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TITLE 7—AGRICULTURE

Chapter VII—Production and Marketing Administration (Agricultural Adjustment), Department of Agriculture

[ACP-1950-P. R. 1]

PART 702—SPECIAL AGRICULTURAL CONSERVATION PROGRAM

SUBPART—1950—PUERTO RICO

MISCELLANEOUS AMENDMENTS

Pursuant to the authority vested in the Secretary of Agriculture under sections 7-17, inclusive, of the Soil Conservation and Domestic Allotment Act, as amended, the 1950 Special Agricultural Conservation Program for Puerto Rico, issued December 28, 1949 (14 F. R. 7870), is amended as follows:

1. Section 702.3 is added as follows:

§ 702.3 *Allocation.* The amount of funds allocated to Puerto Rico is $997,000. This amount does not include the amount set aside for administrative expenses and the amount required for size-of-payment adjustments in § 702.42.

2. In § 702.21, the title is amended to read as follows:

§ 702.21 *Practice 11: Establishing an adequate system of ditches to carry surface run-off water on land of 10 percent or more slope planted to intertilled crops, except sugarcane.*

3. In § 702.28 *Practice 18: Planting vegetative barriers on land of 10 percent or more slope,* paragraph (a) is amended by changing the reference to § 702.17 therein to § 702.27.

4. In § 702.29 *Practice 19: Constructing protected outlet channels for carrying run-off water from ditches and terrace systems,* is amended by changing the reference to § 702.17 in the fourth sentence to § 702.27.

5. Section 702.52 is amended to read as follows:

§ 702.52 *Practices carried out with State or Federal aid.* The extent of any practice shall not be reduced because it is carried out with materials or services furnished by the Agricultural Conservation Programs Branch, Production and Marketing Administration, or by any agency of Puerto Rico to another agency of Puerto Rico. In other cases of State or Federal aid, the total extent of any practice carried out shall be reduced for purposes of payment by twice the percentage of the total cost of the practice which the State office determines was furnished by a State or Federal agency or any agency of the Government of Puerto Rico.

(Sec. 4, 49 Stat. 164; 16 U. S. C. 590d. Interpret or apply secs. 7-17, 49 Stat. 1148, as amended; 63 Stat. 524; 16 U. S. C. and Sup., 590g-590q)

Done at Washington, D. C. this 12th day of May 1950.

[SEAL] CLAUDE R. WICKARD,
Acting Secretary of Agriculture.

[F. R. Doc. 50-4200; Filed, May 16, 1950; 8:50 a. m.]

TITLE 24—HOUSING AND HOUSING CREDIT

Chapter VIII—Office of Housing Expediter

[Controlled Housing Rent Reg., Amdt. 246]

[Controlled Rooms in Rooming Houses and Other Establishments Rent Reg., Amdt. 243]

PART 825—RENT REGULATIONS UNDER THE HOUSING AND RENT ACT OF 1947, AS AMENDED

CALIFORNIA, IDAHO, OHIO, AND SOUTH CAROLINA

The Controlled Housing Rent Regulation (§§ 825.1 to 825.12) and the Rent Regulation for Controlled Rooms in Rooming Houses and Other Establishments (§§ 825.81 to 825.92) are amended in the following respects:

1. Schedule A, Item 30, is amended to describe the counties in the defense-rental area as follows:

Orange County, except (1) the Cities of Fullerton, Huntington Beach, Laguna Beach, Newport Beach, and Orange, (2) that portion of Orange County lying south of the south line of Township Six south, Range Eight West, San Bernardino Base and Meridian, and the easterly and westerly prolongation of said south line, and (3) that portion of Orange County beginning at the intersection

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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.

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of the north line of Section 12, Township 5 South, Range 12 West, San Bernardino Base and Meridian with the westerly line of said Orange County; running thence from said point of beginning easterly along Section lines to the northeast corner of Section 9, Township 5 South, Range 11 West, San Bernardino Base and Meridian; thence southerly along section lines to the northerly boundary line of the City of Huntington Beach, thence westerly and southerly along said boundary line of the City of Huntington Beach to the ordinary high tide line of the Pacific Ocean; thence northwesterly along said high tide line to the westerly boundary line of Orange County; thence northeasterly along said boundary line to the point of beginning; including the incorporated City of Seal Beach, and the unincorporated communities of Sunset Beach and Surfside.

Los Angeles County, except Catalina Township and the Cities of Alhambra, Bell, Beverly Hills, Claremont, Compton, Covina, El Monte, El Segundo, Glendale, Hermosa Beach, Huntington Park, La Verne, Long Beach, Lynwood, Manhattan Beach, Maywood, Monrovia, Montebello, Monterey Park, Pasadena, Pomona, Redondo Beach, Santa Monica, Sierra Madre, Signal Hill, South Gate and South Pasadena.

This decontrols the Cities of Compton, Montebello and Monterey Park, in Los Angeles County, California, portions of Los Angeles, California, Defense-Rental Area, based on resolutions submitted in accordance with section 204 (j) (3) of the Housing and Rent Act of 1947, as amended.

2. Schedule A, Item 80b, is amended to read as follows:

(80b) [Revoked and decontrolled.]

This decontrols the entire Blackfoot, Idaho, Defense-Rental Area, based on the Housing Expediter's own initiative in accordance with section 204 (c) of the Housing and Rent Act of 1947, as amended.

3. Schedule A, Item 233, is amended to describe the counties in the defense-rental area as follows:

Lorain County, except the Townships of Brighton, Huntington, Penfield, Rochester and Wellington and the Villages of Wellington and Rochester.

This decontrols the Townships of Brighton, Huntington, Penfield, Rochester and Wellington and the Villages of Wellington and Rochester in Lorain County, Ohio, portions of the Lorain-Elyria, Ohio, Defense-Rental Area, based on the Housing Expediter's own initiative in accordance with section 204 (c) of the Housing and Rent Act of 1947, as amended.

4. Schedule A, Item 281, is amended to read as follows:

(281) [Revoked and decontrolled.]

This decontrols (1) the City of Spartanburg, South Carolina in the Spartanburg, South Carolina, Defense-Rental Area, based on a resolution submitted in accordance with section 204 (j) (3) of the Housing and Rent Act of 1947, as amended, and (2) the remainder of said defense-rental area on the Housing Expediter's own initiative in accordance with section 204 (c) of said act.

(Sec. 204, 61 Stat. 197, as amended; 50 U. S. C. App. Sup. 1894)

This amendment shall become effective May 12, 1950.

Issued this 12th day of May 1950.

TIGHE E. WOODS,
Housing Expediter.

[F. R. Doc. 50-4178; Filed, May 16, 1950; 8:47 a. m.]

TITLE 29—LABOR

Chapter V—Wage and Hour Division, Department of Labor

Subchapter B—Statements of General Policy or Interpretation Not Directly Related to Regulations

PART 776—INTERPRETATIVE BULLETIN OF THE GENERAL COVERAGE OF THE WAGE AND HOURS PROVISIONS OF THE FAIR LABOR STANDARDS ACT OF 1938, AS AMENDED

SUBPART A—GENERAL

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AUTHORITY: §§ 776.0 to 776.21 issued under 52 Stat. 1060, as amended; 29 U. S. C. and Sup. 201 et seq.

SUBPART A—GENERAL

§ 776.0 *Introductory statement*—(a) *Scope and significance of this part.* The Fair Labor Standards Act of 1938, as amended[1] (hereinafter referred to as the act), bring within the general coverage of its wage and hours provisions every employee who is "engaged in commerce or in the production of goods for commerce."[2] What employees are so engaged must be ascertained in the light of the definitions of "commerce", "goods", and "produced" which are set forth in the act as amended by the Fair Labor Standards Amendments of 1949,[3] giving due regard to authoritative interpretations by the courts and to the legislative history of the act, as amended. Interpretations of the Administrator of the Wage and Hour Division with respect to this general coverage are set forth herein to provide "a practical guide to employers and employees as to how the office representing the public interest in its enforcement will seek to apply it."[4] These interpretations, with respect to the general coverage of the wage and hours provisions of the act, indicate the con-

[1] Pub. No. 718, 75th Cong., 3d sess. (52 Stat. 1060), as amended by the act of June 26, 1940 (Pub. Res. No. 88, 76th Cong., 3d sess., 54 Stat. 616); by Reorganization Plan No. 2 (60 Stat. 1095), effective July 16, 1946; by the Portal-to-Portal Act of 1947, approved May 14, 1947 (61 Stat. 84); and by the Fair Labor Standards Amendments of 1949, approved October 26, 1949 (Public Law 393, 81st Cong., 1st sess., 63 Stat. 910).

[2] The requirement of section 6 as to minimum wages is: "Every employer shall pay to each of his employees who is engaged in commerce or in the production of goods for commerce wages at the following rates—" (not less than 75 cents an hour, except in Puerto Rico and the Virgin Islands to which special provisions apply).

The requirement of section 7 as to maximum hours which an employee may work without receiving extra pay for overtime is: "no employer shall employ any of his employees who is engaged in commerce or in the production of goods for commerce for a workweek longer than forty hours, unless such employee receives compensation for his employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which he is employed."

[3] Public Law 393, 81st Cong., 1st sess., (63 Stat. 910). These amendments, effective January 25, 1950, leave the existing law unchanged except as to provisions specifically amended and the addition of certain new provisions. Section 3 (b) of the act, defining "commerce" and section 3 (j), defining "produced," were specifically amended as explained in §§ 776.13 and 776.17 (a) herein.

[4] *Skidmore* v. *Swift & Co.*, 323 U. S. 134, 138.

struction of the law which the Administrator believes to be correct and which will guide him in the performance of his administrative duties under the act unless and until he is otherwise directed by authoritative decisions of the courts or concludes, upon re-examination of an interpretation, that it is incorrect.

Under the Portal-to-Portal Act of 1947,[5] interpretations of the Administrator may, under certain circumstances, be controlling in determining the rights and liabilities of employers and employees. The interpretations contained in this bulletin are interpretations on which reliance may be placed as provided in section 10 of the Portal-to-Portal act, so long as they remain effective and are not modified, amended, rescinded, or determined by judicial authority to be incorrect. However, the omission to discuss a particular problem in this bulletin or in interpretations supplementing it should not be taken to indicate the adoption of any position by the Administrator with respect to such problem or to constitute an administrative interpretation or practice or enforcement policy.

(b) *Exemptions and child labor provisions not discussed.* This bulletin does not deal with the various specific exemptions provided in the statute, under which certain employees engaged in commerce or in the production of goods for commerce and thus within the general coverage of the wage and hours provisions are wholly or partially excluded from the protection of the act's minimum-wage and overtime-pay requirements. Some of these exemptions are self-executing; others call for definitions or other action by the Administrator. Regulations and interpretations relating to specific exemptions may be found in other parts of this chapter. Coverage and exemptions under the child labor provisions of the act are discussed in a separate interpretative bulletin (Part 450 of this chapter) issued by the Secretary of Labor.

(c) *Earlier interpretations superceded.* All general and specific interpretations issued prior to July 11, 1947, with respect to the general coverage of the wage and hours provisions of the act were rescinded and withdrawn by § 776.0 (b) of the general statement on this subject, published in the FEDERAL REGISTER on that date as Part 776 of this chapter (12 F. R. 4583). To the extent that interpretations contained in such general statement or in releases, opinion letters, and other statements issued on or after July 11, 1947, are inconsistent with the provisions of the Fair Labor Standards Amendments of 1949, they do not continue in effect after January 24, 1950.[6] Effective on the date of its publication in the FEDERAL REGISTER, Subpart A of this interpretative bulletin replaces and supersedes the general statement previously published as Part 776 of this chapter, which statement is withdrawn. All other administrative rulings, interpretations, practices and enforcement policies relating to the general coverage of the wage and hours provisions of the act and not withdrawn prior to such date are, to the extent that they are inconsistent with or in conflict with the principles stated in this interpretative bulletin, hereby rescinded and withdrawn.

HOW COVERAGE IS DETERMINED

§ 776.1 *General interpretative guides.* The Congressional policy under which employees "engaged in commerce or in the production of goods for commerce" are brought within the general coverage of the act's wage and hours provisions is stated in section 2 of the act. This section makes it clear that the Congressional power to regulate interstate and foreign commerce is exercised in this act in order to remedy certain evils, namely, "labor conditions detrimental to the maintenance of the minimum standards of living necessary for health, efficiency, and the general well being of workers" which Congress found "(a) causes commerce and the channels and instrumentalities of commerce to be used to perpetuate such labor conditions among the workers of the several States; (b) burdens commerce and the free flow of goods in commerce; (c) constitutes an unfair method of competition in commerce; (d) leads to labor disputes burdening and obstructing commerce and the free flow of goods in commerce and (e) interferes with the orderly and fair marketing of goods in commerce." In carrying out these broad remedial purposes, however, the Congress did not choose to make the scope of the act coextensive in all respects with the limits of its power over commerce or to apply it to all activities affecting commerce.[7] Congress delimited the area in which the act operates by providing for certain exceptions and exemptions, and by making wage-hour coverage applicable only to employees who are "engaged in" either "commerce", as defined in the act, or "production" of "goods" for such commerce, within the meaning of the act's definitions of these terms. The Fair Labor Standards Amendments of 1949 indicate an intention to restrict somewhat the category of employees within the reach of the act under the former definition of "produced" and to expand to some extent the group covered under the former definition of "commerce." In his interpretations, the Administrator will endeavor to give effect to both the broad remedial purposes of the act and the limitations on its application, seeking guidance in his task from the terms of the statute, from authoritative court decisions, and from the legislative history of the act, as amended.[8]

§ 776.2 *Employee basis of coverage.* The coverage of the act's wage and hours provisions as described in sections 6 and 7 does not deal in a blanket way with industries as a whole. Thus, in section 6, it is provided that every employer shall pay the statutory minimum wage to "each of his employees who is engaged in commerce or in the production of goods for commerce." It thus becomes primarily an individual matter as to the nature of the employment of the particular employee. Some employers in a given industry may have no employees covered by the act; other employers in the industry may have some employees covered by the act, and not others; still other employers in the industry may have all their employees within the act's coverage. If, after considering all relevant factors, employees are found to be engaged in covered work, their employer cannot avoid his obligations to them under the act on the ground that he is not "engaged in commerce or in the production of goods for commerce." To the extent that his employees are so engaged, he is himself so engaged.[9]

In determining whether an individual employee is within the coverage of the wage and hours provisions, however, the relationship of an employer's business to commerce or to the production of goods for commerce may sometimes be an important indication of the character of the employee's work.[10] It is apparent, too, from the 1949 amendment to the definition of "produced" and its legislative history that an examination of the character of the employer's business will in some borderline situations be necessary

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[5] Public Law 49, 80th Cong., 1st sess. (61 Stat. 84), discussed in Part 790 of this chapter.

[6] Section 16 (c) of the Fair Labor Standards Amendments of 1949 (63 Stat. 910) provides:

"Any order, regulation, or interpretation of the Administrator of the Wage and Hour Division or of the Secretary of Labor, and any agreement entered into by the Administrator or the Secretary, in effect under the provisions of the Fair Labor Standards Act of 1938, as amended, on the effective date of this act, shall remain in effect as an order, regulation, interpretation, or agreement of the Administrator or the Secretary, as the case may be, pursuant to this act, except to the extent that any such order, regulation, interpretation, or agreement may be inconsistent with the provisions of this act, or may from time to time be amended, modified, or rescinded by the Administrator or the Secretary, as the case may be, in accordance with the provisions of this act."

[7] *Kirschbaum* v. *Walling*, 316 U. S. 517; *Walling* v. *Jacksonville Paper Co.*, 317 U. S. 564; *10 East 40th St. Bldg. Co.* v. *Callus*, 325 U. S. 578; *A. H. Phillips, Inc.* v. *Walling*, 324 U. S. 490; *Fleming* v. *Hawkeye Pearl Button Co.*, 113 F. 2d 52 (C. A. 8); *Armstrong* v. *Walling*, 161 F. 2d 515 (C. A. 1); *Bowie* v. *Gonzalez*, 117 F. 2d 11 (C. A. 1).

[8] Footnote references to some of the relevant court decisions are made for the assistance of readers who may be interested in such decisions.

Footnote references to the legislative history of the 1949 amendments are made at points in this part where it is believed they may be helpful. References to the *Statement of the Managers on the Part of the House*, appended to the Conference Report on the amendments (H. Rept. No. 1453, 81st Cong., 1st sess.) are abbreviated: H. Mgrs. St., 1949, p. —. References to the *Statement of a majority of the Senate Conferees*, 95 Cong. Rec., October 19, 1949 at 15372–15377 are abreviated: Sen. St., 1949 Cong. Rec. References to the Congressional Record are to the 1949 daily issues, the permanent volumes being unavailable at the time this part was prepared.

[9] *Kirschbaum* v. *Walling*, 316 U. S. 517. See also *Walling* v. *Jacksonville Paper Co.*, 317 U. S. 564; *McLeod* v. *Threlkeld*, 319 U. S. 491; *Mabee* v. *White Plains Pub. Co.*, 327 U. S. 178.

[10] *Borden Co.* v. *Borella*, 325 U. S. 679; *10 E. 40th St. Bldg. Co.* v. *Callus*, 325 U. S. 578; *Armour & Co.* v. *Wantock*, 323 U. S. 126; *Donovan* v. *Shell Oil Co.*, 168 F. 2d 229 (C. A. 4); *Hertz Driveurself Stations* v. *United States*, 150 F. 2d 923 (C. A. 8); *Horton* v. *Wilson & Co.*, 223 N. C. 71, 25 S. E. 2d 437.

in determining whether the employee's occupation bears the requisite close relationship to production for commerce."[11]

§ 776.3 *Persons engaging in both covered and noncovered activities.* The act applies to employees "engaged in commerce or in the production of goods for commerce" without regard to whether such employees, or their employer, are also engaged in other activities which would not bring them within the coverage of the act. The act makes no distinction as to the percentage, volume, or amount of activities of either employee or employer which constitute engaging in commerce or in the production of goods for commerce. Sections 6 and 7 refer to "each" and "any" employee so engaged, and section 15 (a) (1) prohibits the introduction into the channels of interstate or foreign commerce of "any" goods in the production of which "any" employee was employed in violation of section 6 or section 7. Although employees doing work in connection with mere isolated, sporadic, or occasional shipments in commerce of insubstantial amounts of goods will not be considered by virtue of that fact alone, the law is settled that every employee whose engagement in activities in commerce or in the production of goods for commerce, even though small in amount, is regular and recurring, is covered by the act.[12] This does not, however, necessarily mean that an employee who at some particular time may engage in work which brings him within the coverage of the act is, by reason of that fact, thereafter indefinitely entitled to its benefits.

§ 776.4 *Workweek standard.* The workweek is to be taken as the standard in determining the applicability of the act.[13] Thus, if in any workweek an employee is engaged in both covered and noncovered work he is entitled to both the wage and hours benefits of the act for all the time worked in that week, unless exempted therefrom by some specific provision of the act. The proportion of his time spent by the employee in each type of work is not material. If he spends any part of the workweek in covered work he will be considered on exactly the same basis as if he had engaged exclusively in such work for the entire period. Accordingly, the total number of hours which he works during the workweek at both types of work must be compensated for in accordance with the minimum wage and overtime pay provisions of the act.

It is thus recognized that an employee may be subject to the act in one workweek and not in the next. It is likewise true that some employees of an employer may be subject to the act and others not. But the burden of effecting segregation between covered and noncovered work as between particular workweeks for a given employee or as between different groups of employees is upon the employer. Where covered work is being regularly or recurrently performed by his employees, and the employer seeks to segregate such work and thereby relieve himself of his obligations under sections 6 and 7 with respect to particular employees in particular workweeks, he should be prepared to show, and to demonstrate from his records, that such employees in those workweeks did not engage in any activities in interstate or foreign commerce or in the production of goods for such commerce, which would necessarily include a showing that such employees did not handle or work on goods or materials shipped in commerce or used in production of goods for commerce, or engage in any other work closely related and directly essential to production of goods for commerce.[14] The Division's experience has indicated that much so-called "segregation" does not satisfy these tests and that many so-called "segregated" employees are in fact engaged in commerce or in the production of goods for commerce.

§ 776.5 *Coverage not dependent on method of compensation.* The act's coverage is not limited to employees working on an hourly wage. The requirement of section 6 as to minimum wages on and after January 25, 1950, is that "each" employee engaged in commerce or in the production of goods for commerce must be paid wages at a rate not less than 75 cents an hour.[15] This does not mean that employees cannot be paid on a piecework basis or on a salary, commission, or other basis; it merely means that whatever the basis on which the workers are paid, whether it be monthly, weekly, or on a piecework basis, they must receive at least the equivalent of the minimum hourly rate. "Each" and "any" employee obviously and necessarily includes one compensated by a unit of time, by the piece, or by any other measurement.[16] Regulations prescribed by the Administrator (Part 516 of this chapter) provide for the keeping of records in such form as to enable compensation on a piecework or other basis to be translated into an hourly rate.[17]

§ 776.6 *Coverage not dependent on place of work.* Except for the general geographical limitations discussed in § 776.7, the act contains no prescription as to the place where the employee must work in order to come within its coverage. It follows that employees otherwise coming within the terms of the act are entitled to its benefits whether they perform their work at home, in the factory, or elsewhere.[18] The specific provisions of the act relative to regulation of homework serve to emphasize this fact.[19]

§ 776.7 *Geographical scope of coverage.* The geographical areas within which the employees are to be deemed "engaged in commerce or in the production of goods for commerce" within the meaning of the act, and thus within its coverage are governed by definitions in section 3 (b), (c), and (j). In the definition of "produced" in section 3 (j), "production" is expressly confined to described employments "in any State." (See § 776.15 (a).) "Commerce" is defined to mean described activities "among the several States or between any State and any place outside thereof." (See § 776.8.) "State" is defined in section 3 (c) to mean "any State of the United States or the District of Columbia or any Territory or possession of the United States."

