columbia; (b) any established commercial agency or service making inspections for the fruit and vegetable industry; or (c) when no inspector or health officer designated above is available consideration will be given to other evidence such as inspection and certification made by any two persons having no financial interest in the produce involved or in the business of any person financially interested therein, and who are unrelated by blood or marriage to any such financially interested person, and who, at the time of the inspection and certification, and for a period of at least one year immediately prior thereto, have been engaged in the handling of the same general kind or class of produce with respect to which the inspections and certification are to be made. Any certificate issued by any persons designated in paragraph (c) of this section shall include a statement that each of them possesses the requisite qualifications. Any such certificate shall properly identify the produce by showing the commodity, lot number, brand or principal identifying marks on the containers, quantity dumped, name and address of shipper, name and address of applicant, condition of the produce, time, place, and date of inspection and a statement that the produce possesses no commercial value.

RECORDS OF RETAILERS

§ 46.24 Records of retailers.

Notwithstanding the specific records and documents prescribed in the foregoing sections, licensees who purchase produce solely for sale at retail shall establish and maintain accounts and records, adapted to their type of operations, which will fully and correctly disclose all transactions relating to the purchase of produce. Such accounts and records should include the date of receipt of each lot, kind of produce, number of packages and quantity, price paid, evidence of agreement or contract of purchase, bills of lading, paid bills, and any other documents relating to the purchase of produce.

AUCTION SALES

§ 46.25 Auction sales.

Commission merchants, dealers and brokers who offer produce for sale through auction companies which publish catalogs of offerings will be responsible for furnishing the auction company for

publication true and correct information concerning the ownership of the produce. When the produce is offered for sale by an owner, his name shall be shown in the catalog listing as owner. When a joint account partner makes an offering, his name as well as that of his joint partner, or partners, shall be shown. When any person offers produce for sale at auction for the account of another, the name, or names of the owner, if known, and of his principal shall be shown. In addition to listing such name or names he may show that he is acting in the capacity of agent. If a person instructs an auction company to catalog a shipment without disclosing true ownership, if known, or the name of an agent's principal, he shall be deemed to have made a false or misleading statement within the meaning of the act. Since sales at auctions normally involve additional expenses, a broker, grower's agent or commission merchant shall have prior consent from his principal before such disposition is accomplished. Where a dispute exists regarding the ownership of produce, it may be listed in the auction catalog as being offered for sale "for the account of whom concerned" with the name of the party making the offering shown as agent.

DUTIES OF LICENSEES

§ 46.26 Duties of licensees.

It is impracticable to specify in detail all of the duties of brokers, commission merchants, joint account partners, growers' agents and shippers because of the many types of businesses conducted. Therefore, the duties described in these regulations are not to be considered as a complete description of all of the duties required but is merely a description of their principal duties. The responsibility is placed on each licensee to fully perform any specification or duty, express or implied, in connection with any transaction handled subject to the Act.

BROKERS

§ 46.27 Types of broker operations.

(a) Brokers carry on their business operations in several different ways and are generally classified by their method of operation. The following are some of the broad groupings by method of operation. The usual operation of brokers consists of the negotiation of the purchase and sale of produce either of one commodity or of several commodities. A broker may act as the agent of the buyer or the seller but not as agent of both parties. Frequently, brokers never see the produce they are quoting for sale or negotiating for purchase by the buyer and they carry out their duties by relaying offers and counter-offers between the buyer and seller until a contract is affected. Generally, the seller of the produce invoices the buyer, however, when there is a specific agreement between the broker and his principal, the seller invoices the broker who, in turn, invoices the buyer, collects, and remits to the seller. Under other types of agreements, the seller ships the produce to the broker at destination who distributes to pool buyers, invoices the buyers, collects, and remits to the seller. Also, there are times when the broker is authorized by the seller to act much like a commission merchant being given blanket authority to dispose of the produce for the seller's account either by negotiation of sales to buyers not known to the seller or by placing the produce for sale on consignment with receivers in the terminal markets.

(b) There is a second general grouping of brokers which are commonly referred to as buying brokers. Their operations are typified by the fact that they act as the buyer's representative in negotiating purchases at shipping points, terminal markets, or intermediate points. Their typical type of operation is to negotiate a purchase on the buyer's instructions and authorization. Sometimes the broker negotiates the purchase without seeing the produce. In other instances he may select the merchandise after forming an appraisal of the quality of the produce being offered for sale on the market. Generally, a purchase is made in the buyer's name and the seller invoices the buyer direct. On the other hand, acting on authority given him by the buyer, the broker may negotiate purchases in his own name, pay the seller for the produce, make arrangements for its loading and shipment, and bill the buyer direct for the cost price plus the brokerage fee and the cost of any agreed upon accessorial service charges such as ice, loading, etc.

§ 46.28 Duties of brokers.

(a) *General.* The function of a broker is to negotiate, for or on behalf of others, valid and binding contracts. A broker who fails to perform any specification or duty, express or implied, in connection with any transaction is in violation of the act and is subject to the penalties specified in the act and may be held liable for damages which accrue as a result thereof. It shall be the duty of the broker to fully inform the parties concerning all of the terms and conditions of the proposed contract. After all parties agree on the terms and the contract is effected, the broker shall prepare in writing and deliver promptly to all parties a properly executed confirmation or memorandum of sale setting forth truly and correctly all of the essential details of the agreement between the parties. The broker shall retain a copy of such confirmations or memoranda as part of his accounts and records. The broker who does not prepare these documents and retain copies in his files is failing to prepare and maintain complete and correct records as required by the act. The broker who does not deliver copies of these documents to all parties involved in the transaction is failing to perform his duties as a broker. A broker who issues a confirmation or memorandum of sale containing false or misleading statements shall be deemed to have committed a violation of section 2 of the act. If the broker's records do not support his contentions that a binding contract was made with proper notice to the parties, the broker may be held liable for any loss or damage resulting from such negligence, or for other penalties provided by the act for failure to perform his express or implied duties. The broker shall take into consideration the time of delivery of the shipment involved in the contract and all other circumstances of the transaction, in selecting the proper method for transmitting the written confirmation or memorandum of sale to the parties. A buying broker is required to truly and correctly account to his principal in accordance with § 46.2(y)(3). The broker should advise his principal promptly of rejection by the buyer or of any other unforeseen development of which he is informed.

(b) *Brokerage fees.* A broker is not considered to be entitled to a brokerage fee unless he effects a sale or makes a valid and binding contract, fully performing his duties as a broker. Unless otherwise specifically agreed, the broker does not guarantee the performance of the contracting parties and is entitled to receive prompt payment of the brokerage fee whenever a valid and binding contract is negotiated. Brokerage fees may be charged to only one of the parties to the contract unless by prior agreement the parties agree to split the brokerage fee. If the brokerage fee is charged to both parties without a specific prior agreement, such action by the broker is a violation of the act. A broker employed to negotiate the sale of produce may not employ another broker or selling agent, including auction companies, without the specific prior approval of his principal. When the broker is authorized to sell, invoice the buyer, collect and remit to his principal, he shall render an itemized accounting to the principal promptly on receipt of payment, showing the true gross selling price, all brokerage fees deducted, any auction charges and any other expenses incurred in connection with the sale of the shipment. The failure to account truly and correctly and make full payment promptly is a violation of the act.

(c) *Broker's responsibility for payment.* In the absence of a specific agreement, a broker is not responsible for payment to the seller by the buyer. Agreement to collect from the buyer and remit to the seller is not a guarantee by the broker that the buyer will pay for the produce purchased, unless there is a specific agreement by the broker that he will pay if the buyer does not pay. A broker who agrees to collect funds from the buyer for his principal shall render an itemized accounting to the principal promptly on receipt of payment showing the true gross selling price, all brokerage fees deducted and all expenses including auction charges, incurred in connection with the sale of the shipment. The failure to account truly and correctly and make full payment promptly is a violation of the act. While the broker is not obliged to furnish his principal information regarding the financial condition of the buyer, if the broker furnishes such information, he must truthfully report the information available to him, and any false or misleading statements for a fraudulent purpose to the principal to encourage the sale will be a violation of the act. A buying broker who negotiates a purchase in his own name under an agreement with his prin-

cipal, is responsible for payment of the purchase price to the seller. A broker has no authority to grant allowances or adjust the seller's invoice price to the buyer without the specific prior approval of his principal.

(d) *Purchases and sales by brokers.* A person who operates in a dual capacity, both as a broker and a dealer, shall clearly disclose his status in each transaction to all parties with whom he is dealing. If such a person misrepresents himself as a broker to the buyer or the seller when he is acting as a dealer purchasing produce or selling produce he has purchased, he shall be considered to have violated the act. When a person purchases or sells produce as a dealer, he shall not request or receive a brokerage fee from the buyer or the seller. A broker shall not negotiate a transaction where the broker is subject to the direct or indirect control of any party to the transaction other than his principal, or where the other party is subject to the direct or indirect control of the broker without fully disclosing the circumstances to his principal and obtaining his specific prior approval.

(e) *Filing carrier claims by brokers.* Without prior consent of the owner, a broker has no authority to file claims with carriers in his own name or any other name. A broker has no obligation to file carrier claims for the owners of the shipments. However, when a broker in a transaction receives information valuable to the owner in connection with carrier claim rights, the broker should promptly advise the owner. A broker who agrees to protect the carrier claims of owners shall at all times exercise reasonable care to fulfill such obligation. If a broker makes an agreement with a seller or a buyer to file and handle such a claim for the benefit of the owner of the produce, the claim shall be filed promptly with the carrier, supported by adequate evidence, and he shall take the necessary action to bring the matter to a conclusion. A copy of the claim shall be forwarded to the owner of the shipment when the claim is filed. When settlement of the claim is effected, the broker shall promptly remit the net amount due the owner, after deducting the agreed or customary charges for handling the claim. Adequate information shall be furnished the owner regarding the claim while the matter is being handled with the carrier. If the owner files the claim, the broker shall promptly furnish any necessary information available in his records which is requested by the owner.

RECEIVING MARKET COMMISSION MERCHANTS AND JOINT ACCOUNT PARTNERS

§ 46.29 Duties.

(a) *General.* All licensees who accept produce for sale on consignment or on joint account are required to exercise reasonable care and diligence in disposing of the produce promptly and in a fair and reasonable manner. A commission merchant engaged to sell consigned produce may not employ another person or firm, including auction companies, to dispose of all or part of such produce without the specific prior authority of the consignor. A commission merchant is not authorized to sell consigned produce outside the market area where he is located without obtaining the permission of the consignor. Averaging or pooling of sales is not permissible unless the receiver obtains the specific written permission of the consignor prior to rendering the accounting. Complete and detailed records shall be prepared and maintained by all commission merchants and joint account partners covering produce received, sales, quantities lost, dates and cost of repacking or reconditioning, unloading, handling, freight, demurrage or auction charges, and any other expenses which are deducted on the accounting, in accordance with the provisions of § 46.18 through § 46.23. When rendering account sales for produce handled for or on behalf of another, an accurate and itemized report of sales and expenses charged against the shipment shall be made. It is a violation of section 2 of the act to fail to render true and correct accountings in connection with consignments or produce handled on joint account. Charges which cannot be supported by proper evidence in the records of the commission merchant or joint account partner shall not be deducted. The commission merchant or joint account partner may be held liable for any financial loss and for other penalties provided by the act, due to his negligence or failure to perform any specification or duty, express or implied, arising out of any transaction subject to the act.

(b) *Commission charges.* Before accepting produce on consignment, the parties should reach a definite agreement on the amount of the commission and other charges which will be assessed by the commission merchant. In the absence of such an agreement, only the usual and customary commission and other charges shall be permitted. The receiver may not reconsign produce to another person or firm, including auction companies, and incur additional commissions, charges or expenses without the specific prior authority of the consignor. Unless otherwise agreed upon by the parties, joint account partners shall not charge a commission fee or other selling charges against the joint account for disposing of the produce. When a portion of a consigned shipment is purchased by the commission merchant he shall not charge or receive a commission fee for such sales.

(c) *Purchasing consigned produce.* A commission merchant or joint account partner may not purchase produce received on consignment or joint account or sell such produce to any person or firm over whose business he has direct or indirect control, or to any person or firm having direct or indirect control over his business, without specific prior authority of the consignor or the joint account partner. However, produce may be purchased by the commission merchant or joint account partner at reasonable market value to clean up remnants of shipments so accountings will not be unduly delayed, provided the accounting shows the quantity and price of the goods bought by the commission merchant or joint account partner. "Remnants," as used here, mean small quantities remaining after the bulk of the shipment has been sold but shall not exceed 5 percent of the shipment. When consigned produce is purchased by a commission merchant he shall not charge or receive a commission fee for such sales.

(d) *Filing carrier claims.* Without the prior consent of the owner of the produce, a commission merchant has no authority to file claims with carriers in his own name or any other name: *Provided,* That the commission merchant may file a claim for breakage where the owner has been paid for the full value of the produce without any deduction for damage. Commission merchants have no obligation to file carrier claims on shipments for the owners. However, when a commission merchant in a transaction receives information valuable to the consignor in connection with carrier claim rights, the commission merchant should promptly advise the consignor. Before a commission merchant files a carrier claim on a consigned shipment, a specific agreement shall be reached with the consignor. If a commission merchant is authorized and agrees to file the claim, he shall forward a copy of the claim filed with the carrier to the consignor and shall exercise reasonable care to protect the interests of the consignor by filing the claim promptly and in the proper amount, supported by adequate evidence, and shall take the necessary action to bring the matter to a conclusion. When settlement of the claim is effected, he shall promptly remit the net amount due the consignor, after deducting the agreed handling charges. Full and complete information shall be furnished the consignor while the claim is being handled. If the consignor is to file the claim, the commission merchant shall exercise reasonable care to protect the claim rights of the consignor and shall promptly furnish all necessary information and evidence from his records to enable the consignor to file a proper claim. A joint account partner who files a carrier claim on behalf of the partnership shall forward a copy of the claim filed with the carrier to his partner, keep him advised of its status, and remit promptly his share of the net proceeds realized from such claim.

GROWERS' AGENTS AND SHIPPERS

§ 46.30 Types of operations by growers' agents and shippers.

(a) The usual operations of shippers consist of purchasing produce from growers in their own names. They distribute the produce in commerce by selling, consigning, or jointing the shipments, assuming any loss or profits that result from these operations. In addition, shippers may handle produce on joint account with growers or others.

(b) Growers' agents sell and distribute produce for or on behalf of growers and others and, in addition, may perform a wide variety of services, such as financing, planting, harvesting, grading, packing, furnishing labor, seed, containers, and other supplies or services. They usually distribute the produce in their own names and collect payment direct

from the consignees. They render accountings to their principals, paying the net proceeds after deducting their expenses and fees. Some agents are limited by contract to making only sales and cannot joint or consign produce without obtaining the prior consent of the growers. Other agents are granted blanket authority by the growers to market and distribute the produce, using their discretion as to the best methods, depending on market conditions and the quality of the produce available. They can sell, consign or ship on joint account, use the services of brokers or sell through terminal market auctions. They are authorized to grant credits, make adjustments in the invoice price, handle claims with the carriers, or even abandon shipments, when circumstances justify such action, without consulting the growers. Some agents have an agreement with the growers to pool the produce and render accountings on the basis of the average or prorated selling prices after deducting the prorated expenses incurred for the various operations performed and the agents' selling fees. Some agents' contracts require an accounting on the basis of actual selling prices after deducting the actual expenses incurred for services performed and the selling fees. Some agents' contracts specify a fixed charge for harvesting, grading, packing, furnishing the container or other services, plus a selling fee, and thereby substantially reduce the record requirements necessary to prove the cost of the various operations.

§ 46.31 Duties of shippers.

(a) *General.* The responsibilities of shippers vary with their contracts with growers to purchase produce or to handle produce on joint account. Similarly, their responsibilities to their customers depend upon their contracts to sell, consign or joint account produce with dealers on terminal markets. Shippers shall pay promptly for produce purchased and any deficits incurred on consigned shipments. They shall fully comply with their obligations in connection with joint account transactions. A shipper who fails to perform any express or implied duty is in violation of the act and may be held liable for any damages resulting therefrom. The shipper shall prepare and maintain records which fully and correctly disclose the details of his transactions.

(b) *Receiving records.* Each shipper shall prepare and maintain a record of all produce handled including his own production. This record shall be in the form of a book (preferably a bound book), with numbered pages or comparable business records. This receiving record shall show for each lot the date received, whether purchased or received on joint account, the quantity, quality, and kind of produce, the purchase price or joint account cost, and the name and address of the supplier. Shippers shall issue receipts to growers and others for all produce received.

(c) *Disposition records.* When a shipper purchases produce from growers or others, his records shall also show the disposition of the produce, whether sold or consigned, date of shipment, car number, or if shipped by truck, the license number, name and address of the carrier, name and address of the buyer, commission merchant or auction, and other pertinent details of the transaction, such as the terms of sale, selling price, and date of payment.

(d) *Joint accounts with growers.* When a shipper enters into a joint account transaction with growers or others, the agreement between the parties should be reduced to a written contract clearly defining the duties and responsibilities of both parties and the extent of the shipper's authority in distributing the produce. The shipper shall prepare and maintain records to show in detail the actual expenses incurred for the services he furnishes, such as harvesting, grading, packing and selling the produce (unless a fixed charge is agreed upon by the parties to cover the cost of these services), methods of distribution and proceeds received for the produce. If a shipper is at the same time handling similar produce not involved in the joint account transaction, a lot number or other positive means of identification shall be assigned to each lot of produce received in order to segregate and identify the various lots of produce. If a shipper consigns all or part of the produce or employs the services of brokers or terminal market auctions, his records shall show the results of these transactions, including the expenses involved and the names and addresses of the commission merchants, brokers, and the auctions. The shipper shall render a detailed and accurate accounting and pay promptly the net proceeds due the joint partner, in accordance with § 46.2 (y), (z), and (aa). The accounting shall disclose the status of all claims collected or filed with the carriers.

(e) *Joint accounts with receivers.* When a shipper enters into a joint account agreement with a terminal market dealer, the agreement should be reduced to writing clearly defining the terms of the agreement. The shipper's records shall show the expenses which may be properly charged in accordance with the joint agreement, purchase price or joint account cost of the produce, and cost of harvesting, packing, grading, or other expenses. His records shall show the quantity and quality of the produce packed and shipped, the dates and methods of shipment, and all other pertinent details of his operation. At the conclusion of the transaction, a detailed and accurate accounting shall be furnished promptly to the joint partner, in accordance with § 46.2(z). If a deficit results, the shipper shall pay promptly his share of the deficit.

§ 46.32 Duties of growers' agents.

(a) *General.* The duties, responsibilities, and extent of the authority of a growers' agent depend on the type of contract made with the growers. Agreements between growers and agents should be reduced to a written contract clearly defining the duties and responsibilities of both parties and the extent of the agent's authority in distributing the produce. When such agreements between the parties are not reduced to written contracts, the agent shall have available a written statement describing the terms and conditions under which he will handle the produce of the grower during the current season and shall mail or deliver this statement to the grower on or before receipt of the first lot. A grower will be considered to have agreed to these terms if, after receiving such statement, he delivers his produce to the agent for handling in the usual manner. In the event an unsolicited lot of produce is accepted by an agent for handling in his usual manner, he shall promptly deliver or mail a copy of such statement to the grower. A copy of this statement, showing the name of the grower and the date the statement was delivered to the grower, shall be retained in the agent's files. An agent who does not have in his files either written contracts or a written statement as required herein is failing to prepare and maintain full and complete records as required by the act. *Provided,* That regulations or bylaws of cooperative marketing associations may be used in lieu of individual agreements or contracts to determine the methods of accounting and settlement with their grower members. An agent who fails to perform any specification or duty, express or implied, is in violation of the act and may be held liable for any damages resulting therefrom and for other penalties provided under the act for such failure.

(b) *Accounting for charges.* A growers' agent whose operations include such services as the planting, harvesting, grading, packing, furnishing of containers or other supplies, storing, selling or distributing produce for or on behalf of growers shall prepare and maintain complete records on all transactions in sufficient detail as to be readily understood and audited. Agents must be in a position to render to the growers accurate and detailed accountings covering all aspects of their handling of the produce. Agents shall maintain a record of all produce received in the form of a book (preferably a bound book) with numbered pages or comparable business records, showing for each lot the date received, quantity, the kind of produce and the name and address of the grower. Agents shall issue receipts to growers and others for all produce received. A lot number or other positive means of identification shall be assigned to each lot in order to segregate the various lots of produce received from different growers from similar produce being handled at the same time. Each lot shall be so identified and segregated throughout all operations conducted by the agent, including the sale or other disposition of the produce. The records shall show the result of all packing and grading operations, including the quantity lost through packing and grading and the quantity and quality packed out. If the culls are sold, they shall be included in the accounting. Unless there is a specific agreement with the growers to pool all various growers' produce, the accounting to each of the growers shall itemize the actual expenses incurred for the various operations conducted by the agent and

all the details of the disposition of the produce received from each grower including all sales, adjustments, rejections, details of consigned or jointed shipments and sales through brokers, auctions, and status of all claims filed with or collected from the carriers. The agent shall prepare and maintain full and complete records on all details of such distribution to provide supporting evidence for the accounting. If an agent is working under a pool agreement with growers, the accounting shall show how the pool cost and pool sales prices are computed. If the agent and the growers have agreed on a fixed charge to cover the various operations conducted by the agent, actual expenses incurred for these services covered by the agreement are not required to be shown in the accounting. The failure of the agent to render prompt, accurate and detailed accountings in accordance with § 46.2 (z) and (aa), is a violation of the act.

(c) *Sales through brokers or auctions.* Unless a growers' agent is specifically authorized in his contract with the growers to use the services of brokers, commission merchants, joint partners, or auctions, he is not entitled to use these methods of marketing the growers' produce. Any expense incurred for such services, without the growers' permission, cannot be charged to the growers.

(d) *Filing of carrier claims.* Without the prior consent of the growers, an agent has no authority to file claims with the carriers in his own name or any other name. An agent has no obligation to file carrier claims on shipments for growers in the absence of a specific agreement to perform these duties. All information which an agent has received in handling the shipment which is essential for the growers to file such claims shall be made available to the growers. If an agent has an agreement with the growers to file and handle carrier claims, he shall exercise reasonable care in handling the claims with the carriers by filing the claim promptly in the proper amount, supported by adequate evidence, and take any necessary action to bring the matter to a conclusion.

(e) *Purchases and sales by growers' agents.* A person who operates in a dual capacity, both as a growers' agent and as a shipper, shall clearly disclose his status in each transaction to all parties with whom he is dealing. If such a person misrepresents himself as an agent, when he is acting as a shipper selling produce he has purchased, he shall be considered to have violated the act. A growers' agent shall not charge or receive a fee from the seller or the buyer when he purchases or sells produce as a shipper. A growers' agent shall not negotiate a transaction where he is subject to the direct or indirect control of any party to such transactions, other than his principal, or where the other party is subject to the agent's direct or indirect control, without fully disclosing the circumstances to his principal and obtaining his specific prior approval.

(f) *Negligence of agent.* A growers' agent may be held liable for any loss or damage resulting to the growers due to his negligence or failure to perform any specification or duty, express or implied, arising out of any undertaking in connection with transactions subject to the act.

(g) *Responsibility for payment.* An agent is not responsible for the payment by the buyer who has purchased the growers' produce on credit, unless he guarantees payment or is negligent in extending credit. Agreement to collect from the buyer and remit to his principal is not a guarantee by the agent that the agent will pay if the buyer does not pay.

(h) *Responsibility for payment of selling fees and expenses to the growers' agent.* In the absence of a specific agreement to the contrary, the agent does not guarantee the performance of the contracting parties and he is entitled to the payment of his selling fees and expenses incurred in handling the produce of growers or others, providing he fully performs his duties as agent.

(i) *Agent's financial responsibility to buyers for failure to comply with contracts.* If a growers' agent contracts in his own name to deliver produce to a buyer and subsequently cannot deliver produce complying with the contract because the growers cannot or will not deliver such produce to him, he may be liable to the buyer for damages resulting from the breach of the contract.

Conversion of Funds

§ 46.33 Conversion of funds.

Any licensee who collects or receives funds for or on behalf of another person or firm in connection with produce shall not make any use or disposition of such funds in his possession or control that will endanger or impair faithful and prompt payment to the owner or consignor of the produce or to any other person having a financial interest therein.

Disclosure of Business

§ 46.34 No disclosure of business of licensee.

No representative of the Department shall, without the consent of the licensee, divulge or make known, except to financially interested parties, or to other representatives of the Department who may be required to have such knowledge in the regular course of their official duties, or except insofar as he may be directed by the Secretary, Deputy Administrator, Director, or a court of competent jurisdiction, any facts or information regarding the business of such licensee which may come to the knowledge of such representative through an examination or inspection of the business or the accounts of the licensee, unless such facts or information should be testified to at a hearing authorized by the act because they are relevant and material to the issue in the case being heard.

Suspension and Revocation of Licenses

§ 46.35 Suspension or revocation order.

(a) Whenever the Secretary shall order the suspension or revocation of a license, the person against whom such order is directed shall be served by the Hearing Clerk with a copy of the order, and be notified of the effective date thereof. Service of orders shall be accomplished in accordance with § 47.4 of this chapter.

(b) Except in the case of any license automatically suspended by the act, a reasonable time shall be allowed, which shall not be less than 10 days between the date of issuance of the order of suspension or revocation and the date upon which such order becomes effective, during which period the licensee may make all necessary arrangements with some other person, who has a valid and effective license to safeguard the interests of consignors or other innocent parties whose property or business may be affected by such suspension or revocation and during which the licensee may terminate his affairs and business relating to the handling of produce.

(c) After the revocation of his license or during the effective period of any suspension thereof, no person shall, either directly or indirectly, through any agent, employee, or otherwise, carry on the business of a commission merchant, dealer, or broker until his status as a licensee has been restored.

(d) The suspension or revocation of a license shall not prevent the licensee from collecting amounts due on contracts entered into prior to the date of suspension or revocation or from remitting promptly to his principals and obligees.

Publication of Facts

§ 46.36 Publicity.

Upon the issuance by the Secretary of an order revoking or suspending a license, or in case of automatic suspension of a license for failure to pay a reparation award, the Director shall cause general publicity to be given to such fact, in order that those doing business with the licensee whose license has been revoked or suspended may take due notice thereof.

Sundays and Holidays

§ 46.37 Sundays and holidays excluded.

Sundays and holidays shall not be included in the computation of the 5-day period provided by section 7(d) of the act nor in connection with the periods defined in § 46.43 with exception of paragraph (a) thereof.

§ 46.38 Sundays and holidays included.

Sundays and holidays shall be included in the computation of all other periods mentioned in the act or in the regulations in this part.

Commodity Inspection

§ 46.39 Inspection of commodities.

Each licensee shall, during ordinary business hours, promptly upon request, permit any duly authorized representative of the Department to inspect any lot of produce under his ownership or control covered by the act. Any necessary facilities for such inspection shall be extended to such representative by the licensee, his agents, and employees. The licensee shall be furnished a copy of any certificate or memorandum of inspection which is issued for any lot of produce which is inspected in accordance with this section.

§ 46.40 **Inspection service.**

The rules and regulations of the Secretary governing inspection and certification of fresh fruits and vegetables as outlined in Part 51 of this chapter; and frozen fruits and vegetables as outlined in Part 52 of this chapter, and amendments thereto, and such additional amendments as may from time to time be promulgated shall govern the inspection of such products under the Act and are hereby made a part of the regulations in this part.

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

These amendments shall become effective on August 15, 1963.

Done at Washington, D.C., this 5th day of July 1963.

FLOYD F. HEDLUND,
Director,
Fruit and Vegetable Division.

[F.R. Doc. 63-7281; Filed, July 10, 1963; 8:50 a.m.]

Title 10—ATOMIC ENERGY

Chapter I—Atomic Energy Commission

PART 140—FINANCIAL PROTECTION REQUIREMENTS AND INDEMNITY AGREEMENTS

Amendment to Nuclear Energy Liability Insurance Form

The Nuclear Energy Liability Insurance Association and the Mutual Atomic Energy Liability Underwriters have proposed a change in the form of the nuclear energy liability insurance policy set forth in Appendix A of 10 CFR Part 140 (25 F.R. 2944 and 26 F.R. 6641). Appendix A is the form of nuclear energy liability insurance policy issued by the two associations and approved by the Commission as financial protection under 10 CFR Part 140.

Notice of the proposed approval of the change by the Commission was published in the FEDERAL REGISTER on April 20, 1963 (28 F.R. 3918). In publishing the notice, the Commission stated that the change will include as part of the policy the industry credit rating plan previously announced by the associations and does not in any way affect the scope of coverage provided with respect to financial protection since it is only a formal expression of a credit rating plan which has been in effect in principle since the issuance of the original policies by the associations.

One public comment was received from the Pacific Gas and Electric Company which stated:

> We note that the proposed amendment is silent as to the treatment of interest earned on the amount of premiums reserved to cover future losses. In our opinion, the amendment should be modified to provide that interest earned on these reserves should be included in the amount available for refund to the various insureds.

The question raised by PG&E, involving the matter of premium rates, is more appropriately one for resolution by the insured and the insurer since the matter is not within the Commission's area of responsibility.

Pursuant to the Atomic Energy Act of 1954, as amended, and the Administrative Procedure Act of 1946, the following amendment to 10 CFR Part 140 is published as a document subject to codification to be effective 30 days after publication in the FEDERAL REGISTER.

Amend § 140.75, *Appendix "A"*, 10 CFR Part 140, by deleting "Condition 1, Premium", and substituting the following:

CONDITIONS

1. *Premium.* (1) Definitions. With reference to the premium for this policy: "advance premium", for any calendar year, is the estimated standard premium for that calendar year;

"Standard premium", for any calendar year, is the premium for that calendar year computed in accordance with the companies' rules, rates, rating plans (other than the Industry Credit Rating Plan), premiums and minimum premiums applicable to this insurance;

"Reserve premium" means that portion of the standard premium paid to the companies and specifically allocated under the Industry Credit Rating Plan for incurred losses. The amount of the "reserve premium" for this policy for any calendar year during which this policy is in force is the amount designated as such in the Standard Premium Endorsement for that calendar year;

"Industry reserve premium", for any calendar year, is the sum of the reserve premiums for that calendar year for all Nuclear Energy Liability Policies issued by the Nuclear Energy Liability Insurance Association and Mutual Atomic Energy Liability Underwriters and subject to the Industry Credit Rating Plan;

"Policy refund ratio", for any calendar year, is the ratio of the named insured's reserve premium for that calendar year to the industry reserve premium for that calendar year;

"Incurred losses" means the sum of:

(1) All losses and expenses by Nuclear Energy Liability Insurance Association and Mutual Atomic Energy Liability Underwriters, and

(2) All reserves for unpaid losses and expenses as estimated by Nuclear Energy Liability Insurance Association and Mutual Atomic Energy Liability Underwriters

because of obligations assumed and the expenses incurred in connection with such obligations by members of Nuclear Energy Liability Insurance Association and Mutual Atomic Energy Liability Underwriters under all Nuclear Energy Liability Policies issued by Nuclear Energy Liability Insurance Association and Mutual Atomic Energy Liability Underwriters and subject to the Industry Credit Rating Plan;

"Reserve for refunds", at the end of any calendar year, is the amount by which (1) the sum of all industry reserve premiums for the period from January 1, 1957 through the end of such calendar year exceeds (2) the total for the same period of (a) all incurred losses, valued as of the next following July 1, and (b) all reserve premium refunds made under the Industry Credit Rating Plan by members of Nuclear Energy Liability Insurance Association and Mutual Atomic Energy Liability Underwriters;

"Industry reserve premium refund", for any calendar year, is determined by multiplying the reserve for refunds at the end of the ninth calendar year thereafter by the ratio of the industry reserve premium for the calendar year for which the premium refund is being determined to the sum of such amount and the total industry reserve premiums for the next nine calendar years thereafter, provided that the industry reserve premium refund for any calendar year shall in no event be greater than the industry reserve premium for such calendar year.

