FEDERAL REGISTER

VOLUME 12 NUMBER 35

Washington, Wednesday, February 19, 1947

TITLE 3—THE PRESIDENT

PROCLAMATION 2717

ENUMERATION OF ARMS, AMMUNITION, AND IMPLEMENTS OF WAR

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS section 12 (i) of the joint resolution of Congress approved November 4, 1939, provides in part as follows (54 Stat. 11; 22 U. S. C. 452 (i)):

The President is hereby authorized to proclaim upon recommendation of the [National Munitions Control] Board from time to time a list of articles which shall be considered arms, ammunition, and implements of war for the purposes of this section * * *

NOW, THEREFORE, I, HARRY S. TRUMAN, President of the United States of America, acting under and by virtue of the authority conferred upon me by the said joint resolution of Congress, and pursuant to the recommendation of the National Munitions Control Board, and in the interest of the foreign-affairs functions of the United States, hereby declare and proclaim that the articles listed below shall, on and after February 20, 1947, be considered arms, ammunition, and implements of war for the purposes of section 12 of the said joint resolution of Congress:

CATEGORY I

(1) Rifles and carbines using ammunition in excess of caliber .22, and barrels for those weapons;

(2) Machine guns, automatic or autoloading rifles, and machine pistols using ammunition in excess of caliber .22, and barrels for those weapons; machine-gun mounts;

(3) Guns, howitzers, and mortars of all calibers, their mountings and barrels;

(4) Ammunition in excess of caliber .22 for the arms enumerated under (1), (2), and (3) above, and cartridge cases or bullets for such ammunition; shells and projectiles, filled or unfilled, for the arms enumerated under (3) above;

(5) Grenades, bombs, torpedoes, mines and depth charges, filled or unfilled, and apparatus for their use or discharge;

(6) Tanks, military armored vehicles, and armored trains; armor plate and turrets for such vehicles.

CATEGORY II

Vessels of war of all kinds, including aircraft carriers and submarines, and armor plate and turrets for such vessels.

CATEGORY III

(1) Aircraft (piloted), both heavier and lighter than air, unassembled, assembled or dismantled: (a) classified from the standpoint of military security; or (b) especially designed for warlike purposes; or (c) having a weight empty greater than 35,000 pounds;

(2) Non-piloted aircraft and guided missiles, unassembled, assembled or dismantled;

(3) Any part, component, accessory, or device, of or pertaining to an aircraft either heavier or lighter than air, whether shipped alone or in an unassembled or assembled aircraft: (a) which is classified from the standpoint of military security; or (b) which (1) is not in general use in commercial aircraft and (2) is either especially designed for warlike purposes or adaptable substantially to increase the efficiency or performance of aircraft used for warlike purposes.

CATEGORY IV

(1) Revolvers and automatic pistols using ammunition in excess of caliber .22;

(2) Ammunition in excess of caliber .22 for the arms enumerated under (1) above, and cartridge cases or bullets for such ammunition.

CATEGORY V

(1) Livens projectors, flame throwers, and fire-barrage projectors;

(2) a. Mustard gas (dichlorethyl sulphide);

b. Lewisite (chlorvinyldichlorarsine and dichlordivinylchlorarsine);

c. Methyldichlorarsine;

d. Diphenylchlorarsine;

e. Diphenylcyanarsine;

f. Diphenylaminechlorarsine;

g. Phenyldichlorarsine;

h. Ethyldichlorarsine;

i. Phenyldibromarsine;

j. Ethyldibromarsine;

k. Phosgene;

l. Monochlormethylchlorformate;

m. Trichlormethylchlorformate (diphosgene);

n. Dichlordimethyl ether;

o. Dibromdimethyl ether;

p. Cyanogen chloride;

q. Ethylbromacetate;

r. Ethyliodoacetate;

s. Brombenzylcyanide;

t. Bromacetone;

u. Brommethylethyl ketone.

(Continued on p. 1129)

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THE PRESIDENT

EXECUTIVE AGENCIES

FEDERAL REGISTER

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CODIFICATION GUIDE

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

[1] Proc. 2717.

CODIFICATION GUIDE—Con.

[2] P. L. O. 348.

CATEGORY VI

(1) Propellent powders;

(2) High explosives as follows:

a. Nitrocellulose having a nitrogen content of more than 12.20%;

b. Trinitrotoluene;

c. Trinitroxylene;

d. Tetryl (trinitrophenol methyl nitramine or "tetranitromethylaniline");

e. Picric acid;

f. Ammonium picrate;

g. Trinitroanisol;

h. Trinitronaphthalene;

i. Tetranitronaphthalene;

j. Hexanitrodiphenylamine;

k. Pentaerythritetetranitrate (penthrite or pentrite);

l. Trimethylenetrinitramine (hexogen or T_4);

m. Potassium nitrate powders (black saltpeter powder);

n. Sodium nitrate powders (black soda powder);

o. Amatol (mixture of ammonium nitrate and trinitrotoluene);

p. Ammonal (mixture of ammonium nitrate, trinitrotoluene, and powdered aluminum, with or without other ingredients);

q. Schneiderite (mixture of ammonium nitrate and dinitronaphthalene, with or without other ingredients).

Effective February 20, 1947, this proclamation shall supersede Proclamation 2549, dated April 9, 1942.

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 14th day of February in the year of our Lord nineteen hundred and forty-seven and of the Independence of the United States of America the one hundred and seventy-first.

[SEAL]

HARRY S. TRUMAN

By the President:

G. C. MARSHALL,
Secretary of State.

[F. R. Doc. 47-1626; Filed, Feb. 17, 1947; 3:39 p. m.]

TITLE 6—AGRICULTURAL CREDIT

Chapter II—Production and Marketing Administration (Commodity Credit)

[Supp. Announcement 6]

PART 295—DISPOSAL OF SURPLUS AGRICULTURAL COMMODITIES FOR EXPORT

TERMS AND CONDITIONS OF COTTON SALES FOR EXPORT PROGRAM

Effective 6:00 p. m., e. s. t., February 13, 1947, and until otherwise announced, the export differential applicable under the Terms and Conditions of Cotton Sales for Export Program, dated April 22, 1946 (§§ 295.1 to 295.26), as amended (11 F. R. 4515, 4645), shall be 2 cents per pound of cotton, gross unpatched weight.

(Sec. 32, 49 Stat. 774, as amended, sec. 21 (c), 58 Stat. 776; 7 U. S. C. and Sup. 612c, et seq., 50 U. S. C., App. Sup., 1630c)

Dated this 13th day of February 1947.

[SEAL]

JESSE B. GILMER,
Authorized Representative of the Secretary of Agriculture.

[F. R. Doc. 47-1565; Filed, Feb. 18, 1947; 8:49 a. m.]

TITLE 7—AGRICULTURE

Chapter XXI—Organization, Functions, and Procedure

PART 2100—OFFICE OF THE SECRETARY

GENERAL FUNCTIONS

Effective February 1, 1947, § 2100.10, Part 2100 of Title 7, issued September 11, 1946 (11 F. R. 177A-234), is hereby amended to read as follows:

§ 2100.10 *General.* The functions of the Department of Agriculture and the methods by which they are channeled to and determined by the Office of the Secretary are described in the succeeding sections of this subpart and in the statements of functions and procedures of the various agencies in the Department of Agriculture that are contained in this chapter, in Chapters IV (Federal Crop Insurance Corporation) and VI (Soil Conservation Service) of Title 7, in Chapters I (Farm Credit Administration, II (Production and Marketing Administration—Commodity Credit), III (Farm Security Administration), and IV (Rural Electrification Administration) of Title 6, Chapter I (Commodity Exchange Authority (including Commodity Exchange Commission) Department of Agriculture) of Title 17, and in Chapters II (Forest Service) and IV (National Forest Reservation Commission) of Title 36. (Sec. 12, Pub. Law 404, 79th Cong., 60 Stat. 244)

Issued this 13th day of February 1947.

[SEAL]

CLINTON P. ANDERSON,
Secretary of Agriculture.

[F. R. Doc. 47-1576; Filed, Feb. 18, 1947; 9:02 a. m.]

PART 2322—COMPLIANCE AND INVESTIGATION BRANCH

ORGANIZATION; FUNCTIONS AND PROCEDURE

Effective February 1, 1947, Part 2322 of Title 7 issued September 11, 1946 (11 F. R. 177A-283), is hereby amended to read as follows:

SUBPART A—ORGANIZATION

SUBPART B—FUNCTIONS AND PROCEDURES

AUTHORITY: §§ 2322.1 to 2322.10, inclusive, issued under sec. 12, Pub. Law 404, 79th Cong., 60 Stat. 244.

SUBPART A—ORGANIZATION

§ 2322.1 *Central Office*—(a) *General.* The principal office of the Branch is at Washington, D. C., in the South Agriculture Building, and consists of the Office of the Director, Accounting Investigations Division, Cost Investigations Division, and General Investigations Division.

(b) *The Director.* Under the general supervision of the Administrator, the Director formulates, directs, and supervises the execution of the policies, programs, and activities of the Production

and Marketing Administration assigned to the Branch.

(c) *Divisions.* The divisions are as follows:

(1) *Accounting Investigations Division.* Plans, directs, and conducts audits of books and records (i) in connection with alleged or apparent violations of War Food Orders; (ii) of contractors and other vendors, other than fiscal audits incident to the disbursement of Federal funds; and (iii) of food processors for the purpose of determining eligibility for, or fraud in connection with, payments made or to be made under subsidy programs.

(2) *Cost Invesigations Division.* Examines books and records of Government contractors and other processors and manufacturers to obtain cost data and determine factors affecting costs and profits; conducts general analytical and interpretative surveys of manufacturers' operating and accounting data and vendors' reports; and analyzes Government contractors' statements with respect to contracts involving modification, renegotiation, and termination, and conducts cost investigations in connection therewith.

(3) *General Investigations Division.* With respect to the functions of the Production and Marketing Administration relating to War Food Orders, procurement, sales, subsidy, price support, school lunch, surplus property disposal, crop insurance, agricultural adjustment and conservation, and regulatory programs: Receives, analyzes, and evaluates complaints and assigns apparent violations for investigation; plans and directs compliance surveys and spot checks to determine character and extent of compliance with orders and regulations; and conducts investigations of alleged or apparent violations incident to the operation of Production and Marketing Administration programs.

§ 2322.2 *Field offices.* Offices are located at 261 Fifth Avenue, New York, New York; 5 South Wabash Avenue, Chicago, Illinois; 1013 Glenn Building, Atlanta, Georgia; 220 Santa Fe Building, Dallas, Texas; and 461 Market Street, San Francisco, California. Under the general direction of the Director, these field offices direct, coordinate, and conduct all compliance and investigational activities of the Branch within the respective field-office areas.

§ 2322.3 *Availability of information and records.* Any person desiring information or desiring to make submittals or requests with respect to the programs and functions of the Branch should address: The Director, Compliance and Investigation Branch, Production and Marketing Administration, Washington 25, D. C. The records of the Branch are available for examination subject to the restrictions set forth in the rules and designation of records issued by the Secretary (7 CFR, Part 2100).

SUBPART B—FUNCTIONS AND PROCEDURES

§ 2322.10 *Compliance and investigational activities.* With respect to War Food Order, procurement, sales, subsidy, price support, school lunch, crop insurance, surplus property disposal, agricultural adjustment and conservation, and regulatory programs administered by the Production and Marketing Administration, the Branch conducts investigations (including accounting investigations) of alleged or apparent violations; conducts audits of books and records of food processors and other claimants in connection with subsidy programs, and of war contractors and other vendors (other than fiscal audits incident to the disbursement of Federal funds); examines books and records of war contractors and other processors and manufacturers to obtain cost data and determine factors affecting costs and profits; conducts general analytical and interpretative surveys of manufacturers' operating and accounting data and vendors' reports; analyzes contractors' statements with respect to contracts involving modification, renegotiation, and termination, and conducts cost investigations incident thereto.

Issued this 13th day of February 1947.

[SEAL] CLINTON P. ANDERSON,
Secretary of Agriculture.

[F. R. Doc. 47-1578; Filed, Feb. 18, 1947; 9:02 a. m.]

TITLE 9—ANIMALS AND ANIMAL PRODUCTS

Chapter II—Production and Marketing Administration (Livestock Branch)

PART 202—RULES OF PRACTICE GOVERNING PROCEEDINGS UNDER THE PACKERS AND STOCKYARDS ACT

MISCELLANEOUS AMENDMENTS

By virtue of the authority vested in the Secretary of Agriculture by the Packers and Stockyards Act, 1921 (42 Stat. 159; 7 U. S. C. § 181 et seq.), as amended, and the Administrative Procedure Act (60 Stat. 237), the rules of practice appearing in Title 9, Chapter II, Part 202, Cumulative and 1943 Supplements to the Code of Federal Regulations, are hereby amended as follows:

1. By striking § 202.2 (o) and substituting in lieu thereof the following:

§ 202.2 *Definitions.* * * *

(o) The term "hearing clerk" means the hearing clerk, United States Department of Agriculture, Washington 25, D. C.

2. By striking § 202.2 (p) and substituting in lieu thereof the following:

(p) The term "examiner" means any examiner in the Office of Hearing Examiners, United States Department of Agriculture.

3. By striking § 202.2 (q) and substituting in lieu thereof the following:

(q) The term "examiner's report" (presiding officer's report) means the examiner's report to the Secretary, and includes the examiner's proposed (1) findings of fact and conclusions with respect to all material issues of fact, law or discretion, as well as the reasons or basis therefor, (2) order, and (3) rulings on findings, conclusions and orders submitted by the parties.

4. By amending the second and last paragraph of § 202.3 (b) to read as follows:

§ 202.3 *Institution of proceedings.* * * *

(b) *Investigation and disposition of informal complaints.* * * *

If the statements in the informal complaint and the investigation thereunder seems to warrant such action and in any case, except one of wilfulness or one in which public health, interest, or safety otherwise requires, prior to the institution of a disciplinary proceeding which may result in the suspension or revocation of a license, the Administrator, in an effort to effect an amicable or informal adjustment of the matter, shall give written notice to the person complained against of the facts or conduct concerning which complaint is made and shall afford such person an opportunity within a reasonable time fixed by the Administrator to demonstrate or achieve compliance with the applicable requirements of the act and regulations promulgated thereunder.

5. By amending § 202.8 (a) to read as follows:

§ 202.8 *Examiners*—(a) *Assignment.* No examiner shall be assigned to serve in any proceeding who (1) has any pecuniary interest in any matter or business involved in the proceeding, (2) is related within the third degree by blood or marriage to any party to the proceeding, or (3) has participated in the investigation preceding the institution of the proceeding or in the determination that it should be instituted or in the preparation of the moving paper or in the development of the evidence to be introduced therein.

6. By amending § 202.8 (c) to read as follows:

(c) *Conduct.* The examiner shall conduct the proceeding in a fair and impartial manner, and save to the extent required for the disposition of ex parte matters as authorized by law, he shall not consult any person or party on any fact in issue unless upon notice and opportunity for all parties to participate.

7. By amending § 202.8 (e) to read as follows:

(e) *Who may act in the absence of the examiner.* In case of the absence of the examiner or his inability to act, the powers and duties to be performed by him under these rules of practice in connection with a proceeding assigned to him may, without abatement of the proceeding unless otherwise directed by the Secretary, be assigned to any other examiner.

8. By amending § 202.9 to read as follows:

§ 202.9 *The answer*—(a) *Filing and service.* Within 20 days after service of the moving paper, the respondent shall file, in triplicate, with the hearing clerk, an answer, signed by the respondent or his attorney: *Provided*, That the Secretary may order that the hearing be held without answer or other pleading. The answer shall be served upon the complainant, and any other party

of record, in the manner provided in § 202.22.

(b) *Contents—Failure to file.* Such answer shall (1) contain a statement of the facts which constitute the grounds of defense,and shall specifically admit, deny, or explain each of the allegations of the moving paper unless the respondent is without knowledge, in which case the answer shall so state; or (2) state that the respondent admits all of the allegations of the moving paper. The answer may contain a waiver of hearing.

Failure to file an answer to or plead specifically to any allegation of the moving paper shall constitute an admission of such allegation.

(c) *Procedure upon admission of facts* The admission, in the answer or by failure to file an answer, of all the material allegations of fact contained in the moving paper shall constitute a waiver of hearing. Upon such admission of facts, the examiner, without further investigation or hearing, shall prepare his report, in which he shall adopt as his proposed findings of fact the material facts alleged in the moving paper. Unless the parties have waived service of the examiner's report, it shall be served upon them in the manner provided in § 202.22. The parties shall be given an opportunity to file exceptions to the report, to file briefs in support of such exceptions, and to make oral argument thereon before the Secretary. Any request to make oral argument before the Secretary must be filed in the manner and within the time provided in § 202.19.

9. By amending § 202.16 (b) to read as follows:

§ 202.16 *The examiner's report.* * * *

(b) *Proposed findings of fact, conclusions, and order.* Within ten (10) days after receipt of notice that the transcript has been filed, each party may file with the hearing clerk proposed findings of fact, conclusions, and order, based solely on the record, and a brief in support thereof.

10. By amending § 202.16 (c) to read as follows:

(c) *Examiner's report.* The examiner, within a reasonable time after the termination of the period allowed for the filing of proposed findings of fact, conclusions, and orders, and briefs in support thereof, shall prepare upon the basis of the record and shall file with the hearing clerk, his report, a copy of which shall be served upon each of the parties.

11. By amending the first sentence of § 202.20 (a) to read as follows:

§ 202.20 *Preparation and issuance of order*—(a) *Preparation of order.* As soon as practicable after the receipt of the record from the hearing clerk, or, in case oral argument was had, as soon as practicable thereafter, the Secretary, upon the basis of and after due consideration of the record, shall prepare his order in the proceeding which shall include findings, conclusions, order, and rulings on motions, exceptions, statements of objections, and proposed findings, conclusions and orders submitted by the parties not theretofore ruled upon. * * *

12. By amending § 202.21 (a) (2) to read as follows:

§ 202.21 *Applications for reopening hearings; for rehearings or reargruments of proceedings, or of reconsideration of orders*—(a) *Petition requisite.* * * *

(2) *Petitions to reopen hearings.* A petition to reopen a hearing to take further evidence may be filed at any time prior to the issuance of the final order. Every such petition shall state briefly the nature and purpose of the evidence to be adduced, shall show that such evidence is not merely cumulative, and shall set forth a good reason why such evidence was not adduced at the hearing. Every such petition shall be served by the hearing clerk on the other parties to the proceeding.

13. By amending § 202.25 (a) to be read as follows:

§ 202.25 *Examiners*—(a) *Assignment.* No examiner shall be assigned to serve in any proceeding who (1) has any pecuniary interest in any matter or business involved in the proceeding; or (2) is related within the third degree by blood or marriage to any party to the proceeding.

14. By striking the words "tentative order" wherever the same appear in §§ 202.29 (a) and 202.29 (c) (2), and substituting in lieu thereof the words "examiner's report."

15. By amending §202.33 (c) to read as follows:

§ 202.33 *The examiner's report.* * * *

(c) *The examiner's report.* Within a reasonable time after the termination of the period allowed for the filing of proposed findings of fact, conclusions, and orders, and briefs in support thereof, the examiner, with the assistance of and after consultation with such employees of the Department as may be assigned for the purpose, shall prepare, upon the basis of the record, and shall file with the hearing clerk, a report.

16. By amending § 202.35 to read as follows:

§ 202.35 *Exceptions.* Within 20 days after receipt of the examiner's report, the parties may file exceptions thereto. Any party who desires to take exception to any matter set out in the report shall transmit his exceptions in writing to the hearing clerk, referring to the relevant pages of the transcript, and proposing a corrected finding of fact, conclusion, or order. Within the same period of time, each party shall transmit to the hearing clerk a brief statement in writing concerning each of the objections taken to the action of the examiner at the hearing, as set out in § 202.11 of this part, upon which the party wishes to rely, referring, where relevant, to the pages of the transcript. A party, if he files exceptions, or a statement of objections, shall state in writing whether he desires to make an oral argument thereon before the Secretary; otherwise, he shall be deemed to have waived such oral argument.

17. By amending § 202.36 to read as follows:

§ 202.36 *Transmittal of record and issuance of order*—(a) *Transmittal of record.* The hearing clerk, immediately following the expiration of the time allowed for filing exceptions to the examiner's report, shall transmit to the Secretary the record of the proceeding. Such record shall include: the pleadings; motions and requests filed, and rulings thereon; the transcript of the testimony taken at the hearing, together with the exhibits filed therein; any statements filed under the shortened procedure; any documents or papers filed in connection with prehearing conferences; such proposed findings of fact, conclusions, and orders, and briefs in support thereof, as may have been filed in connection with the hearing; the examiner's report and such exceptions, statements of objections, and briefs in support thereof, as may have been filed in the proceeding.

(b) *Argument before Secretary.* The provisions of § 202.19 shall be applicable in rate proceedings.

(c) *The final order.* The Secretary thereafter will issue his final order in the proceeding, a copy of which shall be served upon each of the parties.

18. By adding the following paragraph at the end of § 202.37 (a) (4):

§ 202.37 *Applications for reopening hearings; for rehearings or reargruments of proceedings, or for reconsideration of orders, or for modification or vacation of orders*—(a) *Petition requisite.* * * *

(4) *Petition to modify or to vacate orders.* * * *

Notice of every such petition of modification which involves an increase of rates and charges lawfully prescribed by the Secretary or new rates and charges for services not theretofore covered by order shall be published in the FEDERAL REGISTER. The contents of the notice shall conform to the requirements contained in the last sentence of § 202.23 (a).

19. By adding § 202.59 as follows:

§ 202.59 *Amendment to rules governing reparation proceedings.* Whenever the term "examiner" is used in § 202.39 to § 202.58, both inclusive (which are the rules applicable to reparation proceedings), or in any section or paragraph incorporated by reference or referred to in said sections, such term shall be deemed to mean "presiding officer" insofar as reparation proceedings are concerned.

20. By adding a new subheading and section as follows:

RULES APPLICABLE TO ALL PROCEEDINGS

§ 202.60 *Hearings before Secretary.* The Secretary may act in the place and stead of an examiner or presiding officer in any proceeding hereunder. When he so acts, the hearing clerk shall transmit the record to the Secretary at the expiration of the period provided for the filing of proposed findings of fact, conclusions, and orders, and the Secretary shall thereupon, after due consideration of the record, issue his final order in the proceeding: *Provided,* That he may issue

a tentative order, in which event the parties shall be afforded an opportunity to file exceptions before the issuance of the final order.

21. By striking the word "suggested" wherever it appears in §§ 202.17 (i), 202.18, 202.33 (b), 202.33 (c), 202.52 (b), 202.52 (c), 202.53 (a), 202.54, and 202.55 (b), and substituting in lieu thereof the word "proposed."

NOTE: Unless otherwise ordered, all proceedings initiated under the Packers and Stockyards Act and pending on December 11, 1946, shall be conducted and concluded in accordance with the applicable rules of practice in effect at the time the proceedings were instituted.

(42 Stat. 159, as amended, Pub. Law 404, 79th Cong., 60 Stat. 237; 7 U. S. C. 181 et seq.)

Done at Washington, D. C., this 13th day of February 1947. Witness my hand and the seal of the Department of Agriculture.

[SEAL] CLINTON P. ANDERSON,
Secretary of Agriculture.

[F. R. Doc. 47-1574; Filed, Feb. 18, 1947; 8:47 a. m.]

TITLE 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[File No. 21-260]

PART 142—RADIO RECEIVING SET MANUFACTURING INDUSTRY

PROHIBITION OF SPECIFIC TYPES OF ADVERTISEMENTS OR REPRESENTATIONS

At a regular session of the Federal Trade Commission held at its office in the City of Washington, D. C., on the 14th day of February 1947.

The Federal Trade Commission today issued the following statement interpreting Rule 3 (k) (§ 142.3 (k), 16 CFR, Cum. Supp.) of the Trade Practice Rules for the Radio Receiving Set Manufacturing Industry, promulgated July 22, 1939:

§ 142.3 *Specific types of advertisements or representations among those prohibited.* * * *

(k) * * *

Under Rule 3 (k) of the Trade Practice Rules for the Radio Receiving Set Manufacturing Industry and in the light of the decision of the Court in Zenith Radio Corporation v. Federal Trade Commission, 7 Cir., 143 F. 2d 29, the Commission considers it improper to include rectifiers in the tube count in representations that a set contains a designated number of tubes or is of a designated tube capacity.

The Commission does not regard it as improper, where the advertisement prominently and conspicuously states the actual tube capacity of a radio set (computed without inclusion of rectifiers or other devices which do not perform the recognized and customary function of radio receiving set tubes in the detection, amplification and reception of radio signals) for such advertisement also to contain a further statement to the effect that the set in addition contains a rectifier, provided such is true and the advertisement as a whole or in any part involves no misrepresentation or deception. Illustration of such expression as descriptive of a set containing eight tubes computed in accordance with the above and a rectifier is as follows:

An Eight Tube Set: This set in addition contains a rectifier.

By direction of the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 47-1586; Filed, Feb. 18, 1947; 8:47 a. m.]

TITLE 10—ARMY: WAR DEPARTMENT

Chapter V—Military Reservations and National Cemeteries

PART 501—LIST OF EXECUTIVE ORDERS, PROCLAMATIONS, AND PUBLIC LAND ORDERS AFFECTING MILITARY RESERVATIONS

CALIFORNIA

CROSS REFERENCE: For order affecting the tabulation contained in § 501.1, see Public Land Order 348 under Title 43, *infra*, which revokes Public Land Order 146 withdrawing public lands in California for use of the War Department for military purposes.