Under these definitions, employees within the District of Columbia and within the territories and possessions (e. g. Alaska, Hawaii, Puerto Rico, the Canal Zone, Guam, Guano Islands, Samoa, Virgin Islands)[20] are dealt with on the same basis as employees working in any of the forty-eight States. Congress did not exercise the national legislative power over the District of Columbia or the Territories or possessions referred to by extending the act to purely local commerce within them.

ENGAGING "IN COMMERCE"

§ 776.8 *The statutory provisions.* The activities constituting "commerce" within the meaning of the phrase "engaged in commerce" in sections 6 and 7 of the act are defined in section 3 (b) as follows:

> "Commerce" means trade, commerce, transportation, transmission, or communication among the several States, or between any State and any place outside thereof.[21]

[11] H. Mgrs. St., 1949, pp. 14, 15; Sen. St., 1949 Cong. Rec. 15372.

[12] *United States* v. *Darby*, 312 U. S. 100; *Mabee* v. *White Plains Pub. Co.*, 327 U. S. 178; *Schmidt* v. *Peoples Telephone Union of Maryville, Missouri*, 138 F. 2d 13 (C. A. 8); *New Mexico Public Service Co.* v. *Engel*, 145 F. 2d 636 (C. A. 10); *Sun Pub. Co.* v. *Walling*, 140 F. 2d 445 (C. A. 6), certiorari denied 322 U. S. 728; *Davis* v. *Goodman Lumber Co.*, 133 F. 2d 52 (C. A. 4).

[13] See *Gordon's Transports* v. *Walling*, 162 F. 2d 203 (C. A. 6), certiorari denied 332 U. S. 774; *Walling* v. *Fox-Pelletier Detective Agency*, 4 W. H. Cases 452 (W. D. Tenn.), 8 Labor Cases 62,219; *Walling* v. *Black Diamond Coal Mining Co.*, 59 F. Supp. 348 (W. D. Ky.); *Fleming* v. *Knox*, 42 F. Supp. 948 (S. D. Ga.); *Roberg* v. *Henry Phipps Estate*, 156 F. 2d 958 (C. A. 2). For a definition of the workweek, see § 778.2 (c) of this chapter.

[14] See *Guess* v. *Montague*, 140 F. 2d 500 (C. A. 4).

[15] Special exceptions are made for Puerto Rico and the Virgin Islands.

[16] *United States* v. *Rosenwasser*, 323 U. S. 360.

[17] For methods of translating other forms of compensation into an hourly rate for purposes of sections 6 and 7, see Parts 777 and 778 of this chapter.

[18] *Walling* v. *American Needlecrafts*, 139 F. 2d 60 (C. A. 6); *Walling* v. *Twyeffort Inc.*, 158 F. 2d 944 (C. A. 2); *McComb* v. *Homeworkers' Handicraft Cooperative*, 176 F. 2d 633 (C. A. 4).

[19] See 6 (a) (2); Sec. 11 (d).

[20] An area subject to the sovereignty of another nation may, by virtue of the operation of an agreement between that nation and the United States, become a "possession of the United States" within the meaning of this act (*Vermilya-Brown Co.* v. *Connell*, 335 U. S. 377 (Bermuda bases leased from Great Britain); see also *United States* v. *Spelar*, 338 U. S. 217). However, where such status of an area in a foreign country has not been established, the Administrator is not prepared to assert coverage with respect to any employee in any workweek in which he works there exclusively. On the other hand, when part of the work performed by an employee for an employer in any workweek is covered work performed in any State, it makes no difference where the remainder of such work is performed; the employee is entitled to the benefits of the act for the entire workweek unless he comes within some specific exemption.

[21] As amended by section 3 (a) of the Fair Labor Standards Amendments of 1949.

As has been noted in § 776.7 of this bulletin, the word "State" in this definition refers not only to any of the forty-eight States but also to the District of Columbia and to any Territory or possession of the United States.

It should be observed that the term "commerce" is very broadly defined. The definition does not limit the term to transportation, or to the "commercial" transactions involved in "trade," although these are expressly included. Neither is the term confined to commerce in "goods." Obviously, "transportation" or "commerce" between any State and any place outside its boundaries includes a movement of persons as well as a movement of goods. And "transmission" or "communication" across State lines constitutes "commerce" under the definition, without reference to whether anything so transmitted or communicated is "goods." [22] The inclusion of the term "commerce" in the definition of the same term as used in the act implies that no special or limited meaning is intended; rather, that the scope of the term for purposes of the act is at least as broad as it would be under concepts of "commerce" established without reference to this definition.

§ 776.9 *General scope of "in commerce" coverage.* Under the definitions quoted above, it is clear that the employees who are covered by the wage and hours provisions of the act as employees "engaged in commerce"[21] are employees doing work involving or related to the movement of persons or things (whether tangibles or intangibles, and including information and intelligence) "among the several States or between any State and any place outside thereof." [23] Although this does not include employees engaged in activities which merely "affect" such interstate or foreign commerce, the courts have made it clear that coverage of the act based on engaging in commerce extends to every employee employed "in the channels of" such commerce or in activities so closely related to such commerce, as a practical matter, that they should be considered a part of it.[24] The courts have indicated that the words "in commerce" should not be so limited by construction as to defeat the purpose of Congress, but should be interpreted in a manner consistent with their practical meaning and effect in the particular situation. One practical question to be asked is whether, without the particular service, interstate or foreign commerce would be impeded, impaired, or abated; [25] others are whether the service contributes materially to the consummation of transactions in interstate or foreign commerce [26] or makes it possible for existing instrumentalities of commerce [27] to accomplish the movement of such commerce effectively and to free it from burdens or obstructions.[28]

§ 776.10 *Employees participating in the actual movement of commerce.* Under the principles stated in § 776.9, the wage and hours provisions of the act apply typically, but not exclusively, to employees such as those in the telephone,[29] telegraph,[30] television, radio,[31] transportation and shipping [32] industries, since these industries serve as the actual instrumentalities and channels of interstate and foreign commerce. Similarly, employees of such businesses as banking (see Subpart B of this part), insurance (see Subpart B of this part), newspaper publishing,[33] and others (see Subpart B of this part) which regularly utilize the channels of interstate and foreign commerce in the course of their operations, are generally covered by the act.

Employees whose work is an essential part of the stream of interstate or foreign commerce, in whatever type of business they are employed, are likewise engaged in commerce and within the act's coverage. This would include, for example, employees of a warehouse whose activities are connected with the receipt or distribution of goods across State lines.[34] Also, since "commerce" as used in the act includes not only "transmission" of communications but "communication" itself, employees whose work involves the continued use of the interstate mails, telegraph, telephone or similar instrumentalities for communication across State lines are covered by the act.[35] This does not mean that any use by an employee of the mails and other channels of communication is sufficient to establish coverage. But if the employee, as a regular and recurrent part of his duties, uses such instrumentalities in obtaining or communicating information or in sending or receiving written reports or messages, or orders for goods or services, or plans or other documents across State lines, he comes within the scope of the act as an employee directly engaged in the work of "communication" between the State and places outside the State.

§ 776.11 *Employees doing work related to instrumentalities of commerce.* Another large category of employees covered as "engaged in commerce" is comprised of employees performing the work involved in the maintenance, repair, or improvement of existing instrumentalities of commerce. (See the cases cited in footnote 27 to § 776.9. See also the discussion of coverage of employees engaged in building and construction work, in Subpart B of this part.) Typical illustrations of instrumentalities of commerce include railroads, highways, city streets, pipe lines, telephone lines, electrical transmission lines, rivers, streams, or other waterways over which interstate or foreign commerce more or less regularly moves; airports; railroad, bus, truck, or steamship terminals; telephone exchanges, radio and television stations, post offices and express offices; bridges and ferries carrying traffic moving in interstate or foreign commerce (even though within a single State); bays, harbors, piers, wharves and docks used for shipping between a State and points outside; dams, dikes, revetments and levees which directly facilitate the uninterrupted movement of commerce by enhancing or improving the usefulness of waterways, railways, and highways through control of water depth, channels, or flow in streams or through control of flood waters; warehouses or distribution depots devoted to the receipt and shipment of goods in interstate or foreign commerce; ships, vehicles, and aircraft regularly used in transportation of persons or goods in commerce; and similar fixed or movable facilities on which the flow of interstate and foreign commerce depends.

It is well settled that the work of employees involved in the maintenance, repair, or improvement of such existing

[22] "Goods" is, however, broadly defined in the act. See § 776.20 (a).

[23] "Any place outside thereof" is not limited in meaning to another State or country. Any movement between a State and a place "outside there" is "commerce" for purposes of the act, such as ship-to-shore communication, or transportation out of a State by ship of food, fuel, or ice to be consumed at sea before arrival at another port.

[24] *Walling* v. *Jacksonville Paper Co.*, 317 U. S. 564; *Overstreet* v. *North Shore Corp.*, 318 U. S. 125; *McLeod* v. *Threlkeld*, 319 U. S. 491; *Boutell* v. *Walling*, 327 U. S. 463; *Pedersen* v. *J. F. Fitzgerald Constr. Co.*, 318 U. S. 740 and 324 U. S. 720.

[25] *Republic Pictures Corp.* v. *Kappler*, 151 F. 2d 543 (C. A. 8), affirmed 327 U. S. 757; *New Mexico Public Service Co.* v. *Engel*, 145 F. 2d 636 (C. A. 10)

[26] *Walling* v. *Sondock*, 132 F. 2d 77 (C. A. 5), certiorari denied 318 U. S. 772. See also *Horton* v. *Wilson & Co.*, 223 N. C. 71, 25 S. E. 2d 437, in which the court stated that an employee is engaged "in commerce" if his services—not too remotely but substantially and directly—aid in such commerce as defined in the act.

[27] For a list of such instrumentalities, see § 776.11.

[28] *Overstreet* v. *North Shore Corp.*, 318 U. S. 125; *J. F. Fitzgerald Constr. Co.* v. *Pedersen*, 324 U. S. 720; *Ritch* v. *Puget Sound Bridge & Dredging Co.*, 156 F. 2d 334 (C. A. 9); *Walling* v. *McCrady Constr. Co.*, 156 F. 2d 932 (C. A. 3); *Bennett* v. *V. P. Loftis*, 167 F. 2d 286 (C. A. 4); *Walling* v. *Patton-Tully Transp. Co.*, 134 F. 2d 945 (C. A. 6).

[29] *Schmidt* v. *Peoples Telephone Union of Maryville, Mo.*, 138 F. 2d 13 (C. A. 8); *North Shore Corp.* v. *Barnett*, 143 F. 2d 172 (C. A. 5); *Strand* v. *Garden Valley Telephone Co.*, 51 F. Supp. 898 (D. Minn.).

[30] *Western Union Telegraph Co.* v. *Lenroot*, 323 U. S. 490; *Western Union Telegraph Co.* v. *McComb*, 165 F. 2d 65 (C. A. 6), certiorari denied 333 U. S. 862; *Moss* v. *Postal Telegraph Cable Co.*, 42 F. Supp. 807 (M. D. Ga.).

[31] *Wilson* v. *Shuman*, 140 F. 2d 644 (C. A. 8); *Wabash Radio Corp.* v. *Walling*, 162 F. 2d 391 (C. A. 6).

[32] *Overnight Motor Co.* v. *Missel*, 316 U. S. 572; *Hargis* v. *Wabash R. Co.*, 163 F. 2d 607 (C. A. 7); *Rockton & Rion R. R.* v. *Walling*, 146 F. 2d 111 (C. A. 4), certiorari denied 334 U. S. 880; *Walling* v. *Keansburg Steamboat Co.*, 162 F. 2d 405 (C. A. 3); *Knudsen* v. *Lee & Simmons*, 163 F. 2d 95 (C. A. 2); *Walling* v. *Southwestern Greyhound Lines*, 65 F. Supp. 52 (W. D. Mo.); *Walling* v. *Atlantic Greyhound Corp.*, 61 F. Supp. 992 (E. D. S. C.).

[33] *Sun Pub. Co.* v. *Walling*, 140 F. 2d 445 (C. A. 6), certiorari denied 322 U. S. 728. See also *Oklahoma Press Pub. Co.* v. *Walling*, 327 U. S. 186, and *McComb* v. *Dessau*, 9 W. H. Cases 332 (S. D. Calif.) 17 Labor Cases, 65,643.

[34] *Phillips Co.* v. *Walling*, 324 U. S. 490; *Clyde* v. *Broderick*, 144 F. 2d 348 (C. A. 10). And see § 776.33.

[35] *McComb* v. *Weller*, 9 W. H. Cases 53 (W. D. Tenn.); *Yunker* v. *Abbye Employment Agency*, 32 N. Y. S. 2d 715; (Munic. Ct. N. Y. C.); *Phillips* v. *Meeker Coop. Light & Power Asso.*, 63 F. Supp. 733 (D. Minn.); *Anderson Bros. Corp.* v. *Flynn*, 218 S. W. 2d 653 (C. A. Ky.).

instrumentalities of commerce is so closely related to interstate or foreign commerce as to be in practice and in legal contemplation a part of it. Included among the employees who are thus "engaged in commerce" within the meaning of the act are employees of railroads, telephone companies, and similar instrumentalities who are engaged in maintenance-of-way work;[36] employees (including office workers, guards, watchmen, etc.) engaged in work on contracts or projects for the maintenance, repair, reconstruction or other improvement of such instrumentalities of commerce as the transportation facilities of interstate railroads, highways, waterways, or other interstate transportation facilities, or interstate telegraph, telephone, or electrical transmission facilities (see Subpart B of this part); and employees engaged in the maintenance or alteration and repair of ships[37] or trucks[38] used as instrumentalities of interstate or foreign commerce. Also, employees have been held covered as engaged in commerce where they perform such work as watching or guarding ships or vehicles which are regularly used in commerce[39] or maintaining, watching, or guarding warehouses, railroad or equipment yards, etc., where goods moving in interstate commerce are temporarily held,[40] or acting as porters, janitors, or in other maintenance capacities in bus stations, railroad stations, airports, or other transportation terminals.[41]

On the other hand, work which is less immediately related to the functioning of instrumentalities of commerce than is the case in the foregoing examples may be too remote from interstate or foreign commerce to establish coverage on the ground that the employee performing it is "engaged in commerce." This has been held true, for example, of a cook preparing meals for workmen who are repairing tracks over which interstate trains operate,[42] and of a porter caring for washrooms and lockers in a garage which is not an instrumentality of commerce, where trucks used both in intrastate and interstate commerce are serviced.[43]

There are other situations in which employees are engaged "in commerce" and therefore within the coverage of the Act because they contribute directly to the movement of commerce by providing goods or facilities to be used or consumed by instrumentalities of commerce in the direct furtherance of their activities of transportation, communication, transmission, or other movement in interstate or foreign commerce. Thus, for example, employees are considered engaged "in commerce" where they provide to railroads, radio stations, airports, telephone exchanges, or other similar instrumentalities of commerce such things as electric energy,[44] steam, fuel, or water, which are required for the movement of the commerce carried by such instrumentalities.[45] Such work is "so related to the actual movement of commerce as to be considered an essential and indispensable part thereof, and without which it would be impeded or impaired."[46]

§ 776.12 *Employees traveling across State lines.* Questions are frequently asked as to whether the fact that an employee crosses State lines in connection with his employment brings him within the act's coverage as an employee "engaged in commerce." Typical of the employments in which such questions arise are those of traveling service men, traveling buyers, traveling construction crews, collectors, and employees of such organizations as circuses, carnivals, road shows, and orchestras. The area of coverage in such situations cannot be delimited by any exact formula, since questions of degree are necessarily involved. If the employee transports material or equipment or other persons across State lines or within a particular State as a part of an interstate movement, it is clear, of course, that he is engaging in commerce.[47] And as a general rule, employees who are regularly engaged in traveling across State lines in the performance of their duties (as distinguished from merely going to and from their homes or lodgings in commuting to a work place) are engaged in commerce and covered by the act.[48] On the other hand, it is equally plain that an employee who, in isolated or sporadic instances, happens to cross a State line in the course of his employment, which is otherwise intrastate in character, is not, for that sole reason, covered by the act. Nor would a man who occasionally moves to another State in order to pursue an essentially local trade or occupation there become an employee "engaged in commerce" by virtue of that fact alone. Doubtful questions arising in the area between the two extremes must be resolved on the basis of the facts in each individual case.

§ 776.13 *Commerce crossing international boundaries.* Under the act, as amended, an employee engaged in "trade, commerce, transportation, transmission, or communication" between any State and any place outside thereof is covered by the act regardless of whether the "place outside" is another State or is a foreign country or is some other place. Before the amendment to section 3 (b) which became effective January 25, 1950, employees whose work related solely to the flow of commerce into a State from places outside it which were not "States" as defined in the act were not employees engaged in "commerce" for purposes of the act, although employees whose work was concerned with the flow of commerce out of the State to such places were so engaged.[49] This placed employees of importers in a less favorable position under the act than the employees of exporters. This inequality was removed by the amendment to section 3 (b).[50] Accordingly, employees performing work in connection with the importation of goods from foreign countries are engaged "in commerce" and covered by the act, as amended. The coverage of such employees, as of those performing work in connection with the exportation of goods to foreign countries, is determined by the same principles as in the case of employees whose work is connected with goods procured from or sent to other States.

ENGAGING IN "THE PRODUCTION OF GOODS FOR COMMERCE"

§ 776.14 *Elements of "production" coverage.* Sections 6 and 7 of the act, as has been noted, cover not only employees who are engaged "in commerce" as explained above, but also "each" and "any" employee who is engaged in the "production" of "goods" for "commerce". What employees are so engaged can be determined only by reference to the

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[36] *Davis* v. *Rockton & Rion R. R.*, 65 F. Supp. 67, affirmed in 159 F. 2d 291 (C. A. 4); *North Shore Corp.* v. *Barnett*, 143 F. 2d 172 (C. A. 5); *Palmer* v. *Howard*, 12 Lab. Cas. (CCH) par. 63, 756 (W. D. Tenn.); *Williams* v. *Atlantic Coast Lines R. R. Co.*, 1 W. H. Cases 289 (E. D. N. C. 1940), 2 Labor Cases (CCH) par. 18, 564.

[37] *Slover* v. *Wathen*, 140 F. 2d 258 (C. A. 4); *Walling* v. *Keansburg Steamboat Co.*, 162 F. 2d 405 (C. A. 3).

[38] *Boutell* v. *Walling*, 327 U. S. 463; *Morris* v. *McComb*, 332 U. S. 422; *Skidmore* v. *John J. Casale, Inc.*, 160 F. 2d 527 (C. A. 2), certiorari denied 331 U. S. 812; *Hertz Drivurself Stations* v. *United States*, 150 F 2d 923 (C. A. 8); *Walling* v. *Sturm & Sons, Inc.*, 6 W. H. Cases 131 (D. N. J.) 10 Labor Cases (CCH) par. 62, 980.

As to exemptions from the overtime requirements for mechanics employed by motor carriers, see Part 782 of this chapter. For exemptions applicable to retail or service establishments, see Part 779 of this chapter.

[39] *Slover* v. *Wathen*, 140 F. 2d 258 (C. A. 4); *Agosto* v. *Rocafort*, 5 W. H. Cases 176 (D. P. R.), 9 Labor Cases (CCH) par. 62, 610; *Cannon* v. *Miller*, 155 P. 2d 500 (S. Ct. Wash.).

[40] *Engebretson* v. *E. J. Albrecht Co.*, 150 F. 2d 602 (C. A. 7); *Mid-Continent Petroleum Corp.* v. *Keen*, 157 F. 2d 310 (C. A. 8); *Walling* v. *Mutual Wholesale Food & Supply Co.*, 141 F. 2d 331 (C. A. 8); *Walling* v. *Sondock*, 132 F. 2d 77 (C. A. 5); certiorari denied 318 U. S. 772; *Reliance Storage & Insp. Co.* v. *Hubbard*, 50 F. Supp. 1012 (W. D. Va.); *Walling* v. *Fox-Pelletier Detective Agency*, 4 W. H. Cases 452 (W. D. Tenn. 1944), 8 Labor Cases (CCH) par. 62, 219; *McComb* v. *Russell Co.*, 9 W. H. Cases 258 (D. Miss. 1949), 17 Labor Cases (CCH) par. 65, 519.

[41] *Mornford* v. *Andrews*, 151 F. 2d 511 (C. A. 5); *Hargis* v. *Wabash R. Co.*, 163 F. 2d 607 (C. A. 7); *Walling* v. *Atlantic Greyhound Corp.*, 61 F. Supp. 992 (E. D. S. C.); *Rouch* v. *Continental Oil Co.*, 55 F. Supp. 315 (D. Kans.); see also *Williams* v. *Jacksonville Terminal Co.*, 315 U. S. 386.

[42] *McLeod* v. *Threlkeld*, 319 U. S. 491.

[43] *Skidmore* v. *John J. Casale, Inc.*, 160 F. 2d 527, certiorari denied 331 U. S. 812 (use in interstate commerce of trucks serviced was from 10 to 25 percent of total use).

[44] *New Mexico Public Service Co.* v. *Engel*, 145 F. 2d 636 (C. A. 10); *Walling* v. *Connecticut Co.*, 154 F. 2d 552 (C. A. 2).