(2) *Payment of advance and standard premiums.* The named insured shall pay the companies the advance premium stated in the declarations, for the period from the effective date of this policy through December 31 following. Thereafter, at the beginning of each calendar year while this policy is in force, the named insured shall pay the advance premium for such year to the companies. The advance premium for each calendar year shall be stated in the Advance Premium Endorsement for such calendar year issued to the named insured as soon as practicable prior to or after the beginning of such year.

As soon as practicable after each December 31 and after the termination of this policy, the standard premium for the preceding calendar year shall be finally determined and stated in the Standard Premium Endorsement for that calendar year. If the standard premium so determined exceeds the advance premium previously paid for such calendar year, the named insured shall pay the excess to the companies; if less, the companies shall return to the named insured the excess portion paid by such insured.

The named insured shall maintain records of the information necessary for premium computation and shall send copies of such records to the companies as directed, at the end of each calendar year, at the end of the policy period and at such other times during the policy period as the companies may direct.

(3) *Use of reserve premiums.* All reserve premiums paid or payable for this policy may be used by the members of Nuclear Energy Liability Insurance Association or Mutual Atomic Energy Liability Underwriters to discharge their obligation with respect to incurred losses whether such losses are incurred under this policy or under any other policy issued by the Nuclear Energy Liability Insurance Association or Mutual Atomic Energy Liability Underwriters.

(4) *Reserve premium refunds.* A portion of the reserve premium for this policy for the first calendar year of any group of ten consecutive calendar years shall be returnable to the named insured provided there is a reserve for refunds at the end of the tenth calendar year.

(5) *Computation of reserve premium refunds.* The reserve premium refund due the named insured for any calendar year shall be determined by multiplying any industry reserve premium refund for such calendar year by the policy refund ratio for such calendar year. The reserve premium refund for any calendar year shall be finally determined as soon as practicable after July 1 of the tenth calendar year thereafter.

(6) *Final premium.* The final premium for this policy shall be the sum of the standard premiums for each calendar year, or portion thereof, during which this policy remains in force less the sum of all refunds of reserve premiums due the named insured under the provisions of this Condition 1.

(7) *Reserve premium refund agreement.* Each member of Nuclear Energy Liability Insurance Association or Mutual Atomic Energy Liability Underwriters subscribing this policy for any calendar year, or portion thereof, thereby agrees for itself, severally and not jointly, and in the respective proportion of its liability assumed under this policy for that calendar year, to return to the named insured that portion of any reserve premium refund due the named insured for

that calendar year, determined in accordance with the provisions of this Condition 1.

(Sec. 161, 68 Stat. 948; 42 U.S.C. 2201)

Dated at Washington, D.C., this 2d day of July 1963.

For the Atomic Energy Commission.

WOODFORD B. McCOOL,
Secretary.

[F.R. Doc. 63-7263; Filed, July 10, 1963; 8:45 a.m.]

Title 13—BUSINESS CREDIT AND ASSISTANCE

Chapter I—Small Business Administration

[Rev. 3]

PART 123—DISASTER LOANS

The Small Business Administration is terminating its Deferred Disaster Participation Loan program and modifying its Special Disaster Participation Agreement program as of July 1, 1963. In place of the Deferred Disaster Participation Loan program the Small Business Administration is inaugurating a Disaster Loan Guaranty Plan. The Special Disaster Participation Agreement program was conducted on a deferred participation basis. This program is being changed so that loans made under the program will be made upon an immediate participation basis.

Guaranteed loans are loans made by a financial institution to a disaster victim, where the Small Business Administration agrees to purchase, upon default by the borrower, an agreed portion not to exceed 90 percent of the loan outstanding at the time of default.

The Small Business Adminstration Disaster Loan Regulation, Revision 2 (13 CFR Part 123, 28 F.R. 963) is hereby revoked in its entirety and the following substituted in lieu thereof:

Sec.
123.0 Statutory provisions.
123.1 General.
123.2 Eligibility.
123.3 Types of disaster loans.
123.4 Disaster Participation Agreement Program.
123.5 Purposes of loans.
123.6 Were to apply.
123.7 Amount of loan and interest rates.
123.8 Collateral.
123.9 Repayment.
123.10 Step-by-step procedure for disaster loan applicant.
123.11 Cooperation with American Red Cross.
123.12 Obtaining loan funds.
123.13 Administration of loans.
123.14 Extension of RFC loans.

AUTHORITY: §§ 123.0 to 123.14 isued under sec. 5, Public Law 85-536.

§ 123.0 Statutory provisions.

SEC. 7. (a) * * *

(b) The Administration also is empowered—

(1) To make such loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administration may determine to be necessary or appropriate because of floods or other catastrophes; and

(2) To make such loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administration may determine to be necessary or appropriate to any small-business concern located in an area affected by a drought or excessive rainfall, if the Administration determines that the small business concern has suffered a substantial economic injury as a result of such drought or excessive rainfall and the President has determined under the Act entitled "An Act to authorize Federal assistance to States and local Governments in major disasters, and for other purposes," approved September 30, 1950, as amended (42 U.S.C., secs. 1855–1855g), that such drought or excessive rainfall is a major disaster, or the Secretary of Agriculture has found under the Act entitled "An Act to abolish the Regional Agricultural Credit Corporation of Washington, District of Columbia, and transfer its functions to the Secretary of Agriculture, to authorize the Secretary of Agriculture to make disaster loans, and for other purposes," approved April 6, 1949, as amended (12 U.S.C. secs. 1148–1—1148a–3), that such drought or excessive rainfall constitutes a production or economic disaster in such area; and

(3) To make such loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administration may determine to be necessary or appropriate to assist any small business concern in reestablishing its business, if the Administration determines that such concern has suffered substantial economic injury as a result of its displacement by a federally aided urban renewal or highway construction program or by any other construction conducted by or with funds provided by the Federal Government.

No loan under this subsection, including renewals and extensions thereof, may be made for a period or periods exceeding twenty years. The interest rate on the Administration's share of any loan made under this subsection shall not exceed 3 per centum per annum, except that in the case of a loan made pursuant to paragraph (3), the rate of interest on the Administration's share of such loan shall not be more than the higher of (A) 2¾ per centum per annum; or (B) the average annual interest rate on all interest-bearing obligations of the United States then forming a part of the public debt as computed at the end of the fiscal year next preceding the date of the loan and adjusted to the nearest one-eighth of 1 per centum, plus one-quarter of 1 per centum per annum. In agreements to participate in loans on a deferred basis under this subsection, such participation by the Administration shall not be in excess of 90 per centum of the balance of the loan outstanding at the time of disbursement.

(c) The Administration may further extend the maturity of or renew any loan made pursuant to this section, or any loan transferred to the Administration pursuant to Reorganization Plan Numbered 2 of 1954, or Reorganization Plan Numbered 1 of 1957, for additional periods not to exceed ten years beyond the period stated therein, if such extension or renewal will aid in the orderly liquidation of such loan.

§ 123.1 General.

(a) SBA is authorized to assist victims of floods and other catastrophes in rehabilitating or replacing damaged or lost physical property.

(b) SBA is also authorized to make or guarantee loans to alleviate substantial economic injury suffered by small businesses located in drought or excessive rainfall areas and those displaced as a result of federally aided construction programs.

(c) (1) "Financial Assistance" as used in this part shall include direct loans made by SBA, immediate participation loans, and guaranteed loans.

(2) "Financial Institution" as used in this part shall include, but not be limited to, banks and other concerns whose regular course of business entails the making of commercial and industrial loans.

§ 123.2 Eligibility.

(a) Under the physical-loss disaster assistance program, individuals, business concerns (including corporations, partnerships, cooperatives or other business enterprises), churches, charitable institutions, and other non-profit organizations are eligible to be considered for financial assistance: *Provided,* (1) They have suffered tangible property loss as a result of flood or other catastrophe, (2) SBA has declared the affected area a disaster area for purpose of financial assistance, and (3) A formal Declaration of Disaster has been published in the FEDERAL REGISTER. Loans may not be made to repair or replace damaged or destroyed summer or winter homes, cottages, camps, lodges or other residential property occupied by the owner principally for recreation or relaxation. Where property is rental property, financial assistance will be considered.

(b) Under the excessive rainfall or drought disaster assistance program, any small business (see Part 121 of this chapter for size determination of small business) concern is eligible for consideration: *Provided,* (1) It is located in an area which the President or Secretary of Agriculture has declared a major disaster area because of drought or excessive rainfall, and (2) it can show substantial economic injury resulting from the drought or excessive rainfall. Concerns which were established, acquired, or in which a substantial change of ownership occurred during the period of drought or excessive rainfall, are not eligible. Religious eleemosynary, and non-profit organizations are not eligible.

(c) Under the Displaced Business Disaster Assistance program, small-business concerns which have been, or will be, displaced by a construction program conducted by or with funds provided by the Federal government are eligible for consideration, provided they can show substantial economic injury resulting from such physical displacement. Concerns which were established, acquired, or in which a substantial change of ownership occurred, after the approval of a federally aided urban renewal project or construction program, and religious eleemosynary, and non-profit organizations are not eligible.

(d) Farmers, stockmen and others engaged primarily in an agricultural activity are not eligible for disaster assistance through SBA programs, except that, where the disaster area is located beyond the territorial jurisdiction of any other Federal agency otherwise authorized to provide such assistance, such parties shall be eligible for financial as-

sistance under the Small Business Act, as amended.

(e) If SBA determines that funds are otherwise available without undue hardship to a disaster victim, its principal owners, shareholders or stockholders, SBA may require that such funds be expended prior to the expenditure of Federal funds.

§ 123.3 Types of disaster loans.

Disaster loans may be made by SBA and financial institutions upon an immediate participation basis, upon a guaranteed loan basis or may be made directly by SBA alone.

(a) No direct loan may be made unless an immediate participation is not available. No immediate participation loan may be made unless a guaranteed loan is not available.

(b) In an immediate participation loan either SBA or the financial institution makes the loan and the other party purchases an agreed percentage of the loan. SBA's participation shall not exceed 90 percent of the outstanding amount of the loan.

(c) In guaranteed loans the financial institution makes the entire loan and SBA is obligated to purchase pursuant to its Disaster Loan Guaranty Agreement not more than 90 percent of the outstanding loan and accrued interest in the event the borrower has defaulted for 90 days. Default as used in this subsection means non-payment of principal or interest when due.

§ 123.4 Disaster Participation Agreement Program.

(a) When a physical loss disaster of a widespread nature occurs and where considerable destruction is involved, all banks in the affected area are given the opportunity to enter into the Disaster Participation Agreement program.

(b) Under this program, the banks, using SBA application forms (filed in triplicate) process and disburse the loans without clearance through SBA except as to clearance for SBA statutory, regulatory, and policy requirements. These loans are all made on an immediate participation basis.

(c) In the case of loans of $20,000 and under, the share of the loan which SBA may be required to purchase shall not exceed 90 percent of the balance outstanding at the time of purchase. In the case of loans in excess of $20,000 but not more than $100,000, the share of the loan which SBA may be required to purchase shall not exceed 75 percent. Loans in excess of $100,000 are not subject to this Disaster Participation Agreement program.

(d) The general requirements with regard to these loans are the same as if they were made by SBA as direct disaster loans.

§ 123.5 Purposes of loans.

(a) *Physical-loss disaster loans.* The purpose of physical-loss disaster loans is to restore a victim's home or business property as nearly as possible to predisaster condition. A loan to an individual may be used to repair or replace damaged furniture and other household belongings or personal effects. Funds may be used to replace destroyed or damaged inventory, machinery, or equipment. If it is necessary or desirable to construct a new home or new business facilities on a different site—for example, on higher ground because of possible future flood damage—the loan may be used for that purpose. However, the SBA's share or guaranteed percentage of any such loan shall not exceed the estimated cost of restoring or replacing the damaged or destroyed property.

(b) *Excessive rainfall or drought disaster loans.* The purpose of these loans is solely to provide relief from substantial economic injury sustained as a result of drought or excessive rainfall. Loans may be used for working capital, to replenish inventories, and to pay financial obligations (except bank loans) which the Borrower would have been able to pay had it not been for a loss of revenue resulting from the drought or excessive rainfall in the area.

(c) *Displaced business disaster loans.* The purpose of these loans is to assist small business concerns which have been displaced by a federally aided urban renewal or highway construction program or by any other construction conducted by or with funds provided by the Federal Government in reestablishing their business. Displaced business disaster loans may be used to provide: (1) Working capital necessary to carry the concern until resumption of normal operations or, if relocation is in the same general area, sufficient working capital to carry the business during a reasonable period of the adjustment; (2) Replacement costs to owners of realty or improvements thereon less amounts received for indemnification of property previously located in the project area; (3) Purchase of machinery and equipment to upgrade the business in a new location where such upgrading is necessary; (4) Increases in the costs of fixed charges, such as rents, insurance, utility bills, for a reasonable period of time; or (5) For such other purposes deemed necessary and appropriate by SBA. Funds may not be provided to purchase realty or improvements thereon by displaced businesses which were lessees prior to their displacement, unless as lessees they had substantial obligations and rights of ownership.

§ 123.6 Where to apply.

Applications (in duplicate) may be filed with the Regional, Branch, or Disaster Field Office if one has been established, in the area serving the disaster area. If a bank is participating, three copies of the application should be filed with the bank, the bank to send two copies to the SBA office. If a Disaster Field Office has been established, applications generally will be filed and processed there.

§ 123.7 Amount of the loan and interest rates.

(a) There is no statutory limitation on the amount of a disaster loan. However, SBA's share or guaranteed percentage of any such loan shall not exceed the actual physical loss or economic injury suffered as a result of the disaster.

(b) In physical-loss disaster loans, all direct and indirect costs attributable to restoring, rehabilitating, or replacing damaged or destroyed property will be considered by SBA in determining the amount of loan. The amount of money recovered from insurance or obtained from other relief sources, such as the American Red Cross, shall be deducted from the amount of the loss for which an SBA loan may be made. Sums paid to a disaster victim subsequent to his filing an application by insurance companies representing the indemnification of loss in whole or in part for which the disaster victim is requesting SBA financial assistance shall be paid by the borrower to the SBA for the reduction of this loan.

(c) Interest rates on disaster loans are set forth in Part 120 of this chapter.

§ 123.8 Collateral.

(a) The Small Business Act, as amended, contains no specific requirements with respect to collateral as security for a disaster loan, nor has SBA established any firm rule in regard to collateral. However, SBA requires applicants to pledge whatever collateral they can furnish. SBA will give consideration to the moral risk involved and to evidence showing a reasonable prospect that the loan will be repaid.

(b) Evaluation of collateral: In disaster loan cases, the same procedure will be used in evaluation of collateral for such loans as used for business loans, keeping in mind the urgency and emergency incident to a disaster loan.

§ 123.9 Repayment.

(a) Generally, disaster loans shall be repaid in monthly installments beginning not later than five months from the date of the note. The final maturity of the loan will be geared to the borrower's ability to pay but may not exceed the statutory limitation of twenty years.

(b) Except in connection with loans to borrowers whose income is received on an annual or seasonal basis, all loans shall be payable in equal monthly installments which will include principal and interest.

(c) Displaced business disaster loans may have more liberal repayment terms if circumstances indicate the need, including (1) a moratorium on principal payments (not interest) not exceeding the twelve months which immediately follow disbursement; (2) smaller amortization payments during the first few years, increasing in later years; or (3) any other reasonable terms to fit the applicant's individual circumstances.

§ 123.10 Step-by-step procedure for disaster loan applicant.

(a) A prospective applicant for SBA physical-loss disaster assistance shall:

(1) Make a list of his damaged, destroyed or lost property showing in as much detail as possible the extent of damage or loss, and, if possible, original cost of the property.

(2) Obtain from a reliable contractor, supplier or repairman, as appropriate, a signed estimate (in duplicate) of the cost of repairing damaged property or of replacing property which has been lost or damaged beyond repair.

(3) Make an overall estimate of his losses.

(4) Prepare a list of both his debts and assets and a financial statement.

(5) If the proposed loan is to rehabilitate his business, prepare a record of his business earnings and expenditures for the three years preceding and make a profit and loss statement.

(6) Obtain a disaster loan application form from a local bank or the nearest SBA office.

(b) A prospective applicant for a drought or excessive rainfall disaster loan shall:

(1) Furnish a statement of the extent to which his business has been injured by the drought or excessive rainfall conditions.

(2) For purposes of comparison, furnish financial and operating statements covering the current period and a 12-month period of normal operations prior to the drought or excessive rainfall.

(3) List any accounts and notes receivable which are delinquent due to drought or excessive rainfall conditions.

(4) Explain fully the reasons for any abnormally large and burdensome inventories.

(5) List all payables which are delinquent due to the drought or excessive rainfall, as well as current accruals.

(6) Point out any adopted or planned economies in operation designed to reduce costs of doing a lessened volume of business during the period of drought or excessive rainfall.

(c) A prospective applicant for a displaced business disaster loan shall:

(1) Furnish financial and operating statements for the current year to date and for the past three previous fiscal or calendar years.

(2) Furnish figures on actual or contemplated reduction or loss of income and profits and estimate of period of time income and profits will be reduced.

(3) List all payables which are delinquent.

(4) List any additional or replacement equipment that will be required to reasonably upgrade operations in new location, with allowances or any other recoveries from disposal or trade-in of existing equipment.

(5) Advise if additional inventories will be required or if different grades of items must be carried to meet demands of new location and effect on working capital position.

(6) Furnish projection of sales, normal percentage of profits, and fixed expenses, for a period of approximately 2 years following relocation in order to establish reasonable ability to repay loan.

(7) Make a list of collateral to be offered as security for repayment of the loan, showing in detail any existing obligations or liens against same.

§ 123.11 Cooperation with American Red Cross.

In its physical-loss program of assistance to disaster victims, SBA maintains close coordination with the American Red Cross. In many cases, rehabilitation assistance is given jointly by the Red Cross and SBA with part of the applicant's losses being covered by a grant from the Red Cross and part by a loan through SBA.

§ 123.12 Obtaining loan funds.

(a) Once a disaster loan has been approved by SBA, the disaster victim may obtain the loan funds upon compliance with the conditions of SBA's loan authorization.

(b) If the approved loan is an immediate participation or guaranteed loan, bank will notify the disaster victim of the loan approval, terms and conditions, and arrange with him for actual closing of the loan.

(c) If the loan is a direct loan, the disaster victim will be notified by SBA of the loan approval, terms and conditions.

§ 123.13 Administration of loans.

Participation and guaranteed loans closed by the bank will be administered by the bank, and participation or direct loans closed by SBA will be administered by SBA.

§ 123.14 Extension of RFC loans.

Actions taken by SBA pursuant to the authority of section 7(c) of the Small Business Act, as amended, are limited to such periods of time as appear necessary to avoid the forced liquidation of loans. Generally, a sequence of short extensions will be granted rather than one lengthy one. Extensions are only granted under this section when it appears that no other course of liquidation will result in a greater and earlier recovery of the indebtedness.

This revision of Part 123 shall become effective upon publication.

Dated: June 28, 1963.

JOHN E. HORNE,
Administrator.

[F.R. Doc. 63-7279; Filed, July 10, 1963; 8:50 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

SUBCHAPTER A—PROCEDURES AND RULES OF PRACTICE

The following revised general procedures and rules of practice of the Federal Trade Commission shall become effective August 1, 1963, provided that in the case of any adjudicative proceeding in which on August 1, 1963, the time prescribed in § 4.19 of the rules published May 16, 1962 (27 F.R. 4609), for the filing of a petition for review of an initial decision has not expired, notice of intention to appeal such initial decision as permitted by § 3.22 of these revised rules may be filed any time prior to August 15, 1963.

PART 1—GENERAL PROCEDURES

Subpart A—The Commission

Subpart B—Initiation of Investigative Proceedings

Subpart C—Informal Enforcement Procedure

Subpart D—Investigations

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ADVISORY OPINIONS

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Subpart F—Rules and Rulemaking

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Subpart H—Administration of the Wool Products Labeling Act, Fur Products Labeling Act, Flammable Fabrics Act and Textile Fiber Products Identification Act

Subpart I—Export Trade Associations

Subpart J—Trademark Cancellation Procedure

Subpart K—Injunctive and Condemnation Proceedings

Subpart L—Cooperation With Other Agencies

Subpart M—Public and Confidential Information

AUTHORITY: §§ 1.1 to 1.134 issued under sec. 6, 38 Stat. 721; 15 U.S.C. 46.

Subpart A—The Commission

§ 1.1 Laws administered.

The Federal Trade Commission exercises responsibilities under the Federal Trade Commission Act of 1914 (15 U.S.C. 41), as amended by Public Law 447, 75th Congress (the Wheeler-Lea Act), Public Law 459, 81st Congress (the Oleomargarine Act), Public Law 542, 82d Congress (the McGuire Act), Public Law 909, 85th Congress, and other public laws; the Clayton Act of 1914 (15 U.S.C. 12), as amended by Public Law 692, 74th Congress (the Robinson-Patman Act), Public Law 899, 81st Congress (the Antimerger Act), Public Law 107, 86th Congress, and other public laws; the Webb-Pomerene Export Trade Act of 1918 (15 U.S.C. 61); the Wool Products Labeling Act of 1939 (15 U.S.C. 68); Public Law 15, 79th Congress (1945), relating to the regulation of the business of insurance (15 U.S.C. 1011); the Lanham Trade-Mark Act of 1946 (15 U.S.C. 1051); the Fur Products Labeling Act of 1951 (15 U.S.C. 69); the Flammable Fabrics Act of 1953 (15 U.S.C. 1191); and the Textile Fiber Products Identification Act of 1958 (15 U.S.C. 70).

§ 1.2 Official address.

The principal office of the Commission is at Washington, D.C. All communications to the Commission should be addressed to the Federal Trade Commission, Pennsylvania Avenue and Sixth Street NW., Washington 25, D.C., unless otherwise specifically directed.

§ 1.3 Field offices.

(a) Field offices are maintained at Washington (Arlington, Virginia), New York, Cleveland, Chicago, San Francisco, Los Angeles, Seattle, New Orleans, Kansas City, Atlanta, and Boston.

(b) Their addresses are: Federal Trade Commission, 958 North Monroe Street, Arlington 1, Virginia; Federal Trade Commission, 30 Church Street, New York 7, New York; Federal Trade Commission, Room 1128, Standard Building, Cleveland 13, Ohio; Federal Trade Commission, Room 1310, 226 West Jackson Boulevard, Chicago 6, Illinois; Federal Trade Commission, Room 306, Pacific Building, San Francisco 3, California; Federal Trade Commission, Room 1212, 215 West Seventh Street, Los Angeles 14, California; Federal Trade Commission, Room 811, U.S. Courthouse, Seattle 4, Washington; Federal Trade Commission, 1000 Masonic Temple Building, 333 St. Charles Street, New Orleans 12, Louisiana; Federal Trade Commission, 2806 Federal Office Building, Kansas City 6, Missouri; Federal Trade Commission, 915 Forsyth Building, 86 Forsyth Street, Atlanta 3, Georgia; Federal Trade Commission, Room 1001, 131 State Street, Boston 9, Massachusetts.

(c) Attorneys in charge are available for conferences with attorneys and other members of the public on matters relating to the Commission's activities.

§ 1.4 Textile and fur offices.

(a) For the limited purpose of administering the Wool, Fur, Textile Products, and Flammable Fabrics Acts, additional offices are located at Charlotte, N.C., Dallas, Denver, Houston, Miami, Philadelphia, Portland, Oregon, and St. Louis.

(b) Their addresses are: Federal Trade Commission, Room 204, 327 North Tryon Street, Charlotte 2, North Carolina; Federal Trade Commission, 405 Thomas Building, 1314 Wood Street, Dallas, Texas; Federal Trade Commission, 936 Equitable Building, 730–17th Street, Denver, Colorado; Federal Trade Commission, Room 10511, U.S. Courthouse & Federal Building, 515 Rusk Avenue, Houston, Texas; Federal Trade Commission, 918 Metropolitan Bank Building, 117 NE. First Avenue, Miami, Florida; Federal Trade Commission, 53 Long Lane, Upper Darby, Pennsylvania; Federal Trade Commission, 231 New Courthouse Building, Portland, Oregon; Federal Trade Commission, Room 1003–C, U.S. Court & Custom House, St. Louis 1, Missouri.

§ 1.5 Hours.

Principal and field offices are open on each business day from 8:30 a.m. to 5:00 p.m.

§ 1.6 Sessions.

(a) The Commission may meet and exercise all its power at any place, and may, by one or more of its members or by such representatives as it may designate, prosecute any inquiry necessary to its duties in any part of the United States.

(b) Sessions of the Commission for hearings will be held as ordered by the Commission. Sessions of the Commission for the purpose of making orders and for transaction of other business will be held, unless otherwise ordered, at the principal office of the Commission at Pennsylvania Avenue and Sixth Street NW., Washington 25, D.C.

§ 1.7 Quorum.

A majority of the members of the Commission constitutes a quorum for the transaction of business.

§ 1.8 Delegation of functions.

The Commission, under the authority provided by Reorganization Plan No. 4 of 1961, may delegate, by published order or rule, certain of its functions to a division of the Commission, an individual Commissioner, a hearing examiner, or an employee or employee board. Delegations of functions by the Commission are published in the FEDERAL REGISTER.

Subpart B—Initiation of Investigative Proceedings

§ 1.11 How initiated.

Commission investigations and inquiries may be originated upon the request of the President, Congress, government agencies, or the Attorney General; upon referrals by the courts; upon complaint by members of the public; or by the Commission upon its own initiative.

§ 1.12 Request for Commission action.

(a) Any individual, partnership, corporation, association or organization may request the Commission to institute a proceeding in respect to any matter over which the Commission has jurisdiction.

(b) Such request should be in the form of a signed statement setting forth the alleged violation of law and the name and address of the person or persons complained of. No forms or formal procedures are required.

(c) The person making the request is not regarded as a party, for the Commission acts only in the public interest and its proceedings are for the purpose of vindicating public, not private, rights.

(d) It always has been and now is Commission policy not to publish or divulge the name of an applicant or complaining party, except as required by law.

§ 1.13 Policy as to private controversies.

The Commission acts only in the public interest, and it does not initiate investigation or take other action when the alleged violation of law is merely a matter of private controversy and does not tend adversely to affect the public.

Subpart C—Informal Enforcement Procedure

§ 1.21 Voluntary compliance.

The Commission, when it has information indicating that a person or persons may be engaging in a practice which may involve violation of a law administered by it, and if it deems the public interest will be fully safeguarded thereby, may afford such person or persons the opportunity to have a matter disposed of on an informal nonadjudicatory basis. In determining whether the public interest will be fully safeguarded through such informal administrative action, the Commission will consider (a) the nature and gravity of the alleged violation; (b) the prior record and good faith of the parties involved; and (c) other factors, including, where appropriate, adequate assurance that the practice has been discontinued and will not be resumed.

Subpart D—Investigations

§ 1.31 Investigational policy.

The Commission encourages voluntary cooperation in its investigations. Where the public interest requires, however, the Commission may, in any matter under investigation, invoke any or all of the compulsory processes authorized by law.

§ 1.32 By whom conducted.

Inquiries and investigations are conducted under the various statutes administered by the Commission by Commission representatives designated and duly authorized for the purpose. Such representatives are "examiners" within the meaning of the Federal Trade Commission Act and are authorized to exercise and perform the duties of their office in accordance with the laws of the United States and the regulations of the Commission. Included among such duties is the administration of oaths and

affirmations in any matter under investigation by the Commission.

§ 1.33 Notification of purpose.

Any person under investigation compelled or requested to furnish information or documentary evidence shall be advised with respect to the purpose and scope of the investigation.

§ 1.34 Subpoenas in investigations.

The Commission or any member thereof may issue a subpoena, directing the person named therein to appear before a designated representative at a designated time and place to testify or to produce documentary evidence, or both, relating to any matter under investigation by the Commission. Any motion to limit or quash such subpoena shall be filed with the Secretary of the Commission within ten (10) days after service of the subpoena, or, if the return date is less than ten (10) days after service of the subpoena, within such other time as the Commission may allow.

§ 1.35 Investigational hearings.

(a) Investigational hearings, as distinguished from hearings in adjudicative proceedings, may be conducted in the course of any investigation undertaken by the Commission, including inquiries initiated for the purpose of determining whether or not a respondent is complying with an order of the Commission or the manner in which decrees in suits brought by the United States under the antitrust acts are being carried out and cases referred by the courts to the Commission as a master in chancery.

(b) Investigational hearings may be held before the Commission, one or more of its members, or a duly designated representative, for the purpose of hearing the testimony of witnesses and receiving documents and other data relating to any subject under investigation. Such hearings shall be stenographically reported and a transcript thereof shall be made a part of the record of the investigation.

§ 1.36 Rights of witnesses in investigations.

(a) Any person compelled to submit data to the Commission or to testify in an investigational hearing shall be entitled to retain or, on payment of lawfully prescribed costs, procure a copy of any document submitted by him and of his own testimony as stenographically reported, except that in a nonpublic hearing the witness may for good cause be limited to inspection of the official transcript of his testimony.

(b) Any witness compelled to appear in person in an investigational hearing may be accompanied, represented and advised by counsel as follows:

(1) Counsel for a witness may advise his client, in confidence, and upon the initiative of either himself or the witness, with respect to any question asked of his client, and if the witness refuses to answer a question, then counsel may briefly state on the record if he has advised his client not to answer the question and the legal grounds for such refusal.

(2) Where it is claimed that the testimony or other evidence sought from a witness is outside the scope of the investigation, or that the witness is privileged (for reasons other than self-incrimination, as to which immunity from prosecution or penalty is provided by section 9 of the Federal Trade Commission Act) to refuse to answer a question or to produce other evidence, counsel for the witness may object on the record to the question or requirement and may state briefly and precisely the grounds therefor.

(3) Any objections made under these rules will be treated as continuing objections and preserved throughout the further course of the hearing without the necessity for repeating them as to any similar line of inquiry. Cumulative objections are unnecessary. Repetition of the grounds for any objection will not be allowed.

(4) Counsel for a witness may not, for any purpose or to any extent not allowed by subparagraphs (1) and (2) of this paragraph, interrupt the examination of the witness by making any objections or statements on the record. Motions challenging the Commission's authority to conduct the investigation or the sufficiency or legality of the subpoena must have been addressed to the Commission in advance of the hearing. Copies of such motions may be filed with the hearing officer as part of the record of the investigation, but no arguments in support thereof will be allowed at the hearing.

(5) Following completion of the examination of a witness, counsel for the witness may on the record request the officer conducting the hearing to permit the witness to clarify any of his answers which may need clarification in order that they may not be left equivocal or incomplete on the record. The granting or denial of such request shall be within the sole discretion of the officer conducting the hearing.

(6) The officer conducting the hearing shall take all necessary action to regulate the course of the hearing to avoid delay and to prevent or restrain disorderly, dilatory, obstructionist, or contumacious conduct. Such officer shall, for reasons stated on the record, immediately report to the Commission any instances where an attorney has refused to comply with his directions, or has been guilty of disorderly, dilatory, obstructionist, or contumacious conduct in the course of the hearing. The Commission, acting pursuant to § 4.1(d) of this chapter, will thereupon take such further action, if any, as the circumstances warrant, including suspension or disbarment of the attorney from further practice before the Commission or exclusion from further participation in the particular investigation.

§ 1.37 Depositions.

The Commission may order testimony to be taken by deposition in any investigation at any stage of such investigation. Such depositions may be taken before any person having power to administer oaths who may be designated by the Commission. The testimony shall be reduced to writing by the person taking the deposition, or under his direction, and shall then be subscribed by the deponent. Any person may be compelled to appear and depose and to produce documentary evidence in the same manner as witnesses may be compelled to appear and testify and produce documentary evidence as provided in §§ 1.34–1.36.

§ 1.38 Orders requiring access.

The Commission may issue an order requiring any corporation being investigated to grant access to files for the purpose of examination and the right to copy any documentary evidence. Any motion to limit or quash such an order shall be filed with the Secretary of the Commission within ten (10) days after service of the order, or, if the date for compliance is less than ten (10) days after service of the order, within such other time as the Commission may allow.

§ 1.39 Reports.

The Commission may issue an order requiring a corporation to file a report or answers in writing to specific questions relating to any matter under investigation.

§ 1.40 Noncompliance with investigational processes.