Chapter VI—Organized Reserves

PART 602—RESERVE OFFICERS TRAINING CORPS

INSTITUTION AND UNITS

In § 602.121 (11 F. R. 9007, 9791, 11985, 13297, 12 F. R. 64) the following Class MS ROTC schools are converted to and redesignated as Class MI ROTC schools effective July 1, 1947; and the following Class MI ROTC schools are converted to and redesignated as Class JCMI ROTC schools, effective the beginning of the 1947-48 school year:

§ 602.121 *Institutions and units.*

	Class	Units
Second Army Area		
• • •	•	•
Fishburne Military School, Waynesboro, Va.	MI	J
• • •	•	•
Third Army Area		
• • •	•	•
Oak Ridge Military Insitute, Oak Ridge, N. C.	MI	J
• • •	•	•
Gordon Military College, Barnesville, Ga.	JCMI	J
• • •	•	•
Fifth Army Area		
• • •	•	•
St. Thomas Military Academy, St. Paul, Minn.	MI	J
• • •	•	•
Kemper Military Schools, Boonville, Mo.	JCMI	J
• • •	•	•
Wentworth Military Academy, Lexington, Mo.	JCMI	J
• • •	•	•

[G. O. 2, 3 Jan. 1947 and G. O. 9, 20 Jan. 1947] (39 Stat. 191, 192, 41 Stat. 776-778; 10 U. S. C. 381, 382, 389, 441)

[SEAL] EDWARD F. WITSELL,
Major General,
The Adjutant General.

[F. R. Doc. 47-1591; Filed, Feb. 18, 1947; 9:02 a. m.]

TITLE 17—COMMODITY AND SECURITIES EXCHANGES

Chapter I—Commodity Exchange Authority (Including Commodity Exchange Commission)

PART 140—ORGANIZATION, FUNCTIONS, AND PROCEDURE OF THE COMMODITY EXCHANGE AUTHORITY

SUBPART A—ORGANIZATION

Sec.
140.1 Central office.
140.2 Field offices.
140.3 Availability of information and records.

SUBPART B—FUNCTIONS AND PROCEDURE

140.10 Functions and procedure.

AUTHORITY: §§ 140.1 to 140.10, inclusive, issued under sec. 12, Pub. Law 404, 79th Cong., 60 Stat. 244.

SUBPART A—ORGANIZATION

§ 140.1 *Central office*—(a) *General.* The principal office of the Commodity Exchange Authority is located at Washington, D. C., in the South Agriculture Building, and consists of the Office of the Administrator, Compliance and Trade Practice Division, License and Rules Division, Segregated Funds Division, and Trading and Reports Division.

(b) *The Administrator.* Under the general direction of the Secretary of Agriculture, the Administrator formulates, directs, and supervises the execution of the policies governing the activities of the Commodity Exchange Authority; administers and is responsible for the enforcement of the Commodity Exchange Act, the orders of the Commodity Exchange Commission, and the orders and regulations of the Secretary of Agriculture promulgated under the Commodity Exchange Act. The Administrator has final authority to issue calls and requests for information in connection with the administration of the Commodity Exchange Act, as provided in regulations promulgated thereunder (17 CFR, Supps., Parts 1-11).

(c) *Divisions.* The divisions are as follows:

(1) *Compliance and Trade Practice Division.* Investigates complaints and apparent violations of the Commodity Exchange Act; examines trade practices; recommends formal proceedings against violators; presents results of investigations to, and cooperates with, the Solicitor's Office of the Department of Agriculture and the Department of Justice in hearings and prosecutions; and develops evidence and presents testimony in administrative and court proceedings.

(2) *License and Rules Division.* Designates commodity exchanges as contract markets; registers futures commis-

sion merchants and floor brokers; and examines and reviews currently the rules of contract markets.

(3) *Segregated Funds Division.* Plans, directs, and conducts audits of books and records (i) of futures commission merchants to assure proper segregation of customers' margins and accruing equities, and (ii) of futures commission merchants, floor brokers, and traders to assure compliance with reporting requirements and position and trading limits; assists in investigation of violations and trade practices; and analyzes financial statements of futures commission merchants.

(4) *Trading and Reports Division.* Compiles, summarizes and analyzes statistical and factual material relating to day-to-day activities on contract markets; Prepares summary and statistical reports for administrative use and publications; and reviews current market information.

§ 140.2 *Field offices.* Offices are located at 602 New York Cotton Exchange Building, New York, New York; 1200 Board of Trade Building, Chicago, Illinois; 854 Board of Trade Building, Kansas City, Missouri; 510 Grain Exchange Building, Minneapolis, Minnesota; and 306 New Orleans Cotton Exchange Building, New Orleans, Louisiana. Under the general direction of the Administrator, these field offices direct, coordinate, and conduct all activities of the Commodity Exchange Authority incident to the administration of the Commodity Exchange Act within respective field office areas.

§ 140.3 *Availability of information and records.* Any person desiring information or desiring to make submittals or requests with respect to the activities of the Commodity Exchange Authority should address: The Administrator, Commodity Exchange Authority, U. S. Department of Agriculture, Washington 25, D. C. The records of the Authority are available for examination subject to the restrictions set forth in the rules and designation of records issued by the Secretary of Agriculture (7 CFR, Part 2100).

SUBPART B—FUNCTIONS AND PROCEDURE

§ 140.10 *Commodity Exchange Act.* (a) The basic objective of the Commodity Exchange Act (42 Stat. 998, as amended; 7 U. S. C. 1–17a) is to protect and facilitate commerce in commodities designated by the act that are the subject of transactions involving the sale thereof on boards of trade (commodity exchanges) for future delivery and known as "futures." These commodities are: wheat, cotton, rice, corn, oats, barley, rye, flaxseed, grain sorghums, millfeeds, butter, eggs, Irish potatoes, wool tops, fats and oils (including lard, tallow, cottonseed oil, peanut oil, soybean oil and all other fats and oils), cottonseed meal, cottonseed, peanuts, soybeans, and soybean meal.

(b) The functions and procedures of the Commodity Exchange Authority under this statute are designed to prevent price manipulation and corners; prevent dissemination of false and misleading crop and market information to influence prices; protect hedgers and other users of the commodity futures markets against cheating, fraud, and manipulative practices; insure the benefits of membership privileges on contract markets to cooperative associations of producers; insure trust-fund treatment of margin moneys and equities of hedgers and other traders and prevent the misuse of such funds by brokers; and provide information to the public regarding trading operations on contract markets.

(c) The Commodity Exchange Authority receives and considers applications of commodity exchanges for designation as contract markets preliminary to final decision by the Secretary. Applicants denied designation by the Secretary may appeal to the Commodity Exchange Commission (42 Stat. 1001; 7 U. S. C. 8). Inquiries concerning procedure to be followed by commodity exchanges in filing applications for designation as contract markets should be addressed to the Administrator.

(d) The Commodity Exchange Authority reviews rules of contract markets to determine conformity with statutory requirements; receives and considers applications for registration as futures commission merchants and as floor brokers, and prepares certificates of registration issued by the Secretary (49 Stat. 1495; 7 U. S. C. 6f) (17 CFR Supp., §§ 1.7–1.16). Application forms may be procured from the central office of the Commodity Exchange Authority or from any field office thereof.

(e) The Commodity Exchange Authority enforces limits on speculative transactions and commitments established by the Commodity Exchange Commission; reviews crop and market news and reports; analyzes cash-commodity transactions; cooperates with control committees of contract markets; observes floor trading; investigates alleged and apparent violations of the act; conducts special trade practice audits and surveys; investigates contract market delivery practices and procedures; audits books and records of futures commission merchants, floor brokers, and traders; analyzes futures commission merchants' financial statements; conducts analyses and appraisals of futures trading, cash-futures relationships, and price movements; and compiles and publishes reports and other informational material relating to operations on commodity exchanges.

(f) Substantive rules promulgated pursuant to the Commodity Exchange Act are set forth in Parts 1 to 11, Chapter I, Title 17 of the Code of Federal Regulations. Procedural rules are published as Part O, Chapter I, Title 17, CFR.

Issued this 13th day of February 1947, effective as of February 1, 1947.

[SEAL] CLINTON P. ANDERSON,
Secretary of Agriculture.

[F. R. Doc. 47–1575; Filed, Feb. 18, 1947; 9:02 a. m.]

PART 149—ORGANIZATION, FUNCTIONS AND PROCEDURES OF COMMODITY EXCHANGE COMMISSION

SUBPART A—ORGANIZATION

Section 149.1, Subpart A, Part 149, Chapter I, Title 17, Code of Federal Regulations (11 F. R. 177A–390), is amended, effective as of February 1, 1947.

By striking therefrom "Production and Marketing Administration, United States Department of Agriculture (7 CFR 2322.1 (a))" and inserting in lieu thereof "United States Department of Agriculture (17 CFR 140.1 (a))."

(Sec. 12, Pub. Law 404, 79th Cong., 60 Stat. 244).

Issued this 13th day of February, 1947.

[SEAL] CLINTON P. ANDERSON,
Secretary of Agriculture,
Chairman.

[F. R. Doc. 47–1577; Filed, Feb. 18, 1947; 9:02 a. m.]

TITLE 20—EMPLOYEES' BENEFITS

Chapter II—Railroad Retirement Board

MISCELLANEOUS AMENDMENTS

Pursuant to the general authority contained in section 10 of the act of June 24, 1937 (Sec. 10, 50 Stat. 314, 45 U. S. C. 228j), Part 203 of the Regulations of the Railroad Retirement Board under such act (20 CFR and Cum. Supp. Part 203) is completely revised and Part 209, §§ 209.00, 209.12, Part 210, § 210.2, Part 214, §§ 214.3, 214.7, Part 216, §§ 216.1, 216.3, and Part 217, § 217.2 of the regulations are amended to read as follows:

PART 203—EMPLOYEES UNDER THE ACT

Sec.
203.1 Statutory provision.
203.2 General definition of employee.
203.3 When an individual is in service of an employer.
203.4 When service is compensated.
203.5 Service outside the United States.
203.6 Age, citizenship and other factors.
203.7 Local lodge employee.

AUTHORITY: §§ 203.2 to 203.7, inclusive, (with the exceptions in parenthesis following sections affected) issued under secs. 1, 10, 50 Stat. 308, 314 as amended; 45 U. S. C. 228a, 228j.

§ 203.1 *Statutory provision.*

The term "employee" means (1) any individual in the service of one or more employers for compensation, (2) any individual who is in the employment relation to one or more employers, and (3) an employee representative. The term "employee" shall include an employee of a local lodge or division defined as an employer in sub-section (a) only if he was in the service of or in the employment relation to a carrier on or after the enactment date. The term "employee representative" means any officer or official representative of a railway labor organization other than a labor organization included in the term "employer" as defined section 1 (a) who before or after the enactment date was in the service of an employer as defined in section 1 (a) and who is duly authorized and designated to represent employees in accordance with the Railway Labor Act, as amended, and any individual who is regularly assigned

to or regularly employed by such officer or official representative in connection with the duties of his office.

The term "employee" shall not include any individual while such individual is engaged in the physical operations consisting of the mining of coal, the preparation of coal, the handling (other than movement by rail with standard railroad locomotives) of coal not beyond the mine tipple, or the loading of coal at the tipple.

An individual is in the service of an employer whether his service is rendered within or without the United States if (i) he is subject to the continuing authority of the employer to supervise and direct the manner of rendition of his service, or he is rendering professional or technical services and is integrated into the staff of the employer, or he is rendering, on the property used in the employer's operations, other personal services the rendition of which is integrated into the employer's operations, and (ii) he renders such service for compensation, or a method of computing the monthly compensation for such service is provided in section 3 (c). *Provided, however,* That an individual shall be deemed to be in the service of an employer, other than a local lodge or division or a general committee of a railway-labor-organization employer, not conducting the principal part of its business in the United States only when he is rendering service to it in the United States; and an individual shall be deemed to be in the service of such a local lodge or division only if (1) all, or substantially all, the individuals constituting its membership are employees of an employer conducting the principal part of its business in the United States; or (2) the headquarters of such local lodge or division is located in the United States; and an individual shall be deemed to be in the service of such a general committee only if (1) he is representing a local lodge or division described in clauses (1) or (2) immediately above; or (2) all, or substantially all, the individuals represented by it are employees of an employer conducting the principal part of its business in the United States; or (3) he acts in the capacity of a general chairman or an assistant general chairman of a general committee which represents individuals rendering service in the United States to an employer, but in such case if his office or headquarters is not located in the United States and the individuals represented by such general committee are employees of an employer not conducting the principal part of its business in the United States, only such proportion of the remuneration for such service shall be regarded as compensation as the proportion which the mileage in the United States under the jurisdiction of such general committee bears to the total mileage under its jurisdiction, unless such mileage formula is inapplicable in which case the Board may prescribe such other formula as it finds to be equitable, and if the application of such mileage formula, or such other formula as the Board may prescribe, would result in the compensation of the individual being less than 10 per centum of his remuneration for such service no part of such remuneration shall be regarded as compensation. *Provided further,* That an individual not a citizen or resident of the United States shall not be deemed to be in the service of an employer when rendering service outside the United States to an employer who is required under the laws applicable in the place where the service is rendered to employ therein, in whole or in part, citizens or residents thereof; and the laws applicable on August 29, 1935, in the place where the service is rendered shall be deemed to have been applicable there at all times prior to that date.

§ 203.2 *General definition of employee.* An individual shall be an employee whenever (a) he is engaged in performing compensated service for an employer or (b) he is in an employment relation to an employer, or (c) he is an employee representative, or (d) he is an officer of an employer.

§ 203.3 *When an individual is performing service for an employer.* The legal relationship of employer and employee is defined by the act. Thus, an individual is performing service for an employer if:

(a) He is subject to the right of an employer, directly or through another, to supervise and direct the manner in which his services are rendered; or

(b) In rendering professional or technical services he is integrated into the staff of the employer; or

(c) He is rendering personal services on the property used in the operations of the employer and the services are integrated into those operations.

These provisions are controlling irrespective of whether the service is performed on a part-time basis, and, with respect to paragraph (a) of this section, irrespective of whether the right to supervise and direct is exercised.

§ 203.4 *When service is compensated.* Service shall be "compensated" if it is performed for compensation, as that term is defined in Part 222 of this chapter: *Provided, however,* That service prior to September 1941, of a station employee whose duties consisted of or included the carrying of passengers' hand baggage and otherwise assisting passengers at passenger stations shall be considered compensated service although the individual's remuneration was, in whole or in part, in the form of tips. (For the effect of compensation of less than $3.00 per month earned after December 31, 1936, for service to a local lodge or division of a railway-labor-organization employer, see Part 222 of this chapter.) (Secs. 3, 10, 50 Stat. 311, 314 as amended by secs. 2, 209, Pub. Law 572, 79th Cong., 45 U. S. C. 228c, 228j)

§ 203.5 *Service outside the United States.* (a) An individual shall not be an employee by reason of rendition of service to an employer other than a local lodge or division, or a general committee of a railway-labor-organization employer, not conducting the principal part of of its business in the United States except while engaged in performing service for it in the United States.

(b) An individual shall not be an employee by reason of rendition of service to a local lodge or division, unless:

(1) All, or substantially all the individuals constituting the membership of such local lodge or division are employees of an employer conducting the principal part of its business in the United States; or

(2) The headquarters of such local lodge or dvision is located in the United States.

(c) An individual shall not be an employee by reason of rendition of service to a general committee of a railway-labor-organization employer, unless:

(1) Such individual is representing a local lodge or division all, or substantially all, of whose members are employees of an employer conducting the principal part of its business in the United States or the headquarters of such local lodge or division is located in the United States; or

(2) All or substantially all, the individuals represented by such a general committee are employees of an employer conducting the principal part of its business in the United States; or

(3) Such an individual acts in the capacity of a general chairman or an assistant general chairman of a general committee which represents individuals rendering service in the United States to an employer; *Provided, however,* That if the office or headquarters of such general chairman or assistant general chairman is not located within the United States he will not be an employee unless 10 per cent or more of his remuneration for service as general chairman or assistant general chairman is creditable as compensation, the creditable compensation to be computed according to the proportion which the mileage in the United States under the jurisdiction of such general committee bears to the total mileage under its jurisdiction, or according to a formula to be prescribed by the Board if the mileage formula is inapplicable.

§ 203.6 *Age, citizenship and other factors.* The age, citizenship or residence of an individual, or his designation as other than an "employee" shall not be controlling in determining whether or not such individual is an employee within the meaning of the act, except that an individual not a citizen or resident of the United States shall not be deemed to be in the service of an employer when rendering service outside the United States to an employer who is required by the laws of the place where the service is performed to employ, in whole or in part, citizens or residents thereof and the laws in force therein on August 29, 1935, shall be deemed to have been in force at all times prior to that date, and in no case shall the years of service include any service after the end of the calendar year in which the individual attains the age of sixty-five and after June 30, 1937. (Secs. 1, 10, 50 Stat. 308, 314 as amended, 45 U. S. C. 228a, 228j)

§ 203.7 *Local lodge employee.* An individual who, prior to January 1, 1937, shall have rendered service to a local lodge or division of a railway labor organization included as an employer under section 1 (a) of the act, shall be an employee with respect to such service to such local lodge or division only if he was on August 29, 1935, in the service of or in an employment relation to an employer which was a carrier. An individual who, subsequent to December 31, 1936, shall have rendered service to a local lodge or division of a railway labor organization included as an employer under section 1 (a) of the act, shall be an employee with respect to such service to such local lodge or division only with respect to such service as was preceded by service, or an employment relation, on or after August 29, 1935, to an employer which was a carrier. (For

the effect of compensation less than $3.00 per month earned after December 31, 1936, for service to a local lodge or division of a railway-labor-organization employer, see Part 222 of this chapter.) (Secs. 1, 10, 50 Stat. 308, 314 as amended; 45 U. S. C. 228a, 228j)

PART 209—MILITARY SERVICE

§ 209.00 *Statutory provision.*

(a) For the purposes of determining eligibility for an annuity and computing an annuity, including a minimum annuity, there shall also be included in an individual's years of service, within the limitations hereinafter provided in this section, voluntary or involuntary military service of an individual within or without the United States during any war-service period, including such military service prior to the date of enactment of this amendment: *Provided, however,* That such military service shall be included only subject to and in accordance with the provisions of subsection (b) of section 3, in the same manner as though military service were service rendered as an employee: *Provided further,* That an individual who entered military service prior to a war-service period shall not be regarded as having been in military service in a war-service period with respect to any part of the period for which he entered such military service.

(b) For the purpose of this section and section 202, as amended, an individual shall be deemed to have been in "military service" when commissioned or enrolled in the active service of the land or naval forces of the United States and until resignation or discharge therefrom; and the service of any individual in any reserve component of the land or naval forces of the United States, while serving in the land or naval forces of the United States for any period, even though less than thirty days, shall be deemed to have been active service in such force during such period.

(c) For the purpose of this section and section 202, as amended, a "war-service period" shall mean (1) any war period, or (2) with respect to any particular individual, any period during which such individual (i) having been in military service at the end of the war period, was required to continue in military service, or (ii) was required by call of the President, or by any Act of Congress or regulation, order, or proclamation pursuant thereto, to enter and continue in military service, or (3) any period after September 7, 1939, with respect to which a state of national emergency was duly declared to exist which requires a strengthening of the national defense.

(d) For the purpose of this section and section 202, as amended, a "war period" shall be deemed to have begun on whichever of the following dates is the earliest: (1) the date on which the Congress of the United States declared war; or (2) the date as of which the Congress of the United States declared that a state of war has existed; or (3) the date on which war was declared by one or more foreign states against the United States; or (4) the date on which any part of the United States or any territory under its jurisdiction was invaded or attacked by any armed force of one or more foreign states; or (5) the date on which the United States engaged in armed hostilities for the purpose of preserving the Union or of maintaining in any State of the Union a republican form of government.

(e) For the purpose of this section and section 202, as amended, a "war period" shall be deemed to have ended on the date on which hostilities ceased.

(f) Military service shall not be included in the years of service of an individual unless, prior to the beginning of his military service in a war service period and in the same calendar year in which such military service began, or in the next preceding calendar year, the individual rendered service for compensation to an employer or to a person service to which is otherwise creditable under this act, or lost time as an employee for which he received remuneration, or was serving as an employee representative.

(g) A calendar month in which an individual was in military service which may be included in the individual's years of service or service period, as the case may be, shall be counted as a month of service: *Provided, however,* That no calendar month shall be counted as more than one month of service.

(i) In the event military service is or has been used as the basis or as a partial basis for a pension, disability compensation, or any other gratuitous benefits payable on a periodic basis under any other act of Congress, any annuity under this act or the Railroad Retirement Act of 1935, which is based in part on such military service and is with respect to a calendar month for all or part of which such pension or other benefit is also payable, shall be reduced with respect to that month by the proportion which the number of years of service, by which such military service increases the years of service, or the service period, as the case may be, bears to the total years of service, or by the aggregate amount of such pension or other benefit with respect to that month, whichever would result in the smaller reduction.

(j) Any department or agency of the United States maintaining records of military service, at the request of the Board, shall certify to the Board, with respect to any individual, the number of months of military service which such department or agency finds the individual to have had during any period or periods with respect to which the Board's request is made, the date and manner of entry into such military service, and the conditions under which such service was continued. Any department or agency of the United States which is authorized to make awards of pensions, disability compensation, or any other gratuitous benefits or allowances payable, on a periodic basis or otherwise, under any other act of Congress on the basis of military service, at the request of the Board, shall certify to the Board, with respect to any individual, the calendar months for all or part of which any such pension, compensation, benefit, or allowance is payable to, or with respect to, the individual, the amounts of any such pension, compensation, benefit, or allowance, and the military service on which such pension, compensation, benefit, or allowance is based. Any certification made pursuant to the provisions of this subsection shall be conclusive on the Board: *Provided,* That if evidence inconsistent with any such certification is submitted, and the claim is in the course of adjudication or is otherwise open for such evidence, the Board shall refer such evidence to the department or agency which made the original certification and such department or agency shall make such recertification as in its judgment the evidence warrants. Such recertification, and any subsequent recertifications, shall be conclusive, made in the same manner, and subject to the same conditions as an original certification.

(k) No person shall be entitled to an annuity, or to an increase in an annuity, based on military service unless a specific claim for credit for military service is filed with the Board by the individual who rendered such military service, and in no case shall an annuity, or an increase in an annuity, based on military service begin to accrue earlier than sixty days prior to the date on which such claim for credit for military service was filed with the Board nor before October 8, 1940: *Provided,* That this subsection shall not be construed to prevent payment of annuities with respect to accruals, not based on military service prior to the date on which an annuity based on military service began to accrue.

(l) An individual who, before the ninety-first day after the date on which this amendment of section 4 is enacted was awarded an annuity under the Railroad Retirement Act of 1937 or the Railroad Retirement Act of 1935, but who had rendered military service which, if credited, would have resulted in an increase in his annuity, may, notwithstanding the previous award of an annuity, file with the Board an application for an increase in such annuity based on his military service. Upon the filing of such application, if the Board finds that the military service thus claimed is creditable and would result in an increase in the annuity, the Board, notwithstanding the previous award, shall recertify the annuity on an increased basis in the same manner as though the provisions making military service creditable had been in effect at the time of the original certification subject, however, to the provisions of subsection (k) of this section. If the annuity previously awarded is a joint and survivor annuity, the increased annuity shall be a joint and survivor annuity of the same type, the actuarial value of the increase to be computed as of the effective date of the increase: *Provided, however,* That if on the date the increase begins to accrue the individual has no spouse for whom the election of the joint and survivor annuity was made, the increase on a single life basis shall be added to the individual's annuity.

(n) In addition to the amount authorized to be appropriated in subsection (a) of section 15 of this act, there is hereby authorized to be appropriated to the Railroad Retirement Account for each fiscal year, beginning with the fiscal year ending June 30, 1941, (i) an amount sufficient to meet the additional cost of crediting military service rendered prior to January 1, 1937, and (ii) an amount found by the Board to be equal to the amount of the total additional excise and income taxes which would have been payable during the preceding fiscal year under Subchapter B of Chapter 9 of the Internal Revenue Code, as amended, with respect to the compensation, as defined in such Subchapter B, of all individuals entitled to credit under the Railroad Retirement Acts, as amended, for military service after December 31, 1936, if each of such individuals, in addition to compensation actually earned, had earned such compensation in the amount of $160 in each calendar month in which he was in such military service during such preceding fiscal year and such taxes were measured by all such compensation without limitation as to amount earned by any individual in any one calendar month. The additional cost of crediting military service rendered prior to January 1, 1937, shall be deemed to be the difference between the actuarial value of each annuity based in part on military service and the actuarial value of the annuity which would be payable to the same individual without regard to military service. In calculating these actuarial values, (1) whenever the annuity based in part on military service begins to accrue before age 60, the annuity without regard to military service shall be valued on the assumption of deferment to age 60, and whenever the annuity based in part on military service is awarded under subsection 2 (a) of section 2 (a), the annuity without regard to military service shall be valued on the assumption of deferment to age 65; and (2) all such actuarial values shall be calculated as of the date on which the annuity based on military service begins to accrue and shall not thereafter be subject to change. All such actuarial calculations shall be based on the Combined Annuity Table of Mortality and all calculations in this subsection shall take into account interest at the rate of 3 per centum per annum compounded annually. The Railroad Retirement Board, as promptly as practicable after the enactment of this amendment, and

thereafter annually, shall submit to the Bureau of the Budget estimates of such military service appropriations to be made to the account, in addition to the annual estimate by the Board, in accordance with subsection (a) of section 15 of this act, of the appropriation to be made to the account to provide for the payment of annuities, pensions and death benefits not based on military service. The estimate made in any year with respect to military service rendered prior to January 1, 1937, shall be based on the cost, as determined in accordance with the above provisions, of annuities awarded or increased on the basis of such military service up to the close of the preceding fiscal year and not previously appropriated for, and shall take into account interest from the date the annuity began to accrue or was increased to the date or dates on which the amount appropriated is to be credited to the Railroad Retirement Account. In making the estimate for the appropriation for military service rendered after December 31, 1936, the Board shall take into account any excess or deficiency in the appropriation or appropriations for such service in any preceding fiscal year or years, with interest thereon, resulting from an overestimate or underestimate of the number of individuals in creditable military service or the months of military service.