[45] Such employees would also be covered as engaged in the production of goods for commerce. See *Lewis* v. *Florida Power & Light Co.*, 154 F. 2d 751 (C. A. 5); *Walling* v. *Connecticut Co.*, 154 F. 2d 552 (C. A. 2); also § 776.21 (b).

[46] *New Mexico Public Service Co.* v. *Engel*, 145 F. 2d 636, 640 (C. A. 10).

[47] The employee may, however, be exempt from the overtime provisions of the act under section 13 (b) (1). See Part 782 of this chapter.

[48] *Reck* v. *Zarnocay*, 264 App. Div. 520, 36 N. YS. 2d 394; *Colbeck* v. *Dairyland Creamery Co.*, 17 N. W. 2d 262 (S. Ct. S. D.).

[49] The definition of "commerce" previously referred to commerce "from any State to any place outside thereof." The amendment substituted "between" for "from" and "and" for "to" in this clause.

[50] H. Mgrs. St., 1949, pp. 13, 14.

very comprehensive definitions which Congress has supplied to make clear what is meant by "production," by "goods," and by "commerce" as those words are used in sections 6 and 7. In the light of these definitions, there are three interrelated elements of coverage to be considered in determining whether an employee is engaged in the production of goods for commerce: (a) There must be "production"; (b) such production must be of "goods"; (c) such production of goods must be "for commerce"; all within the meaning of the act.[51] The three elements of "production" coverage are discussed in order in the sections following.

§ 776.15 *"Production"*—(a) *The statutory provisions.* The activities constituting "production" within the meaning of the phrase "engaged in * * * production of goods for commerce" are defined in the act[52] as follows:

"Produced" means produced, manufactured, mined, handled or in any other manner worked on in any State; and for the purposes of this act an employee shall be deemed to have been engaged in the production of goods if such employee was employed in producing, manufacturing, mining, handling transporting, or in any other manner working on such goods, or in any closely related process or occupation directly essential to the production thereof, in any State.

The act bars from interstate commerce "any" goods in the production of which "any" employee was employed in violation of the minimum-wage or overtime-pay provisions,[53] and provides that in determining, for purposes of this provision, whether an employee was employed in the production of such goods—

* * * proof that any employee was employed in any place of employment where goods shipped or sold in commerce were produced, within ninety days prior to the removal of the goods from such place of employment, shall be prima facie evidence that such employee was engaged in the production of such goods.[54]

(b) *General scope of "production" coverage.* The statutory provisions quoted in paragraph (a) of this section, show that for purposes of the act, wherever goods are being produced for interstate or foreign commerce, the employees who are covered as "engaged in the production" of such goods, include, in general, all those whose work may fairly be said to be a part of their employer's production of such goods,[55] and include those whose work is closely related and directly essential thereto,[56] whether employed by the same or a different employer. (See §§ 776.17–776.19.) Typically, but not exclusively, this includes that large group of employees engaged in mines, oil fields, quarries, and manufacturing, processing, or distributing plants where goods are produced for commerce. The employees covered as engaged in "production" are not limited, however, to those engaged in actual physical work on the product itself or to those in the factories, mines, warehouses, or other places of employment where goods intended for commerce are being produced. If the requisite relationship to production of such goods is present, an employee is covered, regardless of whether his work brings him into actual contact with such goods or into the establishments where they are produced, and even though his employer may be someone other than the producer of the goods for commerce.[57] As explained more fully in the sections following, the act's "production" coverage embraces many employees who serve productive enterprises in capacities which do not involve working directly on goods produced but which are nevertheless closely related and directly essential to successful operations in producing goods for interstate or foreign commerce. And as a general rule, in conformity with the provisions of the act quoted in paragraph (a) of this section, an employee will be considered to be within the general coverage of the wage and hours provisions if he is working in a place of employment where goods sold or shipped in interstate commerce or foreign commerce are being produced, unless the employer maintains the burden of establishing that the employee's functions are so definitely segregated from such production that they should not be regarded as closely related and directly essential thereto.[58]

§ 776.16 *Employment in "producing, * * * or in any other manner working on" goods*—(a) *Coverage in general.* Employees employed in "producing, manufacturing, mining, handling, or in any other manner working on" goods (as defined in the act, including parts or ingredients thereof) for interstate or foreign commerce are considered actually engaged in the "production" of such goods, within the meaning of the act. Such employees have been within the general coverage of the wage and hours provisions since enactment of the act in 1938, and remain so under the Fair Labor Standards Amendments of 1949.[59]

(b) *Activities constituting actual "production" under statutory definition.* It will be noted that the actual productive work described in this portion of the definition of "produced" includes not only the work involved in making the products of mining, manufacturing, or processing operations, but also includes "handling, transporting, or in any other manner working on" goods. This is so, regardless of whether the goods are to be further processed or are so-called "finished goods." The Supreme Court has stated that this language of the definition brings within the scope of the term "production," as used in the act, "every step in putting the subject to commerce in a state to enter commerce," including "all steps, whether manufacture or not, which lead to readiness for putting goods into the stream of commerce," and "every kind of incidental operation preparatory to putting goods into the stream of commerce."[60]

However, where employees of a common carrier, by handling or working on goods, accomplish the interstate transit or movement in commerce itself, such handling or working on the goods is not "production." The employees in that event are covered only under the phrase "engaged in commerce."[61]

(c) *Physical labor.* It is clear from the principles stated in paragraphs (a) and (b), above, that employees in shipping rooms, warehouses, distribution yards, grain elevators, etc., who sort, screen, grade, store, pack, label, address or otherwise handle or work on goods in preparation for shipment of the goods out of the State are engaged in the production of goods for commerce within

[51] These elements need not be considered if the employee would be covered in any event because engaged "in commerce" under the principles discussed in preceding sections of this part.

[52] Act, sec. 3 (j). This definition is also applicable in determining coverage of the child labor provisions of the act. See Part 450 of this chapter.

[53] Act, sec. 15 (a) (1). The only exceptions are stated in the section itself, which provides that "it shall be unlawful for any person—(1) to transport, offer for transportation, ship, deliver, or sell in commerce, or to ship, deliver, or sell with knowledge that shipment or delivery or sale thereof in commerce is intended, any goods in the production of which any employee was employed in violation of section 6 or section 7, or in violation of any regulation or order of the Administrator issued under section 14; except that no provision of this Act shall impose any liability upon any common carrier for the transportation in commerce in the regular course of its business of any goods not produced by such common carrier, and no provision of this Act shall excuse any common carrier from its obligation to accept any goods for transportation; and except that any such transportation, offer, shipment, delivery, or sale of such goods by a purchaser who acquired them in good faith in reliance on written assurance from the producer that the goods were produced in compliance with the requirements of the Act, and who acquired such goods for value without notice of any such violation, shall not be deemed unlawful;"

[54] Act, sec. 15 (b).

[55] *Borden Co.* v. *Borella*, 325 U. S. 679; *Armour & Co.* v. *Wantock*, 323 U. S. 126. See also paragraph (c) of this section.

[56] *Kirschbaum* v. *Walling*, 316 U. S. 517; *Roland Electrical Co.* v. *Walling*, 326 U. S. 657; H. Mgrs. St., 1949, p. 14; Sen. St. 1949 Cong. Rec., p. 15372.

[57] *Borden Co.* v. *Borella*, 325 U. S. 679; *Roland Electrical Co.* v. *Walling*, 326 U. S. 657; *Kirschbaum* v. *Walling*, 316 U. S. 517; *Walton* v. *Southern Package Corp.*, 320 U. S. 540.

[58] *Guess* v. *Montague*, 140 F. 2d 500 (C. A. 4). Cf. *Armour & Co.* v. *Wantock*, 323 U. S. 126.

[59] H. Mgrs. St., 1949, p. 14; Sen. St., 1949 Cong. Rec. p. 15372.

[60] *Western Union Tel. Co.* v. *Lenroot*, 323 U. S. 490. See, to the same effect, *Walling* v. *Friend*, 156 F. 2d 429 (C. A. 8); *Walling* v. *Comet Carriers*, 151 F. 2d 107 (C. A. 2); *Phillips* v. *Star Overall Dry Cleaning Laundry Co.*, 149 F. 2d 416 (C. A. 2); certiorari denied 327 U. S. 780; *Walling* v. *Griffin Cartage Co.*, 62 F. Supp. 396, affirmed in 153 F. 2d 587 (C. A. 6). For examples, see paragraphs (c) and (d) of this section. Employees who are not engaged in the actual production activities described in section 3 (j) of the act are not engaged in "production" unless their work is "closely related" and "directly essential" to such production. See §§ 776.17–776.19.

[61] *Western Union Tel. Co.* v. *Lenroot*, 323 U. S. 490. For examples, see paragraph (c) of this section.

the meaning of the act.[62] The same has been held to be true of employees doing such work as handling ingredients (scrap iron) of steel used in building ships which will move in commerce;[63] handling and caring for livestock at stockyards where the livestock are destined for interstate shipment as such[64] or as meat products;[65] handling or transporting containers to be used in shipping products interstate;[66] transporting, within a single State, oil to a refinery[67] or lumber to a mill,[68] where products of the refinery or mill will be sent out of the State; transporting parts or ingredients of other types of goods or the finished goods themselves between processors, manufacturers, and storage places located in a single State, where goods so transported will leave the State in the same or an altered form;[69] and repairing or otherwise working on ships,[70] vehicles,[71] machinery,[72] clothing,[73] or other goods which may be expected to move in interstate commerce.

These examples are, of course, illustrative rather than exhaustive. Some of them relate to situations in which the handling or working on goods for interstate or foreign commerce may constitute not only "production for commerce" but also engaging "in commerce" because the activities are so closely related to commerce as to be for all practical purposes a part of it.[74] However, as noted in paragraph (b) of this section, handling or working on goods constitutes engagement in "commerce" only and not engagement in "production" of the goods when it is done by employees of a common carrier and is itself the means whereby interstate transit or movement of the goods by the carrier is accomplished. Thus, employees of a telegraph company preparing messages for interstate transmission, television cameramen photographing sports or news events for simultaneous viewing at television receiving sets in other States, and railroad train crews or truck drivers hauling goods from one State to another are not engaged in the "production" of goods by virtue of such activities, but are covered by the act only as employees "engaged in commerce."

(d) *Nonmanual work.* The "production" described by the phrase "producing * * * or in any other manner working on" goods includes not only the manual, physical labor involved in processing and working on the tangible products of a producing enterprise, but equally the administration, planning, management, and control of the various physical processes together with the accompanying accounting and clerical activities.[75] An enterprise producing goods for commerce does not accomplish the actual production of such goods solely with employees performing physical labor on them. Other employees may be equally important in actually producing the goods, such as employees who conceive and direct policies of the enterprise; employees who dictate, control, and coordinate the steps involved in the physical production of goods; employees who maintain detailed and meticulous supervision of productive activities; and employees who direct the purchase of raw materials and supplies, the methods of production, the amounts to be produced, the quantity and character of the labor, the safety measures, the budgeting and financing, the labor policies, and the maintenance of the plants and equipment. (For regulations governing exemption from the wage and hours provisions of employees employed in a bona fide executive, administrative, or professional capacity, see Part 541 of this chapter.) Employees who perform these and similar activities are an integral part of the coordinated productive pattern of a modern industrial organization. The Supreme Court of the United States has held that from a productive standpoint and for purposes of the act the employees who perform such activities "are actually engaged in the production of goods for commerce just as much as are those who process and work on the tangible products" in the manufacturing plants or other producing facilities of the enterprise.[76]

§ 776.17 *Employment in a "closely related process or occupation directly essential to" production of goods*—(a) *Coverage in general.* Employees who are not actually "producing * * * or in any other manner working on" goods for commerce are, nevertheless, engaged in the "production" of such goods within the meaning of the act and therefore within its general coverage if they are employed "in any closely related process or occupation directly essential to the production thereof, in any State."[77] Prior to the Fair Labor Standards Amendments of 1949, this was true of employees engaged "in any process or occupation necessary to the production" of goods for commerce. The amendments deleted the word "necessary" and substituted the words "closely related" and "directly essential" contained in the present law. The words "directly essential" were adopted by the Conference Committee in lieu of the word "indispensable" contained in the amendments as first passed by the House of Representatives. Under the amended language, an employee is covered if the process or occupation in which he is employed is both "closely related" and "directly essential" to the production of goods for interstate or foreign commerce.

The legislative history shows that the new language in the final clause of section 3 (j) of the act is intended to narrow, and to provide a more precise guide to, the scope of its coverage with respect to employees (engaged neither "in commerce" nor in actually "producing or in any other manner working on" goods for commerce) whose coverage under the act formerly depended on whether their work was "necessary" to the production of goods for commerce. Some employees whose work might meet the "necessary" test are now outside the coverage of the act because their work is not "closely related" and "directly essential" to such production; others, however, who would have been excluded if the indispensability of their work to production had been made the test, remain within the coverage under the new language.[78]

The scope of coverage under the "closely related" and "directly essential" language is discussed in the paragraphs following. In the light of explanations provided by managers of the legislation in Congress[78] including expressions of their intention to leave undisturbed the areas of coverage established under court decisions containing similar language,[79] this new language should provide a more

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[62] *McComb* v. *Wyandotte Furn. Co.*, 169 F. 2d 766 (C. A. 8); *Walling* v. *Mutual Wholesale Food & Supply Co.*, 141 F. 2d 331 (C. A. 8); *West Kentucky Coal Co.* v. *Walling*, 153 F. 2d 582 (C. A. 6); *Walling* v. *Home Loose Leaf Tobacco Warehouse Co.*, 51 F. Supp. 914 (E. D. Ky.); *Walling* v. *Yeakley*, 3 W. H. Cases 27, modified and affirmed in 140 F. 2d 830 (C. A. 10); *Shain* v. *Armour & Co.*, 50 F. Supp. 907 (W. D. Ky.); *Walling* v. *McCracken County Peach Growers Assn.*, 50 F. Supp. 900 (W. D. Ky). See also *Clyde* v. *Broderick*, 144 F. 2d 348 (C. A. 10).

[63] *Bracey* v. *Luray*, 138 F. 2d 8 (C. A. 4).

[64] *Walling* v. *Friend*, 156 F. 2d 429 (C. A. 8).

[65] *Fleming* v. *Swift & Co.*, 41 F. Supp. 825, affirmed in 131 F. 2d 249 (C. A. 7); *McComb* v. *Benz Co.*, 9 W. H. Cases 277 (S. D. Ind.).

[66] *Walling* v. *Villaume Box & Lbr. Co.*, 58 F. Supp. 150 (D. Minn.).

[67] *Mid-Continent Pipe Line Co.* v. *Hargrave*, 129 F. 2d 655 (C. A. 10); *Boling* v. *R. J. Allison Co., Inc.*, 4 W. H. Cases 500 (N. D. Okla.).

[68] *Hanson* v. *Lagerstrom*, 133 F. 2d 120 (C. A. 8).

[69] *Walling* v. *Griffin Cartage Co.*, 62 F. Supp. 696, affirmed in 153 F. 2d 587 (C. A. 6); *Walling* v. *Comet Carriers*, 151 F. 2d 107 (C. A. 2).

[70] *Slover* v. *Wathen*, 140 F. 2d 258 (C. A. 4).

[71] *Hertz Drivurself Stations* v. *United States*, 150 F. 2d 923 (C. A. 8); *Walling* v. *Armbruster*, 51 F. Supp. 166 (W. D. Ark.); *McComb* v. *Weller*, 9 W. H. Cases 53 (W. D. Tenn.), 17 Labor Cases (CCH) par. 65, 332; *Walling* v. *Strum & Sons*, 6 W. H. Cases 131 (D. N. J.), 11 Labor Cases (CCH) par. 63, 249.

[72] *Engebretson* v. *Albrecht*, 150 F. 2d 602 (C. A. 7); *Guess* v. *Montague*, 140 F. 2d 500 (C. A. 4).

[73] *Walling* v. *Belikoff*, 147 F. 2d 1008 (C. A. 2); *Campbell* v. *Zavelo*, 243 Ala. 361, 10 So. 2d 29; *Phillips* v. *Star Overall Dry Cleaning Laundry Co.*, 149 F. 2d 416 (C. A. 2), certiorari denied 327 U. S. 780.

[74] *Slover* v. *Wathen*, 140 F. 2d 258 (C. A. 4); *Hertz Drivurself Stations* v. *United States*; 150 F. 2d 923 (C. A. 8); *Engebretson* v. *Albrecht*, 150 F. 2d 602 (C. A. 7); *Walling* v. *Sturm & Sons*, 6 W. H. Cases 131 (D. N. J.).

[75] *Borden Co.* v. *Borella*, 325 U. S. 679; *Hertz Drivurself Stations* v. *United States*, 150 F.2d 923 (C. A. 8); *Callus* v. *10 E. 40th St. Bldg.*, 146 F. 2d 438 (C. A. 2), reversed on other grounds in 325 U. S. 578.

[76] *Borden Co.* v. *Borella*, 325 U. S. 679, 683.

[77] If coverage of an employee is determined to exist on either basis, it is, of course, not necessary to determine whether the employee would also be covered on the other ground. See *Warren-Bradshaw Drilling Co.* v. *Hall*, 124 F. 2d 42 (C. A. 5), affirmed in 317 U. S. 88.

[78] H. Mgrs. St., 1949, p. 14; Sen. St., 1949 Cong. Rec. p. 15372; Statement of the Chairman of the Committee on Education and Labor explaining the conference agreement to the House of Representatives, 1949 Cong. Rec., p. 15135; colloquy between Representatives McConnell and Javits, 1949 Cong. Rec., p. 15129; cf. statements of Representative Barden (1949 Cong. Rec. p. 15131), Representative Brehm (1949 Cong. Rec., p. 15132), and Senator Taft (1950 Cong. Rec., p. A-1162).

[79] See *Kirschbaum Co.* v. *Walling*, 316 U. S. 517.

definite guide to the intended coverage under the final clause of section 3 (j) than did the earlier "necessary" test. However, while the coverage or noncoverage of many employees may be determined with reasonable certainty, no precise line for inclusion or exclusion may be drawn; there are bound to be borderline problems of coverage under the new language which cannot be finally determined except by authoritative decisions of the courts.

(b) *Meaning of "closely related" and "directly essential".* The terms "closely related" and "directly essential" are not susceptible of precise definition; as used in the act they together describe a situation in which, under all the facts and circumstances, the process or occupation in which the employee is employed bears a relationship to the production of goods for interstate or foreign commerce (1) which may reasonable be considered close, as distinguished from remote or tenuous, and (2) in which the work of the employee directly aids production in a practical sense by providing something essential to the carrying on in an effective, efficient, and satisfactory manner of an employer's operations in producing such goods.[80]

Not all activities that are "closely related" to production will be "directly essential" to it, nor will all activities "directly essential" to production meet the "closely related" test. For example, employees employed by an employer in an enterprise, or portion thereof, which is devoted to the production of goods for interstate or foreign commerce will, as a general rule, be considered engaged in work "closely related" to such production, but some such employees may be outside the coverage of the act because their work is not "directly essential" to production of the goods. (For a discussion of this point and specific illustrations, see § 776.18 (b).) Similarly, there are some situations in which an employee performing work "directly essential" to production by an employer other than his own may not be covered because the kind of work and the circumstances under which it is performed show the employee's activities to be so much a part of an essentially local business operated by his employer that it would be unrealistic to consider them "closely related" to the productive activities of another. (For a more detailed discussion and specific illustrations, see § 776.19.)

(c) *Determining whether activities are "closely related" and "directly essential".* (1) The close relationship of an activity to production, which may be tested by a wide variety of relevant factors, is to be distinguished from its direct essentially to production, which is dependent solely on considerations of need or function of the activity in the productive enterprise. The words "directly essential" refer only to the relationship of the employee's work to production. Work "directly essential" to production remains so no matter whose employee does it and regardless of the nature or purpose of the employer's business. It seems clear, on the other hand, that the criteria for determining whether a process or occupation is "closely related" to production cannot be limited to those which show its closeness in terms of need or function.[81] It may also be important to ascertain, for instance, whether the activity of the employee bears a relationship to production which is close in terms either of the place or the time of its performance, or in terms of the purposes with which the activity is performed by the particular employer through the employee, or in terms of relative directness or indirectness of the activity's effect in relation to such production, or in terms of employment within or outside the productive enterprise. (Examples of the application of these principles may be found in §§ 776.18 and 776.19.)

(2) The determination of whether an activity is closely or only remotely related to production may thus involve consideration of such factors, among others, as the contribution which the activity makes to the production; who performs the activity; where, when and how it is performed in relation to the production to which it pertains; whether its performance is with a view to aiding production or for some different purpose; how immediate or delayed its effect on production is; the number and nature of any intervening operations or processes between the activity and the production in question; and, in an appropriate case, the characteristics and purposes of the employer's business.[82] Moreover, in some cases where particular work "directly essential" to production is performed by an employer other than the producer, the degree of such essentiality may be a significant factor in determining whether the work is also "closely related" to such production. (See § 776.19.)

No one of the factors listed above is necessarily controlling, and other factors may assume importance. Some may have more significance than others in particular cases, depending upon the facts. They are merely useful guides for determining whether the total situation in respect to a particular process or occupation demonstrates the requisite "close and immediate tie"[83] to the production of goods for interstate or foreign commerce. It is the sum of the factors relevant to each case that determines whether the particular activity is "closely related" to such production.

The application of these principles is further explained and illustrated in §§ 776.18 and 776.19.