In cases of failure to comply with Commission investigational processes, appropriate action may be initiated by the Commission or the Attorney General, including actions for enforcement, forfeiture or penalties or criminal actions.

§ 1.41 Nonpublic proceedings.

Unless otherwise ordered by the Commission, investigatory proceedings shall not be public.

§ 1.42 Disposition.

When a matter is not subject to informal nonadjudicative disposition pursuant to § 1.21 and investigation indicates that corrective action is warranted, formal proceedings may be instituted pursuant to the provisions of parts 2 and 3 of the rules of practice: *Provided, however,* That any individual, partnership or corporation being investigated may be afforded an opportunity to submit through the Division of Consent Orders a proposal for disposition of the matter in the form of an executed consent order agreement complying with the requirements of § 2.3 of this chapter, for consideration by the Commission in connection with a proposed complaint submitted simultaneously by the Commission's staff. When the facts disclosed by an investigation indicate that corrective action is not necessary or warranted in the public interest, the investigational file will be closed.

Subpart E—Industry Guidance

Advisory Opinions

§ 1.51 Policy.

Any person, partnership or corporation may request advice from the Commission as to whether a proposed course of action, if pursued by the requesting party, may violate any of the laws administered by the Commission. It is the Commission's policy to consider requests

for such advice and, where practicable, to inform the requesting party of the Commission's views: *Provided, however,* That a request will be considered inappropriate for such advice: (a) Where the course of action is already being followed by the requesting party; (b) where the same or substantially the same course of action is under investigation or is the subject of a current proceeding by the Commission against the requesting party; (c) where the same or substantially the same course of action is under investigation or is or has been the subject of a proceeding, order or decree initiated or obtained by another government agency against the requesting party; or (d) where the proposed course of action is such that an informed decision thereon could be made only after extensive investigation, clinical study, testing or collateral inquiry.

§ 1.52 Procedure.

The request for advice should be submitted in writing to the Secretary of the Commission and should include full and complete information regarding the proposed course of action. Conferences with members of the Commission's staff may be held before or after submittal of the request. Submittals of additional information may be required. The original submittal should affirmatively show that the proposed course of action is not currently being followed by the requesting party and is not the subject of a pending investigation or other proceeding by the Commission or any other government agency against such party. If the request is for advice as to whether the proposed course of action may violate an outstanding order to cease and desist issued by the Commission, such request will be considered as provided for in § 3.26.

§ 1.53 Advice.

(a) On the basis of the facts submitted, as well as other information available to the Commission, and if practicable, the Commission will inform the requesting party whether or not the proposed course of action, if pursued, would probably violate any of the laws administered by the Commission.

(b) Any advice given is without prejudice to the right of the Commission to reconsider the questions involved and, where the public interest requires, to rescind or revoke the advice. Notice of such rescission or revocation will be given to the requesting party so that he may discontinue the course of action taken pursuant to the Commission's advice. The Commission will not proceed against the requesting party with respect to any action taken in good faith reliance upon the Commission's advice under this section, where all relevant facts were fully, completely and accurately presented to the Commission and where such action was promptly discontinued upon notification of rescission or revocation of the Commission's approval.

§ 1.54 Publication.

Texts or digests of advisory opinions of general interest will be published by the Commission, subject to statutory restrictions against disclosure of trade secrets and names of customers and to considerations of the confidentiality of facts involved and of meritorious objections made by the requesting party to such publication.

GUIDES

§ 1.55 Purpose.

Guides are administrative interpretations of laws administered by the Commission for the use of the Commission's staff and guidance of businessmen in evaluating certain types of practices. An unlawful practice common to many industries may be the subject of guides or they may relate to specific practices of a particular industry.

§ 1.56 How promulgated.

Guides are promulgated by the Commission on its own initiative or upon application therefor by any interested person, when it appears to the Commission that guidance as to the legal requirements applicable to particular practices would be beneficial in the public interest and would serve to bring about more widespread and equitable observance of laws administered by it.

Subpart F—Rules and Rulemaking

§ 1.61 Scope of the rules on this subject.

These rules apply to and govern procedure for the promulgation of trade practice rules, trade regulation rules, quantity limit rules, and rules authorized under the Wool Products Labeling Act of 1939, the Fur Products Labeling Act, the Flammable Fabrics Act and the Textile Fiber Products Identification Act. They do not apply to the promulgation of guides, general statements of policy, or rules of agency organization, procedure or practice.

§ 1.62 Trade practice rules.

Trade practice rules are designed to eliminate and prevent, on a voluntary and industrywide basis, trade practices which are violative of laws administered by the Commission. The rules interpret and inform businessmen of legal requirements applicable to the practices of a particular industry and provide the basis for voluntary and simultaneous abandonment of unlawful practices by industry members. Failure to comply with such rules may result in corrective action by the Commission under applicable statuatory provisions.

§ 1.63 Trade regulation rules.

(a) *Nature and authority.* For the purpose of carrying out the provisions of the statutes administered by it, the Commission is empowered to promulgate rules and regulations applicable to unlawful trade practices. Such rules and regulations (hereinafter called "trade regulation rules") express the experience and judgment of the Commission, based on facts of which it has knowledge derived from studies, reports, investigations, hearings, and other proceedings, or within official notice, concerning the substantive requirements of the statutes which it administers.

(b) *Scope.* Trade regulation rules may cover all applications of a particular statutory provision and may be nationwide in effect, or they may be limited to particular areas or industries or to particular product or geographic markets, as may be appropriate.

(c) *Use of rules in adjudicative proceedings.* Where a trade regulation rule is relevant to any issue involved in an adjudicative proceeding thereafter instituted, the Commission may rely upon the rule to resolve such issue, provided that the respondent shall have been given a fair hearing on the legality and propriety of applying the rule to the particular case.

§ 1.64 Quantity limit rules.

Quantity limit rules are authorized by section 2(a) of the Clayton Act, as amended by the Robinson-Patman Act. These rules have the force and effect of law.

§ 1.65 Rules applicable to wool, fur, flammable fabrics and textile fiber products.

Rules having the force and effect of law are authorized under section 6 of the Wool Products Labeling Act of 1939, section 8 of the Fur Products Labeling Act, section 5 of the Flammable Fabrics Act, and section 7 of the Textile Fiber Products Identification Act.

§ 1.66 Initiation of proceedings—petitions.

Rulemaking proceedings may be commenced by the Commission upon its own initiative or pursuant to petition therefor filed with the Secretary by any interested person or group. Procedures for the amendment or repeal of a rule are the same as for the issuance thereof.

§ 1.67 Procedure.

(a) *Investigations and conferences.* In connection with any rulemaking proceeding, the Commission at any time may conduct such investigations, make such studies, and hold such conferences as it may deem necessary. All or any part of any such investigation may be conducted under the provisions of Subpart D of Part 1 of these rules.

(b) *Notice.* General notice of proposed rulemaking will be published in the FEDERAL REGISTER and, to the extent practicable, otherwise made available to interested persons. Such notice will include (1) a statement of the time, place and nature of the public proceedings; (2) reference to the authority under which the rule is proposed; and (3) either the terms or substance of the proposed rule or a description of the subjects and issues involved.

(c) *Participation by interested persons—(1) Submission of written data, views or arguments.* In all rulemaking proceedings the Commission will afford interested persons an opportunity to participate in the proceeding through the submission of written data, views or arguments.

(2) *Oral hearings.* Oral hearing on a proposed rule may be held within the discretion of the Commission. Any such hearing will be conducted by the Commission, a member thereof, or a member of the Commission's staff. At the hearing interested persons may appear and

express their views as to the proposed rule and may suggest such amendments, revisions and additions thereto as they may consider desirable and appropriate. The presiding officer may impose reasonable limitations upon the length of time allotted to any person; if by reason of the limitations imposed the person cannot complete the presentation of his suggestions, he may within twenty-four (24) hours, file a written statement covering those relevant matters which he did not orally present. A transcript of the hearing shall be made and shall constitute a part of the record of the proceeding.

(d) *Promulgation of rules.* The Commission, after consideration of all relevant matters of fact, law, policy and discretion, including all relevant matters presented by interested persons in the proceeding, may adopt and publish in the FEDERAL REGISTER an appropriate rule, together with a concise general statement of its basis and purpose and any necessary findings.

(e) *Effective date of rules.* The effective date of any rule, or of the amendment, suspension or repeal of any rule will be specified in the notice published in the FEDERAL REGISTER, which date will be not less than thirty (30) days after the date of such publication except as otherwise provided by the Commission upon good cause found and published with the rule.

Subpart G—Economic Surveys, Investigations and Reports

§ 1.71 Authority and purpose.

General and special economic surveys, investigations and reports are made by the Bureau of Economics under the authority of the various laws which the Federal Trade Commission administers. The Commission may in any such survey or investigation invoke any or all of the compulsory processes authorized by law.

Subpart H—Administration of the Wool Products Labeling Act, Fur Products Labeling Act, Flammable Fabrics Act, and Textile Fiber Products Identification Act

§ 1.81 Administration.

The general administration of the Wool Products Labeling Act, Fur Products Labeling Act, Flammable Fabrics Act, and Textile Fiber Products Identification Act, and of the respective rules and regulations thereunder is carried out by the Bureau of Textiles and Furs. Any interested person may obtain copies of the several acts and rules and regulations upon request to the Secretary of the Commission.

§ 1.82 Registered identification numbers.

Registered identification numbers are issued by the Commission under the provisions of Rule 4 of the rules and regulations under the Wool Products Labeling Act (§ 300.4 of this chapter); Rule 26 of the rules and regulations under the Fur Products Labeling Act (§ 301.26 of this chapter); and Rule 20 of the rules and regulations under the Textile Fiber Products Identification Act (§ 303.20 of this chapter). Such numbers are for use as and in lieu of the name of the holder of the number in satisfying the name requirement in labeling under the respective Acts. Any person marketing wool or other textile fiber products, fur or fur products, in commerce may file an application with the Secretary of the Commission for issuance of a registered identification number. The Commission will furnish application forms upon request. Numbers are issued when, upon examination of the application, the applicant is found to come within the terms of the applicable rules and regulations. Numbers are subject to revocation for cause or upon a change in business status or discontinuance of business. The identity of holders of registered identification numbers issued by the Commission is confidential.

§ 1.83 Continuing guaranties.

Continuing guaranties may be filed with the Commission under section 9 of the Wool Products Labeling Act and Rule 33 of the rules and regulations thereunder (§ 300.33 of this chapter); section 10 of the Fur Products Labeling Act and Rule 48 of the rules and regulations thereunder (§ 301.48 of this chapter); section 8 of the Flammable Fabrics Act and Rule 10 of the rules and regulations thereunder (§ 302.10 of this chapter); and section 10 of the Textile Fiber Products Identification Act and Rule 38 of the rules and regulations thereunder (§ 303.38 of this chapter). Upon receipt of continuing guaranties duly executed according to form and substance as prescribed in the applicable rules and regulations, they are filed and made of public record. Necessary forms may be obtained from the Commission upon request.

§ 1.84 Inspections and counseling.

The Commission maintains a staff to carry on compliance inspection and industry counseling work among manufacturers and marketers of wool or other textile fiber products, fur or fur products, as well as articles of wearing apparel and fabrics subject to the provisions of the Flammable Fabrics Act. Administrative action to effect correction of minor infractions on a voluntary basis is taken in those cases where such procedure is believed adequate to effect immediate compliance and protect the public interest. Where inspections reveal violations of a major nature, appropriate corrective action will be taken.

Subpart I—Export Trade Associations

§ 1.91 Limited antitrust exemption.

The Webb-Pomerene Export Trade Act authorizes the organization and operation of export trade associations, and extends to them certain limited exemptions from the Sherman Act and the Clayton Act. It also extends the jurisdiction of the Commission under the Federal Trade Commission Act to unfair methods of competition used in export trade against competitors engaged in export trade, even though the acts constituting such unfair methods are done without the territorial jurisdiction of the United States.

§ 1.92 Notice to Commission.

To obtain the exemptions afforded by the Act, an export trade association is required to file with the Commission, within thirty (30) days after its creation, a verified written statement setting forth the location of its offices and places of business, names and addresses of its officers, stockholders or members, and copies of its documents of incorporation or association. On the first day of January of each year thereafter, each association must file a like statement and, when required by the Commission to do so must furnish to the Commission detailed information as to its organization, business, conduct, practices, management, and relation to other associations, corporations, partnerships, and individuals.

§ 1.93 Recommendations.

Whenever the Commission has reason to believe that an association has violated the prohibitions of section 2 of the Act, it may conduct an investigation. If, after investigation, it concludes that the law has been violated, it may make to such association recommendations for the readjustment of its business. If the association fails to comply with the recommendations, the Commission will refer its findings and recommendations to the Attorney General for appropriate action.

Subpart J—Trademark Cancellation Procedure

§ 1.101 Applications.

Applications for the institution of proceedings for the cancellation of registration of trade, service, or certification marks under the Trade-Mark Act of 1946 may be filed with the Secretary of the Commission. Such applications shall be in writing, signed by or in behalf of the applicant, and should identify the registration concerned and contain a short and simple statement of the facts constituting the alleged basis for cancellation, the name and address of the applicant, together with all relevant and available information. If, after consideration of the matter, the Commission concludes that application for cancellation of the mark is appropriate, it will institute a proceeding before the Commissioner of Patents for cancellation of the registration.

Subpart K—Injunctive and Condemnation Proceedings

§ 1.111 Injunctions pending Commission action.

In those cases arising under section 12 of the Federal Trade Commission Act where the Commission has reason to believe that it would be to the interest of the public, the Commission will apply to the courts for injunctive relief, pursuant to the authority granted in section 13 of the Act.

§ 1.112 Ancillary court orders pending review.

Where petition for review of an order to cease and desist has been filed in a United States court of appeals, the Com-

mission may apply to the court for issuance of such writs as are ancillary to its jurisdiction or are necessary in its judgment to prevent injury to the public or to competitors pendente lite.

§ 1.113 Injunctions: Wool, Fur, Textile and Flammable Fabrics cases.

In those cases arising under the Wool Products Labeling Act, Fur Products Labeling Act, Flammable Fabrics Act, and Textile Fiber Products Identification Act, where it appears to the Commission that it would be to the public interest for it to do so, the Commission will apply to the courts for injunctive relief, pursuant to the authority granted in such Acts.

§ 1.114 Condemnation proceedings.

In those cases arising under the Wool Products Labeling Act, Fur Products Labeling Act and especially the Flammable Fabrics Act where the public may be endangered, and where it appears to the Commission that the public interest requires such action, the Commission will apply to the courts for condemnation, pursuant to the authority granted in such Acts.

Subpart L—Cooperation With Other Agencies

§ 1.121 General policy.

It is the policy of the Commission to cooperate with other governmental agencies to avoid unnecessary overlapping or duplication of regulatory functions.

Subpart M—Public and Confidential Information

§ 1.131 Requests.

All written requests for information should be addressed to the Commission at its principal office.

Where the request is for materials of which copies are not available and photostating or reproduction by other means is required, such service will be provided upon payment of the costs involved.

§ 1.132 Public information.

Information in the following classes is public and may be obtained as indicated:

(a) Annually, subsequent to the end of the fiscal year, the Commission makes a report to Congress summarizing its work during the year. Such reports are available for inspection at the Commission and Government depositories, and copies thereof may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington 25, D.C.

(b) The Commission's rules of practice and procedure and a description of its organization and policies are published in the FEDERAL REGISTER. Copies thereof may be obtained from the Commission upon request to the Secretary.

(c) The decisions of the Commission in adjudicative proceedings and in proceedings disposed of by the entry of consent orders to cease and desist and texts or digests of selected advisory opinions are published periodically in official reports under the title "Federal Trade Commission Decisions."

(d) Rules issued under the Wool Products Labeling Act, the Fur Products Labeling Act, the Flammable Fabrics Act, and the Textile Fiber Products Identification Act; quantity limit rules issued under section 2(a) of the Clayton Act, as amended by the Robinson-Patman Act; trade practice conference rules, trade regulation rules, industry guides, texts or digests of selected advisory opinions and other administrative interpretations are published in the FEDERAL REGISTER. Copies thereof may be obtained upon request to the Secretary of the Commission.

(e) The pleadings, transcript of testimony, exhibits and all documents received in evidence or made a part of the record in adjudicative proceedings (except evidence received in camera); petitions for the issuance, amendment or repeal of rules and regulations under the Wool, Fur, Textile and Flammable Fabrics Acts, including petitions for exemptions; records of hearings in all rulemaking proceedings; continuing guaranties filed under the Wool, Fur, Textile and Flammable Fabrics Acts; agreements containing orders to cease and desist after acceptance by the Commission; and informal stipulations entered into prior to November 1, 1961, are available at the principal office of the Commission for inspection and copying at reasonable times. Where copies of such materials are desired, § 1.131 applies.

(f) Reports of compliance, describing the manner and form in which respondents allege they have complied with the Commission's orders to cease and desist, are available at the principal office of the Commission for inspection and copying at reasonable times, unless at the time a report of compliance was filed the respondent requested that it be classified as confidential, showing justification therefor, and the Commission, with due regard to statutory restrictions, its rules and the public interest, granted the request.

(g) Additional information concerning the activities of the Commission is released from time to time through the Commission's Office of Information.

§ 1.133 Confidential information.

(a) The records and files of the Commission, and all documents, memoranda, correspondence, exhibits, and information of whatever nature, other than the documentary matters described in § 1.132, coming into the possession or within the knowledge of the Commission or any of its officers or employees in the discharge of their official duties, are confidential. Except to the extent that the disclosure of such material or information is specifically authorized by the Commission or to the extent that its use may become necessary in connection with adjudicative proceedings, they may be disclosed, divulged, or produced for inspection or copying only under the procedure set forth in § 1.134.

(b) Under section 10 of the Federal Trade Commission Act, any officer or employee of the Commission who shall make public any information obtained by the Commission without its authority, unless directed by a court, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not exceeding five thousand ($5,000) dollars, or by imprisonment not exceeding one year, or by fine and imprisonment, in the discretion of the court.

§ 1.134 Release of confidential information.

(a) Upon good cause shown, the Commission may by order direct that certain records, files, papers, or information be made public or disclosed to a particular applicant.

(b) Application by a member of the public for such disclosure shall be in writing, under oath, setting forth the interest of the applicant in the subject matter; a description of the specific information, files, documents, or other material, inspection of which is requested; whether copies are desired; and the purpose for which the information or material, or copies, will be used if the application is granted. Upon receipt of such an application the Commission will take action thereon, having due regard to statutory restrictions, its rules, and the public interest.

(c) In the event that confidential material is desired for inspection, copying, or use by an agency of the Federal or a State Government, a request therefor may be made by the administrative head of the agency. Such request shall be in writing, and shall describe the information or material desired, its relevancy to the work and function of the agency and, if the production of documents or records or the taking of copies thereof is asked, the use which is intended to be made of them. The Commission will consider and act upon such requests, having due regard to statutory restrictions, its rules, and the public interest.

(d) Any officer or employee who is served with a subpoena requiring the production of any document or records or the disclosure of any information which is designated in § 1.133 as confidential shall promptly advise the Commission of the service of such subpoena, the nature of the documents or information sought, and all relevant facts and circumstances. The Commission will thereupon enter such order or give such instructions as it shall deem advisable. If the officer or employee so served has not received instructions from the Commission prior to the return date of the subpoena, he shall appear in court and respectfully decline to produce the documents or records or to disclose the information called for, basing his refusal upon this rule.

PART 2—CONSENT ORDER PROCEDURE

Sec.
2.1 Notice of proposed adjudicative proceeding.
2.2 Reply.
2.3 Agreement.
2.4 Disposition.

AUTHORITY: §§ 2.1 to 2.4 issued under sec. 6, 38 Stat. 721; 15 U.S.C. 46.

§ 2.1 Notice of proposed adjudicative proceeding.

Where time, the nature of the proceeding and the public interest permit, the Commission may notify a person, partnership or corporation of its determina-

tion to institute a formal proceeding against such party, charging him with having violated one or more of the statutes administered by the Commission. Such notice shall be served in the manner provided in § 4.4(a) of this chapter, and shall be accompanied by a form of complaint which the Commission intends to issue, together with a proposed form of order.

§ 2.2 Reply.

(a) Within ten (10) days after service of such notice, the party named in the proposed complaint may file with the Secretary of the Commission a reply stating whether or not he is interested in having the proceeding disposed of by the entry of a consent order.

(b) If the reply is in the negative or if no reply is filed within the time provided, the complaint will be issued and served forthwith.

(c) If the reply is in the affirmative, the party served will be afforded an opportunity to execute an appropriate agreement for consideration by the Commission. The party may appear personally or he may be represented by counsel who has entered an appearance under § 4.1 of this chapter.

§ 2.3 Agreement.

Every agreement shall contain, in addition to an appropriate order, an admission of all jurisdictional facts and express waivers of further procedural steps, of the requirement that the Commission's decision contain a statement of findings of fact and conclusions of law, and of all rights to seek judicial review or otherwise to challenge or contest the validity of the order. The agreement shall also contain provisions that the complaint may be used in construing the terms of the order; that the order shall have the same force and effect and shall become final and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders; and that the agreement shall not become a part of the official record of the proceeding unless and until it is accepted by the Commission. In addition, the agreement may contain a statement that the signing thereof is for settlement purposes only and does not constitute an admission by any pary that the law has been violated as alleged in the complaint.

§ 2.4 Disposition.

(a) Within thirty (30) days after the filing of an affirmative reply under § 2.2, an executed agreement conforming with the requirements of § 2.3 may be submitted to the Commission through the Division of Consent Orders.

(b) Upon receiving such an agreement, the Commission may (1) accept it and issue its complaint (in such form as the circumstances require), and decision, including the order agreed upon; (2) reject it and issue its complaint and set the matter down for adjudication in regular course; or (3) take such other action as it may deem appropriate.

(c) If an agreement is not so submitted, or if at any time it appears to the Division of Consent Orders that the execution of a satisfactory agreement is unlikely, the Division of Consent Orders, after notification to the proposed respondents of its intention to do so, shall submit the matter to the Commission, together with any written offers of settlement which the proposed respondents desire to have the Commission consider. The Commission will thereupon take such action as may be appropriate.

(d) After a complaint has been issued, the consent order procedure described in this part of the rules will not be available. This, however, will not preclude a settlement of the case by regular adjudicatory processes through the filing of an admission answer or submission of the case to the hearing examiner on a stipulation of facts and an agreed order.

PART 3—RULES OF PRACTICE FOR ADJUDICATIVE PROCEEDINGS

Subpart A—Scope of Rules; Nature of Adjudicative Proceedings

Sec.
3.1 Scope of the rules in this part.
3.2 Nature of adjudicative proceedings.

Subpart B—Complaint, Answer, Default, and Motions

3.3 Commencement of proceeding.
3.4 Complaint.
3.5 Answer.
3.6 Motions.

Subpart C—Amendments and Supplemental Pleadings; Prehearing Procedure; Voluntary Intervention

3.7 Amendments and supplemental pleadings.
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Subpart D—Depositions; Production of Documents; Admissions

3.10 Depositions.
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3.15 Presiding officials.
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Subpart G—Decision

3.21 Initial decision.
3.22 Appeal from initial decision.
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Subpart H—Reopening of Proceedings

3.27 Authority.
3.28 Reopening.

AUTHORITY: §§ 3.1 to 3.28 issued under sec. 6, 38 Stat. 721; 15 U.S.C. 46.

Subpart A—Scope of Rules; Nature of Adjudicative Proceedings

§ 3.1 Scope of the rules in this part.

The rules in this part govern procedure in adjudicative proceedings. It is the policy of the Commission that, to the extent practicable and consistent with requirements of law, such proceedings shall be conducted expeditiously. In the conduct of such proceedings the hearing examiner and counsel for all parties shall make every effort at each stage of a proceeding to avoid delay.

§ 3.2 Nature of adjudicative proceedings.

Adjudicative proceedings are those formal proceedings conducted under one or more of the statutes administered by the Commission which are required by statute to be determined on the record after opportunity for an agency hearing. The term does not include other proceedings such as negotiations for the entry of consent orders; investigational hearings as distinguished from proceedings after the issuance of a complaint; hearings for the purpose of inquiring into the manner and extent of compliance with outstanding orders; proceedings for the promulgation of trade regulation rules or trade practice rules; proceedings for fixing quantity limits under section 2(a) of the Clayton Act; investigations under section 5 of the Export Trade Act; or the promulgation of substantive rules and regulations, determinations of classes of products exempted from statutory requirements, the establishment of name guides, or inspections and industry counseling, under sections 4(d) and 6(a) of the Wool Products Labeling Act, sections 7, 8(b) and 8(c) of the Fur Products Labeling Act, section 5(c) and 5(d) of the Flammable Fabrics Act, and sections 7(c), 7(d) and 12(b) of the Textile Fiber Products Identification Act.

Subpart B—Complaint, Answer, Default, and Motions

§ 3.3 Commencement of proceeding.

An adjudicative proceeding is commenced by the issuance and service of a complaint by the Commission.

§ 3.4 Complaint.

(a) *Form.* The Commission's complaint shall contain the following:

(1) Recital of the legal authority and jurisdiction for institution of the proceeding, with specific designation of the statutory provisions alleged to have been violated;

(2) A clear and concise factual statement sufficient to inform each respondent with reasonable definiteness of the type of acts or practices alleged to be in violation of the law;

(3) Where practical, a form of order which the Commission has reason to believe should issue if the facts are found to be as alleged in the complaint.

(4) Notice of the time and place for hearing, the time to be at least thirty (30) days after service of the complaint.

(b) *Motion for more definite statement.* Where a reasonable showing is made by a respondent that he cannot frame a responsive answer to a complaint based on the allegations contained in the complaint, he may move for a more definite statement of the charges against him before filing an answer. Such a motion shall be filed within ten (10) days after service of the complaint and shall

point out the defects complained of and the details desired.

§ 3.5 Answer.

(a) *Time for filing.* A respondent shall have thirty (30) days after service of the complaint within which to file an answer thereto; provided, however, that the filing of a motion for a more definite statement of the charges shall alter this period of time as follows, unless a different time is fixed by the hearing examiner: (1) If the motion is denied, the answer shall be filed within ten (10) days after service of the order of denial or thirty (30) days after service of the complaint, whichever is later; (2) if the motion is granted, in whole or in part, the more definite statement of the charges shall be filed within ten (10) days after service of the order granting the motion and the answer shall be filed within ten (10) days after service of the more definite statement of the charges.

(b) *Content of answer.* An answer shall conform to the following:

(1) *If allegations of complaint are contested.* An answer in which the allegations of a complaint are contested shall contain:

(i) A concise statement of the facts constituting each ground of defense;

(ii) Specific admission, denial, or explanation of each fact alleged in the complaint or, if the respondent is without knowledge thereof, a statement to that effect. Allegations of a complaint not thus answered shall be deemed to have been admitted.

(2) *If allegations of complaint are admitted.* If the respondent elects not to contest the allegations of fact set forth in the complaint, his answer shall consist of a statement that he admits all of the material allegations to be true. Such an answer shall constitute a waiver of hearings as to the facts alleged in the complaint, and together with the complaint will provide a record basis on which the hearing examiner shall file an initial decision containing appropriate findings and conclusions and an appropriate order disposing of the proceeding. In such an answer, the respondent may, however, reserve the right to submit proposed findings and conclusions and the right to appeal the initial decision to the Commission under § 3.22.

(c) *Default.* Failure of the respondent to file an answer within the time provided shall be deemed to constitute a waiver of his right to appear and contest the allegations of the complaint and to authorize the hearing examiner, without further notice to the respondent, to find the facts to be as alleged in the complaint and to enter an initial decision containing such findings, appropriate conclusions and order.

§ 3.6 Motions.

(a) *Presentation and disposition.* During the time a proceeding is before a hearing examiner, all motions therein, except those filed under § 3.15(g), shall be addressed to the hearing examiner, and if within his authority shall be ruled upon by him. Any motion upon which the hearing examiner has no authority to rule shall be certified by him to the Commission with his recommendation. All written motions shall be filed with the Secretary of the Commission and all motions addressed to the Commission shall be in writing.

(b) *Content.* All written motions shall state the particular order, ruling, or action desired and the grounds therefor.

(c) *Answers.* Within ten (10) days after service of any written motion, or within such longer or shorter time as may be designated by the hearing examiner or the Commission, the opposing party shall answer or shall be deemed to have consented to the granting of the relief asked for in the motion. The moving party shall have no right to reply, except as permitted by the hearing examiner or the Commission.

(d) *Motions for extensions.* As a matter of discretion, the hearing examiner or the Commission may waive the requirements of this section as to motions for extensions of time, and may rule upon such motions ex parte.

(e) *Rulings on motions for dismissal.* When a motion to dismiss a complaint or for other relief is granted with the result that the proceeding before the hearing examiner is terminated, the hearing examiner shall file an initial decision in accordance with the provisions of § 3.21. If such a motion is granted as to all charges of the complaint in regard to some, but not all, of the respondents, or is granted as to any part of the charges in regard to any or all of the respondents, the hearing examiner shall enter his ruling on the record and take it into account in his initial decision. When a motion to dismiss is made at the close of the evidence offered in support of the complaint based upon an alleged failure to establish a prima facie case, the hearing examiner may, if he so elects, defer ruling thereon until the close of the case for the reception of evidence.

Subpart C—Amendments and Supplemental Pleadings; Prehearing Procedure; Voluntary Intervention

§ 3.7 Amendments and supplemental pleadings.

(a) *Amendments*—(1) *By leave.* If and whenever determination of a controversy on the merits will be facilitated thereby, the hearing examiner may, upon such conditions as are necessary to avoid prejudicing the public interest and the rights of the parties, allow appropriate amendments to pleadings; provided, however, that a motion for amendment of a complaint may be allowed by the hearing examiner only if the amendment is reasonably within the scope of the proceeding initiated by the original complaint. Motions for other amendments of complaints shall be certified to the Commission.

(2) *Conformance to evidence.* When issues not raised by the pleadings but reasonably within the scope of the proceeding initiated by the original complaint are tried by express or implied consent of the parties, they shall be treated in all respects as if they had been raised in the pleadings; and such amendments of the pleadings as may be necessary to make them conform to the evidence and to raise such issues shall be allowed at any time.

(b) *Supplemental pleadings.* The hearing examiner may, upon reasonable notice and such terms as are just, permit service of a supplemental pleading setting forth transactions, occurrences, or events which have happened since the date of the pleading sought to be supplemented and which are relevant to any of the issues involved.

§ 3.8 Prehearing conferences.

(a) The hearing examiner in any case may, and upon motion of any party or where it appears probable that the hearing will extend for more than five (5) days, he shall, direct counsel for all parties to meet with him for a conference to consider any or all of the following:

(1) Simplification and clarification of the issues;

(2) Necessity or desirability of amendments to pleadings, subject, however, to the provisions of § 3.7(a)(1);

(3) Stipulations, admissions of fact and of the contents and authenticity of documents;

(4) Expedition in the presentation of evidence, including, but not limited to, restriction of the number of expert, economic or technical witnesses;

(5) Matters of which official notice will be taken; and

(6) Such other matters as may aid in the orderly disposition of the proceeding, including disclosure of the names of witnesses and of documents or other physical exhibits which will be introduced in evidence in the course of the proceeding.

(b) Prehearing conferences, in the discretion of the hearing examiner, need not be stenographically reported as provided in § 3.16(e), and whether reported or not shall not be public unless all parties so agree.

(c) The hearing examiner shall enter in the record an order which recites the results of the conference. Such order shall include the examiner's rulings upon matters considered at the conference, together with appropriate directions to the parties. The examiner's order shall control the subsequent course of the proceedings, unless modified at the hearing to prevent manifest injustice.

§ 3.9 Voluntary intervention.

(a) Any individual, partnership, unincorporated association, or corporation desiring to intervene in an adjudicative proceeding shall make written application in the form of a motion setting forth the basis therefor. Such application shall have attached to it a certificate showing service thereof upon each party to the proceeding in accordance with the provisions of § 4.4(b) of this chapter. A similar certificate shall be attached to the answer filed by any party, other than counsel in support of the complaint, showing service of such answer upon the applicant.