(o) Section 4, as herein amended shall be effective as of October 8, 1940. No rights shall be deemed to have accrued under section 4 which would not have accrued had this act amending section 4 been enacted on October 8, 1940.

§ 209.12 *War service period.* (a) A war service period includes, with respect to any individual:

(1) Any period during which the individual was required by call of the President, or by any act of Congress or regulation, order, or proclamation pursuant thereto, to enter and continue in military service, and

(2) Any period of military service in a war period, providing the individual entered military service in such war period, and

(3) Any period of military service immediately following a war period, whether or not such service was entered upon voluntarily, and prior to discharge from such service or reenlistment therein, providing the individual entered military service in such war period,

(4) Any period after September 7, 1939, with respect to which a state of national emergency was duly declared to exist which requires a strengthening of the national defense.

(b) *War period.* A war period begins on the date on which the Congress of the United States declared war, or on the date as of which the Congress of the United States declared a state of war to have existed, or on the date on which war was decared by one or more foreign states against the United States, or on the date on which any part of the United States or any territory under its jurisdiction was invaded or attacked by any armed force of one or more foreign states, or on the date on which the United States engaged in armed hostilities for the purpose of preserving the Union or of maintaining in any State of the Union a republican form of government, whichever date is the earliest. A war period ends on the date on which hostilities shall have ceased.

(1) *Spanish American War.* The war period of the Spanish American War began April 21, 1898 and ended August 13, 1898.

(2) *Philippine Insurrection.* The war period of the Philippine Insurrection began February 4, 1899 and ended April 27, 1902.

(3) *World War I.* The war period of the World War began April 6, 1917 and ended November 11, 1918.

(4) *World War II.* The war period of World War II began December 7, 1941 and ended December 31, 1946. (Sec. 10, 50 Stat. 314 as amended; 45 U. S. C. and Sup. 228c, 228j)

PART 210—EXECUTION AND FILING OF AN APPLICATION FOR AN ANNUITY

§ 210.2 *Application to be filed.* (a) No individual, irrespective of his qualifications, shall receive an annuity unless he has, on or before the date of his death, either (1) filed with an office of the Board a duly executed application, upon such form as the Board may from time to time prescribe, or (2) delivered for the purpose of transmission to the Board's main office in Chicago, Illinois, such a duly executed application to any field agent of the Board specifically authorized by a Regional Director to receive custody thereof in the district where delivery is made: *Provided, however,* That a claim or application filed with the Social Security Board, whether before or after the adoption of this section, for a lump sum payment under section 204 (a) of Title II of the Social Security Act, as approved August 14, 1935, or for primary insurance benefits under section 202 (a) of the Social Security Act, as amended August 10, 1939, based in whole or in part on service with an employer under the Railroad Retirement Act, which service had not at the time of such filing been determined by the Board to be with an employer, shall be considered an application for an annuity duly filed with the Railroad Retirement Board.

(b) Where an individual has notified the Board in writing of his intention or desire to file an application for an annuity, but has been deterred to his detriment by action of the Board or of its employees from filing an application upon the form prescribed by the Board, such writing of the individual, if subsequently supplemented by an application duly executed upon the prescribed form, shall be considered by the Board as a proper and sufficient application within the meaning of paragraph (a) of this section: *Provided, however,* That:

(1) The action of the Board or of its employees in deterring the individual from filing an application on the prescribed form shall have consisted of:

(i) Failure to advise the individual properly as to the necessity for filing an application on such prescribed form; or

(ii) Failure to furnish the individual with the appropriate application form; or

(iii) Furnishing of correct information that under an existing ruling (which was subsequently reversed during the individual's lifetime) entitlement was precluded; *And further provided,* That:

(2) The individual, upon being correctly advised by the Board as to the necessity for filing an application on the prescribed form, or as to a changed ruling affecting his entitlement, and/or upon being supplied with such prescribed form, shall file said form with the Board during his lifetime and within three months after the date on which such correct advice was given him and/or such form was mailed to him (whichever is the later), or within such additional time as the Board may deem reasonable. (For regulations governing applications for Insurance Annuities and Lump Sums for Survivors, see Part 237 of this chapter.) (Secs. 2, 10, 50 Stat. 310, 314; 45 U. S. C. 228b, 228j)

PART 214—ANNUITY BEGINNING DATE.

§ 214.3 *Beginning date in month of applicant's sixtieth or sixty-fifth birthday.* When an individual is not eligible for an annuity until the attainment of age sixty or sixty-five the annuity cannot begin to accrue prior to the day on which the required age is attained, except that an individual who is eligible for the annuity described in § 208.7 of this chapter in the same month in which he attains age sixty-five may have his annuity begin without reduction as of the first day of such month.

§ 214.7 *Effect of service performed through or after designated beginning date*—(a) *By individuals whose eligibility is not based upon disability.* If such an individual renders compensated service to any person, whether or not an employer, through or after the designated beginning date but prior to relinquishment of rights in accordance with Part 216 of this chapter, his annuity cannot begin to accrue earlier than the date following the last date of such compensated service. If the individual renders such compensated service after having relinquished rights in accordance with Part 216 of this chapter the beginning date of the annuity shall not be affected but no annuity shall be payable with respect to any month in which such service is performed if it is within the terms of Part 217 of this chapter.

(b) *Individuals whose eligibility is based upon permanent disability for regular employment.* If such an individual renders compensated service to any person, whether or not an employer, through or after the designated beginning date, such fact must be reconciled with the claim of permanent disability for any regular and gainful employment before eligibility for such a disability annuity is established. Where, however, it is shown that the individual, notwithstanding his rendition of compensated service is disabled, the following shall apply:

If all the individual's compensated service ended before the filing date of his annuity application or if the individual's compensated service continued through such filing date the annuity cannot begin to accrue earlier than the date following the last day of such compensated service. (For the effect of a return to service after accrual, see Parts 208 and 217 of this chapter.)

(c) *An individual whose eligibility is based upon permanent disability for work in his "regular occupation."* If an individual renders compensated service

through or after the designated beginning date to any person, whether or not an employer, in his regular occupation or in any occupation for which the same occupational disability standards have been established, such fact must be reconciled with the claim of permanent disability for work in his regular occupation. Where, however, it is shown that an individual, notwithstanding his rendition of compensated service in any occupation, is permanently disabled for work in his regular occupation the following shall apply:

If all the individual's compensated service to any person, whether or not an employer, ended before the filing date of his annuity application or if the individual's compensated service to any person, whether or not an employer, continued through such filing date, the annuity cannot begin to accrue earlier than the date following the last day of compensated service to any such person. (For the effect of a return to service after accrual see Parts 208 and 217 of this chapter.) (Secs. 2, 10, 50 Stat. 310, 314, as amended; 45 U. S. C., 228b, 228j)

PART 216—RELINQUISHMENT OF RIGHTS

§ 216.1 *Statutory provision.*

An annuity shall be paid only if the applicant shall have relinquished such rights as he may have to return to the service of an employer and of the person by whom he was last employed; but this requirement shall not apply to the individuals mentioned in subdivision 4 and subdivision 5 of subsection (a) prior to attaining age sixty-five.

§ 216.3 *Relinquishment of rights in case of disability annuity.* In the case of an individual whose eligibility for an annuity is based upon permanent disability for any regular and gainful employment or upon permanent disability for work in his regular occupation, an annuity is payable prior to age sixty-five even though he retains rights to return to service until age sixty-five, *Provided, however,* That such individual shall upon attainment of age sixty-five establish that he has in accordance with this part relinquished in the manner and to the extent required in the case of an age annuity any rights which he may have to return to service; otherwise payment of his annuity shall not be made for any calendar month in which he becomes or is sixty-five years of age or over until such individual so relinquishes such rights. (Secs. 2, 10, 50 Stat. 310, 314 as amended; 45 U. S. C. 228b, 228j).

PART 217—LOSS OF ANNUITY FOR ANY MONTH BY REASON OF COMPENSATED SERVICE

§ 217.2 *Loss of annuity for month in which compensated service is rendered.* (a) If an individual in receipt of an annuity renders compensated service he shall not be paid an annuity with respect to any month in which such service is rendered to:

(1) An employer;

(2) Any person whether or not an employer by whom he was most recently employed when his annuity begins to accrue;

(3) Any person with whom he held, at the time the annuity begins to accrue, any rights to return to service;

(4) Any person with whom he ceased service in order to have his annuity begin to accrue.

(Secs. 2, 10, 50 Stat. 310, 314 as amended; 45 U. S. C. 228b, 228j)

Dated: February 11, 1947.

By authority of the Board.

[SEAL] MARY B. LINKINS,
Secretary of the Board.

[F. R. Doc. 47-1560; Filed, Feb. 18, 1947; 8:56 a. m.]

TITLE 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Federal Security Agency

[Docket No. FDC-45]

PART 51—CANNED VEGETABLES: DEFINITIONS AND STANDARDS OF IDENTITY; QUALITY; AND FILL OF CONTAINER

CANNED GREEN BEANS AND CANNED WAX BEANS

In the matter of fixing and establishing definitions and standards of identity and standards of quality for canned green beans and canned wax beans.

By virtue of the authority vested in the Federal Security Administrator by the provisions of the Federal Food, Drug, and Cosmetic Act (Secs. 401, 701, 52 Stat. 1046, 1055; 21 U. S. C. 341, 371); and upon the basis of evidence of record at the hearing held pursuant to the notice issued on April 9, 1946 (11 F. R. 3754), and upon consideration of exceptions filed to the proposed order issued by the Acting Federal Security Administrator on October 18, 1946 (11 F. R. 12584), the following order is hereby promulgated:

DEFINITIONS AND STANDARDS OF IDENTITY

Findings of fact. 1. Canned green beans is the food the principal component of which is succulent pods of the green bean plant. In preparation for canning, the pods are stemmed and may be sliced lengthwise or cut transversely. Water is added to aid in processing. Generally salt and sometimes sugar are used as seasoning ingredients. Dextrose is also suitable for this purpose. The food is sealed in a container and processed by heat to prevent spoilage.

2. Stems are cut from the pods by special machines, the proper operation of which removes the stems from substantially all such pods. These machines are somewhat less effective when the pods are small.

3. Prior to canning, the pods or transversely cut pieces of pod frequently are segregated into lots of approximately uniform diameter. This also is done by special machines. Each lot is designated as a certain "sieve size", the numbers ranging from 1 to 6 as the diameter increases.

4. Whole pods are packed either parallel to the sides of the container or without arrangement. Pods sliced lengthwise, or cut transversely into pieces, are packed without arrangement. Each type of pack gives the finished food special characteristics which are sufficiently distinct for consumers to differentiate between them and to purchase different types of pack for different purposes.

5. When whole green beans are packed parallel to the sides of the container, the pods are straight and orderly in appearance and a greater drained weight is generally attained than when they are packed without arrangement. The phrase "Whole—Vertical Pack" generally appears on the label of such packs. Pieces of pods 2¾ inches in length or longer are considered whole pods for some purposes.

6. In a special type of vertically packed whole green beans the pods are cut off at both ends to achieve substantial uniformity in length. This type of pack is known as "Asparagus Style".

7. When whole green beans are packed without arrangement the drained weight is generally less than for the "Vertical Pack" and the pods are not straight and uniform in appearance. At the present time it is customary to label this pack as "Whole."

8. Canned green beans sliced lengthwise have a characteristic appearance. This type of pack is designated on the label as "Sliced Lengthwise" or "French Style". The existing regulations also permit the use of the terms "Shoestring" and "Julienne" but these terms have fallen into disuse.

9. In another type of pack of canned green beans, the pods are cut transversely into pieces less than 2¾ inches long. The length of the cut pieces varies with different packers. The cutting is done by a special machine with knives spaced at regular intervals. The end pieces may be considerably shorter than the center cuts. Many packers remove the shorter end pieces to achieve uniformity.

10. The existing definition and standard of identity for canned green beans provides that pods cut transversely into pieces be labeled "Cut" irrespective of length. When the pieces are so short as to acquire a characteristic appearance by reason of their short length it is to the consumers' interest to be advised of this fact. Pieces less than ¾ inch in length fall in this category and the dividing line between "Cuts" and "Short Cuts" may reasonably be set at this point. For packs in which substantially all the pieces are less than ¾ inch in length a label statement "Short Cut" or "Short Cuts", or in lieu thereof the word "Cut" or "Cuts" modified by a statement of the approximate length of such pieces, furnishes consumers with this information.

11. The existing definition and standard of identity for canned green beans makes no provision for mixtures of optional forms of green bean ingredients. Differentiating between "Cuts" and "Short Cuts" makes it necessary to provide for mixtures of such optional green bean ingredients and it is reasonable to make provision for all mixtures of optional green bean ingredients. A descriptive label designation for each mixture is: "Mixture of ———", the blank being filled in with the combination of the names "Whole", "Sliced Lengthwise", "Cut" or "Cuts", and "Short Cut" or "Short Cuts", designating the optional ingredients present, and arranged in the order of predominance, if any, by weight of such ingredients. In cutting pods into

pieces less than 2¾ inches but not less than ¾ inch long, a certain number of shorter end pieces are always obtained. These can be removed by special machines but such machines are not available in all canneries. When no other pieces shorter than ¾ inch are added it is reasonable to use the designation "Cut" or "Cuts" on the label.

12. In the existing definition and standard of identity for canned green beans the names "Stringless Green Beans" and "Green Stringless Beans" are recognized as synonyms for "Green Beans". Some green beans which are canned are not stringless and these terms are thus not necessarily synonymous with "Green Beans."

13. Canned wax beans is the food the principal component of which is prepared from succulent pods of the wax bean plant. In all other respects the facts set forth in findings 1 to 11, inclusive, are applicable to canned wax beans.

14. In the existing definition and standard of identity for canned wax beans the name "Stringless Wax Beans" is given as a synonym for "Wax Beans". Some wax beans which are canned are not stringless and this term is thus not necessarily synonymous with "Wax Beans".

15. The record contains no evidence of the use of citric acid or vinegars for lowering the pH of canned green or canned wax beans to aid in processing by heat, or of any present or future need for these ingredients, nor any evidence of use or present or future need for spices or vinegars for seasoning canned green or canned wax beans.

Conclusions. On the basis of the evidence of record and of the foregoing findings of fact, it is concluded that the following regulations fixing and establishing definitions and standards of identity for canned green beans and for canned wax beans will promote honesty and fair dealing in the interest of consumers.

Wherefore, *it is ordered,* That § 52.990 of Title 21, Code of Federal Regulations, Cum. Supp., be amended by deleting therefrom all references to canned green beans or green stringless beans or stringless green beans and canned wax beans or stringless wax beans.

It is further ordered, That there be established specific definitions and standards of identity for canned green beans and canned wax beans, as follows:

§ 51.10 *Canned green beans; identity; label statement of optional ingredients.* (a) Canned green beans is the food prepared from stemmed, succulent pods of the green bean plant, and water. It may be seasoned with salt, sugar, or dextrose, or any two or all of these. The pods are prepared in one or more of the following forms:

(1) Whole pods, or tranversely cut pods not less than 2¾ inches in length.

(2) Pods sliced lengthwise.

(3) Pods cut transversely into pieces less than 2¾ inches in length but not less than ¾ inch in length, with or without shorter end pieces resulting therefrom.

(4) Pieces of pods less than ¾ inch in length.

Any such form is an optional ingredient. Mixtures of two or more optional ingredients may be used. The food is sealed in a container and so processed by heat as to prevent spoilage.

(b) (1) When optional ingredient in paragraph (a) (1) of this section is used the label shall bear the word "Whole". If the pods are packed parallel to the sides of the container the word "Whole" shall be preceded or followed by the words "Vertical Pack", except that when the pods are cut at both ends and are of substantially equal lengths, the words "Asparagus Style" may be used in lieu of the words "Vertical Pack".

(2) When optional ingredient in paragraph (a) (2) of this section is used the label shall bear the words "Sliced Lengthwise" or "French Style".

(3) When optional ingredient in paragraph (a) (3) of this section is used the label shall bear the word "Cut" or "Cuts".

(4) When optional ingredient in paragraph (a) (4) of this section is used the label shall bear the words "Short Cut" or "Short Cuts" or "____ Inch Cut" or "____ Inch Cuts", the blank to be filled in with the fraction of an inch which denotes the approximate length of the pieces.

(5) When a mixture of two or more of the optional ingredients in paragraphs (a) (1) to (a) (4), inclusive, of this section is used the label shall bear the statement "Mixture of ____", the blank being filled in with the combination of the names "Whole", "Sliced Lengthwise", "Cut" or "Cuts", and "Short Cut" or "Short Cuts", designating the optional ingredients present, and arranged in the order of predominance, if any, by weight of such ingredients.

(c) Wherever the name "Green Beans" appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the words and statements prescribed by paragraph (b) of this section shall immediately and conspicuously precede or follow such name, without intervening written, printed, or graphic matter, except that the varietal name of the green beans and the designation of the length of cut may so intervene.

§ 51.15 *Canned wax beans; identity; label statement of optional ingredients.* (a) Canned wax beans conforms to the definition and standard of identity, and is subject to the requirements for label statement of optional ingredients prescribed for canned green beans by § 51.10 (a) and (b), except that it is prepared from stemmed, succulent pods of the wax bean plant.

(b) Wherever the name "Wax Beans" appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the words and statements prescribed by § 51.10 (b) shall immediately and conspicuously precede or follow such name, without intervening written, printed, or graphic matter, except that the varietal name of the wax beans and the designation of the length of cut may so intervene.

QUALITY

Findings of fact. 1. The quality of canned green and canned wax beans is judged by consumers primarily on the basis of (1) eating quality and (2) appearance.

2. The appearance of canned green and canned wax beans is marred by the presence of units having blemished areas. These areas vary widely, some being hardly noticeable, while others are of such size that the average consumer will discard the units so blemished. When the aggregate blemished area on a unit is not more than the area of a circle ⅛ inch in diameter it generally escapes the notice of both consumers and canners. Units having aggregate blemished areas larger than that are generally regarded as blemished. The presence of more than 12 blemished units per 12 ounces of drained weight so lowers the quality of these foods that their labels should bear a statement of substandard quality.

(3) The appearance of canned green and canned wax beans is marred by the presence of very short units, such as short and pieces sifted from regular cuts, unless all units are short. Except where substantially all the units are less than ¾ inch in length the presence in 12 ounces drained weight of more than 60 units which are less than ½ inch in length so lowers the quality that a statement of substandard quality should be required. This finding is not applicable when the optional bean ingredient is pods sliced lengthwise (§ 51.10 (a) (2)).

4. The appearance of canned green and canned wax beans is marred by the presence of extraneous vegetable matter. In canning an effort is made to eliminate extraneous matter, but due to accidents, and sometimes to carelessness, leaves, pieces of the vine, detached stems, etc., occasionally get into the cans of the finished food. Since the inclusion of extraneous matter is generally accidental and the amount variable, it is advisable to examine a fairly large sample of canned green or canned wax beans to determine its significance. It is reasonable to require that the label bear a statement of substandard quality when there is more than 0.6 ounce of extraneous vegetable matter per 60 ounces of drained weight.

5. The appearance and also the eating quality of canned green beans and canned wax beans is adversely affected by the presence of unstemmed units, that is, units to which remain attached all or part of the stem that connects the pod with the vine. In good canning practice an effort is made to remove stems as completely as possible, but this is done by machines which do not always effect a complete removal of the stems from all of the pods. These machines are least effective with small pods. It is impracticable to set separate limits based on different sieve sizes of green and wax beans, but a limit of 6 unstemmed units per 12 ounces drained weight is a reasonable over-all limit for all sizes. Beyond this limit the food is of substandard quality.

6. The eating quality of canned green and canned wax beans depends largely on certain characteristics of the pods. Generally, the small, immature pods are more desirable. With increasing maturity the pods become larger and the seeds more prominent. Finally the pods

lose their succulence and become thin, fibrous and woody. The undesirable effects of increasing maturity, however, do not develop with strict uniformity in all varieties of green and wax beans.

7. Most varieties of green and wax beans develop large seeds as they approach maturity. Large seeds are generally mealy, have tough skins and thus make for poor eating quality. Often there are considerable numbers of seed or pieces of seed loose in the can, marring the appearance of the canned green or canned wax beans. Various methods for utilizing the percentage of seed as a measure of quality have been proposed. Each is subject to some objection. The two methods most likely to show accurately the conditions which render canned green and canned wax beans of low quality are (1) to determine the percent by weight of loose seed and pieces of seed, and (2) to determine the percent by weight of seed or pieces of seed in pods trimmed to remove portions from which seed have become separated. When the percent of seed in the trimmed pods is greater than 15 percent, or when loose seed and pieces of seed exceed 5 percent of the drained weight, the product is of substandard quality. It is impracticable to apply these tests to green or wax beans sliced lengthwise.

8. Tough strings are objectionable in canned green or canned wax beans. The relative toughness of the strings is of great importance, and in order to define a tough string a method for testing strings for toughness is necessary. A reasonably satisfactory method in use for several years provides for attaching a ½ pound weight to the string, suspending this weight by the string and classing as tough those strings which sustain the weight for 5 seconds or more. Since strings are not of equal toughness throughout their entire length, the test should be applied at the toughest portion.

In general the proportion of bean pods which have tough strings is greater the larger the sieve size of the pods, and by picking the beans frequently it is possible to keep the proportion of the larger sieve sizes low, and hence to keep the proportion of tough strings low. Present conditions make it extremely difficult in harvesting to avoid getting in the pickings a considerable proportion of number 4 and 5 sieve size pods, but it is not unreasonably diffcult to keep relatively low the proportion of number 6 sieve size pods (pods $^{27}/_{64}$ inch or more in diameter). Where canned green beans or canned wax beans include pods or pieces of pods $^{27}/_{64}$ inch or more in diameter and the number of tough strings is greater than 12 per 12 ounces drained weight, they are of such low quality that it is reasonable to require the label to bear a declaration of substandard quality.

9. The amount of woody or fibrous material in the pods increases as maturity advances, lowering the eating quality of canned green and canned wax beans. A chemical method of analysis has been developed to determine the amount of this objectionable fibrous material in the pods from which the seeds have been removed. The details of the method are contained in finding 10. When the fibrous material of the deseeded pods of canned green or canned wax beans, as determined by this method, exceeds 0.15 percent of the drained weight of such pods the eating quality is so impaired that the label should bear a statement of substandard quality.

10. A practicable method for determining whether canned green or canned wax beans are of substandard quality is as follows:

(1) Distribute the contents of the container over the meshes of a circular sieve which has been previously weighed. The diameter of the sieve is 8 inches if the quantity of the contents of the container is less than 3 pounds, and 12 inches if such quantity is 3 pounds or more. The bottom of the sieve is woven wire cloth which complies with the specifications for such cloth set forth under "2380 Micron (No. 8)" in Table I of "Standard Specifications for Sieves", published March 1, 1940, in L. C. 584 of the U. S. Department of Commerce, National Bureau of Standards. Without shifting the material on the sieve, so incline the sieve as to facilitate drainage. Two minutes from the time drainage begins, weigh the sieve and the drained material. Record, in ounces, the weight so found, less the weight of the sieve, as the drained weight.

(2) Pour the drained material from the sieve into a flat tray and spread it in a layer of fairly uniform thickness. In case the material consists of the optional ingredient specified in paragraph (a) (3) or a mixture of two or more of the optional ingredients specified in paragraphs (a) (1) to (a) (4), inclusive, of § 51.10, count and record, but do not remove, all units each of which is less than ½ inch long. Divide the number of units which are less than ½ inch long by the drained weight recorded in (1) and multiply by 12 to obtain the number of such units per 12 ounces drained weight.

From the drained material select a representative sample of 3½ to 4 ounces, weigh and record its weight in ounces for use in (5). However, in case the drained material does not include pods or pieces of pods $^{27}/_{64}$ inch or more in diameter it is unnecessary either to weigh the representative sample or to separate and test the strings as directed in (5). After the representative sample has been selected, cover the material remaining to prevent evaporation and reserve for further examination under (7).

(3) From the representative sample selected in (2) segregate and reserve for (7) the extraneous vegetable matter (including any stems completely detached from pods or pieces of pods). Then segregate the loose seed and, except in the case of pods sliced lengthwise, reserve for (10) the loose seed so segregated (as here used and in subsequent paragraphs of this method, the word seed means seed and pieces of seed). Count and record as unstemmed units those pods and pieces of pods to which any portion of the connecting stem is attached. Detach stems and discard. Count and record but do not remove the blemished units. A unit is considered blemished when the aggregate blemished area exceeds the area of a circle ⅛ inch in diameter.

NOTE: In the case of pods sliced lengthwise the removal of loose seed in (3) and of the seed from the pods in (4) is only for the purpose of preparing sample for fiber determination in (5) and (6). No trimming of pods, or weighing of seed, as directed in (4) need, therefore, be done.

(4) From the pods in (3) trim off, as far as the end of the space formerly occupied by seed, any portions of pods from which seed have become separated. Remove and discard any seed from the trimmings and reserve the trimmings for (5). Weigh and record the weight of the trimmed pods. Deseed the trimmed pods and reserve the deseeded pods for (5). Collect the seed on a sieve of mesh fine enough to retain them, and so distribute them that any liquid drains away. Weigh the seed, divide by the weight of the trimmed pods and multiply by 100 to obtain percent by weight of seed in the trimmed pods.