(3) In determining whether an activity is "directly essential" to production, a practical judgment is required as to whether, in terms of the function and need of such activity in successful production operations, it is "essential" and "directly" so to such operations. These are questions of degree;[84] even "directly" essential activities (for example, machinery repair, custodial, and clerical work in a producing plant) (for other examples, see §§ 776.18 (a) and 776.19) will vary in the degree of their essentiality and in the directness of the aid which they provide to production. An activity may be "directly essential" without being indispensable in the sense that it cannot be done without; yet some activities which, in a long chain of causation, might be indispensable to production, such as the manufacture of brick for a new factory, or even the construction of the new factory itself, are not "directly" essential.[85] An activity which provides something essential to meet the immediate needs of production, as, for example, the manufacture of articles like machinery or tools or dies for use in the production of goods for commerce (see § 776.19 (b)) will, however, be no less "directly" essential because intervening activities must be performed in the distribution, transportation, and installation of such products before they can be used in production.[86]

The application of these principles is further explained and illustrated in §§ 776.18 and 776.19.

§ 776.18 *Employees of producers for commerce*—(a) *Covered employments illustrated.* Some illustrative examples of the employees employed by a producer of goods for interstate or foreign commerce who are or are not engaged in the "production" of such goods within the meaning of the act have already been given. Among the other employees of such a producer, doing work in connection with his production of goods for commerce, who are covered because their work, if not actually a part of such production, is "closely related" and "directly essential" to it,[87] are such employees as bookkeepers, stenographers, clerks, accountants and auditors, employees doing payroll, timekeeping and time study work, draftsmen, inspectors, testers and research workers, industrial safety men, employees in the personnel, labor relations, advertising, promotion, and public relations activities of the producing enterprise, work instructors, and other office and white collar workers; employees maintaining, servicing, re-

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[80] See H. Mgrs. St., 1949, pp. 14, 15; Sen. St., 1949 Cong. Rec., p. 15372; cf Kirschbaum Co. v. Walling, 316 U. S. 517.

[81] Of course, if the need or function of the activity in production is such that the tie between them is both close and immediate (cf. *Kirschbaum Co. v. Walling*, 316 U. S. 517), as for example, where an employee is employed to repair electric motors which are used in factories in the production of goods for commerce, this fact may be sufficient to show both the direct essentiality and the close relationship of the employee's work to production. See *Roland Electrical Co. v. Walling*, 326 U. S. 657. See also § 776.19 and H. Mgrs. St., 1949, pp. 14, 15.

[82] Cf. *Kirschbaum Co. v. Walling*, 316 U. S. 517; *10 E. 40th St. Bldg. v. Callus*, 325 U. S. 578; *Schulte Co. v. Gangi*, 328 U. S. 108; *Borden Co. v. Borella*, 325 U. S. 679; *Armour & Co. v. Wantock*, 323 U. S. 126.

[83] See *Kirschbaum Co. v. Walling*, 316 U. S. 517.

[84] Cf. *10 E. 40th St. Bldg. v. Callus*, 325 U. S. 578; Sen. St. 95 Cong. Rec., October 19, 1949, at 15372. For discussion of coverage of employees engaged in construction, see subpart B of this part.

[85] See *Walling v. Hamner*, 64 F. Supp. 690 (W. D. Va.)

[86] See H. Mgrs. St., 1942, p. 14; Sen. St., 1949 Cong. Rec., p. —. See also *Borden Co. v. Borella*, 325 U. S. 679.

pairing or improving the buildings,[77] machinery, equipment, vehicles, or other facilities used in the production of goods for commerce,[78] and such custodial and protective employees as watchmen, guards, firemen, patrolmen, caretakers, stockroom workers, and warehousemen; and transportation workers bringing supplies, materials, or equipment to the producer's premises, removing slag or other waste materials therefrom, or transporting materials or other goods, or performing such other transportation activities, as the needs of production may require. These examples are intended as illustrative, rather than exhaustive of the group of employees of a producer who are "engaged in the production" of goods for commerce, within the meaning of the act, and who are therefore entitled to its wage and hours benefits unless specifically exempted by some provision of the act.

(b) *Employments not directly essential to production distinguished.* Employees of a producer of goods for commerce are not covered as engaged in such production if they are employed solely in connection with essentially local activities which are undertaken by the employer independently of his productive operations or at most as a dispensable, collateral incident to them and not with a view to any direct function which the activities serve in production. It is clear, for example, that an employee would not be covered merely because he works as a domestic servant in the home of an employer whose factory produces goods for commerce, even though he is carried on the factory payroll. To illustrate further, a producer may engage in essentially local activities as a landlord, restaurateur, or merchant in order to utilize the opportunity for separate and additional profit from such ventures or to provide a convenient means of meeting personal needs of his employees. Employees exclusively employed in such activities of the producer are not engaged in work "closely related" and "directly essential" to his production of goods for commerce merely because they provide residential, eating, or other living facilities for his employees who are engaged in the production of such goods.[79] Such employees are to be distinguished from employees like cooks, cookees, and bull cooks in isolated lumber camps or mining camps, where the operation of a cookhouse may in fact be "closely related" and "directly essential" or, indeed, indispensable to the production of goods for commerce.[80]

Some specific examples of the application of these principles may be helpful. Such services as watching, guarding, maintaining or repairing the buildings, facilities, and equipment used in the production of goods for commerce are "directly essential" as well as "closely related" to such production as it is carried on in modern industry.[81] But such services performed with respect to private dwellings tenanted by employees of the producer, as in a mill village, would not be "directly essential" to production merely because the dwellings were owned by the producer and leased to his employees.[82] Similarly, employees of the producer or of an independent employer who are engaged only in maintaining company facilities for entertaining the employer's customers, or in providing food, refreshments, or recreational facilities, including restaurants, cafeterias and snack bars, for the producer's employees in a factory, or in operating a children's nursery for the convenience of employees who leave young children there during working hours, would not be doing work "directly essential" to the production of goods for commerce.[83]

§ 776.19 *Employees of independent employers meeting needs of producers for commerce*—(a) *General statement.* (1) If an employee of a producer of goods for commerce would not, while performing particular work, be "engaged in the production" of such goods for purposes of the Act under the principles heretofore stated, an employee of an independent employer performing the same work on behalf of the producer would not be so engaged. Conversely, as shown in the paragraphs following, the fact that employees doing particular work on behalf of such a producer are employed by an independent employer rather than by the producer will not take them outside the coverage of the Act if their work otherwise qualifies as the "production" of "goods" for "commerce."

(2) Of course, in view of the act's definition of "goods" as including "any part or ingredient" of goods (see § 776.20 (a), (c)), employees of an independent employer providing other employers with materials or articles which become parts or ingredients of goods produced by such other employers for commerce are actually employed by a producer of goods for commerce and their coverage under the act must be considered in the light of this fact. For example, an employee of such an independent employer who handles or in any manner works on the goods which become parts or ingredients of such other producer's goods is engaged in actual production of goods (parts or ingredients) for commerce, and the question of his coverage is determined by this fact without reference to whether his work is "closely related" and "directly essential" to the production by the other employer of the goods in which such parts or ingredients are incorporated. So also, if the employee is not engaged in the actual production of such parts or ingredients, his coverage will depend on whether, as an employee of a producer of goods for commerce, his work is "closely related" and "directly essential" to the production of the parts or ingredients, rather than on the principles applicable in determining the coverage of employees of an independent employer who does not himself produce the goods for commerce.[84]

(3) Where the work of an employee would be "closely related" and "directly essential" to the production of goods for commerce if he were employed by a producer of the goods, the mere fact that the employee is employed by an independent employer will not justify a different answer.[85] This does not necessarily mean that such work in every case will remain "closely related" to production when performed by employees of an independent employer. It will, of course, be as "directly essential" to production in the one case as in the other. (See § 776.17 (c).) But in determining whether an employee's work is "closely" or only remotely related to the production of goods for commerce by an employer other than his own, the nature and purpose of the business in which he is employed and in the course of which he performs the work may sometimes become important.

Such factors may prove decisive in particular situations where the employee's work, although "directly essential" to the production of goods by someone other than his employer, is not far from the borderline between those activities which are "directly essential" and those which are not. In such a situation, it may appear that his performance of the work is so much a part of an essentially local business carried on by his employer without any intent or purpose of aiding production of goods for commerce by others that the work, as thus performed, may not reasonably be considered "closely related" to such production.[86] In other situations, however, where the degree to which the work is directly essential to production by the producer is greater, the fact that the

[77] No distinction of economic or statutory significance can be drawn between such work in a building where the production of goods is carried on physically and in one where such production is administered, managed, and controlled. *Borden Co.* v. *Borella*, 325 U. S. 679.

[78] Such mechanics and laborers as machinists, carpenters, electricians, plumbers, steamfitters, plasters, glaziers, painters, metal workers, bricklayers, hod carriers, roofers, stationary engineers, their apprentices and helpers, elevator starters and operators, messengers, janitors, charwomen, porters, handy men, and other maintenance workers would come within this category.

[79] H. Mgrs. St., 1949, pp. 14, 15; see also *Brogan* v. *National Surety Co.*, 246 U. S. 257. Cf. Sen. St., 1949 Cong. Rec., p. 15372.

[80] See *Brogan* v. *National Surety Co.*, 246 U. S. 257; *Consolidated Timber Co.* v. *Womack*, 132 F. 2d 101 (C. A. 9); *Hanson* v. *Lagerstrom*, 133 F. 2d 120 (C. A. 8); cf. H. Mgrs. St., 1949, pp. 14, 15 and Sen. St., 1949 Cong. Rec., p. 15372.

[81] H. Mgrs. St., 1949, p. 14; Sen. St., 1949 Cong. Rec., p. 15372; *Kirschbaum* v. *Walling*, 316 U. S. 517; *Borden Co.* v. *Borella*, 325 U. S. 679; *Walton* v. *Southern Package Corp.*, 320 U. S. 540; *Armour & Co.* v. *Wantock*, 325 U. S. 126.

[82] H. Mgrs. St., 1949, pp. 14, 15; *Morris* v. *Beaumont Mfg. Co.*, 84 F. Supp. 909 (W. D. S. C.); cf. *Wilson* v. *Reconstruction Finance Corp.*, 158 F. 2d 564 (C. A. 5), certiorari denied, 331 U. S. 810. Cf. *Brogan* v. *National Surety Co.*, 246 U. S. 257; *Consolidated Timber Co.* v. *Womack*, 132 F. 2d 101 (C. A. 9); *Hanson* v. *Lagerstrom*, 133 F. 2d 120 (C. A. 8).

[83] Cf. H. Mgrs. St., 1949, pp. 14, 15.

[84] *Bracey* v. *Luray*, 138 F. 2d 8 (C. A. 4); *Walling* v. *Peoples Packing Co.*, 132 F. 2d 236 (C. A. 10), certiorari denied 318 U. S. 774; *Mid-Continent Pipe Line Co.* v. *Hargrave*, 129 F. 2d 655 (C. A. 10); *Walling* v. *W. D. Haden Co.*, 153 F. 2d 196 (C. A. 5).

[85] See *Kirschbaum Co.* v. *Walling*, 316 U. S. 517; *Roland Electrical Co.* v. *Walling*, 326 U. S. 657; *Farmers Reservoir Co.* v. *McComb*, 337 U. S. 755; H. Mgrs. St., 1949, p. 14. See also Sen. St., 1949 Cong. Rec. p. 15372.

[86] H. Mgrs. St., 1949, pp. 14, 15; *10 E. 40th St. Bldg. Co.* v. *Callus*, 325 U. S. 578.

independent employer is engaged in a business having local aspects may not be sufficient to negative a close relationship between his employees' work and such production.[97] And it seems clear that where the independent employer operates a business which, unlike that of the ordinary local merchant, is directed to providing producers with materials or services directly essential to the production of their goods for commerce, the activities of such a business may be found to be "closely related" to such production.[98] In such event, all the employees of the independent employer whose work is part of his integrated effort to meet such needs of producers are covered as engaged in work closely related and directly essential to production of goods for commerce.[99]

(b) *Extent of coverage under "closely related" and "directly essential" clause illustrated.* In the paragraphs following, the principles discussed above are illustrated by reference to a number of typical situations in which goods or services are provided to producers of goods for commerce by the employees of independent employers. These examples are intended not only to answer questions as to coverage in the particular situations discussed, but to provide added guideposts for determining whether employees in other situations are doing work closely related and directly essential to such production.

(1) Many local merchants sell to local customers within the same State goods which do not become a part or ingredient (as to parts or ingredients, see § 776.20 (c)) of goods produced by any of such customers. Such a merchant may sell to his customers, including producers for commerce, such articles, for example, as paper towels, or record books, or paper clips, or filing cabinets, or automobiles and trucks, or paint, or hardware, not specially designed for use in the production of other goods.

Where such a merchant's business is essentially local in nature, selling its goods to the usual miscellany of local customers without any particular intent or purpose of aiding production of other goods for commerce by such customers, the local merchant's employees are not doing work both "closely related" and "directly essential" to production, so as to bring them within the reach of the act, merely "because some of the customers * * * are producing goods for interstate (or foreign) commerce."[1] Therefore, if they do not otherwise engage "in commerce" (see §§ 776.8–776.13 and 776.31, 776.33) or in the "production" of goods for commerce, they are not covered by the act.

In such a situation, moreover, even where the work done by the employees is "directly essential" to such production by their employer's customers, it may not meet the "closely related" test. But the more directly essential to the production of goods for commerce such work is, the more likely it is that a close and immediate tie between it and such production exists which will be sufficient, notwithstanding the local aspects of the employer's business, to bring the employees within the coverage of the act on the ground that their work is "closely related" as well as "directly essential" to production by the employer's customers.

Such a close and immediate tie with production exists, for example, where the independent employer, through his employees, supplies producers of goods for commerce with things as directly essential to production as electric motors or machinery or machinery parts for use in producing the goods of a manufacturer, for mining operations, or for production of oil, or for other production operations, or the power, water, or fuel required in such production operations, to mention a few typical examples.[2] The fact that these needs of producers are supplied through the agency of businesses having certain local aspects cannot alter the obvious fact that the employees of such businesses who supply these needs are doing work both "closely related" and "directly essential" to production by the employer's customers. As the United States Supreme Court has stated: "Such sales and services must be immediately available to * * * [the] customers or their production will stop."[3]

It should be noted that employees of independent employers providing such essential goods and services to producers will not be removed from coverage because an unsegregated portion of their work is performed for customers other than producers of goods for commerce. For example, employees of public utilities, furnishing gas, electricity or water to firms within the State engaged in manufacturing, mining, or otherwise producing goods for commerce, are subject to the act notwithstanding such gas, electricity or water is also furnished to consumers who do not produce goods for commerce.[4]

(2) On similar principles, employees of independent employers providing to manufacturers, mining companies, or other producers such goods used in their production of goods for commerce as tools and dies, patterns, designs, or blueprints are engaged in work "closely related" as well as "directly essential" to the production of the goods for commerce;[5] the same is true of employees of an independent employer engaged in such work as producing and supplying to a steel mill, sand meeting the mill's specifications for cast shed, core, and molding sands used in the production by the mill of steel for commerce.[6] Another illustration of such covered work, according to managers of the bill in Congress, is that of employees of industrial laundry and linen supply companies serving the needs of customers engaged in manufacturing or mining goods for commerce.[7]

On the other hand, the legislative history makes it clear that employees of a "local architectural firm" are not brought within the coverage of the act by reason of the fact that their activities "include the preparation of plans for the alteration of buildings within the State which are used to produce goods for interstate commerce." Such activities are not "directly essential" enough to the production of goods in the buildings to establish the required close relationship between their performance and such production when they are performed by employees of such a "local" firm.[8] Of course, this result is even more apparent where the activities of the employees of such a "local" business may not be viewed as "directly essential" to production. It is clear, for example, that Congress did not believe "employees of an independently owned and operated restaurant" should be brought under the coverage of the Act because the restaurant is "located in a factory." To establish coverage on "production" grounds, an employee must be "shown to have a

[97] H. Mgrs. St., 1949, p. 14; *Kirschbaum Co. v. Walling*, 316 U. S. 517; *Warren-Bradshaw Drilling Co. v. Hall*, 317 U. S. 88.

[98] See H. Mgrs. St., p. 14, and *10 E. 40th St. Bldg. Co. v. Callus*, 325 U. S. 578.

[99] *Kirschbaum Co. v. Walling*, 316 U. S. 517 (stationary engineers and firemen, watchmen, elevator operators, electricians, carpenters, carpenters' helper, engaged in maintaining and servicing loft building for producers); *Roland Electrical Co. v. Walling*, 326 U. S. 657 (foremen, trouble shooters, mechanics, helpers, and office employees of company selling and servicing electric motors, generators, and equipment for commercial and industrial firms); *Mecker Coop. Light & Power Assn. v. Phillips*, 158 F. 2d 698 (C. A. 8) (outside employees and office employees of light and power company serving producers); *Walling v. New Orleans Private Patrol Service*, 57 F. Supp. 143 (E. D. La.) (guards, watchmen, and office employees of company providing patrol service for producers); *Walling v. Thompson*, 65 F. Supp. 686 (S. D. Cal.) (installation and service men, shopmen, bookkeeper, salesman, dispatcher of company supplying burglar alarm service to producers).

In H. Mgrs. St., 1949, p. 14, it is said, "Employees engaged in such maintenance, custodial, and clerical work will remain subject to the act, notwithstanding they are employed by an independent employer performing such work on behalf of the manufacturer, mining company, or other producer for commerce. All such employees perform activities that are closely related and directly essential to the production of goods for commerce."

[1] H. Mgrs. St., 1949, pp. 14, 15.

[2] See H. Mgrs. St., 1949, p. 14; Sen. St., 195 Cong. Rec., October 19, 1949, at 15372; Statement of the Chairman of the Committee on Education and Labor explaining the conference agreement to the House of Representatives, 1949 Cong. Rec., p. 15135; *Roland Electrical Co. v. Walling*, 326 U. S. 657; *Reynolds v. Salt River Valley Water Users Assn.*, 143 F. 2d 863 (C. A. 9); *Meeker Coop. Light & Power Assn. v. Phillips*, 158 F. 2d 698 (C. A. 8); *Walling v. Hammer*, 64 F. Supp. 690 (W. D. Va.); *Holland v. Amoskeag Machine Co.*, 44 F. Supp. 884 (D. N. H.); *Princeton Mining Co. v. Veach*, 63 N. E. 2d 306 (Ind. App.).

[3] *Roland Electrical Co. v. Walling*, 326 U. S. 657, 664.

[4] *Meeker Coop. Light & Power Assn. v. Phillips*, 158 F. 2d 698 (C. A. 8); H. Mgrs. St., 1949, p. 14. For another illustration see H. Mgrs. St., 1949, p. 26, with reference to industrial laundries.

[5] H. Mgrs. St., 1949, p. 14; Sen. St., 1949 Cong. Rec., p. 16372.

[6] *Walling v. Amidon*, 153 F. 2d 159 (C. A. 10); Sen. St., 95 Cong. Rec., October 19, 1949, at 15372.

[7] H. Mgrs. St., 1949, p. 26; Sen. St., 95 Cong. Rec., October 19, 1949, at 15372. See also *Koerner v. Associated Linen Laundry Suppliers*, 270 App. Div. 986, 62 N. Y. S. 2d 774.

[8] H. Mgrs. St., 1949, p. 15. See also *McComb v. Turpin*, 81 F. Supp. 86, 1948 (D. Md.)

closer and a more direct relationship to the producing * * * activity" than this.[9]

(3) Some further examples may help to clarify the line to be drawn in such cases. The work of employees constructing a dike to prevent the flooding of an oil field producing oil for commerce would clearly be work not only "directly essential" but also "closely related" to the production of the oil. However, employees of a materialman quarrying, processing, and transporting stone to the construction site for use in the dike would be doing work too far removed from production of the oil to be considered "closely related" thereto.[10] Similarly, the sale of sawmill equipment to a producer of mine props which are in turn sold to mines within the same State producing coal for commerce is too remote from production of the coal to be considered "closely related" thereto, but production of the mine props, like the manufacture of tools, dies, or machinery for use in producing goods for commerce, has such a close and immediate tie with production of the goods for commerce that it meets the "closely related" (as well as the "directly essential") test.[11]

(4) A further illustration of the distinction between work that is, and work that is not, "closely related" to the production of goods for commerce may be found in situations involving activities which are directly essential to the production by farmers of farm products which are shipped to other States. Employees of an employer furnishing to such farmers, within the same State, water for the irrigation of their crops or power for use in their agricultural production for commerce are engaged in work "closely related" as well as "directly essential" to the production of goods for commerce.[12] This appears equally true of producing or supplying feed for poultry and livestock or seed for crops, to be used by farmers within the State in the production of goods that are shipped out of the State.[13] Like water, such commodities enter directly into the very product that moves in commerce and are indispensable to its production. On the other hand, it is apparent from the legislative history that Congress did not regard as "closely related" to the production of farm products for commerce the activities of employees in a local fertilizer plant producing fertilizer for use by farmers within the same State to improve the productivity of the land used in growing such products.[14] Since fertilizer is ordinarily thought to be assimilated by the soil rather than by the crop and, in the ordinary case, may be considered less directly essential to production of farm products than water, livestock feed, or seed, without which such production would not be possible, it seems probable that the withdrawal from coverage of such employees (who were held "necessary" to production of goods or commerce under the act prior to the 1949 amendment[15] rests wholly or in part on the principles stated in paragraphs (a) (3) and (b) (1) of this section.

(5) Managers of the legislation in Congress stated that all maintenance, custodial, and clerical employees of manufacturers, mining companies, and other producers of goods for commerce perform activities that are both "closely related" and "directly essential" to the production of goods for commerce, and that the same is true of employees of an independent employer performing such maintenance, custodial, and clerical work "on behalf of" such producers.