(b) The hearing examiner or the Commission may by order permit the intervention to such extent and upon such terms as are provided by law or as otherwise may be deemed proper.

Subpart D—Depositions; Production of Documents; Admissions

§ 3.10 Depositions.

(a) At any time during the course of a proceeding, whether or not issue has been joined, the hearing examiner, in his discretion, may order that the testimony of a witness be taken by deposition and that the witness produce documentary evidence in connection with his testimony. Such order may be entered upon a showing that the deposition will constitute or contain evidence relevant to the subject matter involved and that the taking of the deposition will not result in any undue burden to any other party or in any undue delay of the proceeding. Depositions may be taken orally or upon written interrogatories and cross-interrogatories before any person having power to administer oaths who may be designated by the hearing examiner.

(b) Any party desiring to take the deposition of a witness shall make application in writing to the hearing examiner, setting forth the justification therefor; the time when, the place where, and the name and post office address of the person before whom the deposition is desired; the name and post office address of each witness, and the subject matter concerning which each witness is expected to testify.

(c) Such written notice as the hearing examiner may provide shall be given of the taking of a deposition. This shall not be less than five (5) days when the deposition is to be taken within the United States, and not less than fifteen (15) days when the deposition is to be taken elsewhere.

(d) After notice is served for taking a deposition, upon motion seasonably made by any party or by the person to be examined and upon notice and for good cause shown, the examiner may enter an order that the deposition shall not be taken, or that it may be taken only at some designated place other than that stated in the notice, or that it may be taken only on written interrogatories, or that certain matters shall not be inquired into, or that the scope of the examination shall be limited to certain matters, or that the examination shall be held with no one present except the parties to the action and their officers or counsel, or that trade secrets or names of customers need not be disclosed; or the examiner may make any other order which justice requires to protect the party or deponent from annoyance, embarrassment, or oppression, or to prevent the unnecessary disclosure or publication of information, contrary to the public interest and beyond the requirements of justice in the particular proceeding.

(e) Each witness testifying upon deposition shall be duly sworn, and the adverse party shall have the right to cross-examine. Objections to questions or documents shall be in short form, stating the grounds of objection relied upon. The questions propounded and the answers thereto, together with all objections made (but not including argument or debate), shall be reduced to writing and read to or by the witness, subscribed by him, and certified by the officer before whom the deposition was taken. Thereafter, the officer shall forward the deposition, with three (3) copies thereof, in an envelope under seal, endorsed with the title of the proceeding, to the hearing examiner. Subject to appropriate rulings on such objections to the questions and answers as were noted at the time the deposition was taken or as would be valid were the witness personally present and testifying, the deposition or any part thereof may be read in evidence by the party taking it as against any party who was present or represented at the taking of the deposition or who had due notice thereof, in accordance with any one of the following provisions:

(1) Any deposition may be used by any party for the purpose of contradicting or impeaching the testimony of deponent as a witness.

(2) The deposition of a witness, whether or not a party, may be used by any party for any purpose if the examiner finds: (i) that the witness is dead; or (ii) that the witness is at a greater distance than 100 miles from the place of hearing, or is out of the United States, unless it appears that the absence of the witness was procured by the party offering the deposition; or (iii) that the witness is unable to attend or testify because of age, sickness, infirmity, or imprisonment; or (iv) that the party offering the deposition has been unable to procure the attendance of the witness by subpoena; or (v) that such exceptional circumstances exist as to make it desirable, in the interest of justice and with due regard to the importance of presenting the testimony of witnesses orally in open hearing, to allow the deposition to be used.

§ 3.11 Production of documents.

Upon motion of any party showing good cause therefor and upon such notice as the hearing examiner may provide, the hearing examiner may order any party to produce and permit the inspection and copying of nonprivileged documents, papers, books, or other physical exhibits which constitute or contain evidence relevant to the subject matter involved and which are in the possession, custody, or control of such party. The order shall specify the time, place, and manner of making the inspection and taking the copy and may prescribe such terms and conditions as the circumstances require.

§ 3.12 Refusals to comply with hearing examiner's directions.

If any witness whose deposition has been ordered under § 3.10 refuses to be sworn or refuses to answer any question after being directed to do so by the hearing examiner, or if any party fails to comply with an order of the examiner for the production of documents or other physical evidence under § 3.11, or with a prehearing order entered under § 3.8 (c), such refusal or failure may be considered a contempt of the Commission. The circumstances of such refusal or failure, together with a recommendation for appropriate action, shall promptly be certified by the examiner to the Commission. The Commission will thereafter make such orders in regard to the refusal or failure to comply as the circumstances require.

§ 3.13 Admissions as to facts and documents.

(a) At any time after answer has been filed, any party may serve upon any other party a written request for the admission of the genuineness of any relevant documents described therein, or the admission of the truth of any relevant matters of fact set forth in such documents. Copy of any such request shall be filed with the Secretary of the Commission. Copies of the documents described shall be delivered with the request unless copies have already been furnished or are known to be and in the request are stated as being in the possession of the other party.

(b) Each requested admission shall be deemed made unless, within ten (10) days after service of the request, or within such shorter or longer time as the hearing examiner may allow, the party so served serves upon the party making the request, with a copy to the Secretary of the Commission, either (1) a sworn statement denying specifically the relevant matters of which an admission is requested or setting forth in detail the reasons why he can neither truthfully admit nor deny them, or (2) written objections on the ground that some or all of the matters involved are privileged or irrelevant or that the request is otherwise improper in whole or in part, together with a copy of a request to the hearing examiner for a hearing on the objections at the earliest practicable time. Answers on matters to which such objections are made may be deferred until the objections are determined, but if written objections are made to only a part of a request, the remainder of the request shall be answered within the period designated.

(c) Admissions obtained pursuant to this procedure may be used in evidence to the same extent and subject to the same objections as other admissions.

Subpart E—Evidence

§ 3.14 Evidence.

(a) *Burden of proof.* Counsel supporting the complaint shall have the burden of proof, but the proponent of any factual proposition shall be required to sustain the burden of proof with reference thereto.

(b) *Admissibility.* Relevant, material, and reliable evidence shall be admitted. Irrelevant, immaterial, unreliable, and unduly repetitious evidence shall be excluded. Immaterial or irrelevant parts of an admissible document shall be segregated and excluded so far as practicable.

(c) *Information obtained in investigations.* Any document or other information obtained by the Commission under any of its powers may be offered in evidence.

(d) *Official notice of facts.* When any decision of a hearing examiner or of the Commission rests, in whole or in part, upon the taking of official notice

of a material fact not appearing in evidence of record, opportunity to disprove such noticed fact shall be granted any party making timely motion therefor.

(e) *Objections.* Objections to evidence shall timely and briefly state the grounds relied upon, but the transcript shall not include argument or debate thereon except as ordered by the hearing examiner. Rulings on all objections shall appear in the record.

(f) *Exceptions.* Formal exception to an adverse ruling is not required.

(g) *Record of excluded evidence.* When an objection to a question propounded to a witness is sustained, the examining attorney may make a specific offer of what he expects to prove by the answer of the witness, or the hearing examiner may, in his discretion, receive and report the evidence in full. Rejected exhibits, adequately marked for identification, shall be retained in the record so as to be available for consideration by any reviewing authority.

Subpart F—Hearings

§ 3.15 Presiding officials.

(a) *Who presides.* All hearings in adjudicative proceedings shall be presided over by a duly qualified hearing examiner or by the Commission or one or more members of the Commission sitting as hearing examiners; and the term "hearing examiner" as used in this part means and applies to such members when so sitting.

(b) *How assigned.* The presiding hearing examiner shall be designated by the Director of Hearing Examiners, who shall notify the parties of the hearing examiner designated.

(c) *Powers and duties.* Hearing examiners shall have the duty to conduct fair and impartial hearings, to take all necessary action to avoid delay in the disposition of proceedings, and to maintain order. They shall have all powers necessary to that end, including the following:

(1) To administer oaths and affirmations;

(2) To issue subpoenas and orders requiring access;

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

(4) To take or cause depositions to be taken and determine their scope;

(5) To regulate the course of the hearings and the conduct of the parties and their counsel therein.

(6) To hold conferences for settlement, simplification of the issues, or any other proper purpose;

(7) To consider and rule upon, as justice may require, all procedural and other motions appropriate in an adversary proceeding, including motions to open defaults;

(8) To make and file initial decisions;

(9) To certify questions to the Commission for its determination; and

(10) To take any action authorized by these rules or in conformance with the provisions of the Administrative Procedure Act (5 U.S.C. 1001 to 1011).

(d) *Suspension of attorneys by hearing examiner.* The hearing examiner shall have the authority, for good cause stated on the record, to suspend or bar from participation in a particular proceeding any attorney who shall refuse to comply with his directions, or who shall be guilty of disorderly conduct, dilatory tactics, or contemptuous language in the course of such proceeding. Any attorney so suspended or barred shall have the right of appeal to the Comission. Such appeals shall be in the form of a brief not to exceed thirty (30) pages in length and shall be filed within five (5) days after notice of the hearing examiner's action. Answer thereto may be filed within five (5) days after service of the appeal brief. The appeal shall not operate to suspend the hearing unless otherwise ordered by the hearing examiner or the Commission; in the event the hearing is not suspended, the attorney may continue to participate therein pending disposition of the appeal.

(e) *Substitution of hearing examiner.* In the event of the substitution of a new hearing examiner for the one originally designated, any motion predicated upon such substitution shall be made within five (5) days thereafter.

(f) *Interference.* In the performance of their adjudicative functions, hearing examiners shall not be responsible to or subject to the supervision or direction of any officer, employee, or agent engaged in the performance of investigative or prosecuting functions for the Commission, and all directions by the Commission to hearing examiners concerning any adjudicative proceeding shall appear in and be made a part of the record.

(g) *Disqualification of hearing examiner.* (1) When a hearing examiner deems himself disqualified to preside in a particular proceeding, he shall withdraw therefrom by notice on the record and shall notify the Director of Hearing Examiners of such withdrawal.

(2) Whenever any party shall deem the hearing examiner for any reason to be disqualified to preside, or to continue to preside, in a particular proceeding, such party may file with the Commission a motion to disqualify and remove the hearing examiner, such motion to be supported by affidavits setting forth the alleged grounds for disqualification. Copy of the motion shall be served by the Commission on the hearing examiner whose removal is sought, and the hearing examiner shall have ten (10) days from such service within which to reply. If the hearing examiner does not disqualify himself within ten (10) days, then the Commission shall promptly determine the validity of the grounds alleged, either directly or on the report of another hearing examiner appointed to conduct a hearing for that purpose.

§ 3.16 Hearings; transcripts.

(a) *Public hearings.* All hearings in adjudicative proceedings shall be public unless otherwise ordered by the Commission.

(b) *Rights of parties.* Every party, except intervenors, shall have the right of due notice, cross-examination, presentation of evidence, objection, motion, argument, and all other rights essential to a fair hearing.

(c) *Adverse witnesses.* An adverse party, or an officer, agent, or employee thereof, and any witness who appears to be hostile, unwilling, or evasive, may be interrogated by leading questions and may also be contradicted and impeached by the party calling him.

(d) *Expedition.* Hearings shall proceed with all reasonable expedition. Unless the Commission otherwise orders upon a certificate of necessity therefor by the hearing examiner, all hearings shall be held at one place and shall continue without suspension until concluded. (This does not bar overnight, weekend, or holiday recesses, or other brief intervals of the sort normally involved in judicial proceedings.)

(e) *Transcripts.* Hearings shall be stenographically reported and transcribed by the official reporter of the Commission under the supervision of the hearing examiner, and the original transcript shall be a part of the record and the sole official transcript. Copies of transcripts are available to respondents and to the public from the reporter at rates not to exceed the maximum rates fixed by contract between the Commission and the reporter.

(f) *Corrections of the transcript.* Corrections of the official transcript may be made only when they involve errors affecting substance and then only in the manner herein provided: Corrections ordered by the hearing examiner or agreed to in a written stipulation signed by all counsel and approved by the hearing examiner shall be included in the record, and such stipulations, except to the extent they are capricious or without substance, shall be approved by the hearing examiner. Corrections shall not be ordered by the hearing examiner except upon notice and opportunity for the hearing of objections. Such corrections shall be made by the Official Reporter by furnishing substitute typed pages, under the usual certificate of the Reporter, for insertion in the official record. The original uncorrected pages shall be retained in the files of the Commission.

§ 3.17 Subpoenas and orders requiring access.

(a) *Subpoenas ad testificandum.* Application for issuance of a subpoena requiring a witness to appear and testify before a designated hearing examiner or a person designated under § 3.10 to take depositions, at a specified time and place shall be made to the hearing examiner.

(b) *Subpoenas duces tecum.* Application for issuance of a subpoena requiring a witness to appear before a designated hearing examiner or a person designated under § 3.10 to take depositions at a specified time and place and produce specified documents shall be made in writing to the hearing examiner, and shall specify as exactly as possible the documents to be produced, showing the general relevancy of the documents and the reasonableness of the scope of the subpoena. Any motion to limit or quash such subpoena shall be filed within ten (10) days after service thereof, or if the return date is less than ten (10) days after service of the subpoena, within

such other time as the hearing examiner may allow.

(c) *Orders requiring access.* Application for issuance of an order requiring any corporation being proceeded against to grant access to files for the purpose of examination and the right to copy documentary evidence shall be made in writing to the hearing examiner, and shall specify as exactly as possible the files to which access is requested, showing the general relevancy of the files and the reasonableness of the scope of the order. Any motion to limit or quash such an order shall be filed within ten (10) days after service thereof, or, if the date for compliance is less than ten (10) days after service of the order, within such other time as the hearing examiner may allow.

(d) *Disposition.* Applications for the issuance of subpoenas and orders requiring access shall be ruled upon by the hearing examiner. In the event the hearing examiner is not available, any such application may be ruled upon by the Director of Hearing Examiners or such other hearing examiner as the Director may designate.

(e) *Service.* A subpoena or an order requiring access shall be served as provided in § 4.4(a) of this chapter.

(f) *Appeal.* An appeal to the Commission from the hearing examiner's ruling granting or denying an application to issue or a motion to limit or quash any subpoena or order requiring access will be entertained by the Commission only upon a showing that the ruling complained of involves substantial rights and will materially affect the final decision and that a determination of its correctness before conclusion of the hearing will better serve the interests of justice. Such appeals shall be in the form of a brief not to exceed thirty (30) pages in length and shall be filed within five (5) days after notice of the ruling complained of. Answer thereto may be filed within five (5) days after service of the appeal brief. The appeal shall not operate to suspend the hearing unless otherwise ordered by the hearing examiner or the Commission.

§ 3.18 Witnesses and fees.

(a) Witnesses at formal hearings shall be examined orally. Witnesses shall be paid the same fees and mileage as are paid witnesses in the courts of the United States.

(b) Witnesses whose depositions are taken, and the persons taking such depositions, shall severally be entitled to the same fees as are paid for like services in the courts of the United States.

(c) Witness fees and mileage, and fees for depositions, shall be paid by the party at whose instance witnesses appear.

§ 3.19 Proposed findings, conclusions, and order.

At the close of the reception of evidence, or within a reasonable time thereafter fixed by the hearing examiner, any party may file with the Secretary of the Commission for consideration of the hearing examiner proposed findings of fact, conclusions of law, and order, together with reasons therefor and briefs in support thereof. Such proposals shall be in writing, shall be served upon all parties, and shall contain adequate references to the record and authorities relied on. The record shall show the hearing examiner's ruling on each proposed finding and conclusion, except when his order disposing of the proceeding otherwise informs the parties of the action taken by him thereon.

§ 3.20 Interlocutory appeals.

(a) Except as provided in §§ 3.15(d) and 3.17(f), interlocutory appeals from rulings of a hearing examiner may be filed only after permission is first obtained from the Commission. Any request for such permission shall be in writing, not to exceed ten (10) pages in length, and shall be filed within five (5) days after notice of the ruling complained of. Permission will not be granted except in extraordinary circumstances where an immediate decision by the Commission is clearly necessary to prevent detriment to the public interest.

(b) Interlocutory appeals shall be in the form of a brief, not to exceed thirty (30) pages in length, and shall be filed within five (5) days after notice of permission to file. Answer thereto may be filed within five (5) days after service of the appeal brief. The appeal shall not operate to suspend the hearing unless otherwise ordered by the hearing examiner or the Commission.

Subpart G—Decision

§ 3.21 Initial decision.

(a) *When filed and when effective.* Within ninety (90) days after completion of the reception of evidence in a proceeding, or within such further time as the Commission may allow by order entered in the record based upon the hearing examiner's written request, the hearing examiner shall file an initial decision which shall become the decision of the Commission thirty (30) days after service thereof upon the parties, unless prior thereto (1) an appeal is perfected under § 3.22; (2) the Commission by order stays the effective date of the decision; or (3) the Commission issues an order placing the case on its own docket for review: *Provided, however,* That the failure of an appellant to file an appeal brief within the time prescribed by § 3.22 shall extend for ten (10) days the period within which the Commission may by order stay the effective date of the initial decision or place the case on its own docket for review. A copy of the initial decision shall be served upon each counsel or other representative who has appeared in the proceeding pursuant to § 4.1 of this chapter.

(b) *Content.* An initial decision shall include a statement of (1) findings (with specific page references to principal supporting items of evidence in the record) and conclusions, as well as the reasons or basis therefor, upon all the material issues of fact, law, or discretion presented on the record, and (2) an appropriate order. Initial decisions shall be based upon a consideration of the whole record and supported by reliable, probative and substantial evidence.

(c) *By whom made.* The initial decision shall be made and filed by the hearing examiner who presided over the hearings, except when he shall have become unavailable to the Commission.

(d) *Reopening of proceeding by hearing examiner; termination of jurisdiction.* (1) At any time prior to the filing of his initial decision, a hearing examiner may reopen the proceeding for the reception of further evidence.

(2) Except for the correction of clerical errors, the jurisdiction of the hearing examiner is terminated upon the filing of his initial decision, unless and until the proceeding is remanded to him by the Commission.

§ 3.22 Appeal from initial decision.

(a) *Who may file; notice of intention.* Any party to a proceeding may appeal an initial decision to the Commission, provided that within ten (10) days after completion of service of the initial decision such party files a notice of intention to appeal.

(b) *Appeal brief.* The appeal shall be in the form of a brief, filed within thirty (30) days after completion of service of the initial decision, and shall contain, in the order indicated, the following:

(i) A subject index of the matter in the brief, with page references, and a table of cases (alphabetically arranged), text books, statutes, and other material cited, with page references thereto;

(ii) A concise statement of the case;

(iii) A specification of the questions intended to be urged; and

(iv) The argument representing clearly the points of fact and law relied upon in support of the position taken on each question, with specific page references to the transcript and the legal or other material relied upon.

In addition, the brief shall contain a proposed form of order for the Commission's consideration in lieu of the order contained in the initial decision.

(c) *Answering brief.* Within thirty (30) days after service of the brief upon the opposing party, such party may file an answering brief which shall also contain a subject index, with page references, and a table of cases (alphabetically arranged), text books, statutes, and other material cited, with page references thereto. It shall present clearly the points of fact and law relied upon in support of the position taken on each question, with specific page references to the transcript and legal or other material relied upon.

(d) *Reply brief.* Reply briefs shall be limited to rebuttal of matter in answering briefs and will be received if filed and served within seven (7) days after receipt of the answering brief or the day preceding the oral argument, whichever comes first. No answer to a reply brief will be permitted.

(e) *Length of briefs.* No brief in excess of sixty (60) pages, including any appendices, shall be filed without leave of the Commission.

(f) *Oral argument.* Oral arguments will be held in all cases on appeal to the Commission, unless the Commission otherwise orders upon its own initiative or upon request of any party made at the time of filing his brief. Oral arguments before the Commission shall be reported

stenographically, unless otherwise ordered.

The purpose of oral argument is to emphasize and clarify the written argument appearing in the briefs. Reading at length from the briefs or other texts is not favored.

§ 3.23 Review of initial decision in absence of appeal.

Where the Commission has entered an order placing the case on its own docket for review, its order will set forth the scope of such review and the issues which will be considered and will make provision for the filing of briefs if deemed appropriate by the Commission.

§ 3.24 Decision on appeal or review.

(a) Upon appeal from or review of an initial decision, the Commission will consider such parts of the record as are cited or as may be necessary to resolve the issues presented; and in addition will, to the extent necessary or desirable, exercise all the powers which it could have exercised if it had made the initial decision.

(b) In rendering its decision, the Commission will adopt, modify, or set aside the findings, conclusions and order contained in the initial decision, and will include in the decision a statement of the reasons or basis for its action.

(c) In those cases where the Commission has found a violation of law but believes that it should have further information or additional views of the parties as to the form and content of the order to be issued, the Commission, in its discretion, may withhold final action pending the receipt of such additional information or views.

§ 3.25 Reconsideration.

Within twenty (20) days after completion of service of a Commission decision, any party may file with the Commission a petition for reconsideration of such decision, setting forth the relief desired and the grounds in support thereof. Any petition filed under this subsection must be confined to new questions raised by the decision or final order and upon which the petitioner had no opportunity to argue before the Commission. Any party desiring to oppose such a petition shall file an answer thereto within ten (10) days after service upon him of the petition. The filing of a petition for reconsideration shall not operate to stay the effective date of the decision or order or to toll the running of any statutory time period affecting such decision or order unless specifically so ordered by the Commission.

§ 3.26 Reports of compliance.

(a) In every proceeding in which the Commission has issued an order to cease and desist, each respondent named in such order shall file with the Commission, within sixty (60) days after service thereof, a report in writing, signed by the respondent, setting forth in detail the manner and form of his compliance with the order, and shall thereafter file with the Commission such further signed, written reports of compliance as it may require. Reports of compliance shall be under oath if so requested. Where the order prohibits the use of a false advertisement of a food, drug, device, or cosmetic which may be injurious to health because of results from its use under the conditions prescribed in the advertisement, or under such conditions as are customary or usual, or if the use of such advertisement is with intent to defraud or mislead, an interim report stating whether and how respondents intend to comply shall be filed within ten (10) days after service of the order. Where court review of an order of the Commission is pending, respondent shall file only such reports of compliance as the court may require. Thereafter, the time for filing report of compliance shall begin to run de novo from the final judicial determination. The Commission will review such reports of compliance and will advise each respondent whether the actions set forth therein constitute compliance with the Commission's order.

(b) Any respondent subject to a Commission order may request advice from the Commission as to whether a proposed course of action, if pursued by it, will constitute compliance with such order. The request for advice should be submitted in writing to the Secretary of the Commission and should include full and complete information regarding the proposed course of action. On the basis of the facts submitted, as well as other information available to the Commission, the Commission will inform the respondent whether or not the proposed course of action, if pursued, would constitute compliance with its order.

(c) The Commission may at any time reconsider its approval of any report of compliance or any advice given under this section and, where the public interest requires, rescind or revoke its prior approval or advice. In such event the respondent will be given notice of the Commission's intent to revoke or rescind and will be given an opportunity to submit its views to the Commission. The Commission will not proceed against a respondent for violation of an order with respect to any action which was taken in good faith reliance upon the Commission's approval or advice under this section, where all relevant facts were fully, completely and accurately presented to the Commission and where such action was promptly discontinued upon notification of rescission or revocation of the Commission's approval.

Subpart H—Reopening of Proceedings

§ 3.27 Authority.

Except while pending in a United States court of appeals on a petition for review (after the transcript of the record has been filed) or in the United States Supreme Court, a proceeding may be reopened by the Commission at any time. Such a reopening may be either on the Commission's own initiative or on the request of any party to the proceeding.

§ 3.28 Reopening.

(a) *Before statutory review.* At any time prior to the expiration of the time allowed for filing a petition for review or prior to the filing of the transcript of the record of a proceeding in a United States court of appeals pursuant to a petition for review, the Commission may upon its own initiative and without prior notice to the parties reopen the proceeding and enter a new decision modifying or setting aside the whole or any part of the findings as to the facts, conclusions, order to cease and desist, or opinion issued by the Commission in such proceeding.

(b) *After decision has become final.* (1) Whenever the Commission is of the opinion that changed conditions of fact or law or the public interest may require that a Commission decision containing an order to cease and desist which has become final by reason of court affirmance or expiration of the statutory period for court review without a petition for review having been filed, or a Commission decision containing an order dismissing a complaint, should be altered, modified or set aside in whole or in part, the Commission will serve upon each person subject to such decision and order an order to show cause, stating the changes it proposes to make in the decision and the reasons they are deemed necessary. Within thirty (30) days after service of such order to show cause, any person served may file an answer thereto. Any person not responding to the order within the time allowed may be deemed to have consented to the proposed changes.

(2) Whenever any person subject to a decision containing an order to cease and desist which has become final is of the opinion that changed conditions of fact or law require that said decision or order be altered, modified or set aside, or that the public interest so requires, such person may file with the Commission a petition requesting a reopening of the proceeding for that purpose. The petition shall state the changes desired, the grounds therefor, and, when available, such supporting evidence and argument as will in the absence of a contest form the basis for a Commission decision on the petition. Within thirty (30) days after service of such a petition, the Director of the appropriate bureau of the Commission shall file an answer.

(3) Whenever an order to show cause or petition to reopen is not opposed, or if opposed but the pleadings do not raise issues of fact to be resolved, the Commission, in its discretion, may decide the matter on the order to show cause or petition and answer thereto, or it may serve upon the parties a notice of hearing, setting forth the date when the cause will be heard. In such a case, the hearing will be limited to the filing of briefs and may include oral argument when deemed necessary by the Commission. When the pleadings raise substantial factual issues, the Commission will direct such hearings as it deems appropriate, including hearings for the receipt of evidence by it or by a hearing examiner. Unless otherwise ordered and insofar as practicable, hearings before a hearing examiner to receive evidence shall be conducted in accordance with Subparts C, D, E and F of this part. Upon conclusion of hearings before a hearing examiner, the record and the

hearing examiner's recommendations shall be certified to the Commission for final disposition of the matter.

PART 4—MISCELLANEOUS RULES

Sec.
4.1 Appearances.
4.2 Requirements as to form and filing of documents other than correspondence.
4.3 Time.
4.4 Service.
4.5 Ex parte communications.

AUTHORITY: §§ 4.1 to 4.5 issued under sec. 6, 38 Stat. 721; 15 U.S.C. 46.

§ 4.1 Appearances.

(a) *Qualifications.* (1) Members of the bar of a Federal court or of the highest court of any State or Territory of the United States may practice before the Commission.

(2) Any individual or member of a partnership named respondent in any proceeding or being investigated may appear on behalf of himself or of such partnership upon adequate identification. A respondent corporation or association may be represented by a bona fide officer thereof upon a showing of adequate authorization.

(b) *Restrictions as to former members and employees.* (1) Except as specifically authorized by the Commission, no former member or employee of the Commission shall appear as attorney or counsel or otherwise participate through any form of professional consultation or assistance in any proceeding or investigation, formal or informal, which was pending in any manner in the Commission while such former member or employee served with the Commission.

(2) (i) In cases to which subparagraph (1) of this paragraph is applicable, a former member or employee of the Commission may request authorization to appear or participate in a proceeding or investigation by filing with the Secretary of the Commission a written application therefor, disclosing the following relevant information: (*a*) The nature and extent of the former member or employee's participation in, knowledge of, and connection with the proceeding or investigation during his service with the Commission; (*b*) whether the files of the proceeding or investigation came to his attention; (*c*) whether he was employed in the same bureau, division, or administrative unit in which the proceeding or investigation is or has been pending; (*d*) whether he worked directly or in close association with Commission personnel assigned to the proceeding or investigation; (*e*) whether during his service with the Commission he was engaged in any matter concerning the individual, company or industry involved in the proceeding or investigation.

(ii) The requested authorization will not be given in any case (*a*) where it appears that the former member or employee during his service with the Commission participated personally and substantially in the proceeding or investigation, or (*b*) where the application is filed within one (1) year after termination of the former member or employe's service with the Commission and it appears that within a period of one (1) year prior to the termination of his service the former member or employee was officially responsible for the proceeding or investigation. In other cases, authorization will be given where the Commission is satisfied that the appearance or participation will not involve any actual or apparent impropriety.

(3) In any case in which a former member or employee of the Commission is prohibited under this section from appearing or participating in a Commission proceeding or investigation, any partner or legal or business associate of such former member or employee shall likewise be so prohibited, unless (i) such partner or legal or business associate files with the Commission an affidavit that in connection with the matter the services of the disqualified former member or employee will not be utilized in any respect and the matter will not be discussed with him in any manner, and that the disqualified former member or employee shall not share, directly or indirectly, in any fees or retainers received for services rendered in connection with such proceeding or investigation; (ii) the disqualified former member or employee files an affidavit stating that he will not participate in the matter in any manner, and that he will not discuss it with any person involved in the matter; and (iii) upon the basis of such affidavits, the Commission finds that the appearance or participation by the partner or associate would not involve any actual or apparent impropriety.

(c) *Notice of appearance.* Any attorney desiring to appear before the Commission or a hearing examiner on behalf of a person or party shall file with the Secretary of the Commission a written notice of his appearance, stating the basis of his eligibility under this rule. No other application shall be required for admission to practice, and no register of attorneys will be maintained.

(d) *Standards of conduct; disbarment.* (1) All attorneys practicing before the Commission shall conform to the standards of ethical conduct required of practitioners in the courts of the United States and by the bars of which the attorneys are members.

(2) If for good cause shown, the Commission shall be of the opinion that any attorney is not conforming to such standards, or that he has been otherwise guilty of conduct warranting disciplinary action, the Commission may issue an order requiring such attorney to show cause why he should not be suspended or disbarred from practice before the Commission. The alleged offender shall be granted due opportunity to be heard in his own defense and may be represented by counsel. Thereafter, if warranted by the facts, the Commission may issue against the attorney an order of reprimand, suspension or disbarment.

§ 4.2 Requirements as to form and filing of documents other than correspondence.

(a) *Filing.* Except as otherwise provided, all documents submitted to the Commission shall be addressed to and filed with the Secretary of the Commission.

(b) *Title.* Documents shall clearly show the file or docket number and title of the action in connection with which they are filed.

(c) *Copies.* Twenty-five (25) copies of a notice of intention to appeal and of all briefs before the Commission shall be filed; twenty (20) copies of all other documents shall be filed, with the exception of notices of appearances and reports of compliance, as to which only two (2) copies of each need be filed.

(d) *Form.* (1) Documents, other than briefs in support of appeals of initial decisions, shall be printed, typewritten or otherwise processed in permanent form and on good unglazed paper. The paper must not be less than eight (8) inches nor more than eight and one-half (8½) inches by not less than ten and one-half (10½) inches nor more than eleven (11) inches. The left margin must be one and one-half (1½) inches and the right margin one (1) inch. Documents must be bound on the left side. If printed, the type shall be not less than ten (10) point adequately leaded.

(2) Briefs before the Commission on appeals, if printed, shall be on good unglazed paper seven (7) inches by ten (10) inches. The type shall not be less than ten (10) point adequately leaded. Citations and quotations shall not be less than ten (10) point single leaded and footnotes shall not be less than eight (8) point single leaded. The printed line shall not exceed four and three-quarter (4¾) inches in length. Nonprinted briefs which are reproduced in equally clear and legible form will also be received.

(e) *Signature.* (1) One (1) copy of each document filed shall be signed by an attorney of record for the party, or, in the case of respondents not represented by counsel, by the respondent himself, or by a partner if a partnership, or by an officer of respondent if it is a corporation or an unincorporated association.

(2) Signing a document constitutes a representation by the signer that he has read it, that to the best of his knowledge, information, and belief, the statements made in it are true, and that it is not interposed for delay. If a document is not signed or is signed with intent to defeat the purpose of this rule, it may be stricken as sham and false and the proceeding may go forward as though the document has not been filed.

§ 4.3 Time.

(a) *Computation.* Computation of any period of time prescribed or allowed by these rules, by order of the Commission or a hearing examiner, or by any applicable statute, shall begin with the first business day following that on which the act, event or development initiating such period of time shall have occurred. When the last day of the period so computed is a Saturday, Sunday, or national holiday, or other day on which the office of the Commission is closed, the period shall run until the end of the next following business day. When such period of time, with the intervening Saturdays, Sundays and national holidays counted, is seven days or less, each of the Saturdays, Sundays and such holidays shall be excluded from the computation. When such period of time, with the intervening Saturdays, Sundays and national holidays counted,

exceeds seven days, each of the Saturdays, Sundays, and such holidays shall be included in the computation.