(5) If, pursuant to (2), it is unnecessary to separate and test the strings, weigh and record the weight of the deseeded pods and proceed to (6); otherwise separate the strings from the deseeded pods segregated in (4) and promptly test as follows:

Fasten clamp, weighted to ½ pound, to one end of the string, grasp the other end with the fingers (a cloth may be used to aid in holding the string), and lift gently. Count the string as tough if it supports the ½ pound weight for at least 5 seconds. If the string breaks before 5 seconds, test such parts into which it breaks as are ½ inch or more in length and if any such part of the string supports the ½ pound weight for at least 5 seconds count the string as tough. Divide the number of tough strings by the weight of the sample recorded in (2) and multiply by 12 to obtain the number of tough strings per 12 ounces drained weight. Return both the broken and the unbroken strings, which were separated for testing, to the pods from which they were separated and add any trimmings reserved in (4). Weigh and record as the weight of deseeded pods for use in (6).

(6) Transfer the deseeded pods, strings, and trimmings weighed in (5) to the metal cup of a malted milk stirrer and crush. Wash material adhering to the crushing instrument back into cup with 200 cc of boiling water. Bring mixture to a boil and add 25 cc of 50 percent (by weight) sodium hydroxide solution. (If foaming is excessive a piece of paraffin may be added.) Boil for 5 minutes then stir for an additional 5 minutes with a malted milk stirrer capable of a no-load speed of at least 7200 r. p. m. Use a rotor with two scalloped buttons shaped as shown in the diagram in Exhibit 1. Transfer the material from the cup to a previously weighted 30-mesh monel metal screen having a diameter of about 4 inches and side walls about 1 inch high, and wash with a stream of warm water until washings are clear and free from alkali.[1] Dry the screen and

[1] Washing may be quickly accomplished by moving screen back and forth under a slow running tap of warm water, taking care to prevent washing any fibrous material over the sides of the screen.

fibrous material for 2 hours at 100° C., cool, weigh, and deduct weight of screen. Divide the weight of fibrous material by the weight of deseeded pods recorded in (5) and multiply by 100 to obtain the percent of fibrous material in the deseeded pods.

(7) Examine the drained material reserved in (2), counting and recording the number of blemished units for (8), and the number of unstemmed units for (9). Remove the extraneous vegetable matter (including detached stems), combine with similar matter reserved in (3), and retain for (11). Reserve the remaining drained material for (10).

(8) Add to the number of blemished units recorded in (7), the number of blemished units recorded in (3). Divide the sum by the drained weight recorded in (1) and multiply by 12 to obtain the number of blemished units per 12 ounces of drained weight.

(9) Add together the number of unstemmed units recorded in (7) and in (3). Divide the sum by the drained weight recorded in (1) and multiply by 12 to obtain the number of unstemmed units per 12 ounces of drained weight.

(10) From the drained material reserved in (7), except in the case of pods sliced lengthwise, segregate the loose seed, add to the loose seed reserved in (3), and weigh. Divide this weight by the drained weight recorded in (1) and multiply by 100 to obtain the percent of loose seed in the drained weight.

(11) If the drained weight recorded in (1) was less than 60 ounces, drain and weigh as directed in (1), the contents of additional containers until a total of not less than 60 ounces drained material is obtained. From this additional drained material segregate the extraneous vegetable matter (including detached stems) and combine it with the similar matter reserved in (7). Weigh the combined extraneous vegetable matter, divide by the total weight of drained material examined and multiply by 60 to obtain the weight of extraneous vegetable matter per 60 ounces of drained weight.

11. When canned green or canned wax beans fall below the standard of quality, a label statement which fairly and accurately informs the consumer of that fact is the general statement of substandard quality specified in § 10.2 (a) 21 CFR, Cum. Supp.

Conclusions. On the basis of the evidence of record and the foregoing findings of fact, consideration having been given to and due allowance made for the differing characteristics of the several varieties of green and wax beans, it is concluded that the promulgation of the following regulations fixing and establishing standards of quality for canned green beans and for canned wax beans will promote honesty and fair dealing in the interest of consumers.

§ 51.11 *Canned green beans; quality; label statement of substandard quality.* (a) The standard of quality of canned green beans is as follows:

When tested by the method prescribed in paragraph (b) of this section:

(1) In the case of cut beans (§ 51.10 (a) (3)) and mixtures of two or more of the optional ingredients specified in § 51.10 (a) (1) to (a) (4), inclusive, not more than 60 units per 12 ounces drained weight are less than ½ inch long.

(2) The trimmed pods contain not more than 15 percent by weight of seed and pieces of seed.

(3) In case there are present pods or pieces of pods $^{27}/_{64}$ inch or more in diameter, there are not more than 12 strings per 12 ounces of drained weight which will support ½ pound for 5 seconds or longer.

(4) The deseeded pods contain not more than 0.15 percent by weight of fibrous material.

(5) There are not more than 12 blemished units per 12 ounces of drained weight. A unit is considered blemished when the aggregate blemished area exceeds the area of a circle ⅛ inch in diameter.

(6) There are not more than 6 unstemmed units per 12 ounces of drained weight.

(7) The combined weight of loose seed and pieces of seed is not more than 5 percent of the drained weight. This provision does not apply in case the green bean ingredient is pods sliced lengthwise (§ 51.10 (a) (2)).

(8) The combined weight of leaves, detached stems, and other extraneous vegetable matter is not more than 0.6 ounce per 60 ounces of drained weight.

(b) Canned green beans shall be tested by the following method to determine whether they meet the requirements of paragraph (a) of this section:

(1) Distribute the contents of the container over the meshes of a circular sieve which has been previously weighed. The diameter of the sieve is 8 inches if the quantity of the contents of the container is less than 3 pounds, and 12 inches if such quantity is 3 pounds or more. The bottom of the sieve is woven wire cloth which complies with the specifications for such cloth set forth under "2380 Micron (No. 8)" in Table I of "Standard Specifications for Sieves", published March 1, 1940, in L. C. 584 of the U. S. Department of Commerce, National Bureau of Standards. Without shifting the material on the sieve, so incline the sieve as to facilitate drainage. Two minutes from the time drainage begins, weigh the sieve and the drained material. Record, in ounces, the weight so found, less the weight of the sieve, as the drained weight.

(2) Pour the drained material from the sieve into a flat tray and spread it in a layer of fairly uniform thickness. In case the material consists of the optional ingredient specified in paragraph (a) (3) or a mixture of two or more of the optional ingredients specified in paragraphs (a) (1) to (a) (4), inclusive, of § 51.10, count and record, but do not remove, all units each of which is less than ½ inch long. Divide the number of units which are less than ½ inch long by the drained weight recorded in (1) and multiply by 12 to obtain the number of such units per 12 ounces drained weight.

From the drained material select a representative sample of 3½ to 4 ounces, weigh and record its weight in ounces for use in (5). However, in case the drained material does not include pods or pieces of pods $^{27}/_{64}$ inch or more in diameter it is unnecessary either to weigh the representative sample or to separate and test the strings as directed in (5). After the representative sample has been selected, cover the material remaining to prevent evaporation and reserve for further examination under (7).

(3) From the representative sample selected in (2) segregate and reserve for (7) the extraneous vegetable matter (including any stems completely detached from pods or pieces of pods). Then segregate the loose seed and, except in the case of pods sliced lengthwise, reserve for (10) the loose seed so segregated (as here used and in subsequent paragraphs of this method, the word seed means seed and pieces of seed). Count and record as unstemmed units those pods and pieces of pods to which any portion of the connecting stem is attached. Detach stems and discard. Count and record but do not remove the blemished units. A unit is considered blemished when the aggregate blemished area exceeds the area of a circle ⅛ inch in diameter.

NOTE: In the case of pods sliced lengthwise the removal of loose seed in (3) and of the seed from the pods in (4) is only for the purpose of preparing sample for fiber determination in (5) and (6). No trimming of pods, or weighing of seed, as directed in (4) need, therefore, be done.

(4) From the pods in (3) trim off, as far as the end of the space formerly occupied by seed, any portions of pods from which seed have become separated. Remove and discard any seed from the trimmings and reserve the trimmings for (5). Weigh and record the weight of the trimmed pods. Deseed the trimmed pods and reserve the deseeded pods for (5). Collect the seed on a sieve of mesh fine enough to retain them, and so distribute them that any liquid drains away. Weigh the seed, divide by the weight of the trimmed pods and multiply by 100 to obtain percent by weight of seed in the trimmed pods.

(5) If, pursuant to (2), it is unnecessary to separate and test the strings, weight and record the weight of the deseeded pods and proceed to (6); otherwise separate the strings from the deseeded pods segregated in (4) and promptly test as follows:

Fasten clamp, weighted to ½ pound, to one end of the string, grasp the other end with the fingers (a cloth may be used to aid in holding the string), and lift gently. Count the string as tough if it supports the ½ pounds weight for at least 5 seconds. If the string breaks before 5 seconds, test such parts into which it breaks as are ½ inch or more in length and if any such part of the string supports the ½ pound weight for at least 5 seconds count the string as tough. Divide the number of tough strings by the weight of the sample recorded in (2) and multiply by 12 to obtain the number of tough strings per 12 ounces drained weight. Return both the broken and the unbroken strings, which were separated for testing, to the pods from which they were separated and add any trimmings reserved in (4). Weigh and record as the weight of deseeded pods for use in (6).

(6) Transfer the deseeded pods, strings, and trimmings weighed in (5) to the metal cup of a malted milk stirrer

and crush. Wash material adhering to the crushing instrument back into cup with 200 cc of boiling water. Bring mixture to a boil and add 25 cc of 50 percent (by weight) sodium hydroxide solution. (If foaming is excessive a piece of paraffin may be added.) Boil for 5 minutes, then stir for an additional 5 minutes with a malted milk stirrer capable of a no-load speed of at least 7200 r. p. m. Use a rotor with two scalloped buttons shaped as shown in the diagram in Exhibit 1. Transfer the material from the cup to a previously weighed 30-mesh monel metal screen having a diameter of about 4 inches and side walls about 1 inch high, and wash with a stream of warm water until washings are clear and free from alkali.[2] Dry the screen and fibrous material for 2 hours at 100° C., cool, weigh, and deduct weight of screen. Divide the weight of fibrous material by the weight of deseeded pods recorded in (5) and multiply by 100 to obtain the percent of fibrous material in the deseeded pods.

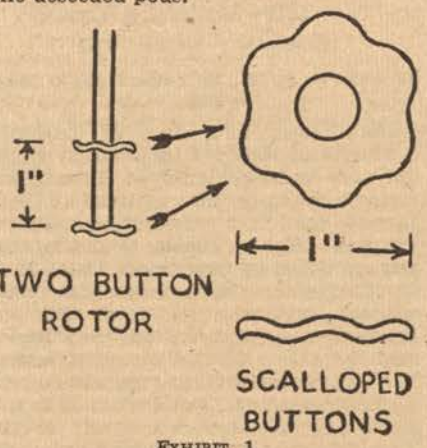

EXHIBIT 1

(7) Examine the drained material reserved in (2), counting and recording the number of blemished units for (8), and the number of unstemmed units for (9). Remove the extraneous vegetable matter (including detached stems), combine with similar matter reserved in (3), and retain for (11). Reserve the remaining drained material for (10).

(8) Add to the number of blemished units recorded in (7), the number of blemished units recorded in (3). Divide the sum by the drained weight recorded in (1) and multiply by 12 to obtain the number of blemished units per 12 ounces of drained weight.

(9) Add together the number of unstemmed units recorded in (7) and in (3). Divide the sum by the drained weight recorded in (1) and multiply by 12 to obtain the number of unstemmed units per 12 ounces of drained weight.

(10) From the drained material reserved in (7), except in the case of pods sliced lengthwise, segregate the loose seed, add to the loose seed reserved in (3), and weigh. Divide this weight by the drained weight recorded in (1) and multiply by 100 to obtain the percent of loose seed in the drained weight.

[2] Washing may be quickly accomplished by moving screen back and forth under a slow running tap of warm water, taking care to prevent washing any fibrous material over the sides of the screen.

(11) If the drained weight recorded in (1) was less than 60 ounces drain and weigh as directed in (1) the contents of additional containers until a total of not less than 60 ounces drained material is obtained. From this additional drained material segregate the extraneous vegetable matter (including detached stems) and combine it with the similar matter reserved in (7). Weigh the combined extraneous vegetable matter, divide by the total weight of drained material examined and multiply by 60 to obtain the weight of extraneous vegetable matter per 60 ounces of drained weight.

(c) If the quality of the canned green beans falls below the standard of quality prescribed by paragraph (a) of this section the label shall bear the general statement of substandard quality specified in § 10.2 (a) of this chapter (21 CFR, Cum. Supp., 10.2 (a)), in the manner and form therein specified.

§ 51.16 *Canned wax beans; quality; label statement of substandard quality.* (a) The standard of quality for canned wax beans is that prescribed for canned green beans by § 51.11 (a) and (b).

(b) If the quality of canned waxed beans falls below the standard of quality prescribed by paragraph (a) of this section, the label shall bear the general statement of substandard quality specified by § 10.2 (a) of this chaper (21 CFR, Cum. Supp., 10.2 (a)), in the manner and form therein specified.

Effective date. The regulations hereby promulgated shall become effective on the ninetieth day following the date of publication of this order in the FEDERAL REGISTER.

(Secs. 401, 701, 52 Stat. 1046, 1055; 21 U. S. C. 341, 371)

Dated: February 13, 1947.

[SEAL] WATSON B. MILLER,
Administrator.

[F. R. Doc. 47-1587; Filed, Feb. 18, 1947; 10:18 a. m.]

PART 52—CANNED VEGETABLES OTHER THAN THOSE SPECIFICALLY REGULATED; DEFINITIONS AND STANDARDS OF IDENTITY

CANNED GREEN BEANS AND CANNED WAX BEANS

CROSS REFERENCE: For an amendment to § 52.990 see Part 51 of this chapter, *supra*.

TITLE 22—FOREIGN RELATIONS

Chapter I—Department of State

PART 201—INTERNATIONAL TRAFFIC IN ARMS, AMMUNITION, AND IMPLEMENTS OF WAR

ENUMERATION OF ARMS, AMMUNITION, AND IMPLEMENTS OF WAR

CROSS REFERENCE: For revision of Proclamation noted in § 201.41, enumerating arms, ammunition, and implements of war, see Proclamation 2717 under Title 3, *supra*.

TITLE 24—HOUSING CREDIT

Chapter I—Federal Home Loan Bank Administration

[Bulletin 85]

PART 3—MEMBERS OF BANKS

PROCEDURE IN CONNECTION WITH REMOVAL FROM MEMBERSHIP

Notice having been given pursuant to 24 CFR 8.3 (c), of a proposed amendment (11 F. R. 14580) of 24 CFR 3.7 (c), said amendment is hereby adopted effective February 19, 1947, as follows:

§ 3.7 *Withdrawal and removal from membership.* * * *

(c) *Procedure for removal.* Adjudications pursuant to section 6 (i) of the Federal Home Loan Bank Act, in connection with the removal of Bank members, will be determined in accordance with, and follow the requirements of, the provisions of the Administrative Procedure Act, as now or hereafter amended. All such hearings are determined under the provisions of the Administrative Procedure Act to be of such a character that either the filing or publication of notice of any such hearing would be in conflict with the public interest since they involve the operations of financial institutions.

(Secs. 6 (i), 17, 47 Stat. 729, 736, sec. 12, Pub. Law 404, 60 Stat. 244; 12 U. S. C. 1426, 1437; E. O. 9070, Feb. 24, 1942, 3 CFR, Cum. Supp.)

Dated: February 14, 1947.

[SEAL] HAROLD LEE,
Governor.
KENNETH G. HEISLER,
General Counsel.
ORMOND E. LOOMIS,
Executive Assistant to the Commissioner.

[F. R. Doc. 47-1593; Filed, Feb. 18, 1947; 10:18 a. m.]

TITLE 25—INDIANS

Chapter I—Office of Indian Affairs, Department of the Interior

Subchapter L—Irrigation Projects: Operation and Maintenance

PART 130—OPERATION AND MAINTENANCE CHARGES

BLACKFEET INDIAN IRRIGATION PROJECT, MONTANA

FEBRUARY 12, 1947.

On December 14, 1946, notice of intention to amend §§ 130.130 and 130.131 was published in the daily issue of the FEDERAL REGISTER (11 F. R. 14329). Interested persons were thereby given opportunity to participate in preparing the amendments by submitting data or arguments within 30 days from date of publication of the notice. No communications, written or oral, having been received within the prescribed period, the said sections are hereby amended as hereinafter set forth and are hereby promulgated:

§ 130.130 *Basic assessment.* Pursuant to the acts of Congress approved August

1, 1914, May 18, 1916, and March 7, 1928 (38 Stat. 583; 39 Stat. 142; 45 Stat. 210; 25 U. S. C. 385, 387), the basic rate of assessment of operation and maintenance charges against the irrigable lands under the Blackfeet Indian irrigation project, Montana, for the calendar year 1947 and until further order, is hereby fixed at $1.25 per acre per annum for the delivery of water, on an application basis, of not to exceed 1½ acre feet per acre during each irrigation season.

§ 130.131 *Excess water assessment.* Additional water may be delivered in excess of 1½ acre feet per acre per annum at the rate of $0.75 per acre foot, or fraction thereof. (38 Stat. 583; 39 Stat. 142; 45 Stat. 210; 25 U. S. C. 385, 387)

WILLIAM ZIMMERMAN,
Acting Commissioner.

[F. R. Doc. 47-1568; Filed, Feb. 18, 1947; 8:48 a. m.]

TITLE 32—NATIONAL DEFENSE

Chapter IX—Office of Temporary Controls, Civilian Production Administration

AUTHORITY: Regulations in this chapter unless otherwise noted at the end of documents affected, issued under sec. 2 (a), 54 Stat. 676, as amended by 55 Stat. 236, 56 Stat. 177, 58 Stat. 827, 59 Stat. 658, Pub. Laws 388 and 475, 79th Cong.; E. O. 9024, 7 F. R. 329; E. O. 9040, 7 F. R. 527; E. O. 9125, 7 F. R. 2719; E. O. 9599, 10 F. R. 10155; E. O. 9638, 10 F. R. 12591; C. P. A. Reg. 1, Nov. 5, 1945, 10 F. R. 13714; Housing Expediter's Priorities Order 1, Aug. 27, 1946, 11 F. R. 9507; E. O. 9809, Dec. 12, 1946, 11 F. R. 14281; OTC Reg. 1, 11 F. R. 14311.

PART 1010—SUSPENSION ORDERS

[Suspension Order S-1077, Stay of Execution]

GROVER D. KING

Grover D. King, 1821 West Whittier Boulevard, Whittier, California, is appealing from the provisions of Suspension Order No. S-1077, issued January 29, 1947, and has requested a stay on the ground that irreparable harm would be done his business if the suspension order were not stayed. The Chief Compliance Commissioner has directed that the provisions of the suspension order be stayed as to the following veterans' housing enterprises, pending final determination of the appeal or until further order by the Chief Compliance Commissioner:

By King & Marter—FHA Projects Nos. 66-122-013315 and 66-122-013316, situated on Eastern Avenue, East Los Angeles, Calif.

By Grover D. King—FHA Project No. 88-122-00929, situated on Whittier Boulevard, Whittier, Calif.

In view of the foregoing: *It is hereby ordered,* That: The provisions of Suspension Order No. S-1077, issued January 29, 1947, are hereby stayed as to the following veterans' housing enterprises, pending final determination of the appeal or until further order by the Chief Compliance Commissioner:

By King & Marter—FHA Projects Nos. 66-122-013315 and 66-122-013316, situated on Eastern Avenue, East Los Angeles, Calif.

By Grove D. King—FHA Project No. 88-122-00929, situated on Whittier Boulevard, Whittier, Calif.

Issued this 17th day of February 1947.

CIVILIAN PRODUCTION ADMINISTRATION,
By J. JOSEPH WHELAN,
Recording Secretary.

[F. R. Doc. 47-1659; Filed, Feb. 18, 1947; 11:34 a. m.]

PART 1010—SUSPENSION ORDERS

[Suspension Order S-1079, Stay of Execution]

T. R. JOHNSON

T. R. Johnson, 235 South Dock Street, Sharon, Pennsylvania, has filed a petition for a stay from the provisions of Suspension Order No. S-1079, issued January 31, 1947 and effective February 7, 1947. The Chief Compliance Commissioner has directed that the provisions of the suspension order be stayed subject to reinstatement, pending a rehearing, or until further order by the Chief Compliance Commissioner. In view of the foregoing: *It is hereby ordered,* That:

The provisions of Suspension Order No. S-1079, issued January 31, 1947 and effective February 7, 1947, are hereby stayed subject to reinstatement, pending a rehearing, or until further order by the Chief Compliance Commissioner.

Issued this 17th day of February 1947.

CIVILIAN PRODUCTION ADMINISTRATION,
By J. JOSEPH WHELAN,
Recording Secretary.

[F. R. Doc. 47-1660; Filed, Feb. 18, 1947; 11:34 a. m.]

PART 1010—SUSPENSION ORDERS

[Suspension Order S-1087]

J. J. MELLINGER

J. J. Mellinger of 119 West Ada Street, Glendora, California, as owner, on or about June 27, 1946, began and thereafter carried on the construction of a ten unit motel and residence structure at 1533 Huntington Drive, Monrovia, California, at an estimated cost of $27,500, in spite of denial of his application and supplemental application on April 29 and May 31, 1946, respectively, by the Civilian Production Administration to construct the project. The carrying on of this construction constituted a wilful violation of Veterans' Housing Program Order 1, and has diverted critical materials to uses not authorized by the Civilian Production Administration. In view of the foregoing, it is hereby ordered that:

§ 1010.1087 *Suspension Order No. S-1087.* (a) Neither J. J. Mellinger, his successors or assigns, nor any other person shall do further construction on the premises located at 1533 Huntington Drive, Monrovia, California, including completing, putting up, or altering of any structure located thereon, unless hereafter specifically authorized in writing by the Civilian Production Administration.

(b) J. J. Mellinger shall refer to this order in any application or appeal which he may file with the Civilian Production Administration for priorities assistance or for authorization to carry on construction.

(c) Nothing contained in this order shall be deemed to relieve J. J. Mellinger, his successors or assigns, from any restriction, prohibition or provision contained in any other order or regulation of the Civilian Production Administration, except insofar as the same may be inconsistent with the provisions hereof.

Issued this 18th day of February 1947.

CIVILIAN PRODUCTION ADMINISTRATION,
By J. JOSEPH WHELAN,
Recording Secretary.

[F. R. Doc. 47-1661; Filed, Feb. 18, 1947; 11:34 a. m.]

PART 1010—SUSPENSION ORDERS

[Suspension Order S-1094]

BROADMOOR HOTEL, INC. AND PLATT ROGERS, INC.

Broadmoor Hotel, Inc., of Colorado Springs, Colorado, is a corporation which operates a large hotel at Broadmoor near Colorado Springs, Colorado. Platt Rogers, Inc., is a corporation with its principal office in Pueblo, Colorado, and was employed by Broadmoor Hotel, Inc., as contractor. On September 30, 1946, without authorization from Civilian Production Administration, they began and thereafter carried on construction of a large garage building size 222 feet by 69 feet located on Lake Avenue near the Broadmoor Hotel at a cost of $45,000. The beginning and carrying on of such construction without authorization from the Civilian Production Administration was a grossly negligent violation of Veterans' Housing Program Order No. 1 and has diverted critical materials to uses not authorized by the Civilian Production Administration. In view of the foregoing, it is hereby ordered that:

§ 1010.1094 *Suspension Order No. S-1094.* (a) Neither Broadmoor Hotel, Inc., nor Platt Rogers, Inc., their successors or assigns, nor any other person, shall do any further construction on the garage building size 222 by 69 feet located on Lake Avenue opposite the Broadmoor Hotel in Broadmoor near Colorado Springs, Colorado, including the putting up, completing or altering of the structure, unless hereafter specifically authorized in writing by the Civilian Production Administration.

(b) Broadmoor Hotel, Inc., and Platt Rogers, Inc., shall refer to this order in any application or appeal which they may file with the Civilian Production Administration for authorization to carry on construction.

(c) Nothing contained in this order shall be deemed to relieve Broadmoor Hotel, Inc., or Platt Rogers, Inc., their successors or assigns, from any restriction, prohibition or provision contained in any other order or regulation of the Civilian Production Administration, ex-

cept insofar as the same may be inconsistent with the provisions hereof.

Issued this 18th day of February 1947.

CIVILIAN PRODUCTION ADMINISTRATION,
By J. JOSEPH WHELAN,
Recording Secretary.

[F. R. Doc. 47-1662; Filed, Feb. 18, 1947; 11:34 a. m.]

PART 1010—SUSPENSION ORDERS

[Suspension Order S-1095]

JOHN A. HARNEY

John A. Harney, Ogalala, Nebraska, in September, 1946, began and thereafter carried on construction of a garage and salesroom building, size 60 x 100 feet, located on U. S. Highway No. 30 at the west edge of Ogalala, Nebraska, without authorization from the Civilian Production Administration. The estimated cost of such construction was $25,000. The beginning and carrying on of such construction was in violation of Veterans' Housing Program Order No. 1 and has diverted critical materials to uses not authorized by the Civilian Production Administration. In view of the foregoing, it is hereby ordered that:

§ 1010.1095 *Suspension Order No. S-1095.* (a) Neither John A. Harney, his successors or assigns, nor any other person, shall do any further construction on the garage and salesroom building located on U. S. Highway No. 30 at the west edge of Ogalala, Nebraska, including completing or altering the structure, unless hereafter authorized in writing by the Civilian Production Administration.

(b) John A. Harney shall refer to this order in any application or appeal which he may file with the Civilian Production Administration for authorization to carry on construction.