Typical of the employees in this covered group are those repairing or maintaining the machinery or buildings used by the producer in his production of goods for commerce and employees of a watchman or guard or patrol or burglar alarm service protecting the producer's premises.[16] On the other hand, the House managers of the bill made it clear that employees engaged in cleaning windows or cutting grass at the plant of a producer of goods for commerce were not intended to be included as employees doing work "closely related" to production on "on behalf of" the producer where they were employed by a "local window-cleaning company" or a "local independent nursery concern," merely because the customers of the employer happen to include producers of goods for commerce.[17] A similar view was expressed with respect to employees of a "local exterminator service firm" working wholly within the State exterminating pests in private homes, in a variety of local establishments, "and also in buildings within the State used to produce goods for interstate commerce."[17]

§ 776.20 *"Goods"—(a) The statutory provision.* An employee is covered by the wage and hours provisions of the act if he is engaged in the "production" (as explained in §§ 776.15 through 776.19) "for commerce" (as explained in § 776.21) of anything defined as "goods" in section 3 (i) of the act. This definition is:

> "Goods" means goods (including ships and marine equipment), wares, products, commodities, merchandise, or articles or subjects of commerce of any character, or any part or ingredient thereof, but does not include goods after their delivery into the actual physical possession of the ultimate consumer thereof other than a producer, manufacturer, or processor thereof.

(b) *"Articles or subjects of commerce of any character."* It will be observed that "goods" as defined in the act are not limited to commercial goods or articles of trade, or, indeed, to tangible property, but include "articles or subjects of commerce *of any character*" [emphasis supplied].[18] It is well settled that things such as "ideas, * * * orders, and intelligence" are "subjects of commerce." Telegraphic messages have, accordingly, been held to be "goods" within the meaning of the act.[19] Other articles or subjects of commerce which fall within the definition of "goods" include written materials such as newspapers, magazines, brochures, pamphlets, bulletins, and announcements;[20] written reports, fiscal and other statements and accounts, correspondence, lawyers' briefs and other documents;[21] advertising, motion picture, newspaper and radio copy, artwork, and manuscripts for publication;[22] sample books;[23] letterheads, envelopes, shipping tags, labels, check books, blank books, book covers, advertising circulars and candy wrap-

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[9] H. Mgrs. St., 1949, p. 14. Cf. *Bayer* v. *Courtemanche*, 76 F. Supp. 193 (D. Conn.). See also § 776.18 (b).

[10] See *E. C. Schroeder Co.* v. *Clifton*, 153 F. 2d 385 (C. A. 10) (opinion of Judge Phillips) and H. Mgrs. St., 1949, p. 15.

[11] See *Walling* v. *Hamner*, 64 F. Supp. 690 (W. D. Va.), and statement of the Chairman of the Committee on Education and Labor explaining the conference agreement to the House of Representatives, 1949 Cong. Rec., p. 15135.

[12] See *Farmers Reservoir Co.* v. *McComb*, 337 U. S. 755; *Reynolds* v. *Salt River Valley Water Users Assn.*, 143 F. 2d 863 (C. A. 9); *Meeker Coop. Light & Power Assn.* v. *Phillips*, 158 F. 2d 698 (C. A. 8).

Reference should be made to section 13 (a) (6) of the act providing an exemption from the wage and hours provisions for employees employed in agriculture and for certain employees of nonprofit and share-crop irrigation companies.

[13] The wage and hours provisions would not apply, however, to employees of retail feed or seed establishments qualifying for exemption under section 13 (a) (2), (4) of the act.

[14] H. Mgrs. St., 1949, p. 15.

[15] *McComb* v. *Super-A Fertilizer Works*, 165 F. 2d 824 (C. A. 1).

[16] See H. Mgrs. St., 1949, p. 14; Sen. St. 1949 Cong. Rec. p. 15372; *Kirschbaum Co.* v. *Walling*, 316 U. S. 517; *Noland Electrical Co.* v. *Walling*, 326 U. S. 657; *Walling* v. *Sondock*, 132 F. 2d 77 (C. A. 5); *Holland* v. *Amoskeag Machine Co.*, 44 F. Supp. 884 (D. N. H.).

For a discussion of the coverage of building service and maintenance employees in multi-tenant buildings, see Subpart B of this part.

[17] H. Mgrs. St., 1949, page 15.

[18] As pointed out in *Lenroot* v. *Western Union Tel. Co.*, 141 F. 2d 400 (C. A. 2), the legislative history shows that the definition was originally narrower, and that subjects of commerce were added by a Senate amendment.

[19] *Western Union Tel. Co.* v. *Lenroot*, 323 U. S. 490.

[20] *Mabee* v. *White Plains Pub. Co.*, 327 U. S. 178; *Yunker* v. *Abbye Employment Agency*, 32 N. Y. S. 2d 715; *Berry* v. *34 Irving Place Corp.*, 52 F. Supp. 875 (S. D. N. Y.); *Ullo* v. *Smith*, 62 F. Supp. 757, affirmed in 177 F. 2d 101 (C. A. 2); see also opinion of the four dissenting justices in *10 E. 40th St. Bldg.* v. *Callus*, 325 U. S. at p. 586.

Waste paper collected for shipment in commerce is goods. See *Fleming* v. *Schiff*, 1 W. H. Cases 893 (D. Colo.), 15 Labor Cases (CCH) par. 60,864.

[21] *Phillips* v. *Meeker Coop. Light & Power Asso.*, 63 F. Supp. 733, affirmed in 158 F. 2d 698 (C. A. 8); *Lofther* v. *First Nat. Bank of Chicago*, 48 F. Supp. 692 (N. D. Ill.). See also *Rausch* v. *Wolf*, 72 F. Supp. 658 (N. D. Ill.). There are other cases (e. g., *Kelly* v. *Ford, Bacon & Davis*, 162 F. 2d 555 (C. A. 3), and *Bozant* v. *Bank of New York*, 156 F. 2d 787 (C. A. 2)) which suggest that such things are "goods" only when they are articles of trade. Although the Supreme Court has not settled the question, such a view appears contrary to the express statutory definitions of "goods" and "commerce".

[22] *Robert* v. *Henry Phipps Estate*, 156 F. 2d 958 (C. A. 2); *Baldwin* v. *Emigrant Industrial Sav. Bank*, 150 F. 2d 524 (C. A. 2), certiorari denied 326 U. S. 767; *Bittner* v. *Chicago Daily News Ptg. Co.*, 4 W. H. Cases 837 (N. D. Ill.), 29 Labor Cases (CCH) par. 62,479; *Schinck* v. *386 Fourth Ave. Corp.*, 49 N. Y. S. 2d 872.

[23] *Walling* v. *Higgins*, 47 F. Supp. 856 (E. D. Pa.)

pers.[24] Insurance policies are "goods" within the meaning of the act;[25] so are bonds, stocks, bills of exchange, bills of lading, checks, drafts, negotiable notes and other commercial paper.[26] "Goods" includes gold[27] livestock;[28] poultry and eggs;[29] vessels;[30] vehicles;[31] aircraft;[32] garments being laundered or rented;[33] ice;[34] containers, as, for example, cigar boxes or wrapping paper and packing materials for other goods shipped in commerce;[35] electrical energy or power, gas, etc.;[36] and by-products,[37] to mention only a few illustrations of the articles or subjects of "trade, commerce, transportation, transmission, or communication among the several States, or between any State and any place outside thereof" which the act refers to as "goods." The act's definitions do not, however, include as "goods" such things as dams, river improvements, highways and viaducts, or railroad lines.[38]

(c) *"Any part or ingredient."* Section 3 (i) draws no distinction between goods and their ingredients and in fact defines goods to mean "goods * * * or any part or ingredient thereof." The fact that goods are processed or changed in form by several employers before going into interstate or foreign commerce does not affect the character of the original product as "goods" produced for commerce. Thus, if a garment manufacturer sends goods to an independent contractor within the State to have them sewn, after which he further processes and ships them in interstate commerce, the division of the production functions between the two employers does not alter the fact that the employees of the independent contractor are actually producing ("working on") the "goods" (parts or ingredients of goods) which enter the channels of commerce.[39]

Similarly, if a manufacturer of buttons sells his products within the State to a manufacturer of shirts, who ships the shirts in interstate commerce, the employees of the button manufacturer would be engaged in the production of goods for commerce; or, if a lumber manufacturer sells his lumber locally to a furniture manufacturer who sells furniture in interstate commerce, the employees of the lumber manufacturer would likewise come within the scope of the act. Any employee who is engaged in the "production" (as explained in § 776.15) of any part or ingredient of goods produced for trade, commerce, transportation, transmission, or communication among the several States or between any State and any place outside thereof is engaged in the production of "goods" for commerce within the meaning of the act.[40]

(d) *Effect of the exclusionary clause.* The exclusionary clause in the definition that excepts "goods after their delivery into the actual physical possession of the ultimate consumer thereof other than a producer, manufacturer, or processor thereof," is intended to protect ultimate consumers other than producers, manufacturers, or processors of the goods in question[41] from the "hot goods" provisions of section 15 (a) (1) of the act.[42] Section 15 (a) (1) makes it unlawful for any person "to transport * * * (or) * * * ship * * * in commerce * * * any goods" produced in violation of the wage and hours standards established by the act. (Exceptions are made subject to specified conditions for common carriers and for certain purchasers acting in good faith reliance on written statements of compliance. See footnote 41 to § 776.15 (a).) By defining "goods" in section 3 (i) so as to exclude goods after their delivery into the actual physical possession of the ultimate consumer (other than a producer, manufacturer, or processor thereof) Congress made it clear that it did not intend to hold the ultimate consumer as a violator of section 15 (a) (1) if he should transport "hot goods" across a State line.[43] Thus, if a person purchases a pair of shoes for himself from a retail store[44] and carries the shoes across a State line, the purchaser is not guilty of a violation of section 15 (a) (1) if the shoes were produced in violation of the wage or hours provisions of the statute. But the fact that goods produced for commerce lose their character as "goods" after they come into the actual physical possession of an ultimate consumer who does not further process or work on them does not affect their character as "goods" while they are still in the actual physical possession of the producer, manufacturer or processor who is handling or working on them with the intent or expectation that they will subsequently enter interstate or foreign commerce.[45] Congress clearly did not intend to permit an employer to avoid the minimum wage and maximum hours standards of the act by making delivery within the State into the actual physical possession of the ultimate consumer who transports or ships the goods outside of the State. Thus, employees engaged in building a boat for delivery to the purchaser at the boatyard are considered within the coverage of the act if the employer, at the time the boat is being built, intends, hopes, or has reason to believe that the purchaser will sail it outside the State.[46]

§ 776.21 *"For" commerce*—(a) *General principles.* As has been made clear previously, where "goods" (as defined in the act) are produced "for commerce," every employee engaged in the "production" (as explained in §§ 776.15 through 776.19) of such goods (including any part or ingredient thereof) is within the general coverage of the wage and hours provisions of the act. Goods are produced for "commerce" if they are produced for "trade, commerce, transportation, transmission, or communication among the several States or between any State and any place outside thereof."[47] Goods are produced "for" such commerce where the employer intends, hopes, expects, or has reason to believe that the goods or any unsegregated part of them will move (in the same or in an altered form or as a part or ingredient of other goods) in such interstate or foreign commerce.[48] If such movement of the goods in commerce can be reasonably anticipated by the employer when his employees perform work defined in the act as "production" of such goods, it makes no difference whether he himself, or a subsequent owner or possessor of the goods, put the goods in interstate or foreign commerce.[49] The fact that goods do move in interstate or foreign commerce is strong evidence that the employer intended, hoped, expected, or had reason to believe that they would so move.

Although it is generally well understood that goods are produced "for" commerce if they are produced for move-

[24] *McAdams* v. *Connelly*, 8 W. H. Cases 498 (W. D. Ark.), 16 Labor Cases (CCH) par. 64,963; *Walling* v. *Lacy*, 51 F. Supp. 1002 (D. Colo.); *Tobin* v. *Grant*, 8 W. H. Cases 361 (N. D. Calif.). See also *Walling* v. *Sieving*, 5 W. H. Cases 1009 (N. D. Ill.), 11 Labor Cases (CCH) par. 63,098.

[25] *Darr* v. *Mutual Life Ins. Co.*, 169 F. 2d 262 (C. A. 2), certiorari denied 335 U. S. 871.

[26] *Bozant* v. *Bank of New York*, 156 F. 2d 787 (C. A. 2).

[27] *Walling* v. *Haile Gold Mines*, 136 F. 2d 102 (C. A. 4); *Fox* v. *Summit King Mines*, 143 F. 2d 926 (C. A. 9).

[28] *Walling* v. *Friend*, 156 F. 2d 429 (C. A. 8).

[29] *Walling* v. *DeSoto Creamery & Produce Co.*, 51 F. Supp. 938 (D. Minn.).

[30] *Slover* v. *Wathen*, 140 F. 2d 258 (C. A. 4).

[31] *Hertz Drivurself Stations* v. *United States*, 150 F. 2d 923 (C. A. 8).

[32] *Jackson* v. *Northwest Airlines*, 75 F. Supp. 32 (D. Minn.).

[33] *Phillips* v. *Star Overall Dry Cleaning Laundry Co.*, 149 F. 2d 416 (C. A. 2).

[34] *Hamlet Ice Co.* v. *Fleming*, 127 F. 2d 165 (C. A. 4); *Atlantic Co.* v. *Walling*, 131 F. 2d 518 (C A. 5).

[35] *Enterprise Box Co.* v. *Fleming*, 125 F. 2d 897 (C. A. 5), certiorari denied, 316 U. S. 704; *Fleming* v. *Schiff*, 1 W. H. Cases 883 (D. Colo.), 5 Labor Cases (CCH) par. 60, 864.

[36] *Walling* v. *Connecticut Co.*, 62 F. Supp. 733 (D. Conn.), affirmed 154 F. 2d 552 (C. A. 2).

[37] *Walling* v. *Peoples Packing Co.*, 132 F. 2d 236 (C. A. 10), certiorari denied 318 U. S. 774. See also § 776.32.

[38] *Engebretsen* v. *Albrecht*, 150 F. 2d 602 (C. A. 7); *Kenny* v. *Wigton-Abbott Corp.*, 80 F. Supp. 489 (D. N. J.).

[39] *Schulte Co.* v. *Gangi*, 328 U. S. 108.

[40] *Roland Electrical Co.* v. *Walling*, 326 U. S. 657; *Bracy* v. *Luray*, 138 F. 2d 8 (C. A. 4); *Walling* v. *W. J. Haden Co.*, 153 F. 2d 196 (C. A. 5); *Mid-Continent Pipe Line Co.* v. *Hargrave*, 129 F. 2d 655 (C. A. 10); *Boling* v. *Allison*, 4 W. H. Cases 500 (N. D. Okla.); *Hanson* v. *Lagerstrom*, 133 F. 2d 120 (C. A. 8); *Walling* v. *Comet Carriers*, 151 F. 2d 107 (C. A. 2); *Walling* v. *Griffin Cartage Co.*, 62 F. Supp. 396, affirmed in 153 F. 2d 587 (C. A. 6); *Walling* v. *Kerr*, 47 F. Supp, 852 (E. D. Pa.).

[41] *Southern Advance Bag & Paper Co.* v. *United States*, 133 F. 2d 449 (C. A. 5); *Phillips* v. *Star Overall Dry Cleaning Laundry Co.*, 149 F. 2d 485 (C. A. 2), certiorari denied 327 U. S. 780.

[42] *Jackson* v. *Northwest Airlines*, 70 F. Supp. 501.

[43] *Hamlet Ice Co.* v. *Fleming*, 127 F. 2d 165 (C. A. 4), certiorari denied 317 U. S. 634.

[44] Note that the retail or service establishment exemption in section 13 (a) (2) does not protect the retail store from a violation of the "hot goods" provision if it sells in interstate commerce goods produced in violation of sections 6 or 7.

[45] See cases cited above in footnotes 41, 42, 43, this section.

[46] *Walling* v. *Lowe*, 5 W. H. Cases 937 (S. D. Fla.), 10 Labor Cases (CCH) 63,033. See also *Walling* v. *Armbruster*, 51 F. Supp. 166 (W. D. Ark.); *Joshua Hendy Corp.* v. *Mills*, 169 F. 2d 898 (C. A. 9); *St. Johns River Shipbuilding Co.* v. *Adams*, 164 F. 2d 1012 S (C. A. 5).

[47] Fair Labor Standards Act, section 3 (b).

[48] *United States* v. *Darby*, 312 U. S. 100; *Warren-Bradshaw Drilling Co.* v. *Hall*, 317 U. S. 88; *Schulte Co.* v. *Gangi*, 328 U. S. 108.

[49] *Schulte Co.* v. *Gangi*, 328 U. S. 108; *Warren-Bradshaw Drilling Co.* v. *Hall*, 417 U. S. 88. See paragraph (d) of this section.

ment in commerce to points outside the State, questions have been raised as to whether work done on goods may constitute production "for" commerce even though the goods do not ultimately leave the State. As is explained more fully in the paragraphs following, there are certain situations in which this may be true, either under the principles above stated (see paragraph (c) of this section), or because it appears that the goods are produced "for" commerce in the sense that they are produced for use directly in the furtherance, within the particular State, of the actual movement to, from, or across such State of interstate or foreign commerce. (See paragraph (b) of this section.)

(b) *Goods produced for direct furtherance of interstate movement.* (1) The act's definition of "commerce," as has been seen, describes a movement, among the several States or between any State and any outside place, of "trade, commerce, transportation, transmission, or communication." Whenever goods are produced "for" such movement, such goods are produced "for commerce," whether or not there is any expectation or reason to anticipate that the particular goods will leave the State.[50]

(2) The courts have held that particular goods are produced "for" commerce when they are produced with a view to their use, whether within or without the State, in the direct furtherance of the movement of interstate or foreign commerce. Thus, it is well settled that ice is produced "for" commerce when it is produced for use by interstate rail or motor carriers in the refrigeration or cooling of the equipment in which the interstate traffic actually moves, even though the particular ice may melt before the equipment in which it is placed leaves the State.[51] The goods (ice) produced for such use "enter into the very means of transportation by which the burdens of traffic are borne."[52] The same may be said of electrical energy produced and sold within a single State for such uses as lighting and operating signals on railroads and at airports to guide interstate traffic, lighting and operating radio stations transmitting programs interstate, and lighting and message transmission of telephone and telegraph companies.[53] Similar principles would apply to the production of fuel or water for use in the operation of railroads with which interstate and foreign commerce is carried on; the production of radio or television scripts which provide the basis for programs transmitted interstate; the production of telephone and telegraph poles for use in the necessary repair, maintenance, or improvement of interstate communication systems; the production of crushed rock, ready-mixed concrete, cross-ties, concrete culvert pipe, bridge timbers, and similar items for use in the necessary repair, maintenance, or improvement of railroad roadbeds and bridges which serve as the instrumentalities over which interstate traffic moves.

Similarly, in the case of highways, pipe lines, and waterways which serve as instrumentalities of interstate and foreign commerce, the production of goods for use in the direct furtherance of the movement of commerce thereon would be the production of goods "for commerce." The production of materials[54] for use in the necessary maintenance, repair, or improvement of the instrumentality so that the flow of commerce will not be impeded or impaired is an example of this. Thus, stone or ready-mixed concrete, crushed rock, sand, gravel and similar materials for bridges or dams; like materials or bituminous aggregate or oil for road surfacing; concrete or galvanized pipe for road drainage; bridge planks and timbers; paving blocks; and other such materials may be produced "for" commerce even though they do not leave the State.

(3) This does not, however, necessarily mean that the production of such materials within a State is always production "for" commerce when the materials are used in the same State for the maintenance, repair, or improvement of highways or other instrumentalities carrying interstate traffic. In determining whether the production is actually "for" commerce in a situation where there is no reason to believe that the goods will leave the State, a practical judgment is required. Some illustrations may be helpful.

On the one hand, there are situations where there is little room for doubt that the goods are produced "for" commerce in the sense that the goods are intended for the direct furtherance of the movement of commerce over the instrumentalities of transportation and communication. The most obvious illustration is that of special-purpose goods such as cross-ties for railroads, telephone or telegraph poles, or concrete pipe designed for highway use. Another illustration is sand and gravel for highway repair or reconstruction which is produced from a borrow pit opened expressly for that purpose, or from the pits of an employer whose business operations are conducted wholly or in substantial part with the intent or purpose of filling highway contracts. (The fact that a substantial portion of the employer's gross income is derived from supplying such materials for highway repair and reconstruction would be one indication that a substantial part of his business is directed to the purpose of meeting such needs of commerce.)

On the other hand, there are situations where materials or other goods used in maintaining, repairing, or reconstructing instrumentalities of commerce are produced and supplied by local materialmen under circumstances which may require the conclusion that the goods are not produced "for" commerce. Thus, a materialman may be engaged in an essentially local business serving the usual miscellany of local customers, without any substantial part of such business being directed to meeting the needs of highway repair or reconstruction. If, on occasion, he happens to produce or supply some materials which are used within the State to meet such highway needs, and he does so as a mere incident of his essentially local business, the Administrator will not consider that his employees handling or working on such materials are producing goods "for" commerce. This is, rather, a typically local activity of the kind the act was not intended to cover. The same may be said of the production of ice by an essentially local ice plant where the only basis of coverage is the delivery of ice for the water cooler in the community railroad station. The employees producing ice in the ice plant for local use would not by reason of this be covered as engaged in the production of goods "for" commerce.

Other illustrations might be given but these should emphasize the essential distinction which must be kept in mind. Borderline cases will, of course, arise. In each such case the facts must be examined and a determination made as to whether or not the goods may fairly be viewed as produced "for" use in the direct furtherance of the movement of interstate or foreign commerce, and thus "for" commerce.