(b) *Extensions.* For good cause shown, the hearing examiner may, in any proceeding before him, extend any time limit prescribed or allowed by these rules or by order of the Commission or the hearing examiner, except those governing the filing of interlocutory appeals and initial decisions and those expressly requiring Commission action. Except as otherwise provided by law, the Commission, for good cause shown, may extend any time limit prescribed by these rules or by order of the Commission or a hearing examiner; provided, however, that in a proceeding pending before a hearing examiner, any motion on which he may properly rule shall be made to him.

§ 4.4 Service.

(a) *By the Commission.* (1) Service of complaints, orders and other processes of the Commission may be effected as follows:

(i) *By registered mail.* A copy of the document shall be addressed to the person, partnership, corporation or unincorporated association to be served at his or its residence or principal office or place of business, registered, and mailed; or

(ii) *By delivery to an individual.* A copy thereof may be delivered to the person to be served, or to a member of the partnership to be served, or to the president, secretary, or other executive officer or a director of the corporation or unincorporated association to be served; or

(iii) *By delivery to an address.* A copy thereof may be left at the principal office or place of business of the person, partnership, corporation or unincorporated association, or it may be left at the residence of the person or of a member of the partnership or of an executive officer or director of the corporation or unincorporated association to be served.

(2) Documents other than complaints, orders and other processes of the Commission, the service of which starts the running of prescribed periods of time provided or allowed by any of the rules or by any order of the Commission or a hearing examiner for the performance of some act or the occurrence of some event or development, shall be served in the same manner as complaints, orders and other processes of the Commission.

(3) All other documents may be similarly served, or they may be served by certified or ordinary first-class mail.

(b) *By other parties.* Service of documents by parties other than the Commission shall be by delivering copies thereof as follows: Upon the Commission, by personal delivery or delivery by first-class mail to the office of the Secretary of the Commission; upon any other party, by delivery to the party. If the party is an individual or partnership, delivery shall be to such individual or a member of the partnership; if a corporation or unincorporated association, to an officer or agent authorized to accept service of process therefor. Delivery to a party other than the Commission means handing to the individual, partner, officer, or agent; leaving at his office with a person in charge thereof, or, if there is no one in charge or if the office is closed or if he has no office, leaving at his dwelling house or usual place of abode with some person of suitable age and discretion then residing therein; or sending by mail.

(c) *Proof of service.* (1) When service is by mail, registered, certified or ordinary first-class, it is complete upon delivery of the document by the post office.

(2) When a party has appeared in a proceeding by a partner, officer, or attorney, service upon such partner, officer, or attorney of any document other than a complaint, order or other process of the Commission shall be deemed service upon the party.

(3) The return post office receipt for a document registered and mailed, or the verified return or certificate by the person serving the document by personal delivery or ordinary mail, setting forth the manner of said service, shall be proof of the service of the document.

§ 4.5 Ex parte communications.

(a) In an adjudicative proceeding, no person not employed by the Commission, and no employee or agent of the Commission who performs any investigative or prosecuting function in connection with the proceeding, shall communicate ex parte, directly or indirectly, with any member of the Commission, or the hearing examiner, or any employee involved in the decisional process in such proceeding, with respect to the merits of that or a factually related proceeding.

(b) In an adjudicative proceeding, no member of the Commission, hearing examiner or employee involved in the decisional process of such proceeding, shall communicate ex parte, directly or indirectly, with any person not employed by the Commission, or with any employee or agent of the Commission who performs any investigative or prosecuting function in connection with the proceeding, with respect to the merits of that or a factually related proceeding.

(c) In an adjudicative proceeding, if any ex parte communication is made to or by any member of the Commission, the hearing examiner, or employee involved in the decisional process, in violation of paragraph (a) or (b) of this section, such member, hearing examiner or employee, as the case may be, shall promptly inform the Commission of the substance of such communication and the circumstances thereof.

(d) A request for information with respect to the status of an adjudicative proceeding shall not be deemed to be an ex parte communication prohibited by this section.

Promulgated as of this date in pursuance of the action of the Federal Trade Commission on July 2, 1963, effective August 1, 1963.

Issued July 2, 1963.

By direction of the Commission.

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 63-7183; Filed, July 10, 1963; 8:45 a.m.]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 6603]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Miscellaneous Amendments

On November 7, 1961, notice of proposed rule making with respect to the amendment of paragraph (b) of § 1.152–1, and paragraphs (a) (2) and (c) of § 1.152–2 of the Income Tax Regulations (26 CFR Part 1) under section 152 of the Internal Revenue Code of 1954 was published in the FEDERAL REGISTER (26 F.R. 10483). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the amendment of the regulations as proposed is hereby adopted. In addition, this Treasury decision amends paragraphs (a) (2), (3), and (4), (b), and (c) of § 1.152–3 of the regulations. The changes made in these paragraphs are solely clarifying in nature. They remove references to the dependency exemption and substitute terms which conform more closely in meaning to those used in the statute. These revised provisions read as set forth below.

Because the changes made by this Treasury decision in § 1.152–3 are designed to more closely conform the provisions of the regulations to the statutory language of section 152, and, therefore, are merely clarifying in nature, it is hereby found that it is unnecessary, with respect to such changes, to issue this Treasury decision with notice and public procedure thereon under section 4(a) of the Administrative Procedure Act, approved June 11, 1946, or subject to the effective date limitation of section 4(c) of that Act.

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] BERTRAND M. HARDING,
Acting Commissioner of Internal Revenue.

Approved: July 3, 1963.

STANLEY S. SURREY,
Assistant Secretary of the Treasury.

In order to conform the Income Tax Regulations (26 CFR Part 1) to the provisions of section 152(b) of the Internal Revenue Code of 1954, as amended by section 1 of the Act of September 23, 1959 (Public Law 86–376, 73 Stat. 699), and to make certain clarifying changes therein, and to the provisions of section 152(c) of the Code, such regulations are amended as follows:

PARAGRAPH 1. In § 1.152, section 152(b)(2) and the historical note are amended to read as follows:

§ 1.152 Statutory provisions; dependent defined.

SEC. 152. *Dependent defined.* * * *

(b) *Rules relating to general definition.* For purposes of this section—

* * * * *

(2) In determining whether any of the relationships specified in subsection (a) or paragraph (1) of this subsection exists, a legally adopted child of an individual (and a child who is a member of an individual's household, if placed with such individual by an authorized placement agency for legal adoption by such individual) shall be treated as a child of such individual by blood.

* * * * *

[Sec. 152 as amended by sec. 2, Act of Aug. 9, 1955 (Public Law 333, 84th Cong., 69 Stat. 626); sec. 4, Technical Amendments Act 1958 (72 Stat. 1607); sec. 1, Act of Sept. 23, 1959 (Public Law 86-376, 73 Stat. 699)]

PAR. 2. Paragraph (b) of § 1.152–1 is amended to read as follows:

§ 1.152–1 General definition of a dependent.

* * * * *

(b) Section 152(a)(9) applies to any individual (other than an individual who at any time during the taxable year was the spouse, determined without regard to section 153, of the taxpayer) who lives with the taxpayer and is a member of the taxpayer's household during the entire taxable year of the taxpayer. An individual is not a member of the taxpayer's household if at any time during the taxable year of the taxpayer the relationship between such individual and the taxpayer is in violation of local law. It is not necessary under section 152(a)(9) that the dependent be related to the taxpayer. For example, foster children may qualify as dependents. It is necessary, however, that the taxpayer both maintain and occupy the household. The taxpayer and dependent will be considered as occupying the household for such entire taxable year notwithstanding temporary absences from the household due to special circumstances. A nonpermanent failure to occupy the common abode by reason of illness, education, business, vacation, military service, or a custody agreement under which the dependent is absent for less than six months in the taxable year of the taxpayer, shall be considered temporary absence due to special circumstances. The fact that the dependent dies during the year shall not deprive the taxpayer of the deduction if the dependent lived in the household for the entire part of the year preceding his death. Likewise, the period during the taxable year preceding the birth of an individual shall not prevent such individual from qualifying as a dependent under section 152(a)(9). Moreover, a child who actually becomes a member of the taxpayer's household during the taxable year shall not be prevented from being considered a member of such household for the entire taxable year, if the child is required to remain in a hospital for a period following its birth, and if such child would otherwise have been a member of the taxpayer's household during such period.

PAR. 3. Section 1.152–2 is amended by revising subdivisions (i), (ii), and (iii) of subparagraph (2) of paragraph (a) and by revising paragraph (c). These amended provisions read as follows:

§ 1.152–2 Rules relating to general definition of dependent.

(a) * * *

(2)(i) For any taxable year beginning after December 31, 1957, a taxpayer who is a citizen of the United States is permitted under section 152(b)(3)(B) to treat as a dependent his legally adopted child who lives with him, as a member of his household, for the entire taxable year and who, but for the citizenship or residence requirements of section 152(b)(3) and subparagraph (1) of this paragraph, would qualify as a dependent of the taxpayer for such taxable year.

(ii) Under section 152(b)(3)(B) and this subparagraph, it is necessary that the taxpayer both maintain and occupy the household. The taxpayer and his legally adopted child will be considered as occupying the household for the entire taxable year of the taxpayer notwithstanding temporary absences from the household due to special circumstances. A nonpermanent failure to occupy the common abode by reason of illness, education, business, vacation, military service, or a custody agreement under which the legally adopted child is absent for less than six months in the taxable year of the taxpayer shall be considered temporary absence due to special circumstances. The fact that a legally adopted child dies during the year shall not deprive the taxpayer of the deduction if the child lived in the household for the entire part of the year preceding his death. The period during the taxable year preceding the birth of a child shall not prevent such child from qualifying as a dependent under this subparagraph. Moreover, a legally adopted child who actually becomes a member of the taxpayer's household during the taxable year shall not be prevented from being considered a member of such household for the entire taxable year, if the child is required to remain in a hospital for a period following its birth and if such child would otherwise have been a member of the taxpayer's household during such period.

(iii) For purposes of section 152(b)(3)(B) and this subparagraph, any child whose legal adoption by the taxpayer (a citizen of the United States) becomes final at any time before the end of the taxable year of the taxpayer shall not be disqualified as a dependent of such taxpayer by reason of his citizenship or residence, provided the child lived with the taxpayer and was a member of the taxpayer's household for the entire taxable year in which the legal adoption became final. For example, A, a citizen of the United States who makes his income tax returns on the basis of the calendar year, is employed in Brazil by an agency of the United States Government. In October 1958 he takes into his household C, a resident of Brazil who is not a citizen of the United States, for the purpose of initiating adoption proceedings. C lives with A and is a member of his household for the remainder of 1958 and for the entire calendar year 1959. On July 1, 1959, the adoption proceedings were completed and C became the legally adopted child of A. If C otherwise qualifies as a dependent, he may be claimed as a dependent by A for 1959.

* * * * *

(c)(1) For purposes of determining the existence of any of the relationships specified in section 152 (a) or (b)(1), a legally adopted child of an individual shall be treated as a child of such individual by blood.

(2) For any taxable year beginning after December 31, 1958, a child who is a member of an individual's household also shall be treated as a child of such individual by blood if the child was placed with the individual by an authorized placement agency for legal adoption pursuant to a formal application filed by the individual with the agency. For purposes of this subparagraph an authorized placement agency is any agency which is authorized by a State, the District of Columbia, a possession of the United States, a foreign country, or a political subdivision of any of the foregoing to place children for adoption. A taxpayer who claims as a dependent a child placed with him for adoption shall attach to his income tax return a statement setting forth the name of the child for whom the dependency deduction is claimed, the name and address of the authorized placement agency, and the date the formal application was filed with the agency.

(3) The application of this paragraph may be illustrated by the following example:

Example. On March 1, 1959, D, a resident of the United States, made formal application to an authorized child placement agency for the placement of E, a resident of the United States, with him for legal adoption. On June 1, 1959, E was placed with D for legal adoption. During the year 1959 E received over one-half of his support from D. D may claim E as a dependent for 1959. Since E was a resident of the United States, his qualification as a dependent is in no way based on the provisions of section 152(b)(3)(B). Therefore, it is immaterial that E was not a member of D's household during the entire taxable year.

PAR. 4. Section 1.152–3 is amended by revising subparagraphs (2), (3), and (4) of paragraph (a) and by revising paragraphs (b), and (c). These amended provisions read as follows:

§ 1.152–3 Multiple support agreements.

(a) * * *

(2) Each member of the group which collectively contributed more than half of the support of the individual would have been entitled to claim the individual as a dependent but for the fact that he did not contribute more than one-half of such support.

(3) The member of the group claiming the individual as a dependent contributed more than 10 percent of the individual's support, and

(4) Each other person in the group who contributed more than 10 percent of such support files a written declaration that he will not claim the individual as a dependent for any taxable year beginning in such calendar year.

(b) Application of the rule contained in paragraph (a) of this section may be illustrated by the following examples:

Example (1). Brothers A, B, C, and D contributed the entire support of their mother in 1956 in the following percentages: A, 30 percent; B, 20 percent; C, 29 percent; and D, 21 percent. Any one of the brothers, except for the fact that he did not contribute more than half of her support, would have been entitled to claim his mother as a dependent. Consequently, any one of the brothers could claim a deduction for the exemption of the mother provided a written declaration (as provided in paragraph (c) of this section) from each of the other brothers is attached to his income tax return. Even though A and D together contributed more than one-half the support of the mother, A, if he wished to claim his mother as a dependent, would be required to attach written declarations from B, C, and D to his income tax return, since each of those three contributed more than 10 percent of the support and, but for the support requirement, would have been entitled to claim his mother as a dependent.

Example (2). E, an individual who resides with his son, received $1,500 during the calendar year 1956, which constituted his entire support for that year. The source of the $1,500 was as follows:

Source	Amount received	Percentage of total
Social Security	$375	25
N, an unrelated neighbor	165	11
B, a brother	210	14
D, a daughter	150	10
S, a son	600	40
Total received by E	1,500	100

B, D, and S are persons each of whom, but for the fact that he did not contribute more than half of the $1,500, could claim E as a dependent for a taxable year beginning in 1956. The three together contributed $960, or 64 percent of the $1,500, and, thus, each is a member of the group to be considered for the purpose of section 152(c). B and S are the only members of such group who can meet all the requirements of section 152(c) and either one could claim E as a dependent for his taxable year beginning in 1956 provided he attached to his income tax return a written declaration (as provided in paragraph (c) of this section) signed by the other, and furnished the other information required by the return with respect to all the contributions to E. Inasmuch as D did not contribute more than 10 percent of E's support, she is not entitled to claim E as a dependent for a taxable year beginning in 1956 nor is she required to file a written declaration with respect to her contributions to E. N contributed over 10 percent of the support of E in 1956 but, since he is an unrelated neighbor, he does not qualify as a member of the group for the purpose of the multiple support agreement under section 152(c).

(c) The member of a group of contributors who claims an individual as a dependent under the multiple support agreement provisions of section 152(c) must attach to his income tax return for the year of the deduction a written declaration from each of the other persons who contributed more than 10 percent of the support of such individual and who, but for the failure to contribute more than half of the support of the individual, would have been entitled to claim the individual as a dependent. The written declaration required by this paragraph may be made on Form 2120. Any declaration made other than on Form 2120 shall conform to the substance of Form 2120. The taxpayer claiming the individual as a dependent should be prepared to furnish other information, when required, which will substantiate his right to claim such individual as a dependent. Such information may include a statement showing the names of all contributors (whether or not members of the group described in section 152(c)) and the amount contributed by each to the support of the claimed dependent.

[F.R. Doc. 63-7295; Filed, July 10, 1963; 8:55 a.m.]

Title 41—PUBLIC CONTRACTS

Chapter 5B—Public Buildings Service, General Services Administration

PART 5B-1—GENERAL

Correction

In Federal Register Document 63-5785, published at page 5456 in the issue dated Tuesday, June 4, 1963, the following corrections should be made:

1. In the authority citation, the reference "26 F.R. 4559" should read "28 F.R. 4559".

2. In § 5B-1.000, the reference to "General Services Administration Regulations" should read "General Services Administration Procurement Regulations". As corrected § 5B-1.000 reads as follows:

§ 5B-1.000 Scope of part.

This part describes the method by which the Public Buildings Service implements and supplements the Federal Procurement Regulations (Chapter 1 of Title 41, Code of Federal Regulations) and the GSA-wide procurement policies and procedures, Chapter 5 of the General Services Administration Procurement Regulations. In addition, it contains policies and procedures which implement and supplement Chapter 1 and Chapter 5.

Title 43—PUBLIC LANDS: INTERIOR

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

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 3124]

[New Mexico 0370884]

NEW MEXICO

Modifying Water Power Withdrawals To Permit Grant of Right-of-Way

By virtue of the authority vested in the President by section 1 of the act of June 25, 1910 (36 Stat. 847; 43 U.S.C. 141), and that contained in the act of June 20, 1910 (36 Stat. 557), and pursuant to Executive Order No. 10355 of May 26, 1952, it is ordered as follows:

The departmental order of August 7, 1916, creating Water Power Designation No. 1, and the Executive order of September 30, 1916, establishing Power Site Reserve No. 548, are hereby modified to the extent necessary to permit the granting of a highway right-of-way under section 2477, U.S. Revised Statutes (43 U.S.C. 932), to the New Mexico State Highway Commission for construction of a highway over the following described lands, and as shown on a map on file with the Bureau of Land Management under New Mexico 0370884 as a part of the application by the Commission, identified as SP-1539(202):

NEW MEXICO PRINCIPAL MERIDIAN

T. 26 N., R. 11 E.,
Sec. 23, lot 2 and SW¼NE¼.

Containing 50.83 acres.

The lands are described in favorable determination, DA-66, 70-New Mexico, of the Federal Power Commission, issued May 27, 1963. As provided by the Commission, allowance of the right-of-way application shall be subject to the provisions of section 24 of the Federal Power Act.

JOHN A. CARVER, Jr.,
Assistant Secretary of the Interior.

JULY 5, 1963.

[F.R. Doc. 63-7276; Filed, July 10, 1963; 8:49 a.m.]

Title 49—TRANSPORTATION

Chapter I—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Ex Parte No. 55]

PART 1—GENERAL RULES OF PRACTICE

Miscellaneous Amendments

At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 1st day of July A.D. 1963.

There being under consideration (1) the matter of ex parte communications including Recommendation No. 16 of the Administrative Conference of the United States, and (2) § 1.4 of the Commission's general rules of practice, 49 CFR 1.4, and good cause appearing therefor:

It is ordered, That 49 CFR 1.4 be, and it is hereby, amended by adding thereto a new paragraph (e) as follows:

(e) *Ex parte communications prohibited; penalties provided.* Ex parte communications as defined in Appendix C to this part are prohibited and any person violating the prohibitions set out in such Appendix is subject to the penalties as therein provided.

It is further ordered, That a new Appendix C respecting ex parte communications be added at the end of 49 CFR Part 1, following Appendix B as follows:

APPENDIX C—EX PARTE COMMUNICATIONS

1. *Ex parte communications.* (a) No person who is a party to, or counsel or agent of a party, or who intercedes in, any on-the-record proceeding, shall submit any ex parte communication concerning the merits of the proceeding to any member of the Commission, hearing officer, member of a joint board, or to any employee of the Commission

participating in the decision in such proceeding.

(b) No member of the Commission, hearing officer, member of a joint board, or employee of the Commission participating in the decision in such proceeding shall invite or knowingly entertain any prohibited ex parte communication, or make any such communication to any party to, or counsel or agent of a party, or any other person who he has reason to know may transmit such communication to a party or party's agent.

2. The prohibitions of paragraph 1 apply from the time an on-the-record proceeding is noticed for oral hearing or the taking of evidence by modified procedure or from such earlier time as the Commission may fix by rule or order in the particular case.

3. For the purposes hereof:

(a) "On-the-record proceeding" means a proceeding required by the Constitution, by statute, by Commission rule, or by order in the particular case, to be decided solely upon the record made in a Commission hearing.

(b) "Person who intercedes in any proceeding" means any individual outside the Commission (whether in public or private life), partnership, corporation, or association, other than a party or an agent of a party, who volunteers a communication which he may be expected to know may advance or adversely affect the interest of a particular party to the proceeding, whether or not he acts with the knowledge or consent of any party or any party's agent.

(c) "Ex parte communication concerning the merits" includes both oral and written communications, but the following classes of ex parte communications shall not be prohibited:

(1) Any oral or written communication which all the parties to the proceeding agree, or which the Commission, the hearing officer, or joint board formally rules, may be made on an ex parte basis.

(2) Any oral or written communication of facts or contentions which have general significance for an industry subject to regulation if the communicator cannot reasonably be expected to know that the facts or contentions are material to a substantive issue in a pending on-the-record proceeding in which he is interested.

(3) Any communication by means of any news medium which in the ordinary course of business of the publisher is intended to inform the general public, members of the organization involved, or subscribers to such publications with respect to pending on-the-record proceedings.

(d) "Any employee of the Commission participating in the decision" includes personal assistants to members of the Commission, members of an employee review board appointed pursuant to Public Law 87-247 (1961) to whom the proceeding may be referred for decision, employees of the Commission Bureau (e.g., Operating Rights, Finance, Rates and Practices) whose responsibilities correspond to the nature of the proceeding, and the staff of the General Counsel's Office.

4. Any member of the Commission, hearing officer, employee of the Commission, or member of a joint board, participating in the decision who personally receives a written or oral communication which he believes is prohibited at the time received, shall transmit the written communication or a written summary of the substance of an oral communication promptly to the Chairman of the Commission together with a written statement of the circumstances under which the communication was made, if not apparent from the communication itself. If the Chairman concludes that the communication is prohibited, or that the dictates of fairness require that it be made public, he shall instruct the Secretary to place the written communication or summary of the oral communication in the correspondence part of the public docket of the proceeding or take such other or further action as may be appropriate under all of the circumstances.

5. The Commission may censure, or suspend or revoke the privilege to practice before the agency, of any person who knowingly and willfully makes or solicits the making of a prohibited ex parte communication.

6. To the extent permitted by law, the relief or benefit sought by a party to a proceeding may be denied if the party, or an agent of the party, knowingly and willfully makes or solicits the making of a prohibited communication.

7. The Commission may censure, suspend, or dismiss, or institute proceedings for the suspension or dismissal of, any Commission employee who knowingly and willfully violates the foregoing prohibitions or requirements.

It is further ordered, That this order shall become effective 30 days after the date of its publication in the FEDERAL REGISTER.

And it is further ordered, That notice of this order shall be given to the general public by depositing a copy hereof in the Office of the Secretary of the Commission, Washington, D.C., and by filing a copy with the Director, Division of the Federal Register.

(Secs. 12, 17, 24 Stat. 383, as amended, 385, as amended; secs. 204, 205, 49 Stat. 546, as amended, 548, as amended; secs. 304, 316, 54 Stat. 933, 946; secs. 403, 417, 56 Stat. 285, 297, as amended; 49 U.S.C. 12, 17, 304, 305, 904, 916, 1003, 1017)

By the Commission.

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

[F.R. Doc. 63-7334; Filed, July 10, 1963; 8:56 a.m.]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Certain Options

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, in duplicate, to the Commissioner of Internal Revenue, Attention: T:P, Washington 25, D.C., within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner within the 30-day period. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] MORTIMER M. CAPLIN,
Commissioner of Internal Revenue.

In order to provide rules for the tax treatment of certain options, the Income Tax Regulations (26 CFR Part 1) are amended as follows:

PARAGRAPH 1. Subparagraphs (1), (2), (4), and (5) of § 1.61–2(d) are amended to read as follows:

§ 1.61–2 Compensation for services, including fees, commissions, and similar items.

* * * * *

(d) *Compensation paid other than in cash*—(1) *In general.* If services are paid for other than in money, the fair market value of the property or services taken in payment must be included in income. If the services were rendered at a stipulated price, such price will be presumed to be the fair market value of the compensation received in the absence of evidence to the contrary. However, for special rules relating to options received as compensation, see § 1.61–15 and section 421 and the regulations thereunder.

(2) *Property transferred to employee or independent contractor; insurance premiums paid by employer.* Except as otherwise provided in section 421 and the regulations thereunder (relating to employee stock options) and § 1.61–15, if property is transferred by an employer to an employee, or if property is transferred to an independent contractor, as compensation for services for an amount less than its fair market value, then regardless of whether the transfer is in the form of a sale or exchange, the difference between the amount paid for the property and the amount of its fair market value at the time of the transfer is compensation and shall be included in the gross income of the employee or independent contractor. In computing the gain or loss from the subsequent sale of such property, its basis shall be the amount paid for the property increased by the amount of such difference included in gross income. Generally, life insurance premiums paid by an employer on the lives of his employees, where the proceeds of such insurance are payable to the beneficiaries of such employees, are part of the gross income of the employees. However, premiums paid by an employer on policies of group term life insurance covering the lives of his employees are not gross income to the employees, even if they designate the beneficiaries. For special rules relating to the exclusion of contributions by an employer to accident and health plans, see section 106 and the regulations thereunder.

* * * * *

(4) *Stock and notes transferred to employee or independent contractor.* Except as otherwise provided by section 421 and the regulations thereunder (relating to employee stock options) and § 1.61–15, if a corporation transfers its own stock to an employee or independent contractor as compensation for services, the fair market value of the stock at the time of transfer shall be included in the gross income of the employee or independent contractor. Notes or other evidences of indebtedness received in payment for services constitute income in the amount of their fair market value at the time of the transfer. A taxpayer receiving as compensation a note regarded as good for its face value at maturity, but not bearing interest, shall treat as income as of the time of receipt its fair discounted value computed at the prevailing rate. As payments are received on such a note, there shall be included in income that portion of each payment which represents the proportionate part of the discount originally taken on the entire note.

(5) *Property transferred subject to restrictions.* Notwithstanding any other provision of this paragraph, with respect to any property, other than an option to purchase stock or property, which is transferred by an employer to an employee or independent contractor as compensation for services, and which is subject to a restriction which has a significant effect on its value, the rules of paragraph (d)(2) of § 1.421–6 shall be applied in determining the time and the amount of compensation to be included in the gross income of the employee or independent contractor. For special rules relating to options to purchase stock or other property which are issued as compensation for services, see § 1.61–15 and section 421 and the regulations thereunder. This subparagraph is applicable only to transfers after September 24, 1959.

PAR. 2. There is inserted immediately after § 1.61–14 the following new section:

§ 1.61–15 Options received as payment of income.

(a) *In general.* If any person receives an option in payment of an amount constituting gross income of such person (or of any other person), such option is subject to the rules contained in § 1.421–6 for purposes of determining when income is realized in connection with such option and the amount of such income. In this regard, the rules of § 1.421–6 apply to an option received in payment of an amount constituting gross income regardless of the form of the transaction. Thus, the rules of § 1.421–6 apply to an option transferred for less than its fair market value in a transaction taking the form of a sale or exchange, if the difference between the amount paid for the option and its fair market value at the time of transfer is the payment of an amount constituting gross income of the transferee or any other person. This section, for example, makes the rules of § 1.421–6 applicable to options granted in whole or partial payment for the services of an independent contractor or options granted in whole or partial payment for the loan of money, or for the entering into of an agreement to loan money. If an amount of money or its equivalent is paid for an option to which this paragraph applies, then such amount shall be part of the basis of such option.

(b) *Options to which paragraph (a) does not apply.* (1) (i) This section does not apply to options received as capital gains, options subject to the rules contained in section 305 or section 421, or options purchased on the market as a part of an investment unit consisting of an option and a debenture, note, or other similar obligation. See paragraph (b)(2) of § 1.503(h)–2 for definition of the term "on the market".

(ii) In addition, paragraph (a) of this section does not apply to an option which is acquired solely as an investment and which, therefore, is not granted as a payment of an amount constituting gross income.

(2) If a person acquires an option which is not described in subparagraph (1)(i) of this paragraph, and if such option has a readily ascertainable fair market value, such person may establish that such option was acquired solely as

an investment (within the meaning of subparagraph (1)(ii) of this paragraph) by showing that the amount of money or its equivalent paid for the option equalled the readily ascertainable fair market value of the option. If a person acquires an option which is not described in subparagraph (1)(i) of this paragraph, and if such option does not have a readily ascertainable fair market value, then to establish that such option was acquired solely as an investment (within the meaning of subparagraph (1)(ii) of this paragraph), such person must show that from an examination of all the surrounding circumstances, there is no reason for the option to have been granted as the payment of an amount constituting gross income. For example, such person must show that he had not rendered services to the person granting the option, nor lent money to such person, nor was there any other relationship between him and such person which would cause such person to grant the option as payment of an amount constituting gross income. See paragraph (c) of § 1.421–6 for definition of the term "readily ascertainable fair market value".

(c) *Statement required in connection with certain options.* (1) Any person acquiring any option to purchase securities (other than an option described in paragraph (b)(1)(i) of this section) shall attach a statement to his income tax return for the taxable year in which the option was acquired. For definition of the term "securities", see section 165(g)(2). The statement required by this paragraph shall indicate whether the option is subject to paragraph (a) of this section and shall be filed not later than the date prescribed by law (including extensions thereof) for filing the income tax return for the taxable year for which the statement is required. In addition, such statement shall contain the following information:

(i) Name and address of the taxpayer;

(ii) Description of the securities subject to the option (including number of shares of stock);

(iii) Period during which the option is exercisable;

(iv) Whether the option had a readily ascertainable fair market value at date of grant.

(2) If the statement required by this paragraph indicates either that the option is not subject to paragraph (a) of this section, or that the option is subject to paragraph (a) of this section but that such option had a readily ascertainable fair market value at date of grant, then such statement shall contain the following additional information:

(i) Option price;

(ii) Value at date of grant of securities subject to the option;

(iii) Restrictions (if any) on exercise or transfer of option;

(iv) Restrictions (if any) on transfer of securities subject to the option;

(v) Value of the option (if readily ascertainable);

(vi) How value of option was determined;

(vii) Amount of money (or its equivalent) paid for the option;

(viii) Person from whom the option was acquired;

(ix) A concise description of the circumstances surrounding the acquisition of the option and any other factors relied upon by the taxpayer to establish that the option is not subject to paragraph (a) of this section, or, if the option is treated by the taxpayer as subject to paragraph (a) of this section, that the option had a readily ascertainable fair market value at date of grant.

(d) *Effective date.* This section shall apply to all options described in paragraph (a) of this section granted after July 11, 1963, other than options required to be granted pursuant to the terms of a written contract entered into on or before such date.

PAR. 3. Section 1.421–6 is amended by revising subparagraph (1) of paragraph (a) and adding subparagraph (3) to paragraph (b). These amended and added provisions read as follows:

§ 1.421–6 Options to which section 421 does not apply.

(a) *Scope of section.* (1) If an employer or other person grants to an employee or other person for any reason connected with the employment of such employee an option to purchase stock of the employer or other property, and if section 421 is not applicable, then this section shall apply. This section will apply, for example, when an option is not a restricted stock option at the time it is granted (see section 421(d)(1) and § 1.421–2), or when an option is modified so that it no longer qualifies as a restricted stock option (see section 421(e) and § 1.421–4), or when there is a disqualifying disposition of stock acquired by the exercise of a restricted stock option so that section 421 does not apply. When an option is granted for any reason connected with the employment of an employee, this section applies, if section 421 does not apply, irrespective of whether the option is granted by the employer, by a parent or subsidiary of the employer, by a stockholder of any of such corporations, or by any other person, and irrespective of whether the option is granted to the employee, to a member of his family, or to any other person, and irrespective of whether the option is to purchase the stock of the employer, the stock of the parent or subsidiary of the employer, the stock of any other corporation, or to purchase any other property. In addition, § 1.61–15 makes the rules of this section applicable in determining the time when certain other options result in the realization of income and the amount of such income.