(c) Nothing contained in this order shall be deemed to relieve John A. Harney, his successors or assigns, from any restriction, prohibition or provision contained in any other order or regulation of the Civilian Production Administration, except insofar as the same may be inconsistent with the provisions hereof.

Issued this 18th day of February 1947.

CIVILIAN PRODUCTION ADMINISTRATION,
By J. JOSEPH WHELAN,
Recording Secretary.

[F. R. Doc. 47-1663; Filed, Feb. 18, 1947; 11:34 a. m.]

PART 1010—SUSPENSION ORDERS

[Suspension Order S-1096]

SINGER SEWING MACHINE CO. AND PAUL M. NEWSTROM AND WARREN BEAMAN

Singer Sewing Machine Company is a corporation which among other things operates retail stores for the sale of its products. Newstrom-Davis & Company is a partnership composed of Paul M. Newstrom and Warren Beaman and was employed by Singer Sewing Machine Company as contractor. On August 12, 1946, they began and thereafter carried on remodeling, alterations and construction in a store building at 305 North Commercial Street, in Trinidad, Colorado, costing $4,000 without authorization from the Civilian Production Administration and in violation of Veterans' Housing Program Order No. 1. This violation has diverted scarce materials to uses not authorized by the Civilian Production Administration. In view of the foregoing, it is hereby ordered that:

§ 1010.1096 *Suspension Order No. S-1096.* (a) Neither Singer Sewing Machine Company, a corporation, nor Paul M. Newstrom and Warren Beaman, doing business as Newstrom-Davis & Company, their successors and assigns, nor any other person, shall do any further construction on the premises located at 305 North Commercial Street, Trinidad, Colorado, including completing the remodeling or alterations or construction therein, unless hereafter specifically authorized in writing by the Civilian Production Administration.

(b) Singer Sewing Machine Company, a corporation, and Paul M. Newstrom and Warren Beaman, doing business as Newstrom-Davis & Company, shall refer to this order in any application or appeal which they may file with the Civilian Production Administration for authorization to carry on construction.

(c) Nothing contained in this order shall be deemed to relieve Singer Sewing Machine Company, a corporation, Paul M. Newstrom and Warren Beaman, doing business as Newstrom-Davis & Company, their successors or assigns, from any restriction, prohibition, or provision contained in any other order or regulation of the Civilian Production Administration, except insofar as the same may be inconsistent with the provisions hereof.

Issued this 18th day of February 1947.

CIVILIAN PRODUCTION ADMINISTRATION,
By J. JOSEPH WHELAN,
Recording Secretary.

[F. R. Doc. 47-1664; Filed, Feb. 18, 1947; 11:35 a. m.]

Chapter XI—Office of Temporary Controls, Office of Price Administration

PART 1300—PROCEDURE

[Rev. Procedural Regulation 3, as Amended Feb. 17, 1947]

PROCEDURE FOR ADJUSTMENTS, AMENDMENTS, PROTESTS, AND INTERPRETATIONS UNDER RENT REGULATIONS

Pursuant to the authority of the Emergency Price Control Act of 1942, as amended (Pub. Laws 421 and 729, 77th Cong., 2d Sess.; Pub. Law 383, 78th Cong., 2d Sess.; Pub. Laws 108 and 548, 79th Cong., 1st and 2d Sess.), and Executive Order 9809 (11 F. R. 14281), Revised Procedural Regulation No. 3—Procedure for the Protest and Amendment of Maximum Rent Regulations and Adjustment Under such Regulations—is hereby revised and amended and the following rules are prescribed for adjustments, amendments, protests, and interpretations under maximum rent regulations:

Sec.

Material in Support of the Regulation or Order Protested

Boards of Review

Determination of protest

SUBPART D—INTERPRETATIONS

SUBPART E—MISCELLANEOUS PROVISIONS AND DEFINITIONS

AUTHORITY: §§ 1300.201 to 1300.269, inclusive, issued under 56 Stat. 23, 765; 57 Stat. 566; Pub. Law 383, 78th Cong.; Pub. Laws 108 and 548, 79th Cong.; E. O. 9250, 7 F. R. 7871; E. O. 9328, 8 F. R. 4681; E. O. 9599, 10 F. R. 10155; E. O. 9651, 10 F. R. 13487; E. O. 9697, 11 F. R. 1691; E. O. 9809, 11 F. R. 14281.

§ 1300.201 *Purposes of this regulation.* It is the purpose of this regulation to prescribe and explain the procedure of the Office of Price Administration, Office of Temporary Controls, in making various kinds of determinations in connection with the establishment of maximum rents and the issuance of certificates relating to eviction.

(a) Subpart A deals with petitions for adjustment and other relief, provided for by the maximum rent regulations. An adjustment in maximum rent or any other relief can be granted only if the applicable maximum rent regulation contains specific provision for the adjustment or other relief sought.

(b) Subpart B deals with petitions for amendment. A petition for amendment may be filed by any person who is affected by a maximum rent regulation and who desires a change of general applicability in the provisions of the regulation itself. It is the appropriate document to be filed when a person does not wish to file a formal statutory protest or is not entitled to do so because he is not subject to the regulation as defined in § 1300.221 of this regulation.

(c) Subpart C deals with protests. The nature and function of protests are set forth in general in the introduction to Subpart C, preceding § 1300.221.

(d) Subpart D explains the way in which interpretations of the meaning or effect of provisions of maximum rent regulations are given by officers or employees of the Office of Price Administration, Office of Temporary Controls.

(e) Subpart E contains miscellaneous provisions, and definitions.

SUBPART A—LANDLORDS' PETITIONS; AND TENANTS' APPLICATIONS

§ 1300.202 *Right to file petition.* A petition for adjustment or other relief may be filed by any landlord subject to any provision of a maximum rent regulation who requests such adjustment or relief pursuant to a provision of the maximum rent regulation authorizing such action.

§ 1300.203 *Method of filing, form, and contents.* A petition for adjustment or other relief provided for by a maximum rent regulation shall be filed with the rent director of the Office of Price Administration, Office of Temporary Controls, for the defense-rental area within which the housing accommodations involved are located. Petitions shall be filed upon forms prescribed by the Administrator and pursuant to instructions stated on such forms and may be accompanied by affidavits or other documents setting forth the evidence upon which the petitioner relies in support of the facts alleged in his petition.

§ 1300.204 *Joint petitions, consolidation.* Two or more landlords may file a joint petition for adjustment or other relief where the grounds of the petition are common to all landlords joining therein. A joint petition shall be filed and determined in accordance with the rules governing the filing and determination of petitions filed by one landlord. A landlord's petition may include as many housing accommodations as present common questions which can be expeditiously determined in one proceeding. Whenever the rent director deems it necessary or appropriate, he may order the filing of separate petitions or he may consolidate separate petitions presenting common questions which can be determined expeditiously in one proceeding.

§ 1300.205 *Tenants' applications for decreases in maximum rents.* Tenants' applications for decreases in maximum rents provided for by section 5 of the rent regulations shall be filed with the rent director for the defense-rental area within which the housing accommodations involved are located. The application for decrease in maximum rent shall be filed on forms prescribed by the Administrator. Action thereon shall be within the discretion of the rent director and the procedure shall be the same as in proceedings in the cases specified in § 1300.207 of this regulation.

§ 1300.206 *Investigation by the rent director.* Upon the commencement of a proceeding provided for by §§ 1300.202, 1300.205, or 1300.207 of this regulation, the rent director may make such investigation of the facts, hold such conferences, and require the filing of such reports, evidence in affidavit form or other material relevant to the proceeding, as he may deem necessary or appropriate for the proper disposition of the proceeding.

§ 1300.207 *Action by rent director on his own initiative.* In any case where the rent director pursuant to the provisions of a maximum rent regulation, deems it necessary or appropriate to enter an order on his own initiative, he shall, before taking such action, serve a notice upon the landlord of the housing accommodations involved stating the proposed action and the grounds therefor. The proceeding shall be deemed commenced on the date of issuance of such notice.

§ 1300.208 *Action by the rent director on petitions for adjustment or other relief.* (a) Upon receipt of a petition for adjustment or other relief, and after due consideration, the rent director may either:

(1) Dismiss any petition which fails substantially to comply with the provisions of the applicable maximum rent regulation or of this regulation; or

(2) Grant or deny in whole or in part, any petition which is properly pending before him; or

(3) Notice such petition for oral hearing to be held in accordance with § 1300.216 of this regulation; or

(4) Provide an opportunity to present further evidence in affidavit form, in connection with such petition.

(b) Where the petition requests a certificate relating to eviction pursuant to section 6 (b) of the rent regulations, a copy of the landlord's petition and all supporting documents shall be served by the rent director upon the tenant of the housing accommodations concerned and the tenant shall be provided an opportunity to present objections or other written evidence prior to entry of any final order on the petition. A copy of such final order shall be served by the rent director upon the tenant.

(c) An order entered by a rent director upon a petition for adjustment or other relief, or an order entered by a rent director on his own initiative, shall be effective and binding until changed by further order and shall be final subject only to application for review or

protest as provided in § 1300.209 or § 1300.214, and §§ 1300.221, and following. An order entered by a rent director may be revoked or modified at any time upon due notice to all persons subject to such order.

Tenants' and Landlords' Applications for Review of Rent Director's Action on Petitions for Certificates Relating to Eviction

Introduction. The Supreme Court of the United States has ruled in Parker v. Fleming, 67 Sup. Ct. ———, that tenants of housing accommodations are entitled to administrative and judicial review of orders granting certificates relating to eviction pursuant to section 6 (b) of the rent regulations.

The following provisions concerning tenants' and landlords' applications for review, and those in §§ 1300.221, and following, pertaining to tenants' and landlords' protests, set forth the exclusive procedures for obtaining administrative review of orders concerning certificates relating to eviction. Landlords' applications for review of orders of a rent director other than those determining a petition for a certificate relating to eviction pursuant to section 6 (b) of the rent regulations are governed by §§ 1300.214 and 1300.215 of this regulation.

§ 1300.209 *Tenants' and landlords' applications for review in cases concerning certificates relating to eviction.* (a) Any tenant occupying housing accommodations as to which a certificate relating to eviction has been issued by order of a rent director pursuant to section 6 (b) of the rent regulations may file with the rent director a tenant's application for review of such determination by the Regional Administrator for the region in which the defense-rental area office is located. An original and three (3) copies of such application, prepared upon a form prescribed by the Administrator, and pursuant to instructions stated on such form, shall be filed with the rent director.

(b) Any landlord whose petition for a certificate relating to eviction pursuant to section 6 (b) of the rent regulations has been dismissed or denied in whole or in part by the rent director may file an application for review of such determination by the Regional Administrator for the region in which the defense-rental area office is located. Such application shall be made on a form prescribed by the Administrator, and prepared and filed in the same manner as that provided for tenants' applications for review in paragraph (a), above.

(c) Upon the filing of an application for review, as provided in paragraphs (a) or (b), above, the rent director shall forward the record of the proceedings, with respect to which such application is filed, to the appropriate Regional Administrator, and the application shall then be assigned a docket number. The Regional Administrator shall cause one copy of the application for review and all supporting documents to be served upon the landlord when the application is made by the tenant, or one copy upon the tenant when the application is made by the landlord.

(d) Applications for review may be filed within ninety (90) days after the date of issuance of the determination to be reviewed (or before May 21, 1947 with respect to determinations made on or prior to February 19, 1947): *Provided, however,* That where the tenant seeks to have the order of the rent director suspended pending review of the determination by the Regional Administrator, the tenant's application for review shall be filed within thirty (30) days after the date of issuance of the determination to be reviewed (or before March 22, 1947 with respect to determinations made on or prior to February 19, 1947). An application for review which is not filed within the applicable ninety (90) day period ordinarily will be dismissed unless special circumstances are shown therein to justify a late filing.

(e) Upon the filing of a tenant's application for review within the thirty (30) day period specified in paragraph (d), above, the order granting the certificate relating to eviction shall be deemed suspended automatically, and shall remain suspended until such suspension is terminated by the Regional Administrator as provided in this paragraph, or as provided for in paragraph (f) below. The Regional Administrator may at any time suspend the order under review where the circumstances indicate that grounds for revocation or modification of such order may be present. The Regional Administrator may also at any time prior to his determination of the tenant's application for review, or upon final disposition thereof, direct that the suspension provided for in this paragraph shall be terminated where such application is frivolous, dilatory, or not made in good faith.

(f) Where the tenant's application for review is denied in whole or in part by the Regional Administrator and the Regional Administrator has not at the time of, or prior to, such denial, terminated the suspension provided for in paragraph (e) above, the suspension shall not terminate until the expiration of thirty (30) days after entry of the order of denial of the tenant's application.

(g) Where the Regional Administrator's final order grants in whole or in part a landlord's application for review, the effectiveness of the order shall be deemed suspended automatically for a period of thirty (30) days after entry of such order.

(h) The suspension of a certificate relating to eviction or of any order granting such certificate, pursuant to this regulation, shall take effect for all purposes and notwithstanding that the waiting period prescribed in terms in the certificate has expired.

§ 1300.210 *Tenant and landlord as parties in application for review proceedings.* (a) Upon the filing and service of an application for review in cases concerning certificates relating to eviction, in accordance with the provisions of § 1300.209 of this regulation, both the tenant and the landlord shall be deemed parties to such proceedings.

(b) Where the application is made by the tenant, the landlord shall have a period of fifteen (15) days from date of service upon him of the tenant's application within which to present objections or other written evidence; and where the application for review is made by the landlord, the tenant shall have a similar period after service upon the tenant of such application within which to file objections and other written evidence in support of the determination to be reviewed.

§ 1300.211 *Service of orders, objections and evidence upon parties.* (a) Copies of all orders in the proceedings shall be served by the Regional Administrator upon both parties.

(b) An original and two (2) copies of all objections or written evidence to be presented by either party shall be filed with the Regional Administrator and should be plainly legible.

(c) All documents filed by either party after the filing of an application for review shall contain on the first page thereof the following: (1) A statement that the document being filed is either in support of or in objection to the application for review, (2) the docket number of the application for review, (3) the name and post office address of the party filing the document, and the address of the housing accommodations involved, and (4) a statement that the party is the landlord or tenant.

§ 1300.212 *Action on tenants' and landlords' applications for review in cases concerning certificates relating to eviction.* Upon the filing of an application for review in accordance with § 1300.209 of this regulation, and after due consideration, the Regional Administrator may affirm, revoke, or modify, in whole or in part, the determination of the rent director sought to be reviewed and may enter such order as is necessary or proper. In any case where an application for review does not conform in a substantial respect to the requirements of this regulation, the Regional Administrator may dismiss such application. An order entered by a Regional Administrator upon an application for review may be revoked or modified at any time upon due notice to the parties subject to such order and shall be subject to protest as provided in § 1300.221, and following, of this regulation.

§ 1300.213 *Oral hearings.* Oral hearings may be requested by either party. The granting of such requests and oral hearings shall be governed by the provisions of § 1300.216 of this regulation. Notice of oral hearing shall be served upon all parties to the proceeding.

Landlords' Applications for Review of Rent Director's Action in All Other Cases

§ 1300.214 *Landlords' applications for review in cases not concerning certificates relating to eviction.* (a) Any landlord whose petition for adjustment or other relief, except a petition for a certificate relating to eviction, has been dismissed or denied in whole or in part by the rent director, or any landlord subject to an order entered by the rent director on his own initiative may file with the rent director an application for re-

view of such determination by the Regional Administrator for the region in which the defense-rental area office is located: *Provided,* That any landlord subject to an order entered under section 5 (d) of any maximum rent regulation or subject to an order entered by the rent director under § 1300.207 of this regulation, may either apply for review of such order as provided in this section, or may protest any provision of such order as provided in §§ 1300.221, and following, of this regulation. An application for review shall be filed in triplicate upon forms prescribed by the Administrator and pursuant to instructions stated on such forms. Upon the filing of an application for review of such determination, the rent director shall forward the record of the proceedings, with respect to which such application is filed, to the appropriate Regional Administrator.

(b) Applications for review may be filed within ninety (90) days after the date of issuance of the determination to be reviewed. An application for review which is not filed within the specified time ordinarily will be dismissed unless special circumstances are shown to justify a later filing.

(c) Where the effect of a rent director's order is to require a landlord to make a refund to the tenant in accordance with the provisions of section 4 (e), 4 (j), or 5 (b) (3) of the Rent Regulation for Housing, section 4 (b) of the Rent Regulation for Transient Hotels, Residential Hotels, Rooming Houses and Motor Courts, section 4 (e) or 5 (b) (3) of the Rent Regulation for Housing in the New York City Defense-Rental Area, section 4 (b) of the Rent Regulation for Transient Hotels, Residential Hotels, Rooming Houses and Motor Courts in the New York City Defense-Rental Area section 4 (b), 4 (f), or 5 (b) (3) of the Rent Regulation for Housing in the Miami Defense-Rental Area, section 4 (b) of the Rent Regulation for Transient Hotels, Residential Hotels, Rooming Houses and Motor Courts in the Miami Defense-Rental Area or section 4 (e), 4 (i) or 5 (b) (3) of the Rent Regulation for Housing in the Atlantic County Defense-Rental Area, the obligation to refund shall be stayed if the landlord, within thirty days after the date of issuance of said order, duly files an application for review together with a refund transmittal memorandum directed to the Regional Budget and Finance Officer on forms prescribed by the Administrator, accompanied by a certified check or money order in the amount of the refund payable to the U. S. Treasurer, and such additional information and documents as may be required. The money so deposited shall be distributed pursuant to the order of the Regional Administrator.

§ 1300.215 *Action on applications for review.* Upon the filing of an application for review in accordance with § 1300.214 of this regulation, and after due consideration, the Regional Administrator may affirm, revoke, or modify, in whole or in part, the determination of the rent director sought to be reviewed and may enter such order as is necessary or proper. In any case where an application for review does not conform in a substantial respect to the requirements of this regulation, the Regional Administrator may dismiss such application. An order entered by a Regional Administrator upon an application for review shall be effective and binding until changed by further order and shall be final subject only to protest as provided in § 1300.221, and following, of this regulation. An order entered by a Regional Administrator upon an application for review may be revoked or modified at any time upon due notice to the applicant.

If the effect of the order of the rent director is to require a refund of rent to the tenant under section 4 (e), 4 (j), or 5 (b) (3) of the Rent Regulation for Housing, section 4 (b) of the Rent Regulation for Transient Hotels, Residential Hotels, Rooming Houses and Motor Courts, section 4 (e) or 5 (b) (3) of the Rent Regulation for Housing in the New York City Defense-Rental Area, section 4 (b) of the Rent Regulation for Transient Hotels, Residential Hotels, Rooming Houses and Motor Courts in the New York City Defense-Rental Area, section 4 (b), 4 (f) or 5 (b) (3) of the Rent Regulation for Housing in the Miami Defense-Rental Area, section 4 (b) of the Rent Regulation for Transient Hotels, Residential Hotels, Rooming Houses and Motor Courts in the Miami Defense-Rental Area or section 4 (e), 4 (i) or 5 (b) (3) of the Rent Regulation for Housing in the Atlantic County Defense-Rental Area, the modification or revocation of said order by the Regional Administrator as it affects the refund, shall be retroactive if a stay has been obtained pursuant to § 1300.214.

§ 1300.216 *Oral hearings*—(a) *Requests for oral hearing.* Any petitioner or applicant may request an oral hearing. Such request shall be accompanied by a showing as to why the filing of affidavits or other written evidence and briefs will not permit the fair and expeditious disposition of the petition or application. In the event that an oral hearing is ordered, notice thereof shall be served on the petitioner or applicant not less than five days prior to such hearing. The time and place of hearing shall be stated in the notice. A presiding officer will be appointed with all necessary powers to conduct the hearing. Any such oral hearing may be limited in such manner and to such extent as deemed appropriate to the expeditious determination of the proceeding.

(b) *Stenographic report of oral hearing.* A stenographic report of the oral hearing shall be made, a copy of which shall be available for inspection during business hours in the appropriate regional office or defense-rental area office.

SUBPART B—PETITION FOR AMENDMENT

§ 1300.217 *Right to file petition.* A petition for amendment may be filed at any time by any person subject to or affected by a provision of a maximum rent regulation. A petition for amendment shall propose an amendment of general applicability and shall be granted or denied on the merits of the amendment proposed. The denial of a petition for amendment is not subject to protest or judicial review under the act.

§ 1300.218 *Place for filing petitions for amendment; form and contents.* A petition for amendment shall be filed with the Secretary, Office of Price Administration, Office of Temporary Controls, Washington, D. C. One original and four copies of the petition and of all accompanying documents and brief shall be filed. Each copy shall be printed, typewritten, mimeographed, or prepared by a similar process and shall be plainly legible. Copies shall be double spaced, except that quotations shall be single spaced and indented. Every such petition shall be designated "Petition for Amendment" and shall contain, upon the first page thereof, the name of the defense-rental area and the number and date of issuance of the maximum rent regulation to which the petition relates, and the name and address of the petitioner. The petition shall specify the manner in which the petitioner is subject to or affected by the provision of the maximum rent regulation involved, and shall include a specific statement of the particular amendment desired and the facts which make that amendment necessary or appropriate. The petition shall be accompanied by affidavits setting forth the evidence upon which the petitioner relies in his petition.

§ 1300.219 *Joint petitions for amendment.* Two or more persons may file a joint petition for amendment, where the amendments proposed are identical or substantially similar. Joint petitions shall be filed and determined in accordance with the rules governing the filing and determination of petitions filed by one person. Whenever the Administrator deems it to be necessary or appropriate for the disposition of joint petitions, he may treat such joint petitions as several, and, in any event, he may require the filing of relevant material by each individual petitioner.

§ 1300.220 *Action by the Administrator on petition.* In the consideration of any petition for amendment, the Administrator may afford to the petitioner and to other persons likely to have information bearing upon such proposed amendment, or likely to be affected thereby, an opportunity to present evidence or argument in support of, or in opposition to, such proposed amendment. Whenever necessary or appropriate for the full and expeditious determination of common questions raised by two or more petitions for amendment, the Administrator may consolidate such petitions.

SUBPART C—PROTESTS

Introduction. Subpart C deals with protests. A protest is the means provided by Section 203 (a) of the Act for landlords to make formal objections to a maximum rent regulation or order, and for both landlords and tenants to make formal objections to individual orders involving certificates relating to eviction. Neither landlord nor tenant may file a protest in a case involving a certificate relating to eviction unless an application for review of the order pertaining to such certificate has been determined in whole

or in part adversely to such party by the Regional Administrator pursuant to §§ 1300.209 to 1300.212, inclusive, of this regulation. Ordinarily, the filing of a protest is also a prerequisite to obtaining judicial review by the Emergency Court of Appeals of the validity of a rent regulation or order. The other method available to landlords, only, to obtain judicial review is the filing of a complaint in the Emergency Court of Appeals after obtaining special leave to do so in an enforcement proceeding pursuant to section 204 (e) of the act.

Subpart C also contains provisions for consideration of protests by boards of review in accordance with section 203 (c) of the act. A protestant is entitled to consideration of his objections by a board of review if he files a protest in accordance with the provisions of this regulation, making a specific request for consideration by a board of review in accordance with § 1300.235 (b) of this regulation. Where the protest involves an order concerning a certificate relating to eviction, either party to such proceeding is entitled to such consideration upon specific request therefor in accordance with § 1300.235 (b) or (c) of this regulation.

General Provisions

§ 1300.221 *Right to protest.* (a) Any tenant or landlord subject to an order issued under § 1300.212 of this regulation may file a protest in the manner set forth below. An order issued by a Regional Administrator under § 1300.210 of Revised Procedural Regulation No. 3 (now § 1300.215 of this regulation) upon a landlord's application for review in a case involving a certificate relating to eviction shall, for the purposes of this regulation, be deemed an order issued pursuant to § 1300.212 of this regulation.

(b) Any landlord subject to any provision of a maximum rent regulation, or of an order issued under § 1300.215 of this regulation, or of an order entered under section 5 (d) of any maximum rent regulation, or of an order entered by the rent director under § 1300.207 of this regulation, may file a protest in the manner set forth below.

(c) For the purposes of this regulation, a tenant is subject to an order issued under § 1300.212 of this regulation so long as he occupies the housing accommodations with which that order deals: *Provided, however,* That any tenant who has a protest pending of the nature referred to in § 1300.223 (a) of this regulation shall be deemed subject to the order protested.

(d) A landlord is subject to a provision of a maximum rent regulation or of an order only if such provision prohibits or requires action by him.

(e) Any protest filed by a tenant or a landlord not subject to the provision protested, or otherwise not in accordance with the requirements of this regulation, may be dismissed by the Administrator.

§ 1300.222 *Time and place of filing protests.* (a) Any protest against the provisions of a maximum rent regulation may be filed at any time after the issuance thereof.

(b) The Act provides no specific time limit for filing a protest against an order issued under § 1300.212 or § 1300.215 of this regulation, or of an order entered under section 5 (d) of any maximum rent regulation, or of an order entered by the rent director under § 1300.207 of this regulation. However, as the United States Emergency Court of Appeals has stated in its opinion in the case of R. E. Schanzer, Inc., v. Bowles, 141 F. 2d 262 (1944), if the filing of a protest is unduly delayed, the defense of laches (unreasonable delay) may be available to the Administrator. There will ordinarily be no reason why a protest against an order of the kind specified in this paragraph, affecting only an individual, cannot be filed promptly after the issuance of such order. Accordingly, if a protest is not filed within ninety (90) days after the date of issuance of such order, (or before May 21, 1947 in the case of an order issued prior to February 20, 1947 pursuant to § 1300.212 of this regulation) the Administrator ordinarily will regard the delay as unreasonable and will dismiss the protest unless special circumstances are shown to justify the delay.