(c) *Controlling effect of facts at time "production" occurs.* (1) Whether employees are engaged in the production of goods "for" commerce depends upon circumstances as they exist at the time the goods are being produced, not upon some subsequent event. Thus, if a lumber manufacturer produces lumber to fill an out-of-State order, the employees working on the lumber are engaged in the production of goods for commerce and within the coverage of the act's wage and hours provisions, even though the lumber does not ultimately leave the State because it is destroyed by fire before it can be shipped. Similarly, employees drilling for oil which the employer expects to leave the State either as crude oil or refined products are engaged in the production of goods for commerce while the drilling operations are going on and are entitled to be paid on that basis notwithstanding some of the wells drilled may eventually prove to be dry holes.[55]

(2) On the other hand, if the lumber manufacturer first mentioned produces lumber to fill the order of a local contractor in the expectation that it will be used to build a schoolhouse within the State, the employees producing the lumber are not engaged in the production of goods "for" commerce and are not

[50] *Fleming* v. *Atlantic Co.*, 40 F. Supp. 654, affirmed in 131 F. 2d 518 (C. A. 5).

[51] *Hamlet Ice Co.* v. *Fleming*, 127 F. 2d 165 (C. A. 4), certiorari denied 317 U. S. 634; *Atlantic Co.* v. *Walling*, 131 F. 2d 518 (C. A. 5); *Chapman* v. *Home Ice Co.*, 136 F. 2d 353 (C. A. 6) certiorari denied 320 U. S. 761; *Southern United Ice Co.* v. *Hendrix*, 153 F. 2d 689 (C. A. 6); *Hansen* v. *Salinas Valley Ice Co.*, 62 Cal. App. 357, 144 P. 2d 896.

[52] *Hamlet Ice Co.* v. *Fleming*, 127 F. 2d 165 (C. A. 4).

[53] *Lewis* v. *Florida Power & Light Co.*, 154 F. 2d 751 (C. A. 5); see also *Walling* v. *Connecticut Co.*, 154 F. 2d 552 (C. A. 2).

[54] *Walling* v. *Staffen*, 5 W. H. Cases 1002 (W. D. N. Y.), 11 Labor Cases (CCH) par. 63, 102; *McComb* v. *Carter*, 8 W. H. Cases 498 (E. D. Va.), 16 Labor Cases (CCH) par. 64, 964. *Contra*, *McComb* v. *Trimmer*, 85 F. Supp. 565 (D. N. J.). Cf. *Engebretson* v. *Albrecht*, 150 F. 2d 602 (C. A. 7).

[55] *Culver* v. *Bell & Loffland*, 146 F. 2d 29 (C. A. 9); see also *Warren-Bradshaw Drilling Co.* v. *Hall*, 317 U. S. 88.

covered by the act. This would remain true notwithstanding the contractor subsequently goes bankrupt and the lumber is sold to a purchaser who moves it to another State; the status of the employees for purposes of coverage cannot in this situation, any more than in the others, be retroactively changed by the subsequent event.

(d) *Goods disposed of locally to persons who place them in commerce.* It is important to remember that if, at the time when employees engage in activities which constitute "production of goods" within the meaning of the act, their employer intends, hopes, expects, or has reason to believe that such goods will be taken or sent out of the State by a subsequent purchaser or other person into whose possession the goods will come, this is sufficient to establish that such employees are engaged in the production of such goods "for" commerce and covered by the act. Whether the producer passes title to the goods to another within the State is immaterial.[56] The goods are produced "for" commerce in such a situation whether they are purchased f. o. b. the factory and are taken out of the State by the purchaser, or whether they are sold within the State to a wholesaler or retailer or manufacturer or processor who in turn sells them, either in the same form or after further processing, in interstate or foreign commerce. The same is true where the goods worked on by the producer's employees are not owned by the producer and are returned, after the work is done, to the possession of the owner who takes or sends them out of the State.[57] Similarly, employees are engaged in the production of goods "for" commerce when they are manufacturing, handling, working on, or otherwise engaging in the production of boxes, barrels, bagging, crates, bottles, or other containers, wrapping or packing material which their employer has reason to believe will be used to hold the goods of other producers which will be sent out of the State in such containers or wrappings. It makes no difference that such other producers are located in the same State and that the containers are sold and delivered to them there.[58]

[56] *Hamlet Ice Co.* v. *Fleming*, 127 F. 2d 165 (C. A. 4), certiorari denied 317 U. S. 634; *Bracey* v. *Lauray*, 138 F. 2d 8 (C. A. 4).

[57] *Schulte Co.* v. *Gangi*, 328 U. S. 108; *Warren-Bradshaw Drilling Co.* v. *Hall*, 317 U. S. 88; *Walling* v. *Kerr*, 47 F. Supp. 852 (E. D. Pa.).

[58] *Enterprise Box Co.* v. *Fleming*, 125 F. 2d 897 (C. A. 5), certiorari denied 316 U. S. 704; *Dize* v. *Maddrix*, 144 F. 2d 584 (C. A. 4), affirmed 324 U. S. 697; *Walling* v. *Burch*, 5 W. H. Cases 323 (S. D. Ga.); 9 Labor Cases (CCH) par. 62, 613; *Fleming* v. *Schiff*, 1 W. H. Cases 893 (D. Colo.), 5 Labor Cases (CCH) par. 60, 864.

It should be noted that where empty containers are purchased, loaded, or transported within a single State as a part of their movement, as empty containers, out of the State, an employee engaged in such purchasing, loading, or transporting operations is covered by the act as engaged "in commerce." *Atlantic Co.* v. *Weaver*, 150 F. 2d 843 (C. A. 4); *Klotz* v. *Ippolito*, 40 F. Supp. 422 (S. D. Tex.); *Orange Crush Bottling Co.* v. *Tuggle*, 70 Ga. App. 144, 27 S. E. 2d 769.

Signed at Washington, D. C., this 4th day of May, 1950.

WM. R. MCCOMB,
Administrator.

[F. R. Doc. 50-4119; Filed, May 16, 1950; 8:46 a. m.]

TITLE 6—AGRICULTURAL CREDIT

Chapter IV—Production and Marketing Administration and Commodity Credit Corporation, Department of Agriculture

Subchapter B—Export and Diversion Programs

PART 524—HONEY

Correction

In F. R. Document 50-4015, appearing at page 2793, of the issue for Thursday, May 11, 1950, in the application Under Honey Diversion Program delete the title "Director, Fruit and Vegetable Branch".

TITLE 31—MONEY AND FINANCE: TREASURY

Chapter II—Fiscal Service, Department of the Treasury

[1950 Dept. Circ. 655, Supp. 6]

PART 211—DELIVERY OF CHECKS AND WARRANTS TO ADDRESSES OUTSIDE THE UNITED STATES, ITS TERRITORIES AND POSSESSIONS

WITHHOLDING OF DELIVERY OF CHECKS OR WARRANTS

MAY 10, 1950.

Section 211.3 (a) of Department Circular No. 655, dated March 19, 1941 (31 CFR Cum. Supp. 211.3 (a)), as amended, is hereby further amended to read as follows:

§ 211.3 *Withholding of delivery of checks or warrants.* (a) The Secretary of the Treasury hereby determines that postal, transportation, or banking facilities in general or local conditions in the Russian Zone of Occupation of Germany; the Russan Sector of Occupation of Berlin, Germany; and in Albania and Bulgaria are such that there is not a reasonable assurance that a payee in those areas will actually receive checks or warrants drawn against funds of the United States, or agencies or instrumentalities thereof, and be able to negotiate the same for full value.

Except to the extent they have been authorized by appropriate unrevoked licenses, or are authorized by specific license issued by the Department of Justice, Office of Alien Property, remittances by United States Government agencies from any accounts in which a German or Japanese interest existed on or before December 31, 1946, will continue to be restricted by Executive Order No. 8389, as amended, and rules and regulations issued pursuant thereto, including in particular General Ruling 11A, as amended. Attention is directed to the provisions of Public Law No. 622, 79th Congress, 2d Session, which prohibits among other things, payments of veterans' benefits to German or Japanese citizens or subjects residing in Germany or Japan.

(Sec. 5, 54 Stat. 1087; 31 U. S. C. 127)

[SEAL] JOHN W. SNYDER,
Secretary of the Treasury.

[F. R. Doc. 50-4195; Filed, May 16, 1950; 9:01 a. m.]

TITLE 39—POSTAL SERVICE

Chapter I—Post Office Department

PART 18—SETTLEMENT OF ACCOUNTS: LEGAL PROCEEDINGS: COMPROMISES

COMPROMISE OF JUDGMENT

Amend § 18.51 *Compromise of judgment* (39 CFR 18.51) to read as follows:

§ 18.51 *Compromise of judgment.* Whenever a judgment is obtained for a debt or damages due the Post Office Department, and it satisfactorily appears that such judgment, or so much thereof as remains unpaid, cannot be collected by due process of law, the Department of Justice may compromise such judgment, and accept in satisfaction less than the full amount thereof.

(R. S. 161, 396, secs. 304, 309, 42 Stat. 24, 25; 5 U. S. C. 22, 369. Interprets or applies R. S. 295, as amended; 31 U. S. C. 115)

[SEAL] J. M. DONALDSON,
Postmaster General.

[F. R. Doc. 50-4176; Filed, May 16, 1950; 8:47 a. m.]

PART 36—UNMAILABLE MATTER

PART 51—VILLAGE DELIVERY

PART 97—STAR, STEAMSHIP, AND STEAMBOAT ROUTES, AND VEHICLE SERVICE IN CITIES

MISCELLANEOUS AMENDMENTS

a. In § 36.12 *Mailing of pistols, revolvers, and other firearms* (39 CFR 36.12) amend paragraph (a) to read as follows:

(a) *Restrictions and penalty.* Pistols, revolvers, and other firearms capable of being concealed on the person are nonmailable and shall not be deposited in or carried by the mails or delivered by any postmaster, letter carrier, or other person in the Postal Service. Such articles may be conveyed in the mails, under such regulations as the Postmaster General shall prescribe, for use in connection with their official duty, to officers of the Army, Navy, Air Force, Coast Guard, Marine Corps, or Organized Reserve Corps; to officers of the National Guard or Militia of a State, Territory, or District; to officers of the United States or of a State, Territory, or District whose official duty is to serve warrants of arrest or commitments; to employees of the Postal Service; to officers and employees of enforcement agencies of the United States; and to watchmen engaged in guarding the property of the United States, a State, Territory, or District. Such articles also may be conveyed in the mails to manufacturers of firearms or bona fide dealers therein in customary trade shipments, including such articles for repairs or replacement of parts, from one to the other, under such regulations as the Postmaster General shall prescribe.

Whoever knowingly deposits for mailing or delivery, or knowingly causes to be delivered by mail according to the direction thereon, or at any place to which it is directed to be delivered by the person to whom it is addressed, any pistol, revolver, or firearm declared nonmailable by this section, shall be fined not more than $1,000 or imprisoned not more than two years, or both.

(R. S. 161, 396, secs. 304, 309, 42 Stat. 24, 25; 5 U. S. C. 22, 369. Interprets or applies 62 Stat. 782, as amended; 18 U. S. C. and Sup., 1715)

b. In § 51.1 *Village delivery* (39 CFR 51.1) amend paragraph (a) (1) to read as follows:

(1) Village mail delivery may be established under such regulations as the Postmaster General may prescribe, in towns and villages having post offices of the third class that are not by law entitled to free-delivery service. The operation by the Post Office Department of village delivery service in second-class post offices shall be discontinued.

NOTE: See § 137.48 for additional provisions, and effective date of Public Law 431.

(R. S. 161, 396, sec. 9, 37 Stat. 559, as amended; secs. 304, 309, 42 Stat. 24, 25; 5 U. S. C. 22, 369, 39 U. S. C. and Sup., 153)

c. In Part 97 (39 CFR, Part 97) make the following changes:

1. Amend § 97.2 *Contracts for service by air because of impracticability of surface transportation* (39 CFR 97.2) to read as follows:

§ 97.2 *Contracts for service by air because of impracticability or inadequacy of surface transportation*—(a) *Action by Postmaster General.* Whenever he shall find it to be in the public interest, because of the nature of the terrain, or the impracticability or inadequacy of surface transportation, and where the cost thereof is reasonably compatible with the service to be provided, the Postmaster General may award contracts for the transportation by aircraft upon star routes of any or all classes of mail (including but not limited to air mail and air parcel post), payment for such service to be made from the appropriation for inland transportation by star routes: *Provided,* That all laws and regulations not in conflict with this section governing star routes shall be applicable to contracts made under the authority of this section: *Provided further,* That the provisions of title IV of the Civil Aeronautics Act of 1938, approved June 23, 1938 (52 Stat. 973), as amended, other than sections 407, 408, 409, 412, 413, 414, and 416 thereof shall not apply to the transportation of mail under this section: *Provided further,* That prior to advertising for bids for the transportation of mail by aircraft on any star route, except as authorized by the act of October 14, 1940 (54 Stat. 1175), entitled "An act authorizing special arrangements in the transportation of mail within the Territory of Alaska," the Postmaster General shall obtain from the Civil Aeronautics Board a certification that the proposed route does not conflict with the development of air transportation as contemplated under the Civil Aeronautics Act of 1938, as amended: *Provided further,* That any such contract made under authority of this section shall be canceled upon the issuance by the Civil Aeronautics Board of an authorization under title IV of the Civil Aeronautics Act of 1938, as amended, to any air carrier to engage in the transportation of mail by aircraft between any of the points named in such contract: *And provided further,* That no bid for a contract under this section shall be considered unless the bidder is a resident of or qualified to do business as a common carrier by air in a State within which one or more points to be served under such proposed contract are located. As used in this section, the term "State" includes the several States, the Territories of Alaska and Hawaii, and the District of Columbia.

(b) *Action by Civil Aeronautics Board.* Upon receipt of a request from the Postmaster General for the certification required in paragraph (a) of this section, the Civil Aeronautics Board shall promptly publish in the FEDERAL REGISTER, and send to such persons as the Board may by regulation determine, a notice describing the proposed air star route. After giving notice pursuant to this subsection, the Board shall afford interested persons a reasonable opportunity to submit written data, views or arguments with or without opportunity to present the same orally in any manner. The Board shall give due consideration to all relevant matter presented and, not less than thirty days after notice is given, except in any situation in which it for good cause finds (and incorporates the finding and a brief statement of the reasons therefor in its order granting certification) that such period of advance notice is impracticable, unnecessary or contrary to the public interest, shall grant the requested certification upon finding that the proposed route does not conflict with the development of air transportation as contemplated under the Civil Aeronautics Act of 1938, as amended.

(Interprets or applies sec. 6, 52 Stat. 219, as amended; 39 U. S. C. and Sup., 470)

2. Add a new section, § 97.74 *Utilization of Coast Guard facilities and personnel,* in the text immediately following § 97.73 to read as follows:

§ 97.74 *Utilization of Coast Guard facilities and personnel.* Coast Guard facilities and personnel may be utilized for the transportation and delivery of mail matter during emergency conditions or at isolated locations under such arrangements as may be satisfactory to the Secretary (of the Treasury) and the Postmaster General.

(Interprets or applies 63 Stat. 506; 14 U. S. C. Sup., 146)

(R. S. 161, 396, secs. 304, 309, 42 Stat. 24, 25; 5 U. S. C. 22, 369)

[SEAL] J. M. DONALDSON,
Postmaster General.

[F. R. Doc. 50-4177; Filed, May 16, 1950; 8:49 a. m.]

TITLE 43—PUBLIC LANDS: INTERIOR

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

Appendix—Public Land Orders

[Public Land Order 645]

ARIZONA

REVOKING IN PART EXECUTIVE ORDER NO. 1187 OF APRIL 9, 1910

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:

Executive Order No. 1187 of April 9, 1910 withdrawing public lands for the use of the War Department for military purposes is hereby revoked so far as it affects the following-described land:

GILA AND SALT RIVER MERIDIAN

T. 1 N., R. 3 W.,
Sec. 19, NE¼.

The area described contains 160 acres.

The land shall not be subject to the initiation of any rights or to any disposition under the public-land laws until it is so provided by an order of classification to be issued by the Regional Administrator, Bureau of Land Management, Albuquerque, New Mexico, opening the land to application under the Small Tract Act of June 1, 1938, 52 Stat. 609 (43 U. S. C. 682a) as amended, with a ninety-day preference right period for filing such applications by veterans of World War II and other qualified persons entitled to preference under the act of September 27, 1944, 58 Stat. 747, as amended (43 U. S. C. 279 et seq.).

C. GIRARD DAVIDSON,
Acting Secretary of the Interior.

MAY 10, 1950.

[F. R. Doc. 50-4170; Filed, May 16, 1950; 8:46 a. m.]

[Public Land Order 646]

CALIFORNIA

WITHDRAWING PUBLIC LANDS FOR USE OF THE DEPARTMENT OF THE AIR FORCE

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:

Subject to valid existing rights, the public lands within the following-described areas are 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 the Air Force as an air force base:

SAN BERNARDINO MERIDIAN

T. 10 N., R. 8 W.,
Sec. 18, NE¼, lots 1 and 2 of the NW¼, and N½ of lots 1 and 2 of the SW¼.
T. 8 N., R. 9 W.,
Sec. 10, S½SE¼;
Sec. 18, SE¼;
Sec. 23, W½.
T. 10 N., R. 9 W.,
Sec. 14, SE¼;
Sec. 22, E½, SW¼, S½NW¼;
Sec. 24, N½NW¼;
Sec. 30, SW¼SE¼.

T. 11 N., R. 9 W.,
Sec. 34, S½NW¼.
T. 8 N., R. 10 W.,
Sec. 6, lots 1 and 2 of the NW¼ and the S½ of lot 2 of the SW¼.
T. 9 N., R. 10 W.,
Sec. 28, W½NW¼;
Sec. 30, lot 2 of the NW¼, and lot 2 of the SW¼.
T. 10 N., R. 10 W.,
Sec. 2, S½ and lots 1 and 2 of NE¼;
Sec. 4, all;
Sec. 6, all;
Sec. 8, all;
Sec. 10, all;
Sec. 14, all;
Sec. 18, lot 2 of NW¼, lots 1 and 2 of SW¼, S½SE¼;
Sec. 20, NE¼ and SW¼;
Sec. 26, E½;
Sec. 28, S½;
Sec. 30, all;
Sec. 32, all.
T. 11 N., R. 10 W.,
Sec. 28, S½S½;
Sec. 34, E½.
T. 8 N., R. 11 W.,
Sec. 6, all;
Sec. 10, E½NE¼.
T. 9 N., R. 11 W.,
Sec. 2, all;
Sec. 4, all;
Sec. 6, all;
Sec. 8, all;
Sec. 10, N½;
Sec. 12, N½;
Sec. 20, SW¼;
Sec. 26, W½NW¼, SW¼SW¼;
Sec. 28, N½, SE¼;
Sec. 30, NE¼;
Sec. 32, all;
Sec. 34, N½.
T. 10 N., R. 11 W.,
Sec. 14, E½;
Sec. 20, NW¼;
Sec. 22, all;
Sec. 23, S½, N½NW¼;
Sec. 24, all;
Sec. 26, all;
Sec. 28, all;
Sec. 32, all.
T. 9 N., R. 12 W.,
Sec. 2, lots 1 and 2 of NE¼, and lots 1 and 2 of NW¼;
Sec. 10, SE¼;
Sec. 12, all;
Sec. 14, N½, N½S½.
T. 10 N., R. 12 W.,
Sec. 34, E½.

The areas described including both public and non-public lands, aggregate 20,901.82 acres.

It is intended that the lands above described shall be returned to the administration of the Department of the Interior when they are no longer needed for the purpose for which they are reserved.

C. GIRARD DAVIDSON,
Acting Secretary of the Interior.

MAY 10, 1950.

[F. R. Doc. 50-4170; Filed, May 16, 1950; 8:46 a. m.]

TITLE 49—TRANSPORTATION

Chapter I—Interstate Commerce Commission

[Docket No. 3666]

TRANSPORTATION OF EXPLOSIVES AND OTHER DANGEROUS ARTICLES

MISCELLANEOUS AMENDMENTS

At a session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D. C., on the 28th day of April A. D. 1950.

It appearing, that pursuant to the Transportation of Explosives Act of March 4, 1921 (41 Stat. 1444), sections 831 to 835 of Title 18 of the United States Code approved June 25, 1948, and Part II of the Interstate Commerce Act, as amended, the Commission has heretofore formulated and published certain regulations for the transportation of explosives and other dangerous articles.

It further appearing, that in application received we are asked to amend the aforesaid regulations as set forth in provisions made a part thereof.

It is ordered, That the aforesaid regulations for the transportation of explosives and other dangerous articles be, and they are hereby, amended as follows:

PART 72—COMMODITY LIST OF EXPLOSIVES AND OTHER DANGEROUS ARTICLES CONTAINING THE SHIPPING NAME OR DESCRIPTION OF ALL ARTICLES SUBJECT TO THESE REGULATIONS

The following amendments are made to § 72.5 (formerly part of section 4, List of Explosives and Other Dangerous Articles, order August 16, 1940):

§ 72.5 *List of explosives and other dangerous articles.*

Article	Classed as—	Exemptions and packing (section references are to part 73 (formerly part 3))	Label required if not exempt	Maximum quantity in one outside container by rail express
(Add)				
Hydrogen, liquefied	Not accepted			Not accepted.
Shaped charges, commercial. See High explosives.	See § 73.61-4 (h)			
Commercial shaped charges. See High explosives.	See § 73.61-4 (h)			
Tertiary butylisopropyl benzene hydroperoxide.	Oxy. M	153 (b), 186D	Yellow	1 quart.