* * * * *

(b) *Meaning and use of certain terms.* * * *

(3) For purposes of applying the rules of this section to the options which are made subject to such rules by § 1.61–15—

(i) The term "employee" includes the person who provided the consideration resulting in the grant of the option, the term "employer" includes the person to whom, or for whom, such consideration was provided, and the term "employment" includes the providing of such consideration;

(ii) Where a stock option is granted to an underwriter prior to a public offering and such grant is expressly or impliedly conditional upon the successful completion of the underwriting, the date on which the option shall be considered "granted" shall be the date of the successful completion of the underwriting.

[F.R. Doc. 63–7294; Filed, July 10, 1963; 8:54 a.m.]

DEPARTMENT OF THE INTERIOR

National Park Service

[36 CFR Part 6]

CAPE COD NATIONAL SEASHORE, MASSACHUSETTS

Vehicle, Guide, Admission, and Miscellaneous Fees

Notice is hereby given that, pursuant to the authority vested in the Secretary of the Interior by section 3 of the act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 3), it is proposed to amend § 6.3 by the addition of paragraph (j)(1)(2), and to add § 6.14(a) to part 6 of Title 36, Code of Federal Regulations, as set forth below. The purpose of this amendment is to establish vehicle and guide permit fees for the control of commercial over sand vehicle operations and to establish a fee for the use of baskets or lockers for the storage of clothing and other personal belongings in the bathhouses on federally owned lands within the boundaries of the Cape Cod National Seashore.

Itis the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections concerning the proposed amendment to the National Park Service, Washington 25, D.C., within 30 days of the date of publication of this notice in the FEDERAL REGISTER.

JOHN A. CARVER, JR.,
Acting Secretary of the Interior.

JULY 5, 1963.

Section 6.3 is amended by adding new paragraph (j) and subparagraphs (1) and (2). As so amended § 6.3 reads as follows:

§ 6.3 Commercial passenger-carrying vehicles.

* * * * *

(j) *Cape Cod National Seashore; permits.* Permits issued by the superintendent shall be required for the operation of commercial passenger-carrying vehicles, carrying passengers for hire over sand routes on federally owned lands within the seashore, as follows:

(1) Annual permit for calendar year: $3.00 for each passenger-carrying seat in the vehicle to be operated.

(2) Annual guide permit for the calendar year, or any part thereof: $5.00.

§ 6.14 Bathhouse services.

(a) A fee of 25 cents shall be charged for the use of each bathhouse basket or locker at Cape Cod National Seashore.

[F.R. Doc. 63-7277; Filed, July 10, 1963; 8:49 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 946]

IRISH POTATOES GROWN IN WASHINGTON

Proposed Expenses and Rate of Assessment

Notice is hereby given that the Secretary of Agriculture is considering the approval of the expenses and rate of assessment hereinafter set forth, which were recommended by the State of Washington Potato Committee, established pursuant to Marketing Agreement No. 113, as amended, and Part 946 (7 CFR Part 946).

This marketing order regulates the handling of Irish potatoes grown in Washington, and is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

Consideration will be given to any data, views, or arguments pertaining thereto, which are filed with the Director, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, Washington 25, D.C., not later than 15 days following publication of this notice in the FEDERAL REGISTER.

§ 946.215 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred by the State of Washington Potato Committee, established pursuant to Marketing Agreement No. 113 and this part, to enable such committee to perform its functions, pursuant to the provisions of the aforesaid marketing agreement and order, during the fiscal year ending May 31, 1964, will amount to $23,013.00.

(b) The rate of assessment to be paid by each handler pursuant to Marketing Agreement No. 113 and this part shall be three-eighths of one cent ($0.00375) per hundredweight of potatoes handled by him as the first handler thereof during said fiscal year.

(c) Terms used in this section shall have the same meaning as when used in the said marketing agreement and order.

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

Dated: July 8, 1963.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 63-7297; Filed, July 10, 1963; 8:55 a.m.]

[7 CFR Part 948]

IRISH POTATOES GROWN IN COLORADO—AREA NO. 1

Proposed Expenses and Rate of Assessment

Notice is hereby given that the Secretary of Agriculture is considering approval of the expenses and rate of assessment hereinafter set forth which were recommended by the area committee for Area No. 1 established pursuant to Marketing Agreement No. 97, as amended, and Part 948, as amended (7 CFR Part 948) regulating the handling of Irish potatoes grown in the State of Colorado and issued under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

Consideration will be given to any data, views, or arguments pertaining thereto which are filed with the Director, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, Washington 25, D.C., not later than 10 days following publication of this notice in the FEDERAL REGISTER. The proposals are as follows:

§ 948.242 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred by the area committee for Area No. 1, established pursuant to Marketing Agreement No. 97 and this part, both as amended, to enable such committee to perform its functions pursuant to the provisions of the aforesaid amended agreement and order during the fiscal period ending May 31, 1964, will amount to $625.00.

(b) The rate of assessment to be paid by each handler in Area No. 1 pursuant to Marketing Agreement No. 97 and this part, both as amended, shall be one-half cent ($0.005) per hundredweight of potatoes handled by him as the first handler thereof during said fiscal period.

(c) Terms used in this section shall have the same meaning as when used in Marketing Agreement No. 97, as amended, and this part.

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

Dated: July 8, 1963.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 63-7296; Filed, July 10, 1963; 8:55 a.m.]

[7 CFR Part 987]

DEGLET NOOR VARIETY DATES; PRODUCED OR PACKED IN A DESIGNATED AREA OF CALIFORNIA

Proposed Additional Size Regulation

Notice is hereby given of a proposal unanimously recommended by the Date Administrative Committee to establish an additional size regulation applicable to dates of the Deglet Noor variety, pursuant to § 987.40 of the marketing agreement, as amended, and Part 987, as amended (7 CFR Part 987), regulating the handling of domestic dates produced or packed in a designated area of California. The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The proposed size regulation, hereinafter set forth, is intended to provide opportunity for increasing returns to producers by permitting only the larger, more desirable dates to be marketed in free or restricted date outlets for human food. Dates failing to meet the minimum size requirements could be used only in outlets for substandard or cull dates.

Consideration will be given to any written data, views, or arguments pertaining to the proposal which are received by the Director, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, Washington 25, D.C., not later than the seventh day after the date of publication of this notice in the FEDERAL REGISTER.

The proposal is as follows:

§ 987.204 Additional size regulation.

In addition to the requiremnts of § 987.203, no handler shall handle dates of the Deglet Noor variety or withhold such dates to meet restricted obligation, as marketable dates, unless 25 percent of the dates by number, taken from the smallest dates in the representative samples of a lot, average 7.5 grams or more per date with respect to dry or natural whole dates, or 8.0 grams per date with respect to hydrated whole dates. Pitted dates shall be adjusted to an equivalent whole date basis by dividing the pitted weight by .875. Any handler holding graded Deglet Noor dates on July 31, 1963, shall be exempt from the provisions of this section on a quantity of Deglet Noor dates equal to the quantity of such graded dates held by him on July 31, 1963.

Dated: July 8, 1963.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 63-7298; Filed, July 10, 1963; 8:55 a.m.]

CIVIL AERONAUTICS BOARD

[14 CFR Part 288]

[Docket 14633]

EXEMPTION OF AIR CARRIERS FOR SHORT NOTICE MILITARY CONTRACTS

Notice of Proposed Rule Making

JULY 8, 1963.

Notice is hereby given that the Civil Aeronautics Board has under consideration proposed amendments to Part 288

of its Economic Regulations. The first would extend the effectiveness of Part 288 for one year or until July 31, 1964. The second would amend § 288.5 so as to make the exemption from section 401 of the Act inapplicable to supplemental air carriers in recognition of the fact that they now obtain their operating authority for Military Air Transport Service charters directly from their interim certificates issued pursuant to section 7 of Public Law 87–528.

These regulations are proposed under sections 204(a) and 416 of the Federal Aviation Act of 1958, as amended, (72 Stat. 743, 771; 49 U.S.C. 1324, 1386), and section 3 of the Administrative Procedure Act (60 Stat. 238, 5 U.S.C. 1002).

Interested persons may participate in the proposed rule making through submission of ten (10) copies of written data, views or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington 25, D.C. All relevant matter in communications received on or before July 18, 1963, will be considered by the Board before taking final action on the proposed rule. Copies of such communications will be available for examination by interested persons in the Docket Section of the Board, Room 711, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., upon receipt thereof.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

Explanatory statement. Part 288 first became effective on July 28, 1961. As first issued it contained an expiration date of June 30, 1962. The expiration date was extended to July 31, 1963, when it was reissued during 1962.

When Part 288 was first issued, the Board found that the public interest required authorization of all air carriers operating large aircraft to perform short notice charter services for the Military Air Transport Service (MATS). It also found that such transportation services were affected by unusual circumstances in that they were required on short notice; that these circumstances made it impossible for the carriers to obtain certificate authority for, or to file tariffs covering such services; and that enforcement of sections 401 and 403 of the Act would make such operations impossible and would thus constitute an undue burden on the carriers because of both the limited extent of, and the unusual circumstances affecting their operations, and would stand in the way of the development of an air transportation system properly adapted to need of the national defense. It appears to the Board that these circumstances still exist and, in addition, that the minimum rate provisions of Part 288 have proved to be an effective means of maintaining sound economic conditions in the military charter business. It therefore proposes to extend the expiration date for one year or until July 31, 1964.

Section 288.5 of Part 288, among other things, exempts supplemental air carriers from the requirements of section 401(a) of the Act in connection with short notice charters for MATS. This exemption has been rendered superfluous by the issuance of interim certificates to supplemental carriers pursuant to section 7 of Public Law 87–528 containing authority to perform charters for MATS. The Board therefore proposes to except supplemental carriers from the section 401(a) exemption. The section 403 exemption will be retained by these carriers. In addition, the minimum rates established in § 288.7 will continue to apply to supplemental carriers by virtue of § 208.30 of Part 208.

The Board is also reviewing the minimum rates specified in § 288.7. However, any proposed changes that the Board may approve on the basis of such review will be covered in a subsequent notice of proposed rule making.

It is proposed to amend Part 288 of the Economic Regulations (14 CFR Part 288), as follows:

§ 288.1 [Amendment]

1. Amend § 288.1 by adding the following new definition immediately after the definition of "Short notice MATS charter service."

"Supplemental air carrier" means an air carrier deriving its operating authority from either an interim certificate or interim authority issued pursuant to section 7 of Public Law 87–528 or a certificate of Public Convenience and Necessity for supplemental air transportation issued pursuant to section 401(d)(3) of the Act.

2. Amend § 288.5 to read as follows:

§ 288.5 Exemption.

(a) Subject to the provisions of this part and the conditions imposed, air carriers holding authority from the Board to engage in air transportation of persons and/or property by the use of large aircraft and which are parties to CRAF standby contracts are hereby exempted from the following provisions of Title IV of the Federal Aviation Act of 1958, as amended, and the Board's Economic Regulations:

Section 403 of the Act;
Part 221 of the Regulations.

(b) Subject to the provisions of this part and the conditions imposed, air carriers, other than supplemental air carriers, holding authority from the Board to engage in air transportation of persons and/or property by the use of large aircraft and which are parties to CRAF standby contracts are hereby exempted from the following provisions of Title IV of the Federal Aviation Act of 1958, as amended, and the Board's Economic Regulations:

Section 401(a) of the Act;
Part 202 of the Regulations;
Part 207 of the Regulations.

§ 288.18 [Amendment]

3. By amending the first sentence of § 288.18(a) to read as follows:

(a) This part shall expire July 31, 1964, unless rescinded by the Board at an earlier date. * * *

[F.R. Doc. 63–7302; Filed, July 10, 1963; 8:56 a.m.]

FEDERAL AVIATION AGENCY

[14 CFR Part 71 [New]]

[Airspace Docket No. 63–WA–43]

FEDERAL AIRWAYS AND ASSOCIATED CONTROL AREAS

Proposed Designation

Notice is hereby given that the Federal Aviation Agency is considering amendments to Part 71 [New] of the Federal Aviation Regulations, the substance of which is stated below.

The Federal Aviation Agency has under consideration a request from the Canadian Department of Transport for the designation of the United States portion of a proposed airway, and its associated control areas, from Quebec, P.Q., Canada, to Houlton, Maine. This proposed airway would be designated direct from the Quebec Radio Range to the Houlton VOR. Additionally, it is proposed to designate an intermediate airway to overlie the U.S. portion of the proposed airway.

The airways would provide a direct route for aircraft operating between these points.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Assistant Administrator, Eastern Region, Attn: Chief, Air Traffic Division, Federal Aviation Agency, Federal Building, New York International Airport, Jamaica 30, N.Y. All communications received within thirty days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room A–103, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Division Chief.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348).

Issued in Washington, D.C., on July 3, 1963.

H. B. HELSTROM,
Acting Chief,
Airspace Utilization Division.

[F.R. Doc. 63–7264; Filed, July 10, 1963; 8:45 a.m.]

[14 CFR Part 75 [New]]

[Airspace Docket No. 63-WA-44]

JET ADVISORY AREAS

Extension of Upper Limit

Notice is hereby given that the Federal Aviation Agency is considering an amendment to Part 75 [New] of the Federal Aviation Regulations, the substance of which is stated below.

The FAA has under consideration the raising of the ceiling of enroute and terminal radar jet advisory areas and nonradar jet advisory areas from flight level 390 to and including flight level 410.

Air carrier operations specifications authorize the operation of civil air carrier turbojet aircraft, with respect to altitudes at or above flight level 240 only within positive control areas or jet advisory areas. A recent revision of the operations specifications permits civilian carrier flights within positive control areas, up to and including flight level 410. The ceiling on air carrier operations within jet advisory areas presently is restricted to flight level 390. The resulting dual ceiling for air carriers complicates flight planning and increases the probability of confusion. Few, if any, jet advisory areas will remain in effect upon the completion of the area positive control program which is expected within this calendar year.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. All communications received within thirty days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Chief, Airspace Utilization Division. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room A-103, 1711 New York Avenue NW., Washington 25, D.C.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348).

Issued in Washington, D.C., on July 3, 1963.

H. B. HELSTROM,
Acting Chief,
Airspace Utilization Division.

[F.R. Doc. 63-7265; Filed, July 10, 1963; 8:45 a.m.]

Notices

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

FRESH PEACHES

Notice of Purchase Program EMP 96a

In order to encourage the domestic consumption of peaches by diverting them from the normal channels of trade and commerce in accordance with section 32, Public Law 320, 74th Congress, approved August 24, 1935, as amended, a fresh peach purchase program was made effective on July 5, 1963, in Southeastern States. Purchases will be made on an announced price basis as a surplus removal activity. Peaches purchased under the program will be distributed to eligible institutions. Details regarding price, container, and other program specifications are contained in purchase announcements issued by the Agricultural Stabilization and Conservation (ASC) Committees in these States. Quantities purchased will depend upon marketing conditions at the time of purchase, and availability of outlets for use of the peaches without waste. Information concerning this purchase program may be obtained from the Fruit and Vegetable Division, Agricultural Marketing Service, Department of Agriculture, Washington 25, D.C.

(Sec. 32, 49 Stat. 774, as amended, 7 U.S.C. 612c)

Dated: July 8, 1963.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 63-7280; Filed, July 10, 1963; 8:50 a.m.]

Agricultural Research Service

CERTAIN STOCKYARDS AND SLAUGHTERING ESTABLISHMENTS

Notice of Specific Approval and of Withdrawal of Specific Approval

On September 19, 1962, February 1, 1963, March 19, 1963, April 26, 1963, and May 28, 1963, notices were published in the FEDERAL REGISTER (27 F.R. 9266; 28 F.R. 990, 2690, 4146, 5276), which contained lists of all stockyards and slaughtering establishments approved under §§ 78.14(b), 78.15(b), and 78.16(b) of the regulations in Part 78, as amended, Title 9, Code of Federal Regulations, containing restrictions on the interstate movement of certain animals because of brucellosis, under the Acts of May 29, 1884, as amended, February 2, 1903, as amended, and March 3, 1905, as amended (21 U.S.C. 111-113, 114a-1, 115, 117, 120, 121, 125).

I. Pursuant to such authority, notice is hereby given that the following additional stockyards and slaughtering establishments are specifically approved under said regulations as indicated below:

SPECIFICALLY APPROVED STOCKYARDS

The following additional stockyards preceded by an asterisk are specifically approved for the purposes of § 78.5, Title 9, Code of Federal Regulations, concerning brucellosis reactors and of paragraphs (b) and (c) of § 78.12 of said Title 9, concerning cattle not known to be affected with brucellosis. The following stockyards not preceded by an asterisk are specifically approved for the purposes of paragraphs (b) and (c) of § 78.12 only.

ALABAMA

*Bowman Stockyards—Montgomery.

COLORADO

*McCanless Livestock Company—Lamar.
*Sunset Livestock Commission Company—Greeley.

DELAWARE

*Carroll, C. J., Auction Company—Dover.

IOWA

Belmond Sales Pavilion—Belmond.
Mountain States Stockyards, Inc.—Sioux City.

KENTUCKY

*Gibson Livestock, Inc.—Providence.

LOUISIANA

*Kentwood Stockyard, Inc.—Kentwood.
*North Tangipahoa Stockyard, Inc.—Kentwood.

MISSOURI

East "66" Auction Company—Springfield.

MISSISSIPPI

*Southwest Stockyards, Inc.—Port Gibson.

NEW YORK

Lawrence's Commission Sale—Malone.

NORTH DAKOTA

*Williston Sale Company—Stanley.

TEXAS

*Panola County Livestock Commission Company, Inc.—Carthage.

SPECIFICALLY APPROVED SLAUGHTERING ESTABLISHMENTS

The following additional slaughtering establishments preceded by an asterisk are specifically approved for the purposes of § 78.5 of Title 9, Code of Federal Regulations, concerning brucellosis reactors and of paragraphs (b) and (c) of § 78.12 of said Title 9, concerning cattle not known to be affected with brucellosis, and those not preceded by an asterisk are specifically approved for the purposes of paragraphs (b) and (c) of § 78.12 only.

CALIFORNIA

*Regusci Meat Company, Establishment No. 9—Napa.

IOWA

Meats-The-Taste-Inc.—Sioux City.

KENTUCKY

Rogers Country Sausage, Inc.—Richmond.

LOUISIANA

*Bordelon Packing House—DeRidder.

WASHINGTON

*Cascade Packing Company, Inc., #42—Ellensburg.

II. Notice is hereby given also that the following stockyards and slaughtering establishments have been deleted from the list of specifically approved stockyards and slaughtering establishments, respectively, as follows:

Stockyards

COLORADO

Arkansas Valley Sales Company—Lamar.
Sunset Sales Yard—Greeley.

LOUISIANA

Kentwood Stockyards—Kentwood.

MISSISSIPPI

Peelers Livestock Sales—Kosciusko.

NORTH DAKOTA

Stanley Livestock Auction Market—Stanley.

PENNSYLVANIA

Greenville Livestock Market, Inc.—Greenville.
Westmoreland Auction Barn—Norvelt.

SOUTH DAKOTA

Cresbard Sales Company—Cresbard.
Philip Livestock Auction—Philip.

TEXAS

Carthage Auction Sales—Carthage.

Slaughtering Establishments

CONNECTICUT

Beit Brothers—Norwich.
Block, Benjamin—Shelton.
Freeman, M., & Company—New London.
Hartford Provision Company—Hartford.
Hertz Brothers—Norwich.
New Britain Slaughter House—New Britain.
Zeffiro, Frank—New Hartford.

ILLINOIS

Pasquo Podeschi—Taylorville.

IOWA

Smith Packing Company—Sioux City.

LOUISIANA

Crumpler's Packing House—DeRidder.

MISSISSIPPI

B & B Packing Company—Byram.

WYOMING

S & S Packing Company—Cheyenne.

Effective date: The foregoing notice shall become effective upon publication in the FEDERAL REGISTER.

Certain additional stockyards and slaughtering establishments have been added to the list of those heretofore specifically approved under the regulations in 9 CFR Part 78. It has been determined that the inspections and

handling of livestock or carcasses or products thereof at such stockyards or establishments are adequate to effectuate the purposes of such regulations. Certain stockyards and slaughtering establishments have been removed from the list of those heretofore specifically approved under said regulations, because it has been determined that such stockyards and establishments no longer qualify for specific approval under the regulations. This action, therefore, imposes certain restrictions necessary to prevent the spread of brucellosis and relieves certain restrictions presently imposed. It should become effective promptly in order to accomplish its purpose in the public interest and to be of maximum benefit to persons subject to the restrictions which are relieved thereby. Accordingly, under section 4 of the Administrative Procedure Act (5 U.S.C. 1003), it is found upon good cause that notice and other public procedure with respect to this action are impracticable and, good cause is found for making this notice effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 5th day of July 1963.

E. E. SAULMON,
Acting Director, Animal Disease Eradication Division, Agricultural Research Service.

[F.R. Doc. 63-7282; Filed, July 10, 1963; 8:50 a.m.]

CERTAIN HUMANELY SLAUGHTERED LIVESTOCK

Identification of Carcasses

Pursuant to section 4 of the Act of August 27, 1958 (7 U.S.C. 1904) and the statement of policy thereunder in 9 CFR Part 181 the following table lists the establishments operated under Federal inspection under the Meat Inspection Act (21 U.S.C. 71 et seq.) which were officially reported on June 1, 1963, as humanely slaughtering and handling on that date the species of livestock respectively designated for such establishments in the table. Establishments reported after June 1, as using humane methods on June 1 or a later date in June will be listed in a supplemental list. Previously published lists represented establishments reported in May or June 1963 as humanely slaughtering and handling the designated species of livestock on May 1 or some later date in May 1963 (28 F.R. 5273 and 5686). The establishment number given with the name of the establishment is branded on each carcass of livestock inspected at that establishment. The table should not be understood to indicate that all species of livestock slaughtered at a listed establishment are slaughtered and handled by humane methods unless all species are listed for that establishment in the table. Nor should the table be understood to indicate that the affiliates of any listed establishment use only humane methods:

Name of establishments	Establishment No.	Cattle	Calves	Sheep	Goats	Swine	Horses
Armour and Co	2AD	(*)	(*)				
Do	2AG	(*)					
Do	2AT	(*)		(*)		(*)	
Do	2AU	(*)		(*)			
Do	2B	(*)	(*)			(*)	
Do	2C	(*)		(*)		(*)	
Do	2E	(*)		(*)		(*)	
Do	2H	(*)	(*)	(*)		(*)	
Do	2HT	(*)	(*)				
Do	2LT	(*)					
Do	2SA			(*)	(*)		
Do	2SD	(*)	(*)	(*)	(*)	(*)	
Do	2WN	(*)	(*)				
Swift and Co	3A	(*)	(*)	(*)		(*)	
Do	3AC	(*)				(*)	
Do	3AE	(*)	(*)			(*)	
Do	3AF	(*)	(*)				
Do	3AN	(*)	(*)			(*)	
Do	3AW	(*)				(*)	
Do	3B	(*)		(*)		(*)	
Do	3C	(*)	(*)	(*)		(*)	
Do	3CC	(*)		(*)			
Do	3D	(*)	(*)	(*)		(*)	
Do	3E	(*)	(*)	(*)		(*)	
Do	3F	(*)	(*)	(*)	(*)	(*)	
Do	3FF	(*)	(*)	(*)		(*)	
Do	3H	(*)	(*)	(*)		(*)	
Do	3L	(*)				(*)	
Do	3N	(*)	(*)	(*)		(*)	
Do	3NN	(*)	(*)	(*)		(*)	
Do	3R	(*)	(*)			(*)	
Do	3S					(*)	
Do	3T	(*)	(*)				
Do	3UU	(*)	(*)	(*)		(*)	
Do	3W	(*)	(*)			(*)	
Do	3Y	(*)					
Do	3Z	(*)	(*)				
Lykes Bros., Inc	8	(*)				(*)	
Do	8B	(*)					
Pauly Packing Co., Inc	10	(*)	(*)				
Hygrade Food Products Corp	12	(*)	(*)	(*)		(*)	
Do	12A	(*)				(*)	
Do	12C	(*)	(*)	(*)		(*)	
Do	12D	(*)					
Do	12G	(*)	(*)			(*)	
Do	12P	(*)					
Mickelberrys Food Products Co	16					(*)	
John Morrell and Co	17	(*)				(*)	
Do	17A	(*)				(*)	
Do	17D	(*)		(*)		(*)	
Do	17E					(*)	
C. Finkbeiner, Inc	18	(*)				(*)	
The Cudahy Packing Co	19	(*)				(*)	
Do	19E	(*)	(*)	(*)		(*)	
Wilson and Co., Inc	20A	(*)				(*)	
Do	20N	(*)	(*)	(*)		(*)	
Do	20Q	(*)	(*)			(*)	
Do	20U			(*)			
Do	20Y	(*)	(*)	(*)		(*)	
Swift and Co	23	(*)		(*)			
Brander-Meat Co	25	(*)					
The Sperry and Barnes Co	27C					(*)	
Patrick Cudahy, Inc	28	(*)				(*)	
Kreinberg and Krasny, Inc	30	(*)					
Roegelein Provision Co	32	(*)	(*)			(*)	
Valleydale Packers, Inc	34	(*)	(*)	(*)		(*)	
Kenton Packing Co	36	(*)	(*)			(*)	
Pocomoke Provision Co	39	(*)	(*)	(*)			
Armour and Co	40	(*)				(*)	
Sunnyland Packing Co	43	(*)				(*)	
Stark Wetzel and Co., Inc	44	(*)					
Do	44A					(*)	
Idaho Meat Packers	46	(*)	(*)	(*)		(*)	
Consolidated Dressed Beef Co., Inc	47	(*)					
Lackawanna Beef and Provision Co	49	(*)					
Nevada Meat Packing Co	53	(*)					
Sunnyland Packing Co. of Alabama	56	(*)				(*)	
Glover Packing Co. of Amarillo	60	(*)					
Glover Packing Co	60A	(*)	(*)	(*)		(*)	
Malone Packing Co	65					(*)	
Somerville Packing Co	66					(*)	
The Quaker Oats Co	67E						(*)
Auburn University	71	(*)					
Brown Thompson and Son	73			(*)		(*)	
Eastern Packing Co	74E						(*)
Armour and Co	75	(*)	(*)	(*)	(*)		
John Morrell and Co	79	(*)				(*)	
City Packing Co	80	(*)	(*)			(*)	
The Cudahy Packing Co	81	(*)				(*)	
Hill Packing Co	83E						(*)
Edgar Packing Co	84		(*)				
Excel Packing Co., Inc	86	(*)					
The E. Kahns Sons, Co	89	(*)	(*)	(*)		(*)	
Hygrade Food Products Corp	90	(*)					
Sugardale Provision Co	92	(*)				(*)	
Shonyo Packing Co	93	(*)	(*)				
The Val Decker Packing Co	95	(*)	(*)	(*)		(*)	
John Engelhorn and Sons	97					(*)	
A. Kochs Sons	98	(*)	(*)				
Armour and Co	100	(*)		(*)			
Liberty Packing Co	101	(*)	(*)				
I. Kaplan, Inc	102	(*)					
Swift and Co	104	(*)				(*)	
J. Lynn Cornwell, Inc	107					(*)	
Contris Packing Co., Inc	110					(*)	
Wilson and Co., Inc	111	(*)	(*)	(*)		(*)	
Hoffman Packing Co., Inc	112	(*)					
Morris Packing Co	113	(*)					
The Merchants Co	116	(*)				(*)	
West Coast Meat Co., Inc	117	(*)	(*)	(*)		(*)	

Name of establishments	Establishment No.	Cattle	Calves	Sheep	Goats	Swine	Horses
Marhoefer Packing Co., Inc	121	(*)				(*)	
E. J. Archie and Sons, Inc	122	(*)					
City Dressed Beef	125	(*)					
Peyton Packing Co., Inc	126	(*)	(*)	(*)		(*)	
John Roth and Son, Inc	130	(*)					
Tobin Packing Co., Inc	133					(*)	
Armour and Co	139	(*)	(*)	(*)			
Edward J. Kluener, Inc	142	(*)	(*)				
R. B. Rice Sausage Co., Inc	144					(*)	
Kansas City Dressed Beef Co	156	(*)					
Cornland Dressed Beef, Inc	157	(*)					
Missouri Farmers Association Packing Division.	159	(*)				(*)	
Do	159A	(*)					
New York State College of Agriculture	165	(*)	(*)	(*)		(*)	
Swift and Co	166A	(*)	(*)	(*)	(*)	(*)	
DeKalb Packing Co	170			(*)			
I. Whitson Food Product and Co	172	(*)	(*)	(*)		(*)	
K. Shapiro, Inc	173		(*)	(*)			
Armour and Co	177	(*)	(*)				
Peerless Packing Co	180					(*)	
Montrose Beef Co	181	(*)					
The Rath Packing Co	186C	(*)	(*)				
Do	186F					(*)	
Seattle Packing Co	191	(*)		(*)		(*)	
Krey Packing Co	192	(*)		(*)		(*)	
John Morrell and Co	196					(*)	
Hynes Packing Co	197	(*)	(*)				
United Fryer and Stillman, Inc	198	(*)					
George A. Hormel and Co	199	(*)				(*)	
Do	199A	(*)					
Do	199D					(*)	
Do	199I					(*)	
Do	199N	(*)				(*)	
Cudahy Packing Co	202	(*)				(*)	
Emge Packing Co., Inc	205	(*)	(*)			(*)	
National Packaging Co., Inc	208	(*)					
Heinzs Riverside Abattoir, Inc	210	(*)					
S. Adams Packing Co	211	(*)	(*)				
Penn Packing Co	212					(*)	
Elburn Packing Co	213	(*)					
Kneip Packing Co	213C		(*)				
Fred Dold and Sons Packing Co	214	(*)					
Lincoln Meat Co	217	(*)					
York Packing Co., Inc	220					(*)	
Gwaltney, Inc	221A					(*)	
Armour and Co	222	(*)				(*)	
DeJong Packing Co	223	(*)	(*)				
Hygrade Food Products Corp	224	(*)				(*)	
Do	224B	(*)	(*)	(*)		(*)	
Gold Merit Packing Co., Inc	232	(*)					
Walti Schilling and Co., Inc	235	(*)		(*)			
Animal Husbandry Dept	236	(*)		(*)		(*)	
Armour and Co	238					(*)	
P. D. and J. Meats	240	(*)	(*)				
Greenwood Packing Plant	242	(*)	(*)	(*)		(*)	
I. Klayman and Co	243					(*)	
Iowa Beef Packers, Inc	245	(*)					
Do	245A	(*)					
John Morrell and Co	246	(*)				(*)	
Harget Realty Corp	247	(*)				(*)	
Frosty Morn Meats	250	(*)				(*)	
Prairie Packing Co	253					(*)	
Balentine Packing Co	258					(*)	
Ryplains Dressed Beef, Inc	262	(*)					
The Jones Dairy Farm	263					(*)	
Lubbock Packing Co	266	(*)				(*)	
Picific Meat Co., Inc	267	(*)				(*)	
Houston Packing Co	271	(*)	(*)			(*)	
Tog Packing Co., Inc	273	(*)					
Elliott Packing Co	274	(*)	(*)	(*)		(*)	
Wilson and Co., Inc	275	(*)					
American Stores Co	279	(*)		(*)			
Bookey Packing Co	281	(*)					
Agar Packing Co., Inc	282					(*)	
Do	282B					(*)	
Solano Meat Co	285	(*)	(*)	(*)			
Arbogast and Bastian Co	289	(*)	(*)	(*)		(*)	
The H. H. Meyer Packing Co	290					(*)	
San Jose Meat Co	291	(*)	(*)	(*)			
Sioux City Dressed Pork, Inc	292					(*)	
Mid Packing Co., Inc	292A	(*)					