(c) Protests shall be filed with the Secretary of the Office of Price Administration, Office of Temporary Controls, Washington 25, D. C. A copy of the protest shall also be filed with the appropriate Regional Administrator or rent Director as provided in § 1300.226 of this regulation.

§ 1300.223 *Tenants' and landlords' protests filed prior to February 19, 1947, in cases concerning certificates relating to eviction.*

(a) If prior to February 19, 1947, a protest was filed by a tenant in occupancy against an order granting a certificate relating to eviction, and such protest has not been dismissed, or the order dismissing the protest has been set aside, the landlord shall be made a party to the proceeding and such protest shall be determined by the Administrator on the merits in accordance with procedures consistent with those provided in this regulation for processing protests filed on or after February 19, 1947.

(b) If prior to February 19, 1947, a protest was filed by a landlord against an order denying an application for review of an order of a rent director denying in whole or part a landlord's petition for a certificate relating to eviction, and such protest has not been disposed of by final order of the Administrator, the Administrator shall cause the tenant in occupancy to be made a party to the protest proceedings and the protest shall be processed in accordance with procedures consistent with those provided in this regulation for processing protests filed on or after February 19, 1947.

§ 1300.224 *Filing of tenants' protests as suspending certificate relating to eviction.* (a) If a tenant files a protest against an order issued pursuant to § 1300.212 of this regulation within thirty (30) days after entry of such order, and the certificate relating to eviction has been suspended pursuant to paragraphs (f) or (g) of § 1300.209 of this regulation the certificate shall remain suspended during the protest proceedings.

(b) In cases where the § 1300.212 order against which the tenant's protest is directed was issued prior to February 19, 1947, such order shall be deemed and remain suspended during the protest proceedings if the protest is filed prior to March 22, 1947.

(c) In all cases where a tenant's protest of the nature referred to in paragraph (a) of § 1300.223 of this regulation is pending, the certificate relating to eviction shall be deemed, and remain, suspended automatically during the protest proceedings.

(d) If the tenant's protest or objections are dilatory, frivolous, or not made in good faith the Administrator may at any time terminate the suspension provided for in paragraphs (a), (b) and (c), above, and in paragraphs (a) and (b) of § 1300.252 of this regulation. The Administrator may, at any time, suspend the certificate relating to eviction or the order granting such certificate if the circumstances indicate that revocation or modification of such certificate may be warranted.

(e) The suspension of a certificate relating to eviction or of any order granting such certificate, pursuant to this regulation, shall take effect for all purposes and notwithstanding that the waiting period prescribed in terms in the certificate has expired.

§ 1300.225 *Stay of landlord's obligation to refund.* (a) Where the Rent Director has entered an order under § 1300.207 of this regulation, the effect of which is to require a landlord to make a refund to a tenant in accordance with the provisions of section 4 (e), 4 (j), or 5 (b) (3) of the Rent Regulation for Housing, section 4 (b) of the Rent Regulation for Transient Hotels, Residential Hotels, Rooming Houses and Motor Courts, section 4 (e) or 5 (b) (3) of the Rent Regulation for Housing in the New York City Defense-Rental Area, section 4 (b) of the Rent Regulation for Transient Hotels, Residential Hotels, Rooming Houses and Motor Courts in the New York City Defense-Rental Area, section 4 (b), 4 (f) or 5 (b) (3) of the Rent Regulation for Housing in the Miami Defense-Rental Area, section 4 (b) of the Rent Regulation for Transient Hotels, Residential Hotels, Rooming Houses and Motor Courts in the Miami Defense-Rental Area or section 4 (e), 4 (i) or 5 (b) (3) of the Rent Regulation for Housing in the Atlantic County Defense-Rental Area, the obligation to refund shall be stayed if the landlord within thirty days after the date of issuance of said order duly files a protest against said order, together with a refund transmittal memorandum directed to the Regional Budget and Finance Officer on forms prescribed by the Administrator accompanied by a certified check or money order in the amount of the refund payable to the United States Treasurer, and such additional information and documents as may be required. The money so deposited shall be distributed pursuant to the order of the Administrator.

(b) Compliance with that portion of a Regional Administrator's order which specifies the manner in which the money

deposited pursuant to § 1300.214 (c) be distributed to a tenant, shall be stayed if the landlord, within thirty days after the date of issuance of said order, duly files a protest in the manner herein set forth. In such event, the money so deposited shall be distributed pursuant to the order of the Administrator.

(c) Compliance with that portion of an order, issued by the Administrator upon the determination of a protest which specifies the manner in which the money deposited pursuant to paragraph (a) herein or § 1300.214 (c) shall be distributed to a tenant, shall be stayed if the protestant, within thirty days after the date of issuance of said order files a complaint in the United States Emergency Court of Appeals in accordance with section 204 (a) of the Emergency Price Control Act of 1942, as amended, objecting to the provisions of the rent director's or regional administrator's order which require the refund. In such event the money so deposited shall be distributed by order of the Administrator in a manner consistent with the ultimate disposition of the proceedings.

(d) If, within thirty days after entry of a judgment or order, interlocutory or final, by the United States Emergency Court of Appeals in a proceeding described in paragraph (c) herein, a petition for a writ of certiorari is filed in the Supreme Court of the United States, the distribution of the money deposited pursuant to paragraph (a) herein or § 1300.214 (c) shall be stayed, and the funds shall thereafter be distributed by order of the Administrator in a manner consistent with the ultimate disposition of the proceedings.

§ 1300.226 *Form of protest.* (a) Every protest shall be clearly designated "protest" and shall contain upon the first page thereof (1) the name of the protestant and of the defense-rental area for which the maximum rent regulation or order protested was issued, (2) a statement whether the protest is against a maximum rent regulation or order, (3) the date of issuance and the name or number of such maximum rent regulation or order, (4) a statement that a copy of the protest and all accompanying documents and briefs has been filed with the Regional Administrator or the Rent Director where such action is required by paragraph (c) or (d) of this section, and (5) where the protest is directed by a tenant or landlord to an order issued under § 1300.212 of this regulation, the full names and addresses of the landlord and tenant.

(b) One original and five copies of the protest and of all accompanying documents and briefs shall be filed with the Secretary of the Office of Price Administration, Office of Temporary Controls, Washington 25, D. C.

(c) In cases where the protest is directed against an order issued pursuant to § 1300.212 or § 1300.215 of this regulation, an additional copy of the protest, accompanying documents and briefs, shall be filed with the Regional Administrator issuing the order being protested.

(d) In cases where the protest is directed against either an order entered under section 5 (d) of any maximum rent regulation, or an order entered by the rent director under § 1300.207 of this regulation, and an application for review has not been filed, an additional copy of the protest, accompanying documents and briefs, shall be filed with the rent director issuing the order being protested.

(e) Each copy of the protest, accompanying documents and briefs, shall be printed, typewritten, mimeographed or prepared by similar process and should be plainly legible. Copies shall be double-spaced except that quotations shall be single-spaced and indented.

§ 1300.227 *Assignment of docket number.* Upon receipt of a protest it shall be assigned a docket number, and all further papers filed in the proceedings shall contain on the first page thereof the docket number so assigned and the information specified in § 1300.226 of this regulation.

§ 1300.228 *Protest and evidential material not conforming to this regulation.* In any case where a protest or evidential material does not conform, in a substantial respect, to this regulation, the Administrator may dismiss such protest, or, in his discretion, may strike such evidential material from the record of the proceedings in connection with the protest.

§ 1300.229 *Joint protests.* Two or more landlords, or tenants, may file a joint protest. Joint protests shall be filed and determined in accordance with the rules governing the filing and determination of protests filed severally. A joint protest shall be verified in accordance with § 1300.235 (a) (7) of this regulation by each protestant. A joint protest may be filed only where at least one ground is common to all persons joining in it. Whenever the Administrator deems it to be necessary or appropriate for the disposition of joint protests, he may treat such joint protests as several, and, in any event, he may require the filing of relevant materials by each individual protestant.

§ 1300.230 *Consolidation of protests.* Whenever necessary or appropriate for the full and expeditious determination of common questions raised by two or more protests, the Administrator may consolidate such protests.

§ 1300.231 *Amendment of protest and presentation of additional evidence.* In general, all of the objections upon which a protestant intends to rely in the protest proceedings must be clearly stated in the protest when it is filed, and all of the evidence which the protestant wishes to offer in support of the protest must be filed at the same time. Exceptions to this rule are stated in §§ 1300.236 (b) and 1300.237 relating to evidence not subject to protestant's control and the submission of oral testimony. A protestant may, however, be granted permission to amend his protest so as to state additional objections or to present further evidence in connection therewith upon a showing of reasonable excuse for failure to present such objections or evidence at the time the protest was first filed. The permission will be granted only if, in the judgment of the Administrator, it will not unduly delay the completion of the proceedings on the protest.

§ 1300.232 *Special provisions in proceedings where protest is directed against order issued pursuant to § 1300.212 of this regulation.* (a) Upon the filing of a protest against an order issued pursuant to § 1300.212 of this regulation, the Secretary of the Office of Price Administration, Office of Temporary Controls, shall cause one copy of the protest and accompanying documents to be served upon the landlord, if the tenant is the protestant, or one copy upon the tenant if the landlord is the protestant. The party so served shall be known as the "respondent." Both the protestant and the respondent shall then be parties to such proceedings.

(b) The respondent shall have a period of thirty (30) days from the date of service of the protest by the Secretary within which to present objections and written evidence, to request a hearing for the receipt of oral testimony or assistance in obtaining evidence and to submit a brief, as provided for in §§ 1300.237, 1300.236 and 1300.238 of this regulation, and to request consideration of the protest by a board of review, as provided for in § 1300.242. An original and five (5) copies of such objections, evidence, or request shall be filed in affidavit form with the Secretary of the Office of Price Administration, Office of Temporary Controls, Washington (25), D. C. Each document filed by either party after the filing of the protest shall (1) contain the docket number assigned to the protest proceedings, and (2) shall conform to the requirements of § 1300.226 of this regulation.

(c) Copies of orders issued by the Administrator during the protest proceedings shall be served upon both landlord and tenant.

§ 1300.233 *Action by the Administrator on protest.* (a) Within a reasonable time after the filing of any protest in accordance with this revised procedural regulation, but in no event more than thirty days after such filing, the Administrator shall:

(1) Grant or deny such protest in whole or in part;

(2) Notice such protest for hearing of oral testimony in accordance with §§ 1300.237 or 1300.241 of this regulation;

(3) Notice such protest for hearing of oral argument by a board of review in accordance with § 1300.245;

(4) Provide an opportunity to present further evidence in connection with such protest. Within a reasonable time after the presentation of such further evidence, the Administrator may notice such protest for hearing of oral testimony in accordance with subparagraph (2) of this section, notice the protest for hearing of oral argument by a board of review in accordance with subparagraph (3) of this section, include additional material in the record of the proceedings on the protest in accordance with §§ 1300.239 and 1300.240 of this regulation, or take such other action as may be appropriate to the disposition of the protest.

(b) Notice of any such action taken by the Administrator shall be served upon

the protestant, and, where the protest is directed against an order issued pursuant to § 1300.212 of this regulation, upon both the protestant and the respondent.

(c) Where the Administrator has ordered a hearing on a protest or has provided an opportunity for the presentation of further evidence in connection therewith, he shall, within a reasonable time after the completion of such hearing or the presentation of such evidence, grant or deny such protest in whole or in part.

§ 1300.234 *Basis for determination of protest*—(a) *Record of the proceedings.* The factual basis upon which a protest is determined is to be found in the record of the proceedings. This record consists of the following:

(1) The designation of the defense-rental area, the rent declaration, and the maximum rent regulation involved;

(2) The protest and evidential material properly filed with the Secretary, in accordance with §§ 1300.232 and 1300.235 to 1300.237, inclusive, of this regulation;

(3) If the protest is against an order, the evidence and all documents in proceedings had in connection therewith;

(4) Materials incorporated into the record of the proceedings under §§ 1300-.239 and 1300.240 of this regulation;

(5) Oral testimony taken in accordance with §§ 1300.237 and 1300.241 of this regulation;

(6) All orders and opinions issued in the proceedings.

(b) *Facts of which the Administrator has taken official notice.* The above-listed documents may contain, as provided by section 203 (b) of the Act, statements of economic data and other facts of which the Administrator has taken official notice, including facts found by him as a result of reports filed and studies and investigations made pursuant to section 202 of the Act.

(c) *Briefs and arguments.* Briefs and oral arguments submitted or presented in accordance with this regulation are, of course, considered in the determination of a protest. They are, however, not a part of the record of the proceedings and are not included in the transcript of protest proceedings which is filed, in case of appeal, with the Emergency Court of Appeals.

Contents of Protests and Supporting Materials

§ 1300.235 *Contents of protests*—(a) *What each protest must contain.* Every protest shall set forth the following:

(1) The name and the post office address of the protestant, the manner in which the protestant is subject to the provision of the maximum rent regulation or order protested, and the location, by post office address or otherwise, of all housing accommodations involved in the protest;

(2) The name and post office address of any person filing the protest on behalf of the protestant and the name and post office address of the person to whom all communications from the Office of Price Administration, Office of Temporary Controls, relating to the protest shall be sent;

(3) A complete identification of the provision or provisions protested, citing the number of the maximum rent regulation or order, the section or sections thereof to which objection is made, and the date of issuance thereof;

(4) A clear and concise statement of all objections raised by the protestant against the provision or provisions protested, each such objection to be separately stated and numbered;

(5) A clear and concise statement of all facts alleged in support of each objection;

(6) A statement of the relief requested by the protestant, including, if the protestant requests modification of a provision of the maximum rent regulation, the specific changes which he seeks to have made in the provision;

(7) A statement signed and sworn to (or affirmed) before an officer authorized to take oaths either by the protestant personally, or, if a partnership, by a partner, or, if a corporation or association, by a duly authorized officer, that the protest and the documents filed therewith are prepared in good faith and that the facts alleged are true to the best of his knowledge, information and belief. The protestant shall specify which of the facts are alleged and known to be true and which are alleged on information and belief.

(b) *Consideration by a board of review upon request by protestant.* A protestant who wishes his protest considered by a board of review must specifically so request. If he also wishes to offer oral argument, he must so state, indicating the order of his preference as to (1) argument before a full board in Washington, D. C., or (2) argument before a subcommittee of the board at the nearest Regional Office or elsewhere as requested. A simple request for consideration of the protest by a board of review, without more, will be construed as a request for consideration without oral argument. § 1300.244 of this regulation sets forth the considerations which will be determinative in the decision as to where oral argument may be heard. The request for consideration by a board of review must be made either in the protest or in an amendment thereto filed within fifteen days of the date the protest is filed. Such an amendment shall be deemed filed within the fifteen day period if it is received by the Secretary, Office of Price Administration, Office of Temporary Controls, Washington, D. C., no later than the fifteenth day after the protest was filed. Further provisions with respect to proceedings before a board of review are to be found in §§ 1300.242 to 1300.250, inclusive, of this regulation.

(c) *Consideration by a board of review at request of respondent in cases concerning certificates relating to eviction.* The respondent in proceedings where the protest is directed against an order issued pursuant to § 1300.212 of this regulation may request consideration of the protest by a board of review and oral argument, as provided for in paragraph (b), above, by filing such request within thirty (30) days after service of the protest upon respondent.

§ 1300.236 *Affidavits or other written evidence in support of protests.* Every protestant shall file together with his protest the following:

(a) Affidavits setting forth in full all the evidence the presentation of which is subject to the control of the protestant and upon which the protestant relies in support of the facts alleged in the protest. Each such affidavit shall state the name, post office address, and occupation of the affiant; his business connection, if any, with the protestant; and whether the facts set forth in the affidavit are stated from personal knowledge or on information and belief. In every instance, the affiant shall state in detail the sources of his information: *Provided,* That on a protest of an order, the evidence and all documents in proceedings had in connection therewith shall be a part of the record on protest and need not be filed by the protestant.

(b) A statement by the protestant in affidavit form setting forth in detail the nature and sources of any further evidence, not subject to his control, upon which he believes he can rely in support of the facts alleged in his protest. Such statement shall be accompanied by an application for assistance by way of subpoena, interrogatories, or otherwise, in obtaining the documentary evidence or the evidence of persons not subject to protestant's control, showing in every instance what material facts would be adduced thereby. Such application, if calling for the evidence of persons, shall specify the name and address of each person, and the facts to be proved by him, and if calling for the production of documents, shall specify them with sufficient particularity to enable them to be identified for purposes of production.

A similar application may be made by the respondent in protest proceedings involving an order issued pursuant to § 1300.212 of this regulation.

§ 1300.237 *Receipt of oral testimony.* (a) In most cases, evidence in protest proceedings will be received only in written form. Experience in the consideration of protests has demonstrated that this procedure is most conducive to the fair and expeditious disposition of protests. However, the protestant in any case, and the respondent in protest proceedings involving an order issued pursuant to § 1300.212 of this regulation, may request the receipt of oral testimony. Such request shall be accompanied by a showing as to why the filing of affidavits or other written evidence will not permit the fair and expeditious disposition of the protest.

(b) In the event that the Administrator orders the receipt of oral testimony, notice shall be served on the protestant, and on the respondent, if any, not less than five (5) days prior to the receipt of such testimony, which notice shall state the time and place of the hearing and the name of the presiding officer designated by the Administrator.

(c) A stenographic report of any hearing of oral testimony shall be made, a copy of which shall be available during business hours in the Office of the Secretary.

§ 1300.238 *Submission of brief.* The protestant may file with his protest and accompanying evidential material, and the respondent, if any, may file with his objections or written evidence, a brief in support of his objections. An original and five (5) copies of such brief shall be submitted separately, distinct from the protest and evidential material.

Material in Support of the Regulation or Order Protested

§ 1300.239 *Incorporation of material into the record by the Administrator.* The Administrator shall incorporate into the record of the proceedings on the protest such evidence, in the form of affidavits or otherwise, as he deems appropriate in support of the provision against which the protest is filed. When such evidence is incorporated into the record, and is not so incorporated at an oral hearing, copies thereof shall be served upon the protestant, and upon the respondent, if any, and the protestant and the respondent shall be given a reasonable opportunity to present further evidence.

§ 1300.240 *Other written evidence in support of the maximum rent regulation or order.* (a) Any person affected by the provisions of a maximum rent regulation, or of an order issued thereunder, may at any time after the issuance of such regulation or order submit to the Administrator a statement in support of any such provision or provisions. Such statement shall include the name and post office address of such person, the nature of his business, and the manner in which such person is affected by the maximum rent regulation or order in question, and may be accompanied by affidavits and other data in written form. Each such supporting statement shall conform to the requirements of § 1300.236 (a) of this regulation.

(b) In the event that a protest has been, or is subsequently, filed against a provision of a maximum rent regulation or order in support of which a statement has been submitted, the Administrator may include such statement in the record of the proceedings taken in connection with such protest. If such supporting statement is incorporated into the record and is not so incorporated at an oral hearing, copies of such supporting statement shall be served upon the protestant, and the protestant shall be given a reasonable opportunity to present evidence in rebuttal thereof.

§ 1300.241 *Receipt of oral testimony in support of the regulation or order.* Ordinarily, material in support of the maximum rent regulation or order protested, like material in support of protests, will be received in the protest proceeding only in written form. Where, however, the Administrator is satisfied that the receipt of oral testimony is necessary to the fair and expeditious disposition of the protest, he may, on his own motion, direct such testimony to be received. In that event, the oral testimony will be taken in the manner provided in § 1300.237 of this regulation.

Boards of Review

§ 1300.242 *Right to consideration by a board of review.* Under section 203 (c) of the act, a protest filed after September 1, 1944, must, upon the protestant's request, be considered by a board of review before it can be denied in whole or in part. Similar consideration will be given upon request of the respondent in protest proceedings involving an order issued pursuant to § 1300.212 of this regulation.

Consideration of the record in protest proceedings by a board of review is undertaken for the purpose of reconsidering the provision or provisions of the maximum rent regulation or order protested and recommending action relative thereto to the Administrator. A board of review considers the protest upon the basis of the record which has been developed in the proceedings. Protestant; and the respondent, if any, are accorded an opportunity to present oral argument to a board upon the basis of the objections raised and the evidence in the record, and are guided by the explanatory statement of the issues in the notice of consideration by a board of review. § 1300.234 of this regulation explains the nature of the record in the proceedings. § 1300.235 (b) and (c) explain the nature of such a request and state the time within which it must be filed.

§ 1300.243 *Composition of boards of review.* A board of review is composed of one or more officers or employees of the Office of Price Administration, Office of Temporary Controls, designated by the Administrator to review the record of the proceedings on a particular protest and make recommendations to him as to its disposition. The number of members constituting a board will be determined in the light of the scope and complexity of the issues presented. When a board consists of more than one member, ordinarily at least one member shall be selected who has been directly responsible for the formulation or administration of the maximum rent regulation or order protested. The protestant, and the respondent in protest proceedings involving an order issued pursuant to § 1300.212 of this regulation, will be advised of the membership of a board considering the protest and, if the board consists of more than one member, of the member selected to preside, in the notice of consideration by a board provided for in § 1300.245. When necessitated by incapacity of a member or other good cause, the Administrator may make substitutions in the membership of the board as originally constituted.

§ 1300.244 *Where boards of review hear oral argument.* A board of review consisting of more than one member will ordinarily hear oral argument at the National Office in Washington, D. C., and only in exceptional cases and for good cause shown will the full board hold hearings elsewhere. A board consisting of only one member may hear argument at a Regional Office or elsewhere. Where it has been requested that oral argument be heard at some other place than the National Office and where the board consists of more than one member, a subcommittee thereof may be designated to hear argument at the place requested or at some other convenient place. A request for oral argument without specifying preference as to place of argument will be construed as a request for oral argument at the National Office in Washington, D. C.

§ 1300.245 *Notice of consideration by board of review.* Before denial in whole or in part of any protest as to which consideration by a board of review has been requested in accordance with § 1300.235 (b) or (c) of this regulation, which request has not subsequently been waived, notice of consideration by a board of review will be sent by registered mail to the protestant, and to the respondent in protest proceedings involving an order issued pursuant to § 1300.212 of this regulation. Sending of the notice marks a close of the evidential record in the proceedings. The notice will indicate the issues thought to be determinative and may serve as a guide in planning oral argument. The notice of consideration shall contain, or be accompanied by, the following items, as nearly as the circumstances permit:

(a) Information identifying the protest, including the maximum rent regulation or order being protested and the docket number;

(b) A list of the documents comprising the record of the proceeding;

(c) A brief statement of the issues involved;

(d) A statement of the time (which shall not be less than seven days from the date of the mailing of the notice) and place where the board of review or a subcommittee thereof will hear oral argument;

(e) A list of persons comprising the board of review which is thereby appointed to consider the protest, with their official titles and a designation of the presiding member if the board of review is composed of more than one person.

§ 1300.246 *Waiver of right to consideration in whole or part in protest proceedings not concerning certificates relating to eviction.* A protestant who has properly requested consideration by a board of review in accordance with § 1300.235 (b) may, if he so desires, waive his right to consideration by a board. A protestant who has requested both consideration by and oral argument before a board of review, or subcommittee thereof, may waive his right to oral argument only, or he may waive both oral argument and consideration by a board. Such waiver shall be in writing and shall constitute a part of the record of proceedings on the protest. Failure of a protestant to appear at a hearing of oral argument, which he has not waived in accordance with the foregoing, at the time and place specified in the notice of consideration shall, unless a reasonable excuse is shown, also constitute waiver of his right to consideration by a board. Unexcused failure to appear at a hearing of oral argument shall be noted on the record of proceedings. A waiver by less than all of a group of joint protestants shall not affect the rights of a protestant who has made no waiver.

§ 1300.247 *Waiver of right to consideration in whole or in part in protest proceedings concerning certificates relating to eviction.* In cases where the protest is directed against an order issued pursuant to § 1300.212 of this regulation, and either protestant or the respondent has requested consideration by a board of review in accordance with § 1300.235 (b) or § 1300.235 (c) of this regulation, both parties shall have the right to such consideration. Either the protestant or the respondent may waive his right to oral argument before a board of review as provided for in § 1300.246 of this regulation. Where only one party has waived oral argument, the board of review shall proceed to hear oral argument by the other party. The board shall, in any event, give consideration to the protest, unless both parties have waived their rights thereto as provided in § 1300.246.

§ 1300.248 *Hearing of oral argument.* (a) Argument before a board of review shall ordinarily be limited to one hour except for good cause shown. Where the magnitude of the issues involved warrants more extended discussion or where the protestants, or respondents, in a protest proceeding involving an order issued pursuant to § 1300.212 of this regulation, are numerous, the board may extend or limit the time of each in its discretion. A board may exclude specific argument deemed to be irrelevant to the objections set forth in the protest or unsupported by any evidence in the record. Hearings of argument will be open to the public. Where argument is to be heard by a board of review consisting of more than one member, a majority of such board shall constitute a quorum for the purpose of hearing argument. Presentation of oral argument may be accompanied by submission of a brief.

(b) A stenographic report of all hearings of oral argument by boards of review or subcommittees thereof shall be taken. The report will be transcribed at the direction of the board if a transcription is desired to facilitate consideration of the protest. The report will ordinarily be transcribed if the argument is heard by a subcommittee of a board. If the report is transcribed a copy shall be available in the Office of the Secretary, Office of Price Administration, Office of Temporary Controls, Washington, D. C. Any protestant, or respondent, who wishes a copy of the report may obtain it by requesting the reporter at the hearing to make a copy for him and paying the cost thereof.