PART 73—REGULATIONS APPLYING TO SHIPPERS

SUBPART A—PREPARATION OF ARTICLES FOR TRANSPORTATION BY CARRIERS BY RAIL FREIGHT, RAIL EXPRESS, HIGHWAY, OR WATER

1. Section 73.31 paragraph (k) (formerly section 31 paragraph (k) order August 16, 1940), is amended to read as follows:

(k) All closures of openings in tank cars and of their protective housings must be properly secured in place by the use of a bar, wrench, or other suitable tool. A wrench having a handle at least 36 inches long must be used to apply the outlet valve cap. Manhole covers and outlet valve caps must be made tight against leakage of vapor and liquid, by use of gaskets of suitable material, before cars are tendered to carrier for transportation. Luting materials must not be used in outlet cap or on threads of bottom outlet.

(No change in note.)

2. Section 73.32 paragraph (n) (order February 13, 1950), is amended to read as follows:

(n) Each outlet of portable tanks used for the transportation of liquefied compressed gases, except carbon dioxide, shall be provided with a suitable automatic excess-flow valve. These valves shall be located inside the tank or at a point outside the tank where the line enters or leaves the tank. In case such valve is located outside the tank, the installation shall be made in such a manner that any undue strain beyond the valve will cause breakage on the discharge end and not between the container and the valve. Exception: Safety relief valve connections and liquid level gauging devices which are so constructed that the outward flow of tank contents shall not exceed that passed by a No. 54 drill size opening are not required to be equipped with excess-flow valves.

3. Section 73.33 paragraph (o) (order February 13, 1950), is amended to read as follows:

(o) Each outlet of cargo tanks used for the transportation of liquefied compressed gases, except carbon dioxide, shall be provided with a suitable automatic excess-flow valve or in lieu thereof may be fitted with quick closing internal valves. The quick closing internal valve shall be operated by an independent fluid medium. These valves shall be located inside the tank or at a point outside the tank where the line enters or leaves the tank. In case such valve is located outside the tank, the installation shall be made in such a manner that any undue strain beyond the valve will cause breakage on the discharge end and not between the container and the valve. Exception: Safety relief valve connections and liquid level gauging devices which are so constructed that the outward flow of tank contents shall not exceed that passed by a No. 54 drill size opening are not required to be equipped with excess-flow valves.

SUBPART B—EXPLOSIVES

Class A Explosives

4. Section 73.53 paragraph (h) (order February 3, 1950), is amended to read as follows:

(h) *Type 8.* Any solid or liquid compound, mixture or device which is not specifically included in any of the above types, and which under special conditions may be so designated and approved by the Bureau of Explosives.

Example: Shaped charges, commercial.

(1) A shaped charge, commercial, consists of a plastic, paper, or other suitable container comprising a charge of not to exceed 8 ounces of a high explosive containing no liquid explosive ingredient and with a hollowed out portion (cavity) lined with a rigid material. This device shall not contain a detonator.

Packing and Marking Class A Explosives

5. Section 73.61-4 paragraph (a) (7) (order February 3, 1950), is amended to read as follows:

(7) Spec. 23G: Fiberboard boxes. Such explosives when packed in boxes consisting of more than one tube joined circumferentially are exempt from requirements of § 73.61 (f) and (g), or when packed in boxes consisting of one tube closed at the ends are exempt from requirements of § 73.61 (d), (e), (f) and (g). Gross weight of boxes not to exceed 65 pounds.

6. Section 73.61-4 paragraph (d) (order February 3, 1950), is amended to read as follows:

(d) Ammonium picrate, dry, picric acid, dry, trinitrobenzene, dry, and trinitrotoluene, dry, in quantity not exceeding 4 ounces in one outside package for medicinal purposes, may be shipped by carriers by rail freight, rail express, highway, or water as drugs, medicines, or chemicals, without other restrictions, when in securely closed glass bottles properly cushioned to prevent breakage.

7. Section 73.61-4 paragraphs (h), (i), and (j) (order February 3, 1950), are designated as paragraphs (i), (j), and (k), and add new paragraph (h), as follows:

(h) Shaped charges, commercial, must be packed in containers complying with §§ 73a.14, 73a.15A, 73a.16A, wooden boxes, or § 73a.23F, fiberboard boxes, with inside containers which must be strong fiber tubes. Shaped charges having exposed lined conical cavities must have such cavities effectively filled. Shaped charges having conical cavities that are covered shall be paired together with the cavities facing each other and with one or more pairs in a fiber tube, or so arranged that the conical cavities of the shaped charges at the ends of the column face toward the center of the tube. The shaped charges in the fiber tube must fit snugly with no excess space and the fiber tubes containing the shaped charges must be packed snugly with no excess space in the outside fiberboard or wooden box. Gross weight of wooden boxes not to exceed 140 pounds. Gross weight of fiberboard boxes not to exceed 65 pounds.

8. Section 73.61-5 paragraph (h) (order February 3, 1950), is designated as paragraph (i); and new paragraph (h) is added as follows:

(h) Each outside container must be plainly marked "(number) BLASTING CAPS—HANDLE CAREFULLY", or "(number) ELECTRIC BLASTING CAPS—HANDLE CAREFULLY", as the case may be.

NOTE: The number of caps must be shown in the marking.

9. Section 73.61-6 paragraph (b) (order February 3, 1950), is amended to read as follows:

(b) Each outside container must be plainly marked "(number) BLASTING CAPS WITH SAFETY FUSE—HANDLE CAREFULLY".

NOTE: The number of caps must be shown in the marking.

10. Section 73.61-7 paragraph (b) (order February 3, 1950), is designated as paragraph (c); and add new paragraph (b), as follows:

(b) Each outside container must be plainly marked "DETONATING PRIMERS—HANDLE CAREFULLY".

SUBPART C—FLAMMABLE LIQUIDS

11. Section 73.106 paragraph (i) (formerly section 106 (i), order November 8, 1941), is canceled.

SUBPART D—FLAMMABLE SOLIDS AND OXIDIZING MATERIALS

12. Section 73.186d paragraph (a) (formerly section 186d (a), order October 19, 1948), is amended to read as follows:

§ 73.186d *Cumene hydroperoxide and tertiary butylisopropyl benezene hydroperoxide.* (a) Cumene hydroperoxide of strength not execeeding 75 percent in a non-volatile solvent and tertiary butylisopropyl benzene hydroperoxide not exceeding 60 percent strength must be packed in specification containers as follows:

13. Section 73.206 paragraph (a) (2) (formerly section 206 (a) (2), order January 23, 1950), is amended to read as follows:

(2) Spec. 15A or 15B: Wooden boxes, with air-tight metal inside containers which must have closing device securely fastened by positive means (not friction).

SUBPART E—ACIDS AND OTHER CORROSIVE LIQUIDS

14. Section 73.261a (formerly section 261A, order August 16, 1940), is amended by adding paragraph (j), as follows:

(j) Spec. 1EX: Carboys in plywood drums. Authorized only for export shipments.

15. Section 73,272 paragraph (g) (formerly section 272 (g) order January 23, 1946), as amended to read as follows:

(g) Spec. 5A. Metal barrels or drums only for acid of 1.7019 specific gravity (59.8° Be.); or acid of greater strength with or without inhibitor, provided such acid has a corrosive effect on steel measured at 100° F. no greater than 66° Be. commercial sulfuric acid.

16. Section 73.272 paragraph (g) (1) (formerly section 272 (g) (1) order October 19, 1948), is amended to read as follows:

(1) Spec. 17F: Metal barrels or drums (single trip) only for acid of 1.7019 specific gravity (59.8° Be.); or acid of greater strength with or without inhibitor, provided such acid has a corrosive effect on steel measured at 100° F. no greater than 66° Be. commercial sulfuric acid.

17. Section 73.272 (formerly section 272, order August 16, 1940), is amended by adding paragraph (q) as follows:

(q) Spec. 5C: Metal barrels or drums of type 304, 316, or 347 stainless steel or other types of stainless steel of equivalent corrosion resistance and physical properties. Authorized only for acid of concentration not less than 100 percent (approx.) nor more than 115 percent (approx.).

SUBPART F—COMPRESSED GASES

18. Section 73.303 subparagraph (8) (iii) of paragraph (r) (formerly subparagraph (h) (3), section 303 (r), order February 13, 1950), is amended to read as follows:

(iii) Liquid level gaging devices which are so constructed that the outward flow of tank contents exceeds that passed by a No. 54 drill size opening, shall be equipped with excess-flow valves. Exception: Not required on gaging devices when used on tanks in carbon dioxide service.

19. Section 73.303 (k) table (formerly paragraph (k) table, section 303 orders April 19, 1948, October 19, 1948 and January 23, 1950), is amended to read as follows:

Kind of gas	Maximum permitted filling density (see sec. 303 (h))	Cylinders* marked as shown in this column must be used except as provided in Note 1 and sec. 303 (p) (2) to 303 (p) (6)
(Change)	*Percent*	
Difluoroethane	79	ICC-3A150; ICC-3B150; ICC-4B150; ICC-4BA225.
Difluoromonochloroethane	100	ICC-3A150; ICC-3B150; ICC-4B150; ICC-4BA225.
Dimethylamine, anhydrous	59	ICC-3A150; ICC-3B150; ICC-4B150; ICC-4BA225.
Monomethylamine, anhydrous	60	ICC-3A150; ICC-3B150; ICC-4B150; ICC-4BA225.
Trimethylamine, anhydrous	57	ICC-3A150; ICC-3B150; ICC-4B150; ICC-4BA225.
Vinyl methyl ether, inhibited (see Note 7).	68	ICC-4B300, without brazed seams; ICC-4BA300, without brazed seams; ICC-3A300; ICC-3B300; ICC-25.

20. Section 73.303 paragraph (p) (7) (v) (formerly paragraph (p) (7) (e), section 303, order October 14, 1943), is amended to read as follows:

(v) *Cylinders containing:*

(*1*) fluorine

(*2*) methyl mercaptan

(*3*) mono, di, or trimethylamine, anhydrous

(*4*) not over 10 pounds of nitrosyl chloride

(*5*) less than 165 pounds of anhydrous ammonia

20. Section 73.303 paragraph (q) (7) (formerly paragraph (q) (7), section 303 order February 13, 1950), is amended to read as follows:

(7) The maximum quantity of any liquefied gas, except crude nitrogen fertilizer solution, fertilizer ammoniating solution containing free ammonia, methyl chloride, and vinyl chloride, inhibited, loaded into tanks mounted on one car structure must not exceed 60,000 pounds. *Provided*, That for single-unit tank car tanks having water weight capacities not less than 86,240 pounds nor over 90,640 pounds, lagged with 4 inches of corkboard, equipped with one or more safety valves set to open at a pressure of 225 pounds per square inch the total

discharge capacity of which must be sufficient to prevent building up of pressure in the tank in excess of 225 pounds per square inch, mounted on one car structure, tank jackets stenciled ICC-105A300 if tanks are forge-welded and ICC-105A300W if tanks are fusion-welded, and in all other respects constructed and maintained in full compliance with I. C. C. shipping container specification 105A500 or 105A-500W, the maximum quantity of liquefied chlorine gas or liquefied sulfur dioxide gas loaded into such tanks must be at least 107,800 pounds and not more than 110,000 pounds.

SUBPART G—POISONOUS ARTICLES

21. Section 73.352 paragraph (b) (formerly section 352 (b), order August 16, 1940), is amended to read as follows:

(b) In inside glass, earthenware, or composition bottles or jars, or metal containers, or lock-corner sliding-lid wooden boxes, of not over 5 pounds capacity each, or chipboard, pasteboard, or fiber cartons, cans, or boxes, of not over 1 pound capacity each, packed in outside wooden or fiberboard boxes, or wooden barrels or kegs. Net weight of contents of outside container, not over 100 pounds.

22. Section 73.366 paragraph (a) (3) (formerly section 366 (a) (3), order October 24, 1947), is amended to read as follows:

(3) *Group III.* Radioactive materials that emit electrically charged corpuscular rays only, i. e., alpha or beta, etc., or any other that is so shielded that the gamma radiation at the surface of the package does not exceed 10 milliroentgens for 24 hours at any time during transportation.

SUBPART I—SHIPPING INSTRUCTIONS

23. Section 73.423 (formerly section 423, order August 16, 1940), is amended to read as follows:

§ 73.423 *Tank car shipments.* (a) Tank cars containing flammable liquids having a flash point of 80° F. or below, except liquid road asphalt or tar, must not be offered for shipment unless originally consigned or subsequently reconsigned to parties having private-siding (see Note 1) or railroad-siding facilities equipped for piping the liquid from tank cars to permanent storage tanks of sufficient capacity to receive contents of car.

(b) A tank car containing any compressed gas must not be offered for transportation unless the car is consigned for delivery (see paragraph (c) of this section) and unloading on a private track (see Note 1), except that where no private track is available, delivery and unloading on carrier tracks is permitted provided the following conditions are complied with:

(1) Any tank car of ICC-106A type may be offered for transportation and the loaded unit tanks may be removed from car frame on carrier tracks, provided the shipper has obtained from the delivering carrier and filed with originating carrier, written permission (see Note 2) for such removal. The consignee must furnish adequately safe mechanical hoist, obtained from the carrier if desirable, by which the tanks shall be lifted from the car and deposited directly upon vehicles furnished by the consignee for immediate removal from carrier property or tanks must be lifted by adequately safe mechanical hoist from car directly to vessels for further transportation.

(c) Any tank car of other than ICC-106A type, containing liquefied hydrocarbon or liquefied petroleum gas, and having interior pipes of liquid and gas discharge valves equipped with check valves, may be consigned for delivery and unloading on carrier tracks, if the lading is piped directly from the car to permanent storage tanks of sufficient capacity to receive the entire contents of the car. Such cars may also be consigned for storage on a private track or on a carrier track when designated by the carrier for such storage.

(d) For cars of the ICC-106A type, the tanks must be placed in position and attached to the car structure by the shipper.

(e) Flammable liquids must not be loaded into tank cars on carriers' property from tank trucks, wagons or drums.

NOTE 1: For this purpose a private track is a track outside of carrier's right-of-way, yard, and terminals, and of which the carrier does not own either the rails, ties, roadbed or right-of-way; or a track or portion of a track which is devoted to the purpose of its user, either by lease or written agreement; in which case the lease or written agreement will be considered as equivalent to ownership.

NOTE 2: Carriers should give permission for the unloading of these containers on carrier tracks only where no private siding is available within reasonable trucking distance of final destination. The danger involved is the release of chlorine gas due to accidental injury to container in handling. The exposure to this danger decreases directly with the isolation of the unloading point.

PART 73a—SHIPPING CONTAINER SPECIFICATIONS

1. Add § 73a.1EX (Specification 1EX, order August 16, 1940), as follows:

§ 73a.1EX *Specification 1EX; glass carboys in plywood drums for export only*—(a) *General*—(1) *Compliance.* Required in all details.

(2) *Lumber.* To be well seasoned, commercially dry, and free from decay, loose knots, knots that would interfere with nailing, and other defects that would materially lessen the strength.

(3) *Closing devices required.* As follows except when otherwise authorized in the packing regulations:

(i) Acidproof stoppers or other devices, with gaskets, securely fastened; closures to be vented or sufficiently porous to vent off pressure; gaskets to be of ¼ inch asbestos-rope or other resilient material equivalent in efficiency; gaskets cut from asbestos board not authorized.

(b) *Manufacture*—(1) *Capacity and marketing of carboy.* Containers must be 5 to 6½ gallons capacity and permanently marked to indicate maker and year of manufacture.

(2) *Glass carboys.* Thoroughly annealed; top of lip smooth and even. Glass in side walls should be well distributed and at least 1/16 inch thick. Defective carboys not authorized.

(3) (i) *Outside containers.* Plywood drums completely enclosing body and neck of carboy and constructed as follows:

(ii) *Body shell.* To be of two plies of hardwood veneer, each not less than 1/12 inch in thickness, firmly glued together, with the grain of the outside ply parallel and the inner ply vertical to the heads. The body shall be butt-jointed and shall be fastened on the outside with a 28-gauge steel strip, not less than 1½ inches in width. 17-gauge staples shall be driven on each side of the joint, spaced not more than 1½ inches apart and clinched on inside of the body.

(iii) *Heads.* Top and bottom heads shall be of three ply hardwood veneer, each ply not less than 1/12 inch in thickness, all firmly glued together, with the grain of each outer ply at right angles to the grain of the center ply. Each head shall be circled to fit snugly inside of the body. Interior heads shall be of the same construction.

(iv) *Hoops.* To be of hardwood veneer, not less than 1¾ inches wide by ⅛ inch thick. Hoops shall be fastened to the body by 17-gauge staples on not less than 3 inch centers and shall be overlapped not less than 3 inches.

(v) *Head liners.* When plywood cushioning is used the inner lining strips which support the plywood cushion shall be of hardwood veneer not less than ⅕ inch in thickness and ⅝ inch in width and shall butt or slightly gap. All other head lining strips shall be made of hardwood veneer not less than ⅕ inch in thickness and ⅝ inch in width and shall overlap not less than 3 inches. The bottom head liner and the inside liner strips for the false head and support of the top head shall be fastened by 17-gauge staples on not less than 3 inch centers. The staples shall be driven through the outer hoop and body and clinched on the inside of the veneer strips; except that the strips holding the false head shall have staples only through the body shell and liner. The top liner which forms the final closure shall be fastened to the body by 14-gauge staples driven through the head liner and body into the outer hoop on not less than 4 inch centers.

(vi) *Battens.* A ⅝ inch by 2 inch batten shall be applied to top and bottom and shall be secured at each end by two nails driven through the hoops and shell.

(4) The complete inner packing and drum specification must be filed with and approved by the Bureau of Explosives.

(c) *Marking of outside container*—(1) *On each container.* With letters and figures at least ¾ inch high applied by hot branding iron or black printing ink with high pressure dies as follows:

(i) ICC-IEX. This mark shall be understood to certify that the complete package complies with all specification requirements.

(ii) Name or symbol (letters) of company setting up the package, or other party assuming responsibility for its compliance with specification requirements; this must be registered with the Bureau of Explosives and located just above or below the mark specified in subdivision (i) of this subparagraph.

(2) Each outside container must also be plainly marked "FOR EXPORT ONLY, NOT RETURNABLE" and the top must be marked "THIS SIDE UP".

(d) *Tests*—(1) (i) *Apparatus.* Standard required, as shown in specification 1A, effective Oct. 1, 1930. Detail prints can be obtained from Bureau of Explosives.

(ii) *Method.* Fill with water to lower edge of neck; swing 55" measured from wall to nearest bottom edge of basket—

1st: Side shock; test at least 10.
2d: Bottom shock; test at least 5.

(iii) *Acceptable results.* 90 percent of carboys must not break under side shock; same for bottom shock.

(iv) *When required.* By each manufacturing and each filling plant; during each 6 months of each year, one series each year to be witnessed by representative of Bureau of Explosives; separate tests required for—

New packages (those with new outside containers).
Used packages.
Packages with carboys differing over 2 gallon.
Packages differing in kind of cushioning.

(v) *Exception.* Tests not required by plant which fills and ships, for one shipment only, packages obtained from another plant where required tests are made.

(vi) *Reports.* Required to be made to Bureau of Explosives on form as follows:

REPORT OF TESTS OF CARBOYS

(As required by I. C. C. Regulations and Specifications)

(Place) ______
(Date) ______

Test made for ______

(Give name and address of plant for which tests were made)

Description of package	Results					
	Number of test	55-inch swing		Number of test	55-inch swing	
		Side	Bottom		Side	Bottom
Capacity ______	1	____	____	13	____	____
	2	____	____	14	____	____
Condition [1] ______	3	____	____	15	____	____
	4	____	____	16	____	____
Type of inside container [2] ______	5	____	____	17	____	____
	6	____	____	18	____	____
Cushioning [3] ______	7	____	____	19	____	____
	8	____	____	20	____	____
Diameter of bottle ______	9	____	____	21	____	____
	10	____	____	22	____	____
Size of outside container (inside) ______	11	____	____	23	____	____
	12	____	____	24	____	____

Specification mark is ______
Identification symbol is ______
Remarks ______

(Signature) ______
(Per) ______

[1] State whether outside container is new or used.
[2] State whether glass, earthenware, etc.
[3] State whether hay, mineral wool, ground cork, excelsior, wood strips ______ type, cork pads ______ type, etc.

2. Specification 3B (order August 16, 1940), is amended by adding § 73a.3B-9 (a), as follows:

§ 73a.3B-9 *Wall thickness.* (a) The wall stress shall not exceed 24,000 pounds per square inch. Minimum wall 0.090 inch for any cylinder over 5 inches outside diameter.

3. Section 73a.3C-9 (a) (formerly paragraph 9 (a) of Specification 3C, order August 16, 1940), is amended to read as follows:

§ 73a.3C-9 *Wall thickness.* (a) The wall stress shall not exceed 24,000 pounds per square inch. Minimum wall 0.090 inch for any cylinder over 5 inches outside diameter.

4. Section 73a.3E-13 (a) (2) and (3) (formerly paragraphs (a) (2) and (a) (3) of Specification 3E, order October 19, 1948), are amended to read as follows:

(2) The cylinder referred to in subparagraph (1) of this paragraph shall burst at a pressure higher than 6,000 pounds per square inch without fragmenting or otherwise showing lack of ductility, or shall hold a pressure of 12,000 pounds per square inch for 30 seconds without bursting, in which case it shall be subjected to a flattening test without cracking to six times wall thickness between knife edges, wedge shaped, 60-degree angle, rounded out to ½-inch radius.