Name of establishments	Establishment No.	Cattle	Calves	Sheep	Goats	Swine	Horses
Gus Juengling and Son, Inc	298	(*)	(*)				
Waldock Packing Co	299					(*)	
Great Falls Meat Co	301	(*)				(*)	
Commercial Packing Co., Inc	302	(*)					
Union Packing Co	305	(*)					
Do	305A	(*)					
Star Packing Co	306	(*)					
Survall Packing Co	307	(*)					
Melton Provision Co	311	(*)	(*)	(*)	(*)		
Ideal Packing Co., Inc	312	(*)					
Webb Packing Co	316	(*)					
Estes Packing Co	319	(*)	(*)				
Stadler Packing Co., Inc	320	(*)				(*)	
Frisco Packing Co	327	(*)					
C. and M. Meat Packing Corp	329	(*)	(*)				
Royal Packing Co	331	(*)					
Sokolik Packing Co	331A	(*)					
Shapiro Packing Co., Inc	332	(*)	(*)				
Nobles Independent Meat Co	335	(*)	(*)	(*)			
Chino Valley Meat Packing Co., Inc	336	(*)					
Sam Kane Packing Co	337	(*)	(*)				
Green and Oliver Sausage Co	338					(*)	
Midland Empire Packing Co., Inc	339	(*)					
Des Moines Packing Co	340	(*)					
Peters Packing Co., Inc	341	(*)				(*)	
State Packing Co., Inc	344	(*)					
Anza Packing Co	345	(*)	(*)	(*)			
Union Packing Co	351	(*)					
Samuels East Texas Packing Co	353	(*)					
Fresno Meat Packing Co	354	(*)					
McCandless Pack Co., Inc	355	(*)					
Heil Packing Co	357					(*)	
Marks Meat Co	362	(*)	(*)				
Meyers Packing Co	363	(*)					
Montebello Meat Packing Co	364	(*)		(*)			
James Allan and Sons	365	(*)		(*)	(*)	(*)	
Westport Packing Corp	369	(*)					
Bowling Provision Co., Inc	372					(*)	
Fischer Packing Co	374	(*)	(*)			(*)	
Cross Bros. Meat Packers, Inc	376	(*)	(*)	(*)			
Emge Packing Co., Inc	380	(*)	(*)			(*)	
Smithfield Packing Co., Inc	382					(*)	
American Stores Co	384	(*)					
Liebmann Packing Co	388	(*)	(*)				
Dugdale Packing Co	390	(*)					
Oldhams Farm Sausage Co., Inc	392					(*)	
Roth Packing Co	394	(*)					
Robert L. Runtz, Inc	395	(*)	(*)				
Dubuque Packing Co	396	(*)	(*)	(*)		(*)	
Logan Packing Co	397	(*)					
Watsonville Dressed Beef, Inc	398	(*)	(*)				
Superior Packing Co	399	(*)					
Los Banos Abattoir	400	(*)	(*)				
Mon Dak Meat Packing Co., Inc	405	(*)					
Neuhoff Bros	406	(*)	(*)	(*)		(*)	
Endlich Packing Co., Inc	410	(*)					
Alpine Packing Co	412	(*)	(*)	(*)		(*)	
The Lundy Packing Co	413					(*)	
Frosty Morn Meats	414	(*)	(*)	(*)		(*)	
Philadelphia Boneless Beef Co	418	(*)					
Murray Packing Co., Inc	421	(*)					
E. W. Kneip, Inc., of Iowa	422	(*)					
The Collins Packing Co	423					(*)	
Hebron Packing Co., Inc	425	(*)					
Lone Star Packing Co	433	(*)	(*)				
Monarch Meat Packing Co	435	(*)					
Queen Packing Corp	436	(*)					
Schneider Packing Co	439	(*)	(*)				
Omaha Dressed Beef Co., Inc	441	(*)					
Prime Packing Co., Inc	445	(*)	(*)	(*)		(*)	
Peerless Packing Co., Inc	448	(*)					
DeWitt Packing Corp	456	(*)	(*)				
Swift and Co	459					(*)	
Morris Rifkin and Sons, Inc	460	(*)					
Pioneer Boneless Beef, Inc	461	(*)					
Lancaster Packing Co	462	(*)					
Litvak Packing Co	465	(*)					
Becwar Packing Co	467	(*)	(*)			(*)	
Corn Husker Packing Co	468	(*)					
Eckert Packing Co	471	(*)				(*)	
Iowa Pork Co., Inc	473					(*)	
Armour and Co	477	(*)		(*)			

Name of establishments	Establishment No.	Cattle	Calves	Sheep	Goats	Swine	Horses
Eldridge Packing Co	478	(*)					
Middletown Beef Co., Inc	483	(*)					
St. Cloud Meat Packing Co	485	(*)					
East Tennessee Packing Co	487	(*)	(*)			(*)	
Memphis Butchers Association, Inc	488	(*)	(*)	(*)	(*)	(*)	
Nebraska Beef Co	489	(*)					
Goldring Packing Co., Inc	490	(*)		(*)			
Mid State Meat Packers, Inc	494	(*)	(*)				
Heim Brothers Packing Co	499	(*)				(*)	
Greenlee Pack Co	501	(*)					
Swift and Co	505	(*)					
B. Rothschild and Co	506	(*)					
Gruensfelder Packing Co	508	(*)	(*)				
Armour and Co	509	(*)				(*)	
The Hull and Dillon Packing Co	510	(*)	(*)			(*)	
Shen Valley Meat Packers, Inc	511	(*)				(*)	
Capitol Packing Co	513	(*)	(*)	(*)			
Charles Miller and Co	517					(*)	
Illinois Packing Co	521	(*)					
Pearl Packing Co., Inc	524	(*)	(*)	(*)	(*)	(*)	
Armour and Co	528	(*)	(*)				
Smallwood Packing Co., Inc	529	(*)					
Omaha Packing Co	532	(*)					
Rosenthal Packing Co., Inc	535	(*)	(*)	(*)	(*)		
Pepper Packing Co	536	(*)				(*)	
Oscar Mayer and Co., Inc	537A	(*)	(*)	(*)		(*)	
Do	537C					(*)	
Midwest Packing Co	538	(*)					
Wholesale Cooperative Meat Dealers Association	541	(*)					
United Dressed Meats, Inc	546	(*)	(*)			(*)	
Pride Packing Co., Inc	549	(*)	(*)				
Piute Packing Co	550	(*)	(*)				
Salter Packing Co	551	(*)					
Black Hills Packing Co	554	(*)				(*)	
Mid South Packers, Inc	557	(*)				(*)	
The Cudahy Packing Co	559	(*)	(*)			(*)	
D. and W. Packing Co	560	(*)	(*)			(*)	
Packerland Packing Co., Inc	562	(*)	(*)	(*)	(*)	(*)	
John Morrell and Co	564					(*)	
Do	565	(*)	(*)				
Elmer Binder and Son, Inc	569		(*)	(*)			
Perretta Packing Co., Inc	571	(*)					
Frosty Morn Meats, Inc	576	(*)				(*)	
Armour and Co	579	(*)				(*)	
Kingsford Packing Co., Inc	581	(*)					
Coffeyville Packing Co., Inc	583	(*)					
City of Austin Municipal Abattoir	590	(*)	(*)				
Swift and Co	591	(*)	(*)	(*)		(*)	
Harman Packing Co	596	(*)					
San Antonio Packing Co	602	(*)	(*)	(*)	(*)		
Central Packing Co	606	(*)					
Swift and Co	608	(*)					
Eastern Oregon Meat Co., Inc	611	(*)	(*)	(*)		(*)	
National Tea Co	613	(*)				(*)	
Donner Packing Co	614	(*)					
Kummer Meat Co., Inc	617	(*)	(*)	(*)		(*)	
Acme Meat Co., Inc	618	(*)	(*)				
Hill Packing Co	623E						(*)
Star Provision Co	626					(*)	
Big Foot Packing Co., Inc	627	(*)	(*)				
H. H. Keim Co	630	(*)	(*)	(*)		(*)	
General Meat Co	632	(*)					
Ebner Bros. Packers	633	(*)	(*)			(*)	
Zipron Bros., Inc	635	(*)					
Auburn Packing Co., Inc	636	(*)					
Bird Provision Co	647					(*)	
Spencer Packing Co	648	(*)					
Wm. Schluderberg—T. J. Kurdle Co	649	(*)	(*)	(*)		(*)	
John Morrell and Co	650					(*)	
Nagle Packing Co	653	(*)	(*)	(*)			
Milwaukee Dressed Beef Co	654	(*)					
Wilson and Co., Inc	655			(*)			
Baums Bologna, Inc	657	(*)					
St. Louis Dressed Beef Co	659	(*)					
McCook Packing Co	660	(*)	(*)				
Quality Meat Packing Co	661	(*)	(*)				
Globe Packing Co	663	(*)					
Webber Sausage Co., Inc	665					(*)	
Crown Packing Co	666					(*)	
Scottsbluff Packing Co	667	(*)		(*)			
San Joaquin Packing Co	671	(*)	(*)				

Name of establishments	Establishment No.	Cattle	Calves	Sheep	Goats	Swine	Horses
E. S. Read and Sons, Inc	672	(*)	(*)	(*)			
Union Packing Co	673	(*)					
Caviness Packing Co	675	(*)					
Jacob Bauers Sons, Inc	678	(*)					
Colville Meats, Inc	679	(*)	(*)	(*)		(*)	
Armour and Co	680	(*)	(*)	(*)		(*)	
Haas Davis Packing Co., Inc	682	(*)	(*)	(*)			
Caldwell Packing Co., Inc	683	(*)					
The William Fockes Sons Co	685	(*)	(*)	(*)		(*)	
The Sucher Packing Co	689	(*)	(*)	(*)		(*)	
Pierce Packing Co	691	(*)					
Marco Packing Co	692	(*)	(*)				
Bryan Meat Co	693	(*)					
Kramer Beef Co	695	(*)					
Carter Packing Co	698	(*)	(*)	(*)		(*)	
Central Nebraska Packing Co	713E						(*)
Davenport Packing Co., Inc	716	(*)					
Farmbest, Inc	717					(*)	
The Joseph N. Rice Co	719	(*)	(*)				
Swift and Co	726	(*)	(*)	(*)		(*)	
Decker and Son	727					(*)	
Roode Packing Co., Inc	729	(*)					
Vogt Packing Co	730	(*)					
Western Packers	733	(*)					
The Quaker Oats Co	734E						(*)
Ohio Packing Co	736	(*)	(*)			(*)	
The Jacob Schlachter's Son and Co	739	(*)	(*)	(*)			
Mid State Meat Co	741	(*)	(*)				
Howard Pancero and Co	747	(*)	(*)				
Ruchti Bros	749	(*)	(*)				
Luck Brothers Cooperative Packing Co	753	(*)					
Monroe Packing Co., Inc	755	(*)					
Seitz Packing Co., Inc	756A	(*)				(*)	
Philadelphia Dressed Beef Co	758	(*)					
The American Meat Packing Corp	760					(*)	
Schaake Packing Co., Inc	761	(*)					
Karler Packing Co	767	(*)	(*)				
Sheridan Meat Co., Inc	768	(*)	(*)	(*)		(*)	
Earl C. Gibbs, Inc	770	(*)					
Cadwell Martin Meat Co	773	(*)					
Modern Meat Packing Co	774	(*)		(*)			
Atlas Packing Co	775	(*)					
The Cudahy Packing Co	779	(*)	(*)			(*)	
Bryan Brothers Packing Co	780	(*)	(*)			(*)	
Diamond Meat Co., Inc	783	(*)	(*)				
Granite State Packing Co	785	(*)	(*)				
Aurora Packing Co., Inc	788	(*)					
Baums Meat Packing	792	(*)	(*)	(*)			
Max Bauer Meat Packer	800	(*)	(*)				
The Gerhardt Sons, Inc	810	(*)	(*)				
Goldring Packing Co., Inc	811	(*)	(*)	(*)			
William N. H. Peters	813	(*)					
Rochester Independent Packer, Inc	817	(*)					
J. H. Ruth Packing Co	818					(*)	
Clyde Packing Co., Inc	821	(*)				(*)	
Henry Meyers Sons, Inc	822	(*)	(*)				
Hibbs Packing Co	825	(*)		(*)			
Penford Packing Co	827	(*)					
Bristol Packing Co	828	(*)	(*)				
Berchems Meat Co	830	(*)					
White Packing Co., Inc	835	(*)	(*)	(*)		(*)	
John Morrell and Co	836	(*)					
Nat Burning Packing Co	837B	(*)				(*)	
Herman Kempers Sons, Inc	839	(*)	(*)				
Reelfoot Packing Co	840	(*)	(*)			(*)	
G. Bartusch Packing Co	843	(*)					
The Allen Packing Co	845	(*)	(*)	(*)			
Arena Dressed Beef Co	853	(*)					
Sioux City Dressed Beef, Inc	857	(*)					
Siouxland Dressed Beef Co., Division of Needham	857F	(*)					
Montana Packing Co	857G	(*)					
Jordan Meat and Livestock Co	858	(*)	(*)	(*)	(*)	(*)	
Sam McDaniel and Sons, Inc	859	(*)					
Wells and Davies, Inc	860	(*)	(*)			(*)	
Sierra Meat Co	862	(*)					
Genesee Packing Co	868	(*)					
Hardy and Co., Inc	869	(*)	(*)				
Santa Ana Packing Co	874	(*)					
Samuels and Co., Inc	878			(*)	(*)		
Pahler Packing Corp	880	(*)					
Vermont Dressed Beef Co., Inc	883	(*)					

Name of establishments	Establishment No.	Cattle	Calves	Sheep	Goats	Swine	Horses
Alco Packing Co	885	(*)	(*)	(*)			
William Davies Co., Inc	888A	(*)	(*)			(*)	
O'Neill Packing Co	889	(*)					
City Packing Co	891	(*)	(*)				
Tobin Packing Co., Inc	893					(*)	
Vernon Calhoun Packing Co	897	(*)					
Meats, Inc	899	(*)	(*)				
Sigman Meat Co., Inc	901	(*)	(*)				
Kanes Dressed Beef	907	(*)					
Hoosier Veterinary Laboratories, Inc	912					(*)	
Chiapetti Packing Co	916			(*)			
National Meat Packers, Inc	917	(*)	(*)			(*)	
B. Constantino and Sons Co	918	(*)	(*)				
Valleydale Packers, Inc., of Bristol	922	(*)	(*)			(*)	
South Philadelphia Willowbrook, Inc	923	(*)	(*)				
Wisconsin Packing Co	924	(*)					
Peoples Packing Co	925	(*)	(*)	(*)	(*)	(*)	
Kerber Packing Co	929	(*)	(*)			(*)	
Tarpoff Packing Co	931	(*)					
McKenney Meat Co	932	(*)	(*)				
E. B. Manning and Son	934	(*)					
Volz Packing Co	938	(*)					
Cappellino Abattoir, Inc	939	(*)					
Gentner Packing Co., Inc	941	(*)					
Delrich Meat Packers, Inc	944					(*)	
Whitehall Packing Co	946	(*)					
M. Brizer and Co	948	(*)					
Joe Doctorman and Son Packing Co., Inc	949	(*)	(*)	(*)			
Armour and Co	956	(*)				(*)	
Reliable Packing Co., Inc	959					(*)	
Greater Omaha Packing Co., Inc	960	(*)					
Virginia Packing Co., Inc	963	(*)	(*)	(*)			
Earl Flick Wholesale Meats, Inc	965	(*)	(*)				
T. L. Lay Packing Co	967	(*)				(*)	
Monfort Packing Co	969	(*)		(*)			
Hawaii Meat Co., Ltd	970	(*)	(*)	(*)			
Perlin Packing Co., Inc	974	(*)	(*)	(*)			
National Food Stores, Inc	981	(*)					
Reitz Meat Products Co	983	(*)				(*)	
Hospers Packing Co	985	(*)					
Eagle Packing Co	987	(*)					
Everett C. Horlein and Son, Inc	988	(*)					
Johnson Meat Products Co., Inc	994					(*)	
Klarer of Kentucky, Inc	995	(*)	(*)				
Do	995A					(*)	
Do	995C					(*)	
Valley Meat Co	1009	(*)	(*)	(*)			
The Home Pride Provisions, Inc	1029	(*)	(*)	(*)	(*)		
Armour and Co	1085	(*)	(*)				
Landy Packing Co	1171	(*)					
The Harris Packing Co	1175					(*)	
Wayne Packing Co	1303	(*)					
Nebraska Meat Packers, Inc	1307	(*)					
A. F. Moyer and Sons, Inc	1311	(*)					
McCabe Packing Plant	1312	(*)	(*)				
Swift and Co	1315	(*)				(*)	
Nebraska Iowa Dressed Beef Co	1318	(*)					
Stevens Meat Co., Inc	1485	(*)	(*)				

493 establishments reported.

Done at Washington, D.C., this 25th day of June, 1963.

C. H. PALS,
Director, Meat Inspection Division,
Agricultural Research Service.

[F.R. Doc. 63-6898; Filed, July 10, 1963; 8:45 a.m.]

DEPARTMENT OF THE TREASURY

Bureau of Customs

[T.D. 55935]

COTTON TEXTILES PRODUCED OR MANUFACTURED IN SPAIN

Restrictions on Entry

JULY 5, 1963.

There is published below a letter of July 1, 1963, from the Chairman, President's Cabinet Textile Advisory Committee, which directs that effective as soon as possible and through March 4, 1964, not more than 3,361,734 square yards of cotton textiles in Category 9, manufactured or produced in Spain, which were exported from Spain to the United States on or after March 5, 1963, be allowed entry for consumption or withdrawal from warehouse for consumption in the United States (including the Commonwealth of Puerto Rico).

Collectors of customs and appraisers of merchandise have been advised of the procedures to be followed in carrying out this directive and have been instructed to bring such procedures to the attention of all brokers, importers, and others concerned.

[SEAL] LESTER D. JOHNSON,
Acting Commissioner of Customs.

THE SECRETARY OF COMMERCE
PRESIDENT'S CABINET TEXTILE ADVISORY COMMITTEE

COMMISSIONER OF CUSTOMS,
DEPARTMENT OF THE TREASURY,
Washington, D.C.

Washington 25, D.C., July 1, 1963.

DEAR MR. COMMISSIONER: The United States Government on March 5, 1963, in furtherance of the objectives of, and under the terms of, the Long Term Arrangement Regarding International Trade done at Geneva on February 9, 1962, requested the Government of Spain to restrain the export of cotton textiles and cotton textile products in Category 9 to the United States. A level of restraint has been decided upon for the twelve-month period beginning March 5, 1963. The Long Term Arrangement is an agreement contemplated by section 204 of the Agricultural Act of 1956, as amended.

Under the terms of the Long Term Arrangement and in accordance with the procedures outlined in Executive Order 11052 of September 28, 1962, you are directed to prohibit, effective as soon as possible, and for the period extending through March 4, 1964, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textiles and cotton textile products in Category 9 produced or manufactured in Spain, in excess of the level of restraint provided:

Category:	*Level of restraint*
9	3,361,734 square yards

The level of restraint of 5,000,000 square yards established for the twelve-month period March 5, 1963, through March 4, 1964, has been corrected to reflect entries made during the period March 5, 1963, through May 31, 1963. Corrections have not been made to reflect entries, if any, subsequent to May 31, 1963.

In carrying out this directive, you shall allow entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textiles and cotton textile products in Category 9, produced or manufactured in Spain, when the cotton textiles and cotton textile products sought to be entered have been exported to the United States from Spain prior to the initial date of the twelve-month period of restraint, regardless of whether the restraint level has been filled. Goods in Category 9, from Spain, shipped prior to the initial date of the twelve-month period of restraint, are not to be counted against the restraint level even if not filled at the time of entry.

A detailed description of the listed category in terms of Schedule A numbers and U.S.I.D.A. numbers is attached.

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Spain and with respect to imports of cotton textiles and cotton textile products from Spain have been determined by the President's Cabinet Textile Advisory Committee to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the notice provisions of Section 4 of the Administrative Procedure Act. You are requested to publish this letter in the FEDERAL REGISTER.

Sincerely yours,

LUTHER H. HODGES,
Secretary of Commerce, and Chairman, President's Cabinet Textile Advisory Committee.

SCHEDULE A AND U.S.I.D.A. COMPONENTS OF SELECTED INTERNATIONAL COTTON TEXTILE ARRANGEMENT CATEGORIES

Category	Description	Schedule A number	U.S.I.D.A. number
9	Sheeting, carded	3048 212 216 222 228 3058 226 3068 200	0904-0905 156* 158* 162* 166* 266* 366*

*The last digit represents average yarn number groups (e.g., *0* represents average yarn numbers 10 or lower; *3* represents average yarn numbers 21 through 28; *9* represents average yarn numbers over 60, etc.).

[F.R. Doc. 63-7292; Filed July 10, 1963; 8:53 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

UTAH

Notice of Proposed Withdrawal and Reservation of Lands

JULY 3, 1963.

The National Park Service has filed an application, Serial Number Utah 0118454 for the withdrawal of the lands described below, from all forms of appropriation under the public land laws including the general mining laws.

The applicant desires the land for construction of an approach road connecting Utah State Road 95 to the Natural Bridges National Monument, and for a protective border along the approach road. The withdrawal would protect scenic, wilderness and recreation values along the road. Grazing and mineral leasing would continue under administration of the Bureau of Land Management.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, Post Office Box 777, Salt Lake City 10, Utah.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands desired are embraced in a strip 400 feet wide, 200 feet on either side of the center line of an approach road, connecting to Utah State Road 95 in unsurveyed Section 11 and traversing unsurveyed Sections 3, 4, 5 and 10 of T. 37 S., R. 18 E., Salt Lake Meridian. The road will be approximately 4 miles long and contain about 194 acres, more or less.

R. D. NIELSON,
State Director.

[F.R. Doc. 63-7272; Filed, July 10, 1963; 8:47 a.m.]

[Group 386]

ARIZONA

Notice of Filing of Plats of Survey; Correction

In Federal Register Document No. 63-6860 of 28 F.R. 6754 the legal description was described as:

GILA AND SALT RIVER MERIDIAN

T. 10 S., R. 15 E.,
Sec. 1, Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, E½NE¼, SW¼SW½, SE¼;

and is corrected to read as follows:

GILA AND SALT RIVER MERIDIAN

T. 10 S., R. 15 E.,
Sec. 1, Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, E½NE¼, SW¼SW¼, SE¼;

Dated: July 5, 1963.

ROY T. HELMANDOLLAR,
Manager.

[F.R. Doc. 63-7273; Filed, July 10, 1963; 8:48 a.m.]

CALIFORNIA

Notice of Partial Termination of Proposed Wihtdrawal and Reservation of Land

JULY 3, 1963.

Notice of an application, filed by the Bureau of Reclamation, Department of the Interior, Serial Number R 01051, for withdrawal and reservation of lands was published as F.R. Doc. 62-10114, on page 10002 and 10003, of the issue of October 11, 1962.

The applicant agency has cancelled its application, R 01051, as to the lands described below. Therefore, pursuant to the regulations contained in 43 CFR Part 295, such lands will be at 10:00 a.m., on July 15, 1963, relieved of the segregative effect of the above mentioned application.

The lands involved in this notice of termination are:

SAN BERNARDINO MERIDIAN

T. 14 S., R. 23 E., unsurveyed,
Sec. 36, NE¼, N½SE¼, SW¼SE¼, N½SE¼SE¼, and SW¼SE¼SE¼.
T. 15 S., R. 23 E., unsurveyed,
Sec 1, S½NE¼NE¼, NW¼NW¼NE¼, S½NW¼NE¼, S½NE¼, and SE¼.

The areas described aggregate approximately 600 acres.

JENS C. JENSEN,
Manager, Land Office, Riverside.

[F.R. Doc. 63-7274; Filed, July 10, 1963; 8:48 a.m.]

[Division of Field Services Order No. 1]

MANAGER, BUREAU OF LAND MANAGEMENT OFFICE, NEW ORLEANS, LA.

Delegation of Authority Regarding Duties in States East of Mississippi River and Those States Bordering the West Bank Thereof

JULY 3, 1963.

Effective July 15, 1963, pursuant to the authority contained in section 4.1 of Bureau Order No. 684, as amended, and subject to the limitations contained therein, the Manager of the Bureau of Land Management Office at New Orleans, Louisiana, is authorized to perform within the public land states east of the Mississippi River and those states bordering the west bank thereof, in accordance with existing policies, regulations and procedures of this Bureau, and under the direct supervision of the Chief, Division of Field Services, the functions of the Director, Bureau of Land Management, listed below, unless specifically limited.

(a) *Cancellations or surrenders of contracts, leases and permits.* Make partial or complete cancellations or accept surrenders of contracts, leases, and permits.

(b) *Copies of records.* On matters in which he is authorized to act, the manager may take all actions on requests for copies of records.

(c) *Government contests.* Initiate Government contests against claims asserted to public lands.

(d) *Bonds.* Take all actions on bonds required in connection with matters pertaining to the lands or the resources thereof under his jurisdiction.

(e) *Trepass.* Determine liability and accept damages for trespass on the public lands, and dispose of resources recovered in trespass cases for not less than the appraised value thereof, under 43 CFR, Part 288.

(f) *Classification of Lands.* Classify public lands under sction 7 of the Taylor Grazing Act of June 28, 1934, as amended (43 U.S.C. sec. 315f), or pursuant to other laws and under 43 CFR, Part 296.

(g) *Disposal and free use of forest products and materials other than forest products.* Take all actions relating to permitting free use of and disposal of forest products and materials other than forest products authorized by the Act of July 31, 1947 (61 Stat. 681), as amended, and pursuant to 43 CFR, Parts 259 and 285. This authority shall not include the approval of any sale of timber in excess of 10 million feet, board measure.

(h) *Color-of-Title and riparian claims.* Take all actions relating to color-of-title and riparian claims authorized by the Act of December 22, 1928 (45 Stat. 1069), as amended, and pursuant to 43 CFR, Part 140; and other special acts applicable to lands in the area of jurisdiction covered by this order pursuant to 43 CFR, Part 141.

(i) *Homesteads.* Take all actions on homesteads authorized by sec. 2289 R.S., as amended, pursuant to 43 CFR, Part 166.

(j) *Public Sales.* Take all actions on public sales authorized by sec. 2455 R.S., as amended, pursuant to 43 CFR, Part 250. Sales to alien are subject to approval by the Secretary of the Interior as set forth in 43 CFR, part 250.12.

(k) *Small Tracts.* Take all actions on leases and sales of small tracts authorized by the Act of June 1, 1938 (52 Stat. 609), as amended, pursuant to 43 CFR, part 257.

(l) *Recreation and Public Purposes.* Take all actions on applications to lease or purchase under the recreation and public purposes act of June 14, 1926 (44 Stat. 741), as amended, pursuant to 43 CFR, part 254.

(m) *Special land-use permits.* Take all actions in issuing special land-use permits authorized by sec. 453 R.S., as amended, pursuant to 43 CFR, part 258.

Eastern States Orders No. 7 and 9, approved March 30, 1959 and May 6, 1959, respectively, are hereby revoked.

JULIAN V. COX,
Chief, Division of Field Services.

Approved:

L. T. HOFFMAN,
Assistant Director, Operating Services, Bureau of Land Management.

[F.R. Doc. 63-7275; Filed, July 10, 1963; 8:49 a.m.]

ALASKA

Notice of Proposed Withdrawal and Reservation of Lands

The Forest Service, U.S. Dept. of Agriculture has filed an application, Serial Number A-059387 for the withdrawal of the lands described below, from all forms of appropriation under the public land laws, including the mining and mineral leasing laws.

The applicant desires the land for an administrative site in connection with Forest Service activities in the South Tongass National Forest.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, 555 Cordova Street, Anchorage, Alaska.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands involved in the application are:

HYDER, ALASKA

U.S. Survey 2298.

Containing 4.68 acres.

GEORGE R. SCHMIDT,
Chief, Branch of Lands and Minerals Management.

[F.R. Doc. 63-7293; Filed, July 10, 1963; 8:53 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 13884 etc.]

AIRLINE TRANSPORT CARRIERS, INC., AND CALIFORNIA HAWAIIAN AIRLINES

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 matter is assigned to be heard on July 24, 1963, at 10:00 a.m., e.d.s.t., in Room 1027, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before the Board.

Dated at Washington, D.C., July 8, 1963.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 63-7300; Filed, July 10, 1963; 8:55 a.m.]

[Docket No. 14467]

S. A. EMPRESA DE VIACAO AEREA RIO GRANDENSE (VARIG)

Notice of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on July 23, 1963, at 10 a.m., d.s.t., in Room 911, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before the undersigned Examiner.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the prehearing conference report served on May 27, 1963, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., July 5, 1963.

[SEAL] JAMES S. KEITH,
Hearing Examiner.

[F.R. Doc. 63-7301; Filed, July 10, 1963; 8:56 a.m.]

FEDERAL AVIATION AGENCY

[OE Docket No. 63-CE-5]

FABICK AND CO.

Determination of Hazard to Air Navigation

The Federal Aviation Agency has circularized the following proposal for aeronautical comment and has conducted a study (3-OE-1999) to determine its effect upon the safe and efficient utilization of airspace.

Fabick and Company, Jefferson City, Missouri, propose to build a radio antenna structure on the Waynesville Memorial Airport near Waynesville, Missouri, at latitude 37°49'17" N., longitude 92°-11'32" W. The overall height of the structure would be 1113 feet above mean sea level (60 feet above ground).

The proposed structure would be located on the airport, being approximately 260 feet west of the midpoint of Runway 6/24, and would exceed the standards for determining hazards to air navigation as defined in § 77.27(c)(3)(ii) by 59 feet as applied to this runway.

The aeronautical study disclosed that the structure at this location would be within the traffic pattern for the airport and would be difficult for pilots to see and avoid. Aircraft approaching Runway 24 and forced to give way to other aircraft or vehicles on the surface of the airport, would be required to pass in dangerous lateral and vertical proximity to the structure at a time when the pilot's attention was required for the observance of other air traffic.

The Whitney Memorial Airport is listed in the Agency publication "National Airport Plan, Fiscal Years 1962-1966" as one of those airports which is necessary to meet the increasing demands of civil aviation and to provide air transportation to the community of Waynesville and its surrounding area. Although the airport is used at the present time as a visual flight rule airport for general aviation, a future requirement for instrument capability is anticipated. The proposed structure would impose higher ceiling landing minimums which would have an adverse effect upon future instrument flight rule operations.

Therefore, based upon the aeronautical study, it is the finding of the Agency that the proposed structure would create an unsafe obstruction to aircraft landing and taking off at the Whitney Memorial Airport and that it would have an adverse effect upon future instrument aeronautical operations and minimum flight altitudes.

Therefore, pursuant to the authority delegated to me by the Administrator (§ 77.37 [New]), it is found that the proposed structure would have a substantial adverse effect upon the safe and efficient utilization of airspace; and it is hereby determined that the proposed structure would be a hazard to air navigation.

This determination is effective and will become final 30 days after the date of issuance unless an appeal is filed under § 77.39 [New] (27 F.R. 10352). If the appeal is denied, the determination will then become final as of the date of the denial or 30 days after the issuance of the determination, whichever is later.

Issued in Washington, D.C., on July 3, 1963.

JOSEPH VIVARI,
Acting Chief, Obstruction Evaluation Branch.

[F.R. Doc. 63-7266; Filed, July 10, 1963; 8:47 a.m.]

FEDERAL MARITIME COMMISSION

M. G. OTERO CO. ET AL.

Notice of Agreements Filed for Approval

Notice is hereby given that the following agreements have been filed with the Federal Maritime Commission for approval pursuant to section 15 of the Shipping Act, 1916. All parties involved are eligible to operate as independent ocean freight forwarders pursuant to section 44 of the Shipping Act, 1916.

Unless otherwise indicated, these agreements are non-exclusive, cooperative working arrangements under which the parties may perform freight forwarding services for each other, dividing forwarding and service fees as agreed on each transaction. Ocean freight com-

pensation is to be divided between the parties as agreed.