§ 1300.249 *Action by boards of review at conclusion of their consideration of a protest.* Within a reasonable time after the hearing of oral argument or after the closing of the record, if such argument has been waived, a board of review shall submit its recommendations in writing to the Administrator as to the disposition of the protest. The recommendations of a majority of the members of a board shall constitute the recommendations of the board, but the disagreement of any member with the recommendations shall be expressly noted. The protestant, and the respondent, if any, will be advised of the recommendations of the board in an appendix to the Administrator's opinion disposing of the protest or closing the docket. Copies of these documents, containing the board's recommendations, will be sent to the protestant and such respondent by registered mail. A board of review shall have authority to recommend to the Administrator that the protest be granted or denied in whole or in part. If it is the opinion of the board that the record in the proceedings should be expanded, it may refer the record of the proceedings to the Administrator in order that the Administrator may consider permitting the amendment of the protest or the receipt of additional evidence. Records will, however, be reopened only in very exceptional circumstances and where the requirements of § 1300.231 can be met.

§ 1300.250 *Action by Administrator after receipt of board of review's recommendations.* After receipt of a board of review's recommendations as to the disposition of the protest, the Administrator shall, within a reasonable time, grant or deny the protest in whole or in part.

Determination of protest

§ 1300.251 *Opinion denying protest in whole or in part.* In the event that the Administrator denies any protest in whole or in part, the protestant, and the respondent, if any, shall be informed of any economic data or other facts of which he takes official notice, the grounds upon which such decision is based, and (if the protest has been considered by a board of review) the recommendations of a board of review and, if any recommendation of such a board has been rejected, the reason for rejection. Any order entered in such protest proceedings shall be effective from the date of its issuance unless otherwise provided in such order, or in this regulation.

§ 1300.252 *Suspensions and stays.* (a) If, in protest proceedings concerning an order issued pursuant to § 1300.212 of this regulation, the certificate relating to eviction is in suspension pursuant to § 1300.224 of this regulation, and the final order of the Administrator denies the tenant's protest in whole or in part, or if the final order of the Administrator grants the landlord's protest in whole or in part, the certificate shall be deemed suspended for a further period of thirty (30) days from the date of receipt of the final order by the tenant. If the tenant files a complaint against such order in the United States Emergency Court of Appeals in accordance with section 204 (a) of the Emergency Price Control Act of 1942, as amended, the certificate shall be deemed suspended until entry of the final judgment of that Court and for a period of thirty (30) days thereafter. If within that period the tenant files a petition for certiorari to review such judgment in the Supreme Court of the United States, the certificate shall be deemed suspended until ultimate disposition of the proceeding. Where, pursuant to a judgment of that Court or of the Emergency Court of Appeals the proceeding is remanded to the Administrator, the certificate shall remain suspended during the further proceedings before the Administrator.

(b) Where, upon complaint filed by the landlord in the Emergency Court of Appeals pursuant to section 204 (a) of the Statute against an order involving a certificate relating to eviction, the determination complained of is set aside in whole or in part, or the proceedings remanded to the Administrator, the certificate shall be deemed suspended in the same manner provided for in paragraph (a) of this section as if the tenant had been the complainant.

(c) If the effect of the order of the rent director or regional administrator is to require a refund of rent to the tenant under section 4 (e), 4 (j), or 5 (b) (3) of the Rent Regulation for Housing, section 4 (b) of the Rent Regulation for Transient Hotels, Residential Hotels, Rooming Houses and Motor Courts, section 4 (e) or 5 (b) (3) of the Rent Regulation for Housing in the New York City Defense-Rental Area, section 4 (b) of the Rent Regulation for Transient Hotels, Rooming Houses and Motor Courts in the New York City Defense-Rental Area, section 4 (b), 4 (f) or 5 (b) (3) of the Rent Regulation for Housing in the Miami Defense-Rental Area, section 4 (b) of the Rent Regulation for Transient Hotels, Residential Hotels, Rooming Houses and Motor Courts in the Miami Defense-Rental Area or section 4 (e), 4 (i) or 5 (b) (3) of the Rent Regulation for Housing in the Atlantic County Defense-Rental Area, the modification or revocation of said order by the Administrator as it affects the refund shall be retroactive if a stay has been obtained pursuant to § 1300.225 of this regulation.

§ 1300.253 *Treatment of protest as petition for amendment or for adjustment or other relief.* Any protest filed against a provision of a maximum rent regulation may, in the discretion of the Administrator, be treated not only as a protest but also as a petition for amendment of the regulation protested, or as a petition for adjustment or other relief pursuant thereto, when the facts produced in connection with the protest justify such treatment.

SUBPART D—INTERPRETATIONS

§ 1300.254 *Interpretations.* An interpretation given by the Administrator or an officer of the Office of Price Administration, Office of Temporary Controls, with respect to any provision of the Act or any maximum rent regulation or order thereunder, will be regarded as official only if such interpretation was requested and issued in accordance with §§ 1300.255 to 1300.257, inclusive, of this regulation. Action taken in reliance upon and in conformity with an official interpretation and prior to any revocation or modification thereof or to any superseding thereof by regulation, order or amendment, shall constitute action in good faith pursuant to the provision of the Act, or of the regulation or order to which such official interpretation relates. An official interpretation shall be applicable only with respect to the particular person to whom, and to the particular factual situation with respect to which,

it is given unless issued as an interpretation of general applicability.

§ 1300.255 *Requests for interpretations: Form and contents.* Any person desiring an official interpretation of the Emergency Price Control Act of 1942, as amended, or of any maximum rent regulation or order thereunder, shall make a request in writing for such interpretation. Such request shall set forth in full the factual situation out of which the interpretative question arises and shall, so far as practicable, state the names and post office addresses of the persons and the location of the housing accommodations involved. If the inquirer has previously requested an interpretation on the same or substantially the same facts, his requests shall so indicate and shall state the official or office to whom his previous request was addressed. No interpretation shall be requested or given with respect to any hypothetical situation or in response to any hypothetical question.

§ 1300.256 *Interpretation to be written: Authorized officials.* Official interpretations shall be given only in writing, signed by the Administrator, or by one of the following officers of the Office of Price Administration, Office of Temporary Controls: the commissioner, the general counsel, any associate or assistant general counsel, any regional attorney, any regional rent attorney, any chief attorney for a State or district or defense-rental area office, and any district rent attorney: *Provided*, That interpretations of general applicability shall be given only by the Administrator, the commissioner, the general counsel, or any associate or assistant general counsel.

§ 1300.257 *Revocation or modification of interpretations.* Any official interpretation, whether of general applicability or otherwise, may be revoked or modified by a publicly announced statement by any official authorized to give interpretations of general applicability or by a statement or notice by the Administrator, commissioner or general counsel published in the FEDERAL REGISTER. An official interpretation addressed to a particular person may also be revoked or modified at any time by a statement in writing mailed to such person and signed by the commissioner, general counsel or any associate or assistant general counsel. An official interpretation addressed to a particular person by a regional attorney, a regional rent attorney, or a chief rent attorney for a defense-rental area office may also be revoked or modified at any time by a statement in writing mailed to such person and signed by the attorney who issued it or by his successor.

SUBPART E—MISCELLANEOUS PROVISIONS AND DEFINITIONS

§ 1300.258 *Witness fees.* Witnesses summoned to give testimony shall be paid the fees and mileage specified by section 202 (f) of the Act. Witness fees and mileage shall be paid by the person at whose instance the witness appears.

§ 1300.259 *Contemptuous conduct.* Contemptuous conduct at any hearing shall be ground for exclusion from the hearing.

§ 1300.260 *Continuance or adjournment of hearing.* Any hearing may be continued or adjourned to a later date or a different place by announcement at the hearing by the person who presides.

§ 1300.261 *Subpoenas.* Subpoenas may require the production of documents or the attendance of witnesses at any designated place. Service of a subpoena upon a person named therein shall be made by delivering a copy thereof to such person or leaving a copy at his regular place of business or abode and by tendering to him the fees and mileage specified in section 202 (f) of the Act. When the subpoena is issued at the instance of the Administrator, fees and mileage need not be tendered. Any person 18 years of age or over may serve a subpoena. The person making the service shall make an affidavit thereof describing the manner in which service is made, and return such affidavit on or with the original subpoena forthwith to the Secretary. In case of failure to make service, the reasons for the failure should be stated on the original subpoena.

§ 1300.262 *Filing of notices, etc.* All notices, reports, registration statements, and other documents which a landlord is required to file, pursuant to the provisions of any maximum rent regulation, shall be filed with the appropriate defense-rental area office and shall be deemed filed on the date received by said office unless otherwise provided in such maximum rent regulation or in this regulation: *Provided*, That any such notice, report, registration statement or other document properly addressed to and received by said office shall be deemed filed on the date of the postmark.

§ 1300.263 *Service of papers.* Notices, orders and other process and papers may be served personally or by leaving a copy thereof at the residence or principal office or place of business of the person to be served, or by mail, or by telegraph. When service is made personally or by leaving a copy at the residence or principal office or place of business, the verified return of the person serving or leaving the copy shall be proof of service. When service is by registered mail or telegraph the return post office receipt or telegraph receipt shall be proof of service. When service is by unregistered mail, an affidavit that the document has been mailed shall be proof of service. In any proceeding under § 1300.207 or in any proceeding to revoke or modify an order, any notice, order or other process or paper directed to the person named as landlord on the registration statement filed pursuant to section 7 of the applicable maximum rent regulation at the mailing address given thereon, or, where a notice of change of identity has been filed pursuant to said section 7, to the person named as landlord and at the address given in the notice of change in identity most recently theretofore filed, shall constitute notice to the person who is then the landlord.

§ 1300.264 *Action by representative.* Any action which by this regulation is required of, or permitted to be taken by a landlord or, in cases concerning certificates relating to eviction, by a tenant, may, unless otherwise expressly stated, be taken on his behalf by any person whom the landlord or the tenant has authorized to represent him. Such authority shall be given by written power of attorney where the action is in connection with an application for review, a petition for amendment, or a protest. In such cases the power of attorney, signed by the landlord, or by the tenant, as the case may be, shall be filed at the time action on his behalf is taken.

§ 1300.265 *Secretary; office hours.* The Office of the Secretary, Office of Price Administration, Office of Temporary Controls, Washington, D. C., shall be open on week days, except Saturdays, from 9 a. m. to 5 p. m. and shall be closed on Saturdays. Any person desiring to file any papers, or to inspect any documents filed with such office at any time other than the regular office hours stated, may file a written application with the Secretary, requesting permission therefor.

§ 1300.266 *Confidential information, inspection of documents filed with Secretary.* Protests and all papers filed by protestants and respondents in connection therewith are public records, open to inspection in the Office of the Secretary upon such reasonable conditions as the Secretary may prescribe. Except as provided above, confidential information filed with the Office of Price Administration, Office of Temporary Controls, will not be disclosed, unless the Administrator determines the withholding thereof to be contrary to the interests of the national defense and security.

§ 1300.267 *Appearance of Office of Price Administration employees and former employees before the Office of Price Administration.* Appearance of Office of Price Administration employees and former employees in a representative capacity before the Office of Price Administration, Office of Temporary Controls, shall be governed by the provisions of Procedural Regulation No. 14.

§ 1300.268 *Definitions.* As used in this regulation, unless the context otherwise requires, the term:

(a) "Act" means the Emergency Price Control Act of 1942, as amended by the Stabilization Act of 1942 (Pub. Laws 421 and 729, 77th Cong., 2d Sess.), the Stabilization Extension Act of 1944 (Pub. Law 383, 78th Cong., 2d Sess.), the Stabilization Extension Act of 1945 (Pub. Law 108, 79th Cong., 1st Sess.) and the Price Control Extension Act of 1946 (Pub. Law 548, 79th Cong., 2d Sess.).

(b) "Administrator" means The Temporary Controls Administrator or such person or persons as he may appoint or designate to carry out any of the duties delegated to him.

(c) "FEDERAL REGISTER" means the publication provided for by the Act of July 26, 1935 (49 Stat. 500), as amended.

(d) "Maximum rent regulation" means any regulation establishing a maximum rent.

(e) "Maximum rent" means the maximum rent established by any maximum

rent regulation or order for the use of housing accommodations within any defense-rental area.

(f) "Date of issuance," with respect to a maximum rent regulation, means the date on which such maximum rent regulation is filed with the Division of the Federal Register.

(g) "Person" includes an individual, corporation, partnership, association, or any other organized group of persons, or legal successor or representative of any of the foregoing, and includes the United States or any agency thereof, or any other government, or any of its political subdivisions, or any agency of any of the foregoing.

(h) "Protestant" means a person subject to any provision of a maximum rent regulation or order who files a protest in accordance with section 203 (a) of the Act.

(i) "Landlord" includues an owner, lessor, sublessor, assignee or other person receiving or entitled to receive rent for the use or occupancy of any housing accommodations, or an agent of any of the foregoing.

(j) "Tenant" includes a subtenant, lessee, sublessee, or other person entitled to the possession or to the use or occupancy of any housing accommodations.

(k) "Housing accommodations" means any building, structure, or part thereof, or land appurtenant thereto, or any other real or personal property rented or offered for rent for living or dwelling purposes, together with all privileges, services, furnishing, furniture, equipment, facilities and improvements connected with the use or occupancy of such property.

(l) "Defense-rental area" means the District of Columbia and any area designated by the Administrator as an area where defense activities have resulted or threaten to result in an increase in the rents for housing accommodations inconsistent with the purposes of the Act.

(m) "Rent director" means the person designated by the Administrator as director of any defense-rental area or such person or persons as may be designated to carry out any of the duties delegated to the rent director by the Administrator.

(n) "Regional Administrator" means the person designated by the Administrator as administrator of any regional office established by the Office of Price Administration, Office of Temporary Controls, or such person or persons as may be designated to carry out any of the duties delegated to the Regional Administrator by the Administrator.

§ 1300.269 *Amendment of this regulation.* Any provision of this regulation may be amended or revoked by the Administrator at any time. Such amendment or revocation shall be published in the FEDERAL REGISTER and shall take effect upon the date of its publication, unless otherwise specified therein.

This revised procedural regulation, as amended, shall become effective February 19, 1947.

NOTE: All reporting and record-keeping requirements of this regulation have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

Issued this 17th day of February 1947.

PHILIP B. FLEMING,
Temporary Controls Administrator.

[F. R. Doc. 47-1627; Filed, Feb. 17, 1947; 4:23 p. m.]

TITLE 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

PART 1—ORGANIZATION, PRACTICE AND PROCEDURE

ANNOUNCEMENT OF CONFERENCES PURSUANT TO TEMPORARY EXPEDITING PROCEDURE FOR STANDARD BROADCAST APPLICATIONS

CROSS REFERENCE: For announcement of conferences pursuant to temporary expediting procedure for standard broadcast applications (§ 1.373, 11 F. R. 177A-415, 13973), see F. R. Doc. 47-1588 under Federal Communications Commission in the Notices section, *infra.*

TITLE 43—PUBLIC LANDS: INTERIOR

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

PART 162—LIST OF ORDERS CREATING AND MODIFYING GRAZING DISTRICTS

WITHDRAWING PUBLIC LANDS IN NEW MEXICO FOR USE OF STATE DEPARTMENT IN CONNECTION WITH RIO GRANDE CANALIZATION PROJECT

CROSS REFERENCE: For order affecting the tabulation contained in § 162.1, see Public Land Order 349 under this title, which takes precedence over but does not modify the order of April 8, 1935, of the Secretary of the Interior, establishing New Mexico Grazing District No. 4.

[Circular 1635]

PART 181—PUBLIC LAND RIGHTS OF SOLDIERS AND SAILORS

RIGHTS OF MINOR VETERANS OF WORLD WAR II IN CONNECTION WITH PUBLIC LANDS

Part 181 of Title 43 of the Code of Federal Regulations is amended by adding thereto a new section as follows:

§ 181.41 *Rights of minor veterans of World War II under the homestead laws.* Pursuant to the act of June 25, 1946 (60 Stat. 308), a person who has served or may serve in the military or naval forces of the United States for a period of at least 90 days during World War II and is honorably discharged, and who is under 21 years of age, is entitled to the benefits, rights and privileges, with respect to homestead entries and applications, conferred by the act of September 27, 1944 (58 Stat. 747; 43 U. S. C. Sup. 279-283) and the regulations contained in §§ 181.36-181.40. (Sec. 5, 58 Stat. 748; 43 U. S. C. Sup. 283)

FRED W. JOHNSON,
Acting Director.

Approved: Feb. 11, 1947.

C. GIRARD DAVIDSON,
Assistant Secretary of the Interior.

[F. R. Doc. 47-1559; Filed, Feb. 18, 1947; 8:49 a. m.]

Appendix—Public Land Orders

[Public Land Order 348]

CALIFORNIA

REVOKING PUBLIC LAND ORDER 146 OF JULY 8, 1943 WITHDRAWING PUBLIC LANDS FOR USE OF WAR DEPARTMENT FOR MILITARY PURPOSES

By virtue of the authority vested in the President and pursuant to Executive Order No. 9337 of April 24, 1943, it is ordered as follows:

Public Land Order 146 of July 8, 1943, withdrawing the following-described public lands for the use of the War Department for military purposes is hereby revoked:

SAN BERNARDINO MERIDIAN

T. 1 S., R. 20 E.,
sec. 8;
sec. 17, N½.

The areas described aggregate 960 acres.

The lands are subject to the order of June 4, 1930, of the Secretary of the Interior, withdrawing certain lands for reclamation purposes.

C. GIRARD DAVIDSON,
Assistant Secretary of the Interior.

FEBRUARY 10, 1947.

[F. R. Doc. 47-1556; Filed, Feb. 18, 1947; 8:49 a. m.]

[Public Land Order 349]

NEW MEXICO

WITHDRAWING PUBLIC LANDS FOR USE OF DEPARTMENT OF STATE IN CONNECTION WITH RIO GRANDE CANALIZATION PROJECT

By virtue of the authority vested in the President by section 1 of the act of May 13, 1924, c. 153, 43 Stat. 118, as amended by the act of August 19, 1935, c. 561, 49 Stat. 660, and pursuant to the act of August 29, 1935, c. 805, 49 Stat. 961, the act of June 4, 1936, c. 500, 49 Stat. 1463, and Executive Order No. 9337 of April 24, 1943, it is ordered as follows:

Subject to valid existing rights, the following described public land is hereby withdrawn from all forms of appropriation under the public-land laws, including the mining and mineral-leasing laws, and reserved for the use of the Department of State in connection with the Rio Grande Canalization Project:

NEW MEXICO PRINCIPAL MERIDIAN

T. 19 S., R. 2 W.,
Sec. 4, SW¼.

The area described contains 160 acres.

This order shall take precedence over but not modify the order of April 8, 1935 of the Secretary of the Interior establishing New Mexico Grazing District No. 4, so far as such order affects the above-described land.

It is intended that the public land described herein shall be returned to the administration of the Department of the Interior when it is no longer needed for the purpose for which it is reserved.

C. GIRARD DAVIDSON,
Assistant Secretary of the Interior.

FEBRUARY 12, 1947.

[F. R. Doc. 47-1557; Filed, Feb. 18, 1947; 8:49 a. m.]

TITLE 49—TRANSPORTATION AND RAILROADS

Chapter I—Interstate Commerce Commission

PART 95—CAR SERVICE

[S. O. 684]

NEW YORK HARBOR LIGHTERAGE RESTRICTIONS

At a session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D. C., on the 12th day of February A. D. 1947.

It appearing, that the movement of import and export freight through the Port of New York is overtaxing the lighterage facilities and causing a shortage of lighterage equipment in that port, and that certain steamship companies are delaying lighters at shipside and under other conditions thereby aggravating the shortage of lighterage equipment; in the opinion of the Commission an emergency requiring immediate action exists in the lighterage limits of the Port of New York, it is ordered, that:

§ 95.684 *New York Harbor lighterage restrictions*—(a) *Definitions.* (1) The term "common carrier" as used herein means a common carrier by railroad subject to Part I of the Interstate Commerce Act.

(2) The term "lighterage" as used herein means a service performed by a common carrier by the use of a special type of equipment to ferry or float freight from points on shore to vessels within the lighterage limits of the Port of New York.

(b) *Notice required for lighterage service.* No common carrier, or its lighterage agent, operating in the Port of New York, shall accept an order for lighterage delivery of freight (except perishable) to a steamship within the lighterage limits of the Port of New York when such order requires or requests lighterage delivery before the expiration of 48 hours from the hour of receipt of such order in the railroad's lighterage office.

(c) (1) *Appointment of agent to restrict lighterage.* G. C. Randall, 30 Vesey Street, New York (7), New York, is hereby designated and appointed as Agent of the Interstate Commerce Commission and vested with authority to restrict lighterage service within the lighterage service within the lighterage limits of the Port of New York in accordance with the following directions:

(2) *Directions to agent.* The agent is hereby directed to prohibit by order any common carrier operating in the Port of New York from performing any further lighterage delivery on orders previously accepted and from accepting any further orders for delivery of freight in lighterage service to a specific steamship when such steamship as of 7:00 a. m., on any week day has held five (5) or more loaded or partially loaded lighterage vessels longer than forty-eight (48) hours (Sundays and holidays excluded) for two (2) consecutive days (Sundays and holidays excluded), providing such equipment was placed on the date and time specified in the lighterage order. When such equipment is placed in advance of a specified time, time will be computed from the date specified in the lighterage order.

(3) *Agent's orders to be vacated.* Any order issued by the agent in compliance with directions of subparagraph (2) hereof shall be cancelled by the agent as of 7:00 a. m., of any day, the number of loaded or partially loaded railroad lighterage boats held over 48 hours has been reduced below 5 for the specific vessel involved.

(4) *Copies of orders to be furnished.* Copies of all orders and vacations of orders issued by the said agent shall be mailed daily to the Director of the Bureau of Service, Interstate Commerce Commission, Washington (25) D. C.

(d) *Effective date.* This order shall become effective at 7:00 a. m., February 17, 1947.

(e) *Expiration date.* This order shall expire at 7:00 a. m., April 17, 1947, unless otherwise modified, changed, suspended, or annulled by order of this Commission.

It is further ordered, that a copy of this order and direction be served upon the association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this order be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

(40 Stat. 101, Sec. 402, 41 Stat. 476, sec. 4, 54 Stat. 901; 49 U. S. C. 1 (10) (17))

By the Commission, Division 3.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 47-1569; Filed, Feb. 18, 1947; 8:47 a. m.]

NOTICES

COMMITTEE FOR RECIPROCITY INFORMATION

[DA-359]

TRADE-AGREEMENT NEGOTIATIONS WITH AUSTRALIA, BELGIUM, BRAZIL, CANADA, CHILE, CHINA, CUBA, CZECHOSLOVAKIA, FRANCE, INDIA, LEBANON (SYRO-LEBANESE CUSTOMS UNION), LUXEMBOURG, NETHERLANDS, NEW ZEALAND, NORWAY, UNION OF SOUTH AFRICA, UNION OF SOVIET SOCIALIST REPUBLICS, UNITED KINGDOM

SUPPLEMENTARY LIST OF PRODUCTS

Closing date for submission of briefs, March 18, 1947. Closing date for application to be heard, March 18, 1947. Public hearings open, March 20, 1947.

The Committee for Reciprocity Information hereby gives notice that all information and views in writing, and all applications for supplemental oral presentation of views, with regard to the supplementary list of products announced by the Secretary of State on this date in connection with trade agreement negotiations with the countries listed above, shall be submitted to the Committee for Reciprocity Information not later than 12 o'clock noon, March 18, 1947. Such communications should be addressed to "The Chairman, Committee for Reciprocity Information, Tariff Commission Building, Eighth and E Streets NW., Washington, D. C."

A public hearing will be held, beginning at 10 a. m. on March 20, 1947, before the Committee for Reciprocity Information, in the hearing room of the Tariff Commission in the Tariff Commission Building, when supplemental oral statements will be heard with regard to the products contained in the supplementary list.

Ten copies of written statements, either typewritten or printed, shall be submitted, of which one copy shall be sworn to. Appearance at hearings before the Committee may be made only by those persons who have filed written statements and who have within the time prescribed made written application for a hearing, and statements made at such hearings shall be under oath.

By direction of the Committee for Reciprocity Information this 18th day of February 1947.

Issued: February 14, 1947.

Effective: February 18, 1947.

[SEAL] EDWARD YARDLEY,
Secretary.

[F. R. Doc. 47-1592; Filed, Feb. 18, 1947; 8:45 a. m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Misc. 1894014]

NEVADA

ORDER PROVIDING FOR THE OPENING OF PUBLIC LANDS

FEBRUARY 11, 1947.

Departmental Order approved May 31, 1946, revoked Departmental Orders of April 21, 1923, and December 11, 1941, insofar as they withdrew in the first form prescribed by section 3 of the Reclamation Act of June 17, 1902 (32 Stat. 388), the lands hereinafter described within the Colorado River Storage Project, Nevada, and provided that such revocation shall not affect the withdrawal of any other lands by said orders or affect any other order withdrawing or reserving the lands described.

At 10:00 a. m. on April 15, 1947, the lands shall, subject to valid existing rights and the provisions of existing withdrawals, become subject to application, petition, location, or selection as follows:

(a) *Ninety-day period for preference-right filings.* For a period of 90 days from April 16, 1947, to July 14, 1947, inclusive, the public lands affected by this order shall be subject to (1) application under the homestead or the desert land laws, or the small tract act of June 1, 1938 (52 Stat. 609, 43 U. S. C. sec. 682a), as amended, by qualified veterans of World War II, for whose service recognition is granted by the act of September 27, 1944 (58 Stat. 747, 43 U. S. C. secs. 279–283), subject to the requirements of applicable law, and (2) application under any applicable public-land law, based on prior existing valid settlement rights and preference rights conferred by existing laws or equitable claims subject to allowance and confirmation. Applications by such veterans shall be subject to claims of the classes described in subdivision (2).