M. G. Otero Company, Los Angeles, California is a party to the following agreements, the terms of which are identical. The other parties are:

Schenker's International Forwarders, Inc., New York, N.Y. FF–637
R. G. Hobelmann & Co., Inc., Baltimore, Md. FF–638
F. V. Valdes & Co., Inc., San Francisco, Calif. FF–639
Al. G. Wichterich & Co., New Orleans, La. FF–640
R. G. Hobelmann & Co., Inc., Philadelphia, Pa. FF–641

Pan-American Shipping Co., New Orleans, La., is a party to the following agreements, the terms of which are identical. The other parties are:

Bernardine Shipping Co., Inc., New York, N.Y. FF–646
Oceanic Shipping Company, Mobile, Ala. FF–647
Jung Forwarding Co., Inc., New York, N.Y. FF–648

J. B. Wood Shipping Co., Inc., New York, New York, is a party to the following agreements, the terms of which are identical. The other parties are:

Gerard F. Tujague, Inc., New Orleans, La. FF–651
Oceanic Shipping Co., Mobile Ala. FF–652
The Hipage Co., Inc., Norfolk, Va. FF–653
Arthur J. Fritz & Co., San Francisco, Calif. FF–654
E. J. Edwards International, Chicago, Ill. FF–655
Arthur J. Fritz & Co., Inc., Los Angeles, Calif. FF–656
Transoceanic Shipping Co., Inc., Houston, Tex. FF–657
N. D. Cunningham & Co., Inc., Mobile, Ala. FF–658
Charleston Overseas Forwarders, Inc., Charleston, S.C. FF–660

Interested persons may inspect these agreements and obtain copies thereof at the Bureau of Domestic Regulations, Federal Maritime Commission, Washington, D.C. or at the Commission's field offices at:

45 Broadway,
New York 4, N.Y.

180 New Montgomery Street,
San Francisco, Calif.

Room 333, Federal Office Building, South,
600 South Street,
New Orleans 12, La.
Mail address:
P.O. Box 30550,
Lafayette Station,
New Orleans 30, La.

They may submit to the Secretary, Federal Maritime Commission, Washington, D.C., within 20 days after publication of this notice in the FEDERAL REGISTER, written statements with reference to the agreement and their approval, disapproval, or modification, together with request for hearing should such hearing be desired.

Dated: July 8, 1963.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 63–7289; Filed, July 10, 1963; 8:52 a.m.]

ADOLF BLUM & POPPER, INC., ET AL.

Notice of Agreements Filed for Approval

Notice is hereby given that the following agreements have been filed with the Federal Maritime Commission for approval pursuant to section 15 of the Shipping Act, 1916. All parties involved are eligible to operate as independent ocean freight forwarders, pursuant to section 44 of the Shipping Act, 1916.

Unless otherwise indicated they are non-exclusive, cooperative working arrangements under which the parties may perform freight forwarding services for each other, dividing forwarding and service fees as agreed on each transaction. Ocean freight compensation is to be divided between the parties as agreed.

All the following agreements have similar terms:

Adolf Blum & Popper, Inc., New York, N.Y. and Wilfred Schade and Co., Inc., Newport News, Va. FF–438
Norton & Ellis, Inc., Norfolk, Va. and Barr Shipping Co., Inc., New York, N.Y. FF–462
H. E. Schurig & Co., Inc., Houston, Tex. and Luigi Serra, Inc., New York, N.Y. FF–518
Freedman & Slater, Inc., New York, N.Y. and Blaser & Mericle, Inc., Cleveland, Ohio FF–535
Globe Shipping Co., Inc., New York, N.Y. and Morris Friedman & Co., Philadelphia, Pa. FF–551
Premier Shipping Co., Inc., New York, N.Y. and T. A. Provence & Co., Mobile, Ala. 9045
Mohegan International Corp., New York, N.Y. and Harper, Robinson & Co., San Francisco, Calif. and other branch offices 9092

Agreement FF–554 between Southern Steamship Agency, Inc., Gulfport, Mississippi, party (a), and Major Forwarding Company, Inc., New York, New York, party (b), is an agreement under which party (b) agrees to pay party (a) $1.00 for completing export declarations and filing them with custom house for shipments loaded at Gulfport.

Agreement 9177 between Penson & Company, New York, New York, and Valle Forwarding Company, New Orleans 12, Louisiana, is an agreement under which forwarding and service fees are to be divided as agreed. Compensation received from ocean carriers shall be divided by the parties equally (50 percent–50 percent).

Interested persons may inspect these agreements and obtain copies thereof at the Bureau of Domestic Regulation, Federal Maritime Commission, Washington, D.C. or at the Commission's field offices at:

45 Broadway
New York 4, N.Y.

180 New Montgomery Street,
San Francisco, Calif.

Room 333, Federal Office Building, South,
600 South Street,
New Orleans 12, La.
Mail address:
P.O. Box 30550,
Lafayette Station,
New Orleans 30, La.

They may submit to the Secretary, Federal Maritime Commission, Washington, D.C., within 20 days after publication of this notice in the FEDERAL REGISTER, written statements with reference to the agreement and their approval, disapproval, or modification, together with request for hearing should such hearing be desired.

Dated: July 8, 1963.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 63–7290; Filed, July 10, 1963; 8:52 a.m.]

J. E. BERNARD & CO., INC., ET AL.

Notice of Agreements Filed for Approval

Notice is hereby given that the following agreements have been filed with the Federal Maritime Commission for approval pursuant to section 15 of the Shipping Act, 1916. All parties involved are eligible to operate as independent ocean freight forwarders, pursuant to section 44 of the Shipping Act, 1916.

Agreement FF–507 between J. E. Bernard & Co., Inc. (New York), New York and J. E. Bernard & Co., Inc. (Illinois) is a cooperative, nonexclusive working arrangement under which compensation received from ocean carriers will be divided as agreed. Each company will charge a reasonable value for performing forwarding services, the amount of which will be agreed upon by the parties.

The following agreements have similar terms and divide forwarding and service fees as agreed on each transaction. Compensation received from carriers shall be divided equally (50 percent–50 percent) between the parties.

FF–512 Between H. L. Ziegler, Inc., Houston, Tex. and Gateway Shipping Co., Inc., New York, N.Y.
FF–514 Between N. D. Cunningham & Co., Inc., Mobile, Ala. and Gerard F. Tujague, Inc., New Orleans, La.

Major Forwarding Company, Inc., New York, New York, Party (b) is party to the following agreements, the terms of which are identical. The other parties are:

Southern Steamship Agency, Inc., Panama City, Fla., Party (a), FF–522
Fillette, Green & Co., Pensasola, Fla., Party (b), FF–555

They are nonexclusive, cooperative working arrangements under which party (b) agrees to pay party (a) $1.00 for completing Export Declarations and filing them with Cutom House. Party (b) will arrange for shipping space and preparation for Customs Declaration and Bill of Lading in blank.

Alliance Shipping Co., Inc., New York, N.Y., Party (b) is party to the following agreements, the terms of which are identical. The other parties are:

Hugo Zanelli & Co., Houston, Tex., Party (a), FF–569
Crescent Forwarding Service, New Orleans, La., Party (a), FF–570

They are nonexclusive, cooperative working arrangements under which party (b) agrees to pay party (a) a minimum of $5 forwarding fee, plus 50 cents for postage, plus one-third of the carrier compensation. Party (b) will arrange for shipping space, preparation of documents and pay telegraph expenses or collect telephone calls.

Interested persons may inspect these agreements and obtain copies thereof at the Bureau of Domestic Regulation, Federal Maritime Commission, Washington, D.C., or at the Commission's field offices at:

45 Broadway,
New York 4, N.Y.

180 New Montgomery Street,
San Francisco, Calif.

Room 333, Federal Office Building, South,
600 South Street,
New Orleans 12, La.
Mail address:
P.O. Box 30550,
Lafayette Station,
New Orleans 30, La.

They may submit to the Secretary, Federal Maritime Commission, Washington, D.C., within 20 days after publication of this notice in the FEDERAL REGISTER, written statements with reference to the agreement and their approval, disapproval, or modification, together with request for hearing should such hearing be desired.

Dated: July 8, 1963.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 63-7291; Filed, July 10, 1963; 8:53 a.m.]

FEDERAL POWER COMMISSION

[Docket No. G-2843 etc.]

FAIN & McGAHA ET AL.

Findings and Order Issuing Certificates of Public Convenience and Neciessity et al.; Correction

JUNE 28, 1963.

Fain & McGaha, et al., Docket No. G-2843, et al., Cohen & Kosovitz and Koler-Mindego Oil Company, Docket No. G-12582, Agnes Cullen Arnold, et al., (Successor to Lillie G. Cullen et al.), Docket No. G-13873, Valley Gas Transmission, Inc., Docket No. G-19618, Humble Oil and Refining Company (Successor to Leland Davison, et al.), Docket No. CI62-327, CI60-397.

In the Findings and Order Issuing Certificate of Public Convenience and Necessity, Amending Order Issuing Certificates, Accepting FPC Gas Rate Schedules for Filing, Rejecting Supplement to FPC Gas Rate Schedule, Dismissing Applications, Terminating Certificates, Cancelling Docket Numbers, Severing Docket, and Consolidating Docket, issued May 20, 1963 and published in the FEDERAL REGISTER June 1, 1963 (F.R. Doc. 63-5770; 28 F.R. 63-5445) make the following corrections.

Page 5446, third column, fifth paragraph from bottom of page should read:

The pending certificate application in Docket No. G-12582 will be dismissed as unnecessary because a producer is neither required nor permitted to file a certificate application for a percentage sale under § 154.91(e) of the Regulations under the Natural Gas Act.

Page 5448, paragraph (G) of "The Commission orders:" change the word "moot" to "unnecessary", and paragraph (I) change "CI60-327" to "CI60-397".

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 63-7267; Filed, July 10, 1963; 8:47 a.m.]

[Docket No. RP64-1]

COLORADO INTERSTATE GAS CO.

Order Instituting Investigation and Requiring Reporting of Cost and Revenue Data

JULY 3, 1963.

Colorado Interstate Gas Company (Colorado Interstate) is engaged in the transportation of natural gas in interstate commerce and in the sale for resale of natural gas in interstate commerce for ultimate distribution to the public, and therefore is a natural gas company within the Natural Gas Act.

On the basis of data available to the Commission, it appears that the rates, charges, or classifications demanded, observed, charged, or collected in connection with the sales or transportation of natural gas by Colorado Interstate, subject to the jurisdiction of the Commission, and the rules, regulations, practices, and contracts relating thereto, may be unjust, unreasonable, unduly discriminatory or preferential.

Investigations which have been conducted in the past have been characterized by time-consuming and burdensome delays in obtaining cost data. This has proved both costly and inconvenient to all parties concerned. The company itself is most familiar with its own books and records. It is appropriate, therefore, that Colorado Interstate prepare and submit a report of its cost and revenue data for calendar year 1962 as hereinafter prescribed. It is not intended that the submittal of cost and revenue data by the company will be a substitute for the investigative responsibility of the staff nor will it preclude staff examination of the books or records of the company to the extent deemed necessary. It is contemplated that this procedure will obviate in large part the time consumed by the Commission Staff in the investigation of the Company's books and records but should not impose a burden upon the Company since it would make such a study for its own purposes in connection with the investigation.

The Commission finds:

(1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act, that an investigation be instituted by the Commission, upon its own motion, into and concerning all rates, charges, or classifications demanded, observed, charged, or collected by Colorado Interstate for or in connection with any transportion or sale of natural gas, subject to the jurisdiction of the Commission, and any rules, regulations, practices, or contracts affecting such rates, charges, or classifications.

(2) It is necessary and appropriate, in order to expedite such investigation that Colorado Interstate submit the cost and revenue report hereinafter prescribed.

The Commission orders:

(A) Under authority of sections 4 (a) and (b), 5, 10, 14, 15 and 16 of the Natural Gas Act an investigation of Colorado Interstate is hereby instituted for the purpose of enabling the Commission to determine whether, with respect to any transportation or sale of natural gas, subject to the jurisdiction of the Commission, made or proposed to be made by Colorado Interstate, any of the rates, charges, or classifications demanded, observed, charged, or collected, or any rules, regulations, practices, or contracts affecting such rates, charges or classifications, are unjust, unreasonable, unduly discriminatory, or preferential.

(B) On or before August 15, 1963, Colorado Interstate shall report to the Commission cost and revenue data conforming with subsection (f) of § 154.63 of the Commission regulations under the Natural Gas Act, (except statements N and P). The data shall utilize calendar year 1962 adjusted for changes in revenues and costs which are known and are measurable with reasonable accuracy at the time of filing and which will become effective within nine months after the base period. The 12 months base period shall be adjusted to eliminate nonrecurring items (except minor amounts so specified), but this shall not preclude Colorado Interstate from including items clearly designated as such, which, on the basis of existing facts, detailed in the report, it can show will be experienced or from including an appropriate normalizing adjustment, in lieu of a specified nonrecurring item. Working papers prepared in conjunction with the cost and revenue data shall be included in the report submitted and all statements, schedules and working papers shall be prepared in accordance with the classifications provided in the Uniform System of Accounts. Ten sets of the cost and revenue data shall be served upon the Commission, and Colorado Interstate shall simultaneously serve copies of such data upon all of its jurisdictional customers and the State commission of each state in which it does business.

(C) Further orders in this proceeding will specify the dates for any formal hearing under section 5 of the Natural Gas Act which the Commission on further consideration of the matter deems appropriate and will provide an opportunity for intervention in such hearing by interested parties.

By the Commission.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 63-7268; Filed, July 10, 1963; 8:47 a.m.]

[Docket No. RP64–2]

COLORADO WYOMING GAS CO.

Order Instituting Investigation and Requiring Reporting of Cost and Revenue Data

JULY 3, 1963.

Colorado Wyoming Gas Company (Colorado Wyoming) is engaged in the transportation of natural gas in interstate commerce and in the sale for resale of natural gas in interstate commerce for ultimate distribution to the public, and therefore is a natural gas company within the Natural Gas Act.

On the basis of data available to the Commission, it appears that the rates, charges, or classifications demanded, observed, charged, or collected in connection with the sales or transportation of natural gas by Colorado Wyoming, subject to the jurisdiction of the Commission, and the rules, regulations, practices, and contracts relating thereto, may be unjust, unreasonable, unduly discriminatory or preferential.

Investigations which have been conducted in the past have been characterized by time-consuming and burdensome delays in obtaining cost data. This has proved both costly and inconvenient to all parties concerned. The company itself is most familiar with its own books and records. It is appropriate, therefore, that Colorado Wyoming prepare and submit a report of its cost and revenue data for calendar year 1962 as hereinafter prescribed. It is not intended that the submittal of cost and revenue data by the company will be a substitute for the investigative responsibility of the staff nor will it preclude staff examination of the books or records of the company to the extent deemed necessary. It is contemplated that this procedure will obviate in large part the time consumed by the Commission Staff in the investigation of the Company's books and records but should not impose a burden upon the Company since it would make such a study for its own purposes in connection with the investigation.

The Commission finds:

(1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act, that an investigation be instituted by the Commission, upon its own motion, into and concerning all rates, charges, or classifications demanded, observed, charged, or collected by Colorado Wyoming for or in connection with any transportation or sale of natural gas, subject to the jurisdiction of the Commission, and any rules, regulations, practices, or contracts affecting such rates, charges, or classifications.

(2) It is necessary and appropriate, in order to expedite such investigation that Colorado Wyoming submit the cost and revenue report hereinafter prescribed.

The Commission orders:

(A) Under authority of sections 4 (a) and (b), 5, 10, 14, 15 and 16 of the Natural Gas Act an investigation of Colorado Wyoming is hereby instituted for the purpose of enabling the Commission to determine whether, with respect to any transportation or sale of natural gas, subject to the jurisdiction of the Commission, made or proposed to be made by Colorado Wyoming, any of the rates, charges, or classifications demanded, observed, charged, or collected, or any rules, regulations, practices, or contracts affecting such rates, charges or classifications, are unjust, unreasonable, unduly discriminatory, or preferential.

(B) On or before August 15, 1963, Colorado Wyoming shall report to the Commission cost and revenue data conforming with subsection (f) of § 154.63 of the Commission regulations under the Natural Gas Act (except statements N and P). The data shall utilize calendar year 1962 adjusted for changes in revenues and costs which are known and are measurable with reasonable accuracy at the time of filing and which will become effective within nine months after the base period. The 12 months base period shall be adjusted to eliminate nonrecurring items (except minor amounts so specified, but this shall not preclude Colorado Wyoming from including items clearly designated as such, which, on the basis of existing facts, detailed in the report, it can show will be experienced or from including an appropriate normalizing adjustment, in lieu of a specified nonrecurring item. Working papers prepared in conjunction with the cost and revenue data shall be included in the report submitted and all statements, schedules and working papers shall be prepared in accordance with the classifications provided in the Uniform System of Accounts. Ten sets of the cost and revenue data shall be served upon the Commission, and Colorado Wyoming shall simultaneously serve copies of such data upon all of its jurisdictional customers and the State commission of each state in which it does business.

(C) Further orders in this proceeding will specify the dates for any formal hearing under section 5 of the Natural Gas Act which the Commission on further consideration of the matter deems appropriate and will provide an opportunity for intervention in such hearing by interested parties.

By the Commission.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 63–7269; Filed, July 10, 1963; 8:47 a.m.]

[Docket No. RI63–425]

NORTHERN PUMP CO.

Order Providing for Hearing on and Suspension of Proposed Change in Rate; and Allowing Rate Change To Become Effective Subject to Refund; Correction

JUNE 28, 1963.

In the order providing for hearing on and suspension of proposed change in rate; and allowing rate change to become effective subject to refund, issued May 22, 1963 and published in the FEDERAL REGISTER May 29, 1963 (F.R. Doc. 63–5659; 28 F.R. 5323), opposite "Effective Rate" change "6.3066¢" to read "6.7747¢", and delete footnote "5" in its entirety.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 63–7270; Filed, July 10, 1963; 8:47 a.m.]

[Docket Nos. CP63–230, CP63–244]

MICHIGAN WISCONSIN PIPE LINE CO. AND WISCONSIN PUBLIC SERVICE CORP.

Notice of Applications; Correction

JULY 1, 1963.

In the notice of applications, issued June 14, 1963 and published in the FEDERAL REGISTER June 19, 1963 (F.R. Doc. 63–6455; 28 F.R. 6308), on page 6308, third column, change fourth paragraph to read as follows:

"The application indicates the estimated third year maximum day and annual natural gas requirements of Mishicot are 799 Mcf and 184,190 Mcf, respectively."

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc 63–7271; Filed, July 10, 1963; 8:47 a.m.]

FEDERAL TRADE COMMISSION

STATEMENT OF ORGANIZATION

Revision

The Federal Trade Commission hereby issues the following revised statement of organization.

Sec.
1. The Commission.
2. The Chairman.
3. Organization Structure.
4. Executive Director.
5. Office of the Secretary.
6. Office of the General Counsel.
7. Bureau of Industry Guidance.
8. Office of Hearing Examiners.
9. Bureau of Restraint of Trade.
10. Bureau of Deceptive Practices.
11. Bureau of Textiles and Furs.
12. Bureau of Field Operations.
13. Bureau of Economics.

SECTION 1. *The Commission.* The Commission is composed of five members appointed by the President and confirmed by the Senate for terms of seven years.

SEC. 2. *The chairman.* The chairman of the Commission is designated by the President, and, subject to the general policies of the Commission, is the executive and administrative head of the agency. He presides at meetings of and hearings before the Commission and participates with the other Commissioners in all Commission decisions.

SEC. 3. *Organization Structure.* The Federal Trade Commission is comprised of the following principal units:

Executive Director,
Office of the Secretary,
Office of the General Counsel,
Bureau of Industry Guidance,
Office of Hearing Examiners,

Bureau of Restraint of Trade,
Bureau of Deceptive Practices,
Bureau of Textiles and Furs,
Bureau of Field Operations,
Bureau of Economics.

SEC. 4. *Executive Director.* The Executive Director, under the direction of the Chairman, is the chief operating official. He exercises executive and administrative supervision over all the bureaus and the staff of the Commission. Immediately under his direction are the following staff units:

Program Review Officer. It is the responsibility of the Program Review Officer to make reports and recommendations directly to the Commission with respect to how and where its functions should be exercised in order to best serve the public interest.

Office of Administration. This office supervises management, organization, administrative services, and personnel programs. It has the following units:

Management Staff,
Division of Personnel,
Division of Administrative Services.

Office of Comptroller. This office supervises budgetary and fiscal matters within the Commission and participates in the collection of data for the preparation of quarterly reports showing the financial characteristics of manufacturing corporations, and performs machine tabulations. The divisions in the office are:

Division of Budget and Finance,
Division of Machine Tabulation.

Office of Information. This office furnishes information concerning Commission activities to news media and the public.

SEC. 5. *Office of the Secretary.* The Secretary is responsible for the minutes of Commission meetings and is the legal custodian of the Commission's seal, property, papers, and records, including legal and public records. He signs Commission orders and coordinates all liaison activities with the Congress and Government departments and agencies.

SEC. 6. *Office of the General Counsel.* The General Counsel is the Commission's chief law officer and adviser. This office is also responsible for proceedings for the cancellation of trademarks under the Trade-Mark Act of 1946 and for the administration of the Webb-Pomerene Act. This office includes the following organizational units:

Division of Appeals. Representing the Commission in the Federal courts, this division also aids in preparing memoranda, opinions and reports on questions of law and policy referred to the General Counsel.

Division of Consent Orders. This office supervises the preparation and execution of agreements submitted to the Commission for the settlement of cases by the entry of consent orders.

Division of Export Trade. This office performs legal and related services incident to the administration of the Webb-Pomerene (Export Trade) Act.

Division of Legislation. This division advises the Commission on legislative matters and prepares for its consideration drafts of and reports on proposed legislation.

SEC. 7. *Bureau of Industry Guidance.* With the assistance of this bureau, the Commission endeavors to secure voluntary compliance with the statutes it administers by informing and guiding businessmen as to the requirements of such statutes. The bureau is comprised of three divisions:

Division of Advisory Opinions. This division assists businessmen in obtaining advice from the Commission as to the legal requirements of the statutes it administers.

Division of Trade Practice Conferences and Guides. This division administers the trade practice conference program under which trade practice interpretive rules are promulgated for particular industries, and prepares and recommends to the Commission appropriate guides dealing with the legality of widely used trade practices.

Division of Trade Regulation Rules. The duty of this division is to assist the Commission in promulgating trade regulation rules.

SEC. 8. *Office of Hearing Examiners.* Hearing examiners are officials to whom the Commission, in accordance with law, delegates the initial performance of its adjudicative factfinding functions to be exercised in conformity with Commission decisions and policy directives and with its rules of practice. The Commission appoints its hearing examiners under the authority and subject to the prior approval of the Civil Service Commission in accordance with the provisions of section 11 of the Administrative Procedure Act.

SEC. 9. *Bureau of Restraint of Trade.* This bureau investigates, litigates, and secures compliance with orders to cease and desist in all cases arising under the Clayton Act and in all restraint of trade cases arising under section 5 of the Federal Trade Commission Act. The bureau functions through the following divisions:

Division of Mergers. All cases involving corporate mergers or consolidations and interlocking corporate directorates are processed in this division.

Division of General Trade Restraints. This division handles cases involving methods, acts, or practices which have a dangerous tendency unduly to hinder competition, such as price fixing, allocation of markets or customers, boycotts, tie-in selling, and full-line forcing.

Division of Discriminatory Practices. Within the jurisdiction of this division are cases alleging unlawful price discrimination, brokerage payments, discrimination in the payment for and in the furnishing of promotional services and facilities, and other discriminatory practices prohibited by law.

Division of Compliance. This division acts to obtain and maintain compliance with orders to cease and desist in restraint of trade cases.

Division of Accounting. This division performs accounting services in connection with the investigation and trial of cases and with general economic investigations.

SEC. 10. *Bureau of Deceptive Practices.* This bureau is responsible for the investigation and trial of all cases involving acts or practices alleged to be deceptive and for obtaining and maintaining compliance with orders to cease and desist issued in such cases. This bureau functions through the following divisions:

Division of Food and Drug Advertising. This division handles all cases involving allegedly false advertising of food, drugs, devices, cosmetics, and related products. It also monitors radio, television, and other advertising.

Division of General Advertising. The responsibility of this division is the processing of cases involving allegedly false advertising of all products other than food, drugs, devices, cosmetics, and related products.

Division of General Practices. The jurisdiction of this division covers all cases involving acts or practices alleged to be deceptive for reasons other than falsity of advertising.

Division of Compliance. Obtaining and maintaining compliance with orders to cease and desist issued in deceptive practice cases is the duty of this division.

Division of Scientific Opinions. This division furnishes advice, information and assistance to the Commission with respect to the composition, nature, effectiveness and safety of food, drugs, devices, cosmetics, and related commodities, and maintains liaison with other Federal agencies, private institutions, laboratories, and hospitals in connection with these matters.

SEC. 11. *Bureau of Textiles and Furs.* Four statutes are administered by this bureau: the Wool Products Labeling Act of 1939, the Fur Products Labeling Act of 1951, the Flammable Fabrics Act of 1953, and the Textile Fiber Products Identification Act of 1958. The functions of the bureau are performed by the following divisions:

Division of Regulations. Inspections, industry counseling, and rules and regulations are the responsibility of this division.

Division of Enforcement. This division investigates and litigates all cases within the jurisdiction of the bureau and obtains and maintains compliance with orders to cease and desist which are issued in such cases.

SEC. 12. *Bureau of Field Operations.* This bureau supervises the investigational activities of the Commission's eleven field offices.

SEC. 13. *Bureau of Economics.* This bureau aids and advises the Commission concerning the economic aspects of all of its functions, and is responsible for the preparation of various economic reports and surveys. The bureau consists of the following divisions:

Division of Economic Evidence. This division provides economic and statistical assistance to the enforcement bureaus in the investigation and trial of cases.

Division of Economic Reports. The function of this division is to conduct general economic studies and investigations in response to requests by the

President, the Congress, and the Commission.

Division of Financial Statistics. This division, acting in cooperation with the Office of Statistical Standards of the Bureau of the Budget, carries on a continuing financial reporting program for the primary purpose of obtaining basic material for authoritative statistics concerning the financial characteristics of different groups of industries and of various classes of manufacturing corporations.

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 63-7182; Filed, July 10, 1963; 8:45 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 1-3421]

CONTINENTAL VENDING MACHINE CORP.

Order Summarily Suspending Trading

JULY 5, 1963.

The common stock, 10 cents par value, of Continental Vending Machine Corp., being listed and registered on the American Stock Exchange and having unlisted trading privileges on the Philadelphia-Baltimore-Washington Stock Exchange, and the 6 percent convertible subordinated debentures due September 1, 1976 being listed and registered on the American Stock Exchange; and

The Commission being of the opinion that the public interest requires the summary suspension of trading in such securities on such Exchanges and that such action is necessary and appropriate for the protection of investors; and

The Commission being of the opinion further that such suspension is necessary in order to prevent fraudulent, deceptive or manipulative acts or practices, with the result that it will be unlawful under section 15(c)(2) of the Securities Exchange Act of 1934 and the Commission's Rule 15c2-2 thereunder for any broker or dealer to make use of the mails or of any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of any such security, otherwise than on a national securities exchange;

It is ordered, Pursuant to section 19(a)(4) of the Securities Exchange Act of 1934, that trading in such securities on the American Stock Exchange and the Philadelphia-Baltimore-Washington Stock Exchange be summarily suspended in order to prevent fraudulent, deceptive or manipulative acts or practices, this order to be effective for the period July 6, 1963, through July 15, 1963, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 63-7278; Filed July 10, 1963; 8:49 a.m.]

INTERSTATE COMMERCE COMMISSION

[Rev. S.O. 562; Taylor's I.C.C. Order No. 158]

CHICAGO, BURLINGTON & QUINCY RAILROAD CO.

Rerouting of Traffic

In the opinion of Charles W. Taylor, Agent, the Chicago, Burlington & Quincy Railroad Company is unable to transport traffic routed over its line, because of washouts between Seward and Columbus, Nebraska.

It is ordered, That:

(a) Rerouting traffic: Chicago, Burlington & Quincy Railroad Company, and its connections, being unable to transport traffic in accordance with shippers' routing because of washouts between Seward and Columbus, Nebraska, are hereby authorized to divert or reroute such traffic over any available route to expedite the movement, regardless of routing shown on the waybill. The billing covering all such cars rerouted shall carry a reference to this order as authority for the rerouting.

(b) Concurrence of receiving roads to be obtained: The railroad desiring to divert or reroute traffic under this order shall confer with the proper transportation officer of the railroad or railroads to which such traffic is to be diverted or rerouted, and shall receive the concurrence of such other railroads before the rerouting or diversion is ordered.

(c) Notification to shippers: The carrier 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 11:59 p.m., July 3, 1963.

(g) Expiration date: This order shall expire at 11:59 p.m., July 31, 1963, 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., July 3, 1963.

INTERSTATE COMMERCE COMMISSION,
[SEAL] CHARLES W. TAYLOR,
Agent.

[F.R. Doc. 63-7284; Filed, July 10, 1963; 8:51 a.m.]

[Sec. 5a Application No. 82]

HOUSEHOLD GOODS CARRIERS' BUREAU AND MOVERS' & WAREHOUSEMEN'S ASSOCIATION OF AMERICA, INC.

Application for Approval of Agreement

JULY 8, 1963.

The Commission is in receipt of the above-entitled and numbered application for approval of an agreement under the provisions of section 5a of the Interstate Commerce Act.

Filed, June 28, 1963, by Herbert Burstein, Zelby & Burstein, 160 Broadway, New York 38, N.Y.

Agreement involved: Agreement between and among common carriers by motor vehicle, members of Household Goods Carriers' Bureau and Movers' & Warehousemen's Association of America, Inc., relating to joint consideration, initiation, cancellation, or change of quotations, tenders, rates, charges, rules, regulations, and practices governing the transportation of household goods between points in the United States.

The complete application may be inspected at the office of the Commission in Washington, D.C.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 20 days from the date of this notice. As provided by the general rules of practice of the Commission, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing.

By the Commission, Division 2.

[SEAL] HAROLD D. MCCOY,
Secretary.

[F.R. Doc. 63-7285; Filed, July 10, 1963; 8:51 a.m.]

[Sec. 5a Application No. 83]

ALASKA CARRIERS ASSOCIATION, INC.

Application for Approval of Agreement

JULY 8, 1963.

The Commission is in receipt of the above-entitled and numbered applica-

tion for approval of an agreement under the provisions of section 5a of the Interstate Commerce Act.

Filed July 1, 1963, by Edward R. Sanders, 1701 East First Avenue, Anchorage, Alaska.

Agreement involved: Agreement between and among common carriers by motor vehicle, members of Alaska Carriers Association, Inc., relating to joint consideration, initiation, or change of rates, exceptions to classifications, ratings, rules, regulations, or practices governing the transportation of property, in interstate or foreign commerce, between points in the State of Alaska.

The complete application may be inspected at the office of the Commission in Washington, D.C.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 20 days from the date of this notice. As provided by the general rules of practice of the Commission, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing.

By the Commission, Division 2.

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

[F.R. Doc. 63-7286; Filed, July 10, 1963; 8:51 a.m.]

FOURTH SECTION APPLICATION FOR RELIEF

JULY 8, 1963.

Protests to the granting of an application must be prepared in accordance with Rule 1.40 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. 38416: *Returned Brick From Points in Southern Territory.* Filed by Western Trunk Line Committee, Agent (No. A-2310), for interested rail carriers. Rates on brick and related articles, in carloads, returned from original point of destination to original point of shipment, from points in southern territory, to points in western trunk-line territory.

Grounds for relief: Short-line distance formula and grouping.

Tariff: Supplement 36 to Western Trunk Line Committee, Agent, tariff I.C.C. A-4449.

By the Commission.

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

[F.R. Doc. 63-7287; Filed, July 10, 1963; 8:51 a.m.]

[Notice 830]

MOTOR CARRIER TRANSFER PROCEEDINGS

JULY 8, 1963.

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 general rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 30 days from the date of service of the order. 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 65137. By order of June 27, 1963, Division 3, acting as an Appellate Division, approved the transfer to Superior Bus Service, Incorporated, Franklin, W. Va., of the operating rights in certificate in No. MC 115420 (Sub No. 1), issued by the Commission November 14, 1957, to Merle E. Martin, doing business as Superior Bus Service, Harrisonburg, Va., authorizing the transportation over regular routes, of passengers and their baggage, and express and newspapers in the same vehicle with passengers, between Harrisonburg, Va., and Mathias, W. Va., between Harrisonburg, Va., and Franklin, W. Va., and between Strasburg, Va., and Mathias, W. Va.

Russell R. Sage, 2001 Massachusetts Avenue NW., Washington 6, D.C., Attorney for applicants.

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

[F.R. Doc. 63-7288; Filed, July 10, 1963; 8:51 a.m.]

CUMULATIVE CODIFICATION GUIDE—JULY

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published to date during July.