(b) *Twenty-day advance period for simultaneous preference-right filings.* For a period of 20 days from March 27, 1947, to April 15, 1947, inclusive, such veterans and persons claiming preference rights superior to those of such veterans, may present their applications, and all such applications, together with those presented at 10:00 a. m. on shall be treated as simultaneously filed.

(c) *Date for non-preference right filings authorized by the public-land laws.* Commencing at 10:00 a. m. on July 15, 1947, any of the lands remaining unappropriated shall become subject to such application, petition, location, or selection by the public generally as may be authorized by the public-land laws.

(d) *Twenty-day advance period for simultaneous nonpreference right filings.* Applications by the general public may be presented during the 20-day period from June 25, 1947, to July 14, 1947, inclusive, and all such applications, together with those presented at 10:00 a. m. on July 14, 1947, shall be treated as simultaneously filed.

Veterans shall accompany their applications with certified copies of their certificates of discharge, or other satisfactory evidence of their military or naval service. Persons asserting preference rights, through settlement or otherwise, and those having equitable claims, shall accompany their applications by duly corroborated affidavits in support thereof, setting forth in detail all facts relevant to their claims.

Applications for these lands, which shall be filed in the District Land Office at Carson City, Nevada, shall be acted upon in accordance with the regulations contained in § 295.8 of Title 43 of the Code of Federal Regulations (Circular No. 324, May 22, 1914, 43 L. D. 254), and Part 296 of that title, to the extent that such regulations are applicable. Applications under the homestead laws shall be governed by the regulations contained in Parts 166 to 170, inclusive, of Title 43 of the Code of Federal Regulations and applications under the desert land laws and the small tract act of June 1, 1938, shall be governed by the regulations contained in Parts 232 and 257, respectively, of that title.

Inquiries concerning these lands shall be addressed to the District Land Office at Carson City, Nevada.

The lands affected by this order are described as follows:

MOUNT DIABLO MERIDIAN

T. 22 S., R. 62 E.,
Sec. 1, lots 1 to 4, inclusive, S½N½, N½SW¼, SE¼SW¼, and SE¼;
Secs. 2, 3, and 4;
Sec. 9, NW¼SE¼;
Secs. 21 to 28, inclusive, and 33 to 36, inclusive.
T. 21 S., R. 63 E.,
Sec. 31.
T. 22 S., R. 63 E.,
Secs. 5 to 8, inclusive, and 17 to 20, inclusive;
Sec. 21, W½.

The areas described aggregate 16,262.84 acres. Part of the lands are patented, and portions are withdrawn from all forms of appropriation by Executive Order No. 8927 of October 29, 1941.

The lands are of desert character, broken and hilly in topography. The soils are sandy and gravely, with considerable amounts of rocks.

FRED W. JOHNSON,
Acting Director.

[F. R. Doc. 47–1558; Filed, Feb. 18, 1947; 8:49 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

TEMPORARY EXPEDITING PROCEDURE FOR STANDARD BROADCAST APPLICATIONS

ANNOUNCEMENT OF CONFERENCES

FEBRUARY 13, 1947.

Pursuant to the Commission's Public Notice of January 8, 1947, entitled "Temporary Expediting Procedure for Standard Broadcast Applications," and as provided for therein, the following schedule of informal engineering conferences, is announced for the week of February 17 through 22, 1947:

Monday, Feb. 17	Tuesday, Feb. 18	Wednesday, Feb. 19
Kc.	*Kc.*	*Kc.*
630	1290	1140
680	1190	1270
1380	600	1410
740	1530	1420
1310	590	1480
Thursday, Feb. 20	**Friday, Feb. 21**	**Saturday, Feb. 22**
Kc.	*Kc.*	*Kc.*
580	910	790
1170	950	990
1260	1060	1070
1330	1250	1390
1600	1300	1580

Attorneys and engineers representing applicants on the above-specified channels should appear in Room 7454, New Post Office Building, Washington, D. C., at 10 a. m. on the date specified, prepared to participate in the conference concerning the channel in which they are interested. In the event such representative of adjacent channel applicants, or of existing station licensees, desire to participate in any of the foregoing conferences they should address a written request to the Secretary of the Commission specifying their interest in the conference and the reasons for their participation.

Further conferences, pertaining to the above-specified channels, will, if necessary, be scheduled and announced at the initial conferences provided for herein. No additional public notice, insofar as such conferences are concerned, is contemplated, although a public announcement of additional initial conferences pertaining to other channels, will be made in the immediate future.

The Commission desires to stress the urgent necessity for the attendance of representatives of applicants for the above-specified frequencies at the conference involving their applications. Failure to attend will be construed as indicating that such applicants do not desire to participate in the expediting plan and, although their applications will be considered in connection with the other applications concerned, they will not be accorded the amendment privileges provided for in the Public Notice of January 8, 1947.

[SEAL] FEDERAL COMMUNICATIONS COMMISSION,
T. J. SLOWIE,
Secretary.

[F. R. Doc. 47–1588; Filed, Feb. 18, 1947; 9:02 a. m.]

FEDERAL POWER COMMISSION

[Docket No. G–604]

CITIES SERVICE GAS CO.

ORDER FIXING DATE OF HEARING

FEBRUARY 13, 1947.

Upon consideration of the application filed December 16, 1946, in Docket No. G–604 by Cities Service Gas Company, a Delaware corporation with its principal place of business in Oklahoma City, Oklahoma, for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, as amend-

ed, authorizing the construction and operation of a positive meter setting at a point on Applicant's 4-inch pipeline in the Southwest quarter (SW¼) of Section 3, Township 26 North, Range 13 East, Washington County, Oklahoma, for the sale of natural gas to D. M. Tyler for resale, and authorizing the construction and operation of a positive meter setting at a mutually convenient point to Applicant and Suburban Gas Company on Applicant's four-inch pipeline in the Northwest Quarter (NW¼) of Section 33, Township 27 North, Range 13 East, Washington County, Oklahoma, for the sale of natural gas to Suburban Gas Company for resale.

It appearing to the Commission that:

(a) The construction and operation of the aforesaid described facilities by Applicant are for the purpose of transporting natural gas to the aforesaid named purchasers.

(b) This proceeding is a proper one for disposition under the provisions of Rule 32 (b) (18 C. F. R. 1.32 (b)) of the Commission's rules of practice and procedure (effective September 11, 1946), applicant having requested that its application be heard under the shortened procedure provided by the aforesaid rule for non-contested hearings, and no request to be heard, protest or petition having been filed subsequent to the giving of due notice of the filing of the application, including publication in the FEDERAL REGISTER on January 11, 1947, Volume 12, page 202.

The Commission therefore orders that:

(A) Pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, as amended, and the Commission's rules of practice and procedure (effective September 11, 1946), a hearing be held on the 28th day of February 1947, at 9:30 a. m. (e. s. t.) in the hearing room of the Federal Power Commission, 1800 Pennsylvania Avenue, N. W., Washington, D. C., concerning the matters of fact and law asserted in the application filed in the above entitled proceeding: *Provided, however*, That if no request to be heard, or protest or petition to intervene, raising in the judgment of the Commission an issue of substance, has been filed or allowed prior to the date hereinbefore set for hearing, the Commission may, after a non-contested hearing, forthwith dispose of the proceeding by order upon consideration of the application and the evidence filed therewith and incorporated in the record of the proceeding, together with such additional evidence as may be available or as the Commission may require to be filed and incorporated in the record for its consideration.

(B) Interested State commissions may participate as provided by Rules 8 and 37 (f) (18 CFR 1.8 and 1.37 (f)) of the Commission's rules of practice and procedure (effective September 11, 1946).

Date of issuance: February 13, 1947.

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 47-1567; Filed, Feb. 18, 1947; 8:48 a. m.]

[Docket No. IT-5971]

SOUTHWESTERN POWER ADMINISTRATION

NOTICE OF ORDER CONFIRMING AND APPROVING RATE SCHEDULE

FEBRUARY 13, 1947.

Notice is hereby given that, on February 13, 1947, the Federal Power Commission issued its order entered February 13, 1947, confirming and approving rate schedule in the above-designated matter.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 47-1566; Filed, Feb. 18, 1947; 8:48 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 1-664]

STANDARD SILVER-LEAD MINING CO.

ORDER GRANTING APPLICATION TO STRIKE FROM LISTING ANL REGISTRATION

At a regular session of the Securities and Exchange Commission, held at its office in the City of Philadelphia, Pa., on the 13th day of February A. D. 1947.

The New York Curb Exchange having filed an application, pursuant to section 12 (d) of the Securities Exchange Act of 1934 and Rule X-12D2-1 thereunder, to strike from listing and registration on that Exchange the Common Stock, $1.00 Par Value, of Standard Silver-Lead Mining Company;

A hearing having been held after appropriate notice, and the Commission being duly advised and having this day issued its findings and opinion herein;

On the basis of said findings and opinion and pursuant to section 12 (d) of said act:

It is ordered, That the application be, and hereby is, granted: *Provided*, That the striking of this security from listing and registration shall not become effective until thirty days from the date of this order.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 47-1562; Filed, Feb. 18, 1947; 8:48 a. m.]

[File No. 7-931]

PUBLICKER INDUSTRIES INC.

FINDINGS AND ORDER EXTENDING UNLISTED TRADING PRIVILEGES

At a regular session of the Securities and Exchange Commission, held at its office in the City of Philadelphia, Pa., on the 13th day of February A. D. 1947.

In the matter of application by the Philadelphia Stock Exchange for unlisted trading privileges in Publicker Industries Inc., Common Stock, $5.00 Par Value, File No. 7-931.

The Philadelphia Stock Exchange has made application to the Commission pursuant to section 12 (f) (2) of the Securities Exchange Act of 1934 and Rule X-12F-1 for permission to extend unlisted trading privileges to the $5.00 Par Value Common Stock of Publicker Industries Inc.

A public hearing has been held after appropriate notice.

The Commission, being duly advised, finds:

(1) That this security is listed and registered on the New York Stock Exchange; that out of a total of 2,048,800 shares outstanding, members of the Philadelphia Stock Exchange and trust companies in the vicinity of that Exchange held 24,638 shares of this security on September 30, 1946 for 569 different shareholders, and that in the vicinity of this Exchange there were 3,210 transactions involving 232,641 shares from October 1, 1945 until September 30, 1946;

(2) That sufficient public distribution of, and sufficient public trading activity in, this security exist in the vicinity of the applicant exchange to render the extension of unlisted trading privileges thereto appropriate in the public interest and for the protection of investors; and

(3) That the extension of unlisted trading privileges on applicant exchange to this security is otherwise appropriate in the public interest and for the protection of investors.

Accordingly, it is ordered, Pursuant to section 12 (f) (2) of the Securities Exchange Act of 1934, that the application of the Philadelphia Stock Exchange for permission to extend unlisted trading privileges to the $5.00 Par Value Common Stock of Publicker Industries Inc. be, and the same is, hereby granted.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 47-1561; Filed, Feb. 18, 1947; 8:48 a. m.]

[File Nos. 54-132, 70-1149, 70-1150, 70-1419]

ENGINEERS PUBLIC SERVICE CO. ET AL.

ORDER AMENDING SUPPLEMENTAL FINDINGS AND OPINION AND ORDER OF JANUARY 8, 1947

At a regular session of the Securities and Exchange Commission, held at its office in the City of Philadelphia, Pa., on the 11th day of February A. D. 1947.

In the Matter of Engineers Public Service Company, File No. 54-132; El Paso Electric Company, File No. 70-1149; Gulf States Utilities Company, File No. 70-1150; Virginia Electric and Power Company, File No. 70-1419.

The Commission on December 4, 1946, having issued findings and opinion with respect to the section 11 (e) plan filed by Engineers Public Service Company ("Engineers"), and having on January 8, 1947, issued supplemental findings and opinion and order approving said plan as amended;

The Commission having found in said supplemental findings and opinion that the plan as amended meets the applicable standards of the Public Utility Holding Company Act of 1935 and that, if in the course of securing court approval and enforcement of said plan it should appear that protracted litigation might ensue over the question of the

amount payable to the preferred stockholders, and thereby impede expeditious enforcement of the plan and compliance with the act, it would be in conformity with said act and the Commission's findings and opinion to separate the contested issue from the uncontested issues and consummate the uncontested portion of the plan and that ample latitude exists in the plan and in the powers of the enforcement court to approve the plan with an appropriate escrow arrangement which will achieve that result; and

Engineers having subsequently indicated that, in the event such an escrow is established, it has been advised by tax counsel that the present order approving the amended plan may not contain adequate provisions and recitals to satisfy the requirements for tax exemption in Supplement R and sections 371 and 1808 (f) of the Internal Revenue Code, and Engineers having requested that such provisions and recitals be made and incorporated into our order; and

The Commission finding that such provisions and recitals are appropriate; *It is ordered*, That:

1. The portion of the supplemental findings and opinion of January 8, 1947, appearing as the second full paragraph at page 6 of Holding Company Act Release No. 7119, is amended to read as follows:

We do not agree that any such amendment is necessary at this time. There is considerable question whether the eventuality on which the contention is based will occur at all. Should the plan be approved by the District Court, it is conjectural whether further appeals will be undertaken in view of the delay involved and the consequent substantial expense to the company which expense would, of course, ultimately be borne by the common stockholders. We believe that prompt payment of the full amount which we have found due the preferred will most expeditiously accomplish compliance with the Act. However, should the objecting stockholders continue their objections and indicate an intention to appeal any order of approval by the District Court, it is clearly desirable, in order to avoid the possibility of unnecessary delay in carrying out the uncontested portion of the plan until the controversy with respect to the additional payments is determined, that some arrangement should be made to separate the uncontested from the contested issues. In such event, to achieve expeditious compliance with the Act and fairness to the persons affected, it would be appropriate for Engineers to make prompt payment of $100 per share and accrued dividends to the preferred in order to stop the accrual of further dividends, and to set up an escrow arrangement, along the lines suggested in our previous Opinion, to protect the interests of the various groups and to enable the company to go forward with the uncontested portion of the plan. As indicated in our previous Opinion, such an escrow would have to be large enough to assure payment not only of the amount in issue but of an additional amount to provide the preferred "for the period of the escrow a return on the amount in escrow which is measured by the return which would have been received by it if the stock remained outstanding." This can be accomplished through the establishment of an escrow in cash of $4,000,000 as suggested in our former Opinion, and through such incidental changes in the program for carrying out the plan which such escrow entails.[9] Establishment of such an escrow and the incidental changes which such an escrow arrangement would require, would be fair and equitable to the persons affected by the plan and would be necessary and appropriate to effectuate the provisions of Section 11 (b).

Accordingly, if it appears during the course of the enforcement proceeding that it is likely that some holder or holders of Engineers common stock will contest the right of the preferred stockholders to receive in respect of their stock any amount in excess of $100 per share and accrued dividends, and Engineers indicates that it, therefore, desires to follow the alternative method of effectuating the plan through the use of an escrow, with such incidental changes which an escrow involves, such alternative shall be deemed the method approved by the Commission for effectuating the plan. We do not believe that it would be necessary to return the case to the Commission in order to set up such an escrow or to make the incidental changes which the establishment of the escrow involves. Such escrow and such incidental changes would be established in accordance with our order herein, under Court supervision, and our counsel before the Court are authorized to present to the Court the Commission's views concerning whether the form of escrow and the incidental changes conform to the standards set forth herein, in our former Opinion and in our Order.

We conclude that it is unnecessary to amend the plan further at this time since it is at least questionable whether an escrow will be needed at all and since the matter can be raised and dealt with in Court, if and when the need arises.[9a] However, in view of the possibility that the alternative escrow procedure may be followed in effectuating the plan, our order approving the plan shall be phrased in the alternative and contain the necessary provisions and recitals to satisfy the requirements of the Internal Revenue Code in the event that an escrow is established.

2. Our order of January 8, 1947, approving the amended plan is amended to read as follows:

(a) The sixth full paragraph of said order is amended to read:

The Commission having found that the amended plan of reorganization is necessary to effectuate the provisions of section 11 (b) and is fair and equitable to the persons affected thereby, and the Commission having further found that said declarations, as amended, should be permitted to become effective, and the Commission having further found that, if there appears to be a likelihood of litigation beyond the District Court with regard to the right of the preferred stockholders of Engineers to receive in respect of their stock any amount in excess of $100 per share and accrued dividends, it is advisable, in order to avoid possibility of delay in the carrying out of the whole plan until such controversy is determined, to provide for escrowing such additional amount, plus appropriate compensation for the delay in payment of any additional amount found to be due and payable, to await the outcome of any such litigation and to make the incidental changes in the program for carrying out the amended plan which such an escrow entails, and that in such circumstances such escrow and changes in the program are necessary and appropriate to effectuate the provisions of section 11 (b) and are fair and equitable to the persons affected thereby;

(b) The said order is amended by substituting a semicolon for the period at the end of the subparagraph numbered VIII appearing at the end of said order and adding the following:

Provided, however, That if counsel for Engineers, in the course of the enforcement proceeding and at any time before the approval of the amended plan by the United States District Court, shall state to the District Court that Engineers has determined that it appears likely that some holder or holders of Engineers' common stock will litigate beyond the District Court the payment to the Engineers preferred stockholders of any amount in addition to $100 per share and accrued dividends and that Engineers accordingly desires to follow the alternative method of effectuating the plan through the use of an escrow, then counsel for the Commission shall present to said District Court a form of proposed decree or order of said Court, setting forth a proposed escrow agreement and the incidental changes in the program which the establishment of the escrow involves, and in such event (a) all references in this amended order to the amended plan shall be deemed to be to the amended plan as affected by the establishment of such escrow and the making of such incidental program changes, (b) the references to warrants in subparagraphs I through IV above shall be deemed to be to warrants providing for assigning to the Engineers $5 preferred stock, $5.50 preferred stock and $6 pre-

[9] As stated in our former Opinion under the heading, "Escrow Provision" (Holding Company Act Release No. 7041, at p. 36), the escrow, if established, should provide for the deposit by Engineers with the Escrow Agent of $4,000,000 in cash for the purpose of (1) providing for payment to the preferred stockholders of an amount equal to the redemption premiums on the shares of their respective series, or such lesser amount as shall finally be determined to be payable to them, with interest thereon for the period of delay at rates determined in respect of each series of preferred stock on the yield basis stated in our former Opinion and (2) providing for the payment of fees and expenses incurred or to be incurred under the plan, which fees and expenses are subject to the approval of the Commission. Briefly stated, the principal incidental changes in the program resulting from the establishing of an escrow are that the preferred stockholders who exchange their shares of preferred stock for Gulf States common stock will be given credit on such exchange to the extent of $100 per share plus accrued dividends and the deposit for the preferred stockholders who do not so exchange will be $100 per share and accrued dividends, with provision, in both such cases, for the payment in cash of additional amounts equal to the redemption premiums on the shares of their respective series, or such lesser amount, as shall finally be determined to be payable to them, with interest thereon as aforesaid."

[9a] We do not understand that the plan would permit the proposed deposit in trust of the full amount to relieve Engineers of any further responsibilities to the preferred if the payment to the preferred of the amounts deposited were the subject of a stay. Any such provision would obviously be unfair unless there were assurance that the preferred would receive adequate compensation for any delay in payment to them.

ferred stock, a value of $100 per share plus accrued dividends to the expiration date of the warrant and providing that any holder of Engineers preferred stock who surrenders his stock in exchange for Gulf States common stock will, in respect of such surrendered shares, have the right to receive the same amount which holders of such preferred stock not so surrendering their stock will receive in addition to $100 per share plus accrued dividends if any such amount is finally determined to be payable, and (c) subparagraphs II and IV above shall be deemed to read as follows:

II. Pursuant to the provisions of the above mentioned warrants, Engineers will transfer and deliver Gulf States common stock to those persons who exercise said warrants before the expiration date thereof, and upon such exercise the holders of said warrants will either (1) pay Engineers $11.50 for each share of Gulf States common stock so acquired, or (2) deliver to Engineers in exchange for said Gulf States common stock whole shares of Engineers preferred stock on the basis of equivalent values, assigning $11.50 per share for each share of Gulf States common stock, and $100 plus accrued dividends to the expiration date of the warrant for each share of Engineers preferred stock; *Provided*, That, on the basis of the relative values above stated, the value of the whole shares of Engineers preferred stock to be exchanged under the warrants will not exceed the value of the shares of Gulf States common stock which the warrant holder is entitled to and intends to acquire, and to the extent that the value of such shares of Engineers preferred stock exchanged for Gulf States common stock under said warrants is less than the value of such shares of Gulf States common stock to which the warrant holder is entitled and intends to acquire, the difference will be paid by the warrant holder to Engineers in cash. Any holder of Engineers preferred stock who surrenders his stock in exchange for Gulf States common stock will, in respect of such surrendered shares, have the right to receive the same amount which holders of such preferred stock not so surrendering their stock will receive in addition to $100 per share plus accrued dividends if any such amount is finally determined to be payable.

* * * * *

IV. After completion of the disposition of the Gulf States common stock, Engineers will

(a) Deposit in trust, for the benefit of Engineers preferred stockholders who have not surrendered their preferred stock in exchange for Gulf States common stock, with a solvent bank or trust company an amount equal to $100 per share plus accrued dividends to the date of such deposit, in respect of each such share; and

(b) Deposit with a solvent bank or trust company in escrow the sum of $4,000,000 in cash, pursuant to the provisions of an escrow agreement which provides, among other things,

(i) For payment to holders of preferred stock of Engineers, in addition to the $100 per share and accrued dividends to be allowed on exchange for Gulf States common stock or to be deposited in trust as above provided in respect of shares not so exchanged, of $5 per share in respect of each share of $5 preferred stock and $10 per share in respect of each share of $5.50 preferred stock and $6 preferred stock, plus in each case an amount equal to simple interest on the amount so paid at a rate per annum equal to 4.76% in the case of $5 preferred stock, 5% in the case of $5.50 preferred stock and 5.45% in the case of $6 preferred stock from the date of said escrow agreement to the date of such payment, upon delivery to the escrow agent of an opinion of independent counsel to the effect (1) that the District Court of the United States for the District of Delaware in Civil Action No. 995 has entered a decree or order approving the amended plan, including the payment to holders of Engineers preferred stock of the amount, above specified, equal to the respective redemption premiums on their shares with interest as aforesaid and directing its enforcement, (2) that no holder of Engineers common stock has made timely appeal from such decree or order, or in the alternative, that a holder or holders of Engineers common stock has made such timely appeal but that the appellate court or courts have approved said decree or order approving the amended plan entered by said District Court as aforesaid, and (3) that such decree or order has become final as against the holders of Engineers common stock and is no longer subject to appeal by them;

(ii) For payment to the Engineers preferred stockholders of the amounts specified in said final order and, upon delivery to the escrow agent of a certified copy of an order of the Commission or an order or decree of the United States District Court or any appellate court directing or permitting the distribution to the holders of preferred stock of some part of the amount deposited in escrow, but less than the amounts specified in subdivision (i) above, together with an opinion of independent counsel that such order or decree has become final and is not subject to appeal;

(iii) For payment of certain fees, compensation, remuneration and expenses pursuant to order of the Commission and for repayment to Engineers of amounts not payable to preferred stockholders or for fees, compensation, remuneration or expenses.

Such amounts will be deposited in cancellation of all of the Engineers preferred stock. The holders of Engineers preferred stock who have not surrendered the same in exchange for Gulf States common stock will surrender such stock to the trustee above mentioned against payment of the amounts deposited in trust in accordance with subdivision (a) above in respect of their shares, and all holders of Engineers preferred stock will receive so much of the said $4,000,000 as may be determined to be payable to them in accordance with said escrow agreement.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 47-1563; Filed, Feb. 18, 1947; 8:48 a. m.]

[File No. 70-1453]

SOUTHERN CALIFORNIA WATER CO. AND AMERICAN STATES UTILITIES CORP.

NOTICE OF FILING

At a regular session of the Securities and Exchange Commission held at its office in the City of Philadelphia, Pa., on the 13th day of February A. D. 1947.

Notice is hereby given that an application and declaration has been filed with this Commission, pursuant to the Public Utility Holding Company Act of 1935, by American States Utilities Corporation ("American States"), a registered holding company, and its subsidiary, Southern California Water Company ("Southern"). Sections 6 (a), 7, 9 (a), and 12 (e) of the act and Rules U-50, U-62 and U-100 have been designated as being applicable to the proposed transactions.

Notice is further given that any interested person may, not later than February 24, 1947, at 5:30 p. m., e. s. t., request the Commission in writing that a hearing be held on such matter, stating the reasons for such request, the nature of his interest and the issues of fact or law raised by said application and declaration which he desires to controvert, or may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 18th and Locust Streets, Philadelphia 3, Pennsylvania. At any time after February 24, 1947, said application and declaration as filed or as amended, may be granted and permitted to become effective as provided in Rule U-23 of the rules and regulations promulgated under the act, or the Commission may exempt such transactions as provided in Rule U-20 (a) and Rule U-100 thereof.

All interested persons are referred to said application and declaration which is on file in the offices of this Commission for a statement of the transactions therein proposed, which are summarized as follows:

Southern, by appropriate corporate action, proposes to amend its Articles of Incorporation (pursuant to a stipulation filed in a proceeding before this Commission regarding an issuance and sale of preferred stock (File No. 70-1282)) to provide for certain restrictions on common stock dividends unless certain minimum ratios of common stock equity to total capitalization are maintained.

Southern further states that it is informed by its counsel that to impose such restrictions may effect such a change in the presently existing terms of its common stock as would constitute an issuance of new securities in exchange, share for share, for the outstanding common shares. It, therefore, requests the Commission to permit the issuance by Southern and the acquisition by American States of 61,932 shares of Southern's common stock in exchange, share for share, for an equal number of presently outstanding common shares, all of which are owned by American States.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 47-1564; Filed, Feb. 18, 1947; 8:47 a. m.]