NOTE: Inspector's report shall be suitably changed to show results of latter alternate and flattening test.

(3) Other cylinders must be examined under pressure of at least 3,000 pounds per square inch and not to exceed 3,600 pounds per square inch and show no defect. The pressure must be maintained for at least 30 seconds and sufficiently longer to insure complete examination.

5. Section 73a.4B-8 (b) (formerly paragraph 8 (b) of Specification 4B, order March 7, 1949), is amended to read as follows:

(b) *Longitudinal seams in shells.* By forged lap welding, by copper brazing, by copper alloy brazing, or by silver alloy brazing. Copper alloy composition must be: Copper, 95 percent minimum; Silicon, 1.5 percent to 3.85 percent; Manganese, 0.25 percent to 1.10 percent. The melting point of the silver alloy brazing material must be in excess of 1000° F. When brazed, the plate edge must be lapped at least eight times the thickness of plate, laps being held in position, substantially metal to metal, by riveting or electric spot-welding; brazing must be done by using a suitable flux and by placing brazing material on one side of seam and applying heat until this material shows uniformly along the seam of the other side.

6. Section 73a.4BA-8 (b) and (b) (1) (formerly paragraphs (8) (b) and (b) (1) of Specification 4BA, orders April 19, 1948 and March 7, 1949), are amended by combining the two paragraphs to read as follows:

(b) *Longitudinal seams in shells.* By copper brazing or copper alloy brazing. Copper alloy composition must be: Copper 95 percent minimum, Silicon 1.5 percent to 3.85 percent, Manganese 0.25 percent to 1.10 percent. The plate edge must be lapped at least eight times the thickness of plate, laps being held in position, substantially metal to metal, by riveting or by electric spot-welding. Brazing must be done by using a suitable flux and by placing brazing material on one side of seam and applying heat until this material shows uniformly along the seam of the other side.

7. Section 73a.4BA-8 (b) (2) (formerly paragraph 8 (b) (2) of Specification 4BA order February 13, 1950), is designated (b) (1) to read as follows:

(1) *Strength of longitudinal seam.* Copper brazed longitudinal seam must have strength at least 3/2 times the strength of the steel wall.

8. Section 73a.4BA-10 (formerly paragraph 10 of Specification 4BA order April 19, 1948), is amended to read as follows:

Section 73a.4BA-10 *Heat treatment.* (a) Each cylinder must be uniformly and properly heat treated prior to test by the applicable method shown in § 73a.4BA-19, Table 1. Heat treatment must be accomplished after all forming and welding operations, except that when brazed joints are used, heat treatment must follow any forming and welding operations, but may be done before, during or after the brazing operations.

9. Section 73a.4B-10 (formerly paragraph 10 of Specification 4BA order April 19, 1948), is amended by adding paragraph (b), as follows:

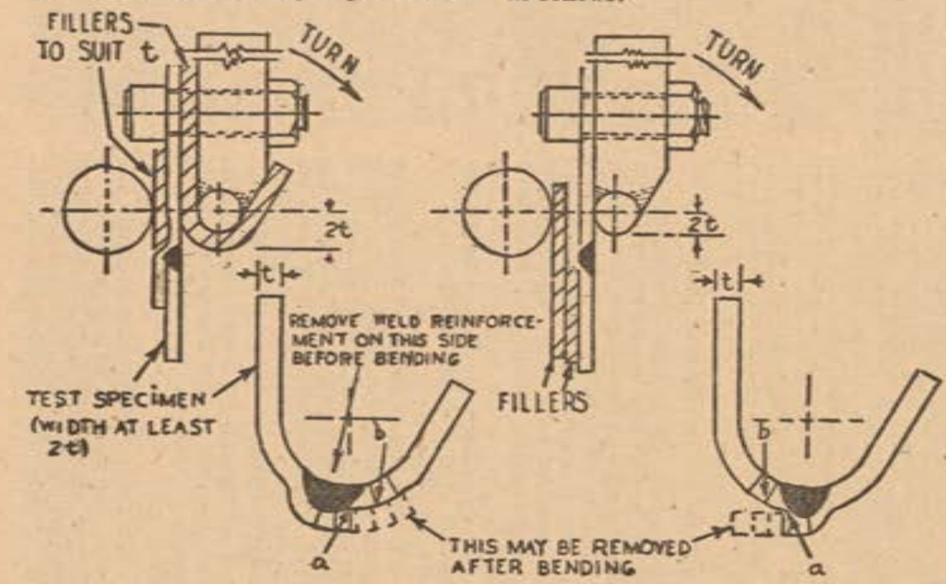
(b) Heat treatment is not required after welding or brazing weldable low carbon parts to attachments of similar materials which have been previously welded or brazed to the top or bottom of cylinders and properly heat treated, provided such subsequent welding or brazing does not produce a temperature in excess of 400° F. in any part of the top or bottom material.

10. Section 73a.4BA-16 (b) (1) (formerly paragraph 16 (b) (1) of Specification 4BA, order March 7, 1949), is amended to read as follows:

(1) An alternate guided-bend test jig, as illustrated in Fig. 1, may be used

for testing the soundness of fillet welded lap joints and joggle butt joints. The test specimen shall be bent across the weld as illustrated in sketch A or B for fillet welded lap joints and as illustrated in sketch C or D for joggle butt joints. The specimen shall be bent until the elongation at the outer surface adjacent to the root of the weld, between the lightly scribed gage lines—a to b, shall be at least 20 percent; except that this percentage may be reduced for steels having a tensile strength in excess of 50,000 pounds per square inch, as provided in § 73a.4BA-15. No tested specimen shall show a crack, or other defect, as specified in this paragraph (b). The gage lines shall be lightly scribed before bending. The amount of elongation may be conveniently determined with a Brinell microscope or any other suitable method may be employed.

11. Section 73a.4BA-16 (b) (1) Figure 1 (formerly paragraph 16 (b) (1) of Specification 4BA, order March 7, 1949), is amended by adding Sketches C and D, as follows:



C D

Appendix to Figure 1—Specification 4BA.

12. Section 73a.4BA-18 (a) (5) (formerly paragraph 18 (a) (5) of Specification 4BA, order April 19, 1948), is canceled.

13. Section 73a.4BA-18 (a) (6) (formerly paragraph 18 (a) (6) of Specification 4BA, order April 19, 1948), is designated as (a) (5), as follows:

(5) Additional markings are permitted.

14. Section 73a.4C-9 (a) (formerly paragraph 9 (a) of Specification 4C, order March 31, 1941), is amended to read as follows:

§ 73a.4C-9 *Wall thickness.* (a) The wall stress shall not exceed 18,000 pounds per square inch for cylinders with longitudinal side seam nor 24,000 pounds per square inch for cylinders without such seam. *Provided,* That a wall stress of not over 22,800 pounds per square inch is authorized for cylinders with copper brazed side seam having strength at least 3/2 times the strength of the steel wall. Minimum wall 0.090 inch for any cylinder over 5 inches outside diameter.

15. Section 73a.5B-7 (formerly paragraph 7, of Specification 5B, order February 13, 1950), is amended to read as follows:

§ 73a.5B-7 *Parts and dimensions.* As follows:

Marked capacity not over (gallons)	Type of container	Minimum thickness in the black (gage U.S. standard)		Rolling hoops		
		Body sheet DD	Head sheet DD	Type[1]	Minimum: Size (gage or inch)	Minimum: Weight (pounds per foot)
5	St. side	24	24	None		
10	do	22	22	None		
15	do	20	20	([2])		
33	do	18	18	([2])		
55	do	16	16	([2])		
110	do	13	14	([2])		
33	Bilge	16	16	None		
55	do	14	14	None		

[1] Note: Rolling hoops or pliable solid rubber or other material are also authorized when approved as to type and construction by the Bureau of Explosives.
[2] Rolled or swedged in hoops.

16. Section 73a.5P-2 (formerly paragraph 2, of Specification 5P, order February 13, 1950), is amended to read as follows:

§ 73a.5P-2 *Rated capacity not over 61 gallons (see § 73a.5P-12 (a) (3)).* Actual capacity shall be not less than rated capacity plus two percent nor greater than rated capacity plus two percent plus one and one-half gallons.

17. Section 73a.8-18 (b) (formerly paragraph 18 (b) of Specification 8, order February 3, 1948), is amended to read as follows:

(b) A serial number and an identifying symbol (letters) grouped[1] above or below the ICC mark. The symbol and numbers must be those of purchaser, user, or maker. The symbol must be registered with the Bureau of Explosives; duplications unauthorized.

Example: ICC—8
1234
XY

18. Section 73a.8-22 (e) (formerly paragraph 22 (additional type) of Specification 8, order April 19, 1948) is amended by designating the existing text as (1) and adding (2) as follows:

(2) Heat treatment is not required after welding or brazing weldable low carbon parts to attachments specified in subparagraph (1) of this paragraph of similar material which have been previously welded or brazed to the top or bottom of cylinders and properly heat treated, provided such subsequent welding or brazing does not produce a temperature in excess of 400° F. in any part of the top or bottom material.

[1] Variation in location authorized only when necessitated by lack of space.

19. Section 73a.17C-9 (c) (formerly paragraph 9 (c) of Specification 17C, order August 16, 1940), is amended to read as follows:

(c) For closure with threaded plug or cap, the seat (flange, etc.) for plug, or cap, must have 3 or more complete threads; two drainage holes of not over 5/16 inch diameter are allowed. Plug, or cap, must have sufficient length of thread to engage 3 threads when screwed home with gasket in place. Threaded closures having fewer threads are authorized for containers having a capacity of 12 gallons or less when such closures are approved by the Bureau of Explosives upon proof of satisfactory tests.

20. Section 73a.17H-9 (b) (formerly paragraph 9 (b) of Special 17H, order February 24, 1947), is amended to read as follows:

(b) Drums over 5 gallons capacity must be closed by means of 12 gage bolted ring with drop forged lugs, one of which is threaded, and having 3/8 inch bolt and nut for drums not over 30 gallons capacity and 5/8 inch bolt and nut for drums not over 30 gallons capacity. Five gallon drums must be of lug type closure with cover having at least 16 lugs. Equally efficient types of closures are authorized upon demonstration and proof of satisfactory tests to representative of Bureau of Explosives.

21. Sections 73a.22A-6, 73a.22A-8, 73a.22A-9, 73a.22A-10, 73a.22A-11, and 73a.22A-16 (Additional container Specification 22A, order July 14, 1942) are canceled.

21a. Section 73a.23F24 (a) (formerly paragraph 24 (a) of Specification 23F, order August 16, 1940), is amended to read as follows:

§ 73a.23F-24 *Closing for shipment.* (a) By coating with adhesive at least 50 percent of the entire contact surface of the closing flaps.

22. Section 73a.23F-30 (formerly paragraph 30 of Specification 23F, order August 16, 1940), is amended to read as follows:

§ 73a.23F-30 *Completed containers.* Samples must pass the following immediately after exposure for two weeks to 90 percent humidity at 75° F.; loaded containers shall contain dummy contents of shape and weight of the expected contents, and shall be closed in same manner as for shipment:

No change in paragraphs (a), (b) and (c).

23. Section 73a.23G-3 (b) (formerly paragraph 3 (b) of Specification 23G, order January 23, 1946), is amended to read as follows:

(b) *Ends.* To be of one or more plies of fiberboard sufficiently strong to withstand prescribed tests. Wax or plastic material with fiberboard inserts authorized provided the completed container will withstand the prescribed tests at temperatures from zero to one hundred thirty degrees F.

24. Section 73a.23G-4 (formerly paragraph 4, of Specification 23G, order January 23, 1946), is amended to read as follows:

§ 73a.23G-4 *Stitching staples.* If used shall be of steel wire, copper-coated or equivalent in non-sparking quality, at least 3/32 inch by 0.019 inch or equivalent cross section, formed into staples approximately 7/16 inch wide.

25. Section 73a.MC330-4 (d) (order January 23, 1950), is amended to read as follows:

(d) Stops and anchors shall be installed so as to be readily accessible for inspection and maintenance, except that for lagged tanks lagging is permitted to cover such areas.

26. Section 73a.MC330-5 (a) (order January 23, 1950), is amended to read as follows:

§ 73a.MC330-5 *Protection of valves and accessories.* (a) All valves, fittings, accessories, safety devices, gaging devices, and the like shall be adequately protected against mechanical damage by a housing closed with a cover plate, except that in lieu thereof tanks used for the transportation of carbon dioxide may have all valves, piping, fittings, accessories, safety devices, gaging devices and the like installed within the motor vehicle framework, or a suitable collision-resisting subframe, guard or housing.

PART 74—REGULATIONS APPLYING TO CARRIERS BY RAIL FREIGHT

SUBPART B—LOADING AND STORAGE CHART OF EXPLOSIVES AND OTHER DANGEROUS ARTICLES

1. Section 74.533 (formerly section 533, order November 8, 1941, as amended), is amended to read as follows:

§ 74.533 *Loading and storage chart of explosives and other dangerous articles.* Explosives or other dangerous articles must not be loaded, transported or stored together, except as provided in the loading and storage chart of explosives and other dangerous articles shown in this section.

The following table shows the explosives and other dangerous articles which must not be loaded or stored together.

The letter x at an intersection of horizontal and vertical columns shows that these articles must not be loaded or stored together, for example: Detonating fuzes, boosters (explosive) (g) horizontal column must not be loaded or stored with high explosives (b) vertical column.

		Low explosives or black powder	High explosives, and smokeless powder for small arms in quantity exceeding 50 pounds net weight	Initiating or priming explosives wet: Diazodinitrophenol, fulminate of mercury, guanyl nitrosamino guanylidene hydrazine, lead azide, lead styphnate, nitro mannite, nitrosoguanidine, pentaerythrite tetranitrate, tetrazene	Blasting caps, with or without safety fuse (including electric blasting caps), detonating primers	Ammunition for cannon with explosive projectiles, gas projectiles, smoke projectiles, incendiary projectiles, illuminating projectiles or shell, ammunition for small arms with explosive bullets, or ammunition for small arms with explosive projectiles, or rocket ammunition with explosive projectiles, gas projectiles, smoke projectiles, incendiary projectiles or illuminating projectiles [c]	Explosive projectiles, bombs, torpedoes, or mines, rifle or hand grenades (explosive), jet thrust units (jato), class A [c]	Detonating fuzes, boosters (explosive)	Ammunition for cannon with empty inert-loaded or solid projectiles, or without projectiles, or rocket ammunition with empty projectiles, inert-loaded or solid projectiles or without projectiles	Smokeless powder for cannon or not exceeding 50 pounds net weight of smokeless powder for small arms, or jet thrust units (jato), class B	Fireworks, special	Small arms ammunition	Primers for cannon or small arms, empty cartridge bags—black powder igniters, empty cartridge cases, primed, empty grenades, primed, combination primers or percussion caps, toy caps, explosive cable cutters, explosive rivets	Percussion fuzes, tracer fuzes or tracers	Time or combination fuzes	Cordeau detonant fuse, safety squibs, fuse lighters, fuse igniters, delay electric igniters, electric squibs or instantaneous fuse	Fireworks, common	Flammable liquids or compressed flammable gases, red label	Flammable solids or oxidizing materials, yellow label	Acids or corrosive liquids, white label	Compressed nonflammable gases, green label	Poisonous gases or liquids, in cylinders, projectiles or bombs, poison gas label	Radioactive materials (class D poison)
		a	b	c	d	e	f	g	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Class A explosives																							
Low explosives or black powder	a			x							x						x	x	x	x	x	x	x
High explosives, and smokeless powder for small arms in quantity exceeding 50 pounds net weight	b			x				x			x						x	x	x	x	x	x	x
Initiating or priming explosives, wet: Diazodinitrophenol, fulminate of mercury, guanyl nitrosamino guanylidene hydrazine, lead azide, lead styphnate, nitro mannite, nitrosoguanidine, pentaerythrite tetranitrate, tetrazene	c	x	x		x	x	x	x	x	x	x	x		x	x	x	x	x	x	x	x	x	x
Blasting caps, with or without safety fuse (including electric blasting caps), detonating primers	d			x		x	x				[a] x						[a] x	[a] x	[a] x	[a] x	[a] x	x	x
Ammunition for cannon with explosive projectiles, gas projectiles, smoke projectiles, incendiary projectiles, illuminating projectiles or shell, ammunition for small arms with explosive bullets, or ammunition for small arms with explosive projectiles, or rocket ammunition with explosive projectiles, gas projectiles, smoke projectiles, incendiary projectiles or illuminating projectiles [c]	e			x	x			x			x						x	x	x	x	x	x	x

[a] Blasting caps or electric blasting caps in quantities not exceeding 1,000 caps may also be loaded and transported with all articles named except those in columns c, e, and f.

[c] Explosives, class A, and explosives, class B, must not be loaded or stored with chemical ammunition containing incendiary charges either with or without bursting charges. Chemical ammunition of the same classification containing incendiary charges may be loaded and stored together.

The following table shows the explosives and other dangerous articles which must not be loaded or stored together.

The letter x at an intersection of horizontal and vertical columns shows that these articles must not be loaded or stored together, for example: Detonating fuzes, boosters (explosive) (g) horizontal column must not be loaded or stored with high explosives (b) vertical column.

		a: Low explosives or black powder	b: High explosives, and smokeless powder for small arms in quantity exceeding 50 pounds net weight	c: Initiating or priming explosives wet: Diazodinitrophenol, fulminate of mercury, guanyl nitrosamino guanylidene hydrazine, lead azide, lead styphnate, nitro mannite, nitrosoguanidine, pentaerythrite tetranitrate, tetrazene	d: Blasting caps, with or without safety fuse (including electric blasting caps), detonating primers	e: Ammunition for cannon with explosive projectiles, gas projectiles, smoke projectiles, incendiary projectiles, illuminating projectiles or shell, ammunition for small arms with explosive bullets, or ammunition for small arms with explosive projectiles, or rocket ammunition with explosive projectiles, gas projectiles, smoke projectiles, incendiary projectiles or illuminating projectiles [c]	f: Explosive projectiles, bombs, torpedoes, or mines, rifle or hand grenades (explosive), jet thrust units (jato), class A [c]	g: Detonating fuzes, boosters (explosive)	1: Ammunition for cannon with empty inert-loaded or solid projectiles, or without projectiles, or rocket ammunition with empty projectiles, inert-loaded or solid projectiles or without projectiles	2: Smokeless powder for cannon or not exceeding 50 pounds net weight of smokeless powder for small arms, or jet thrust units (jato), class B	3: Fireworks, special	4: Small arms ammunition	5: Primers for cannon or small arms, empty cartridge bags—black powder igniters, empty cartridge cases, primed, empty grenades, primed, combination primers or percussion caps, toy caps, explosive cable cutters, explosive rivets	6: Percussion fuzes, tracer fuzes or tracers	7: Time or combination fuzes	8: Cordeau detonant fuse, safety squibs, fuse lighters, fuse igniters, delay electric igniters, electric squibs or instantaneous fuse	9: Fireworks, common	10: Flammable liquids or compressed flammable gases, red label	11: Flammable solids or oxidizing materials, yellow label	12: Acids or corrosive liquids, white label	13: Compressed nonflammable gases, green label	14: Poisonous gases or liquids, in cylinders, projectiles or bombs, poison gas label	15: Radioactive materials (class D poison)
Class A explosives—Continued																							
Explosive projectiles, bombs, torpedoes, or mines, rifle or hand grenades (explosive), jet thrust units (jato), class A [c]	f			x	x			x			x						x	x	x	x	x	x	x
Detonating fuzes, boosters (explosive)	g		x	x		x	x				x						x	x	x	x	x	x	x
Class B explosives																							
Ammunition for cannon with empty inert-loaded or solid projectiles, or without projectiles, or rocket ammunition with empty projectiles, inert-loaded or solid projectiles or without projectiles	1			x																[b] x		x	
Smokeless powder for cannon or not exceeding 50 pounds net weight of smokeless powder for small arms, or jet thrust units (jato), class B	2			x																[b] x		x	
Fireworks, special	3	x	x	x	[a] x	x	x	x														x	
Class C explosives																							
Small arms ammunition	4			x																			
Primers for cannon or small arms, empty cartridge bags-black power igniters, empty cartridge cases, primed, empty grenades, primed, combination primers or percussion caps, toy caps, explosive cable cutters. Explosive rivets	5			x																			
Percussion fuzes, tracer fuzes or tracers	6			x																			
Time or combination fuzes	7			x																			
Cordeau detonant fuse, safety squibs, fuse lighters, fuse igniters, delay electric igniters, electric squibs or instantaneous fuse	8			x																			
Fireworks, common	9	x	x	x	[a] x	x	x	x															
Other dangerous articles																							
Flammable liquids or compressed flammable gases, red label	10	x	x	x	[a] x	x	x	x														x	
Flammable solids or oxidizing materials, yellow label	11	x	x	x	[a] x	x	x	x												[b] x		x	
Acids or corrosive liquids, white label	12	x	x	x	[a] x	x	x	x	[b] x	[b] x									[b] x			x	
Compressed, nonflammable gases, green label	13	x	x	x	[a] x	x	x	x															
Poisonous gases or liquids, in cylinders, projectiles or bombs, poison gas label	14	x	x	x	x	x	x	x	x	x	x												
Radioactive materials (class D poisons)	15	x	x	x	x	x	x	x										x	x	x			

[a] Blasting caps or electric blasting caps in quantities not exceeding 1,000 caps may also be loaded and transported with all articles named except those in columns c, e, and f.

[b] Unless loaded in opposite ends of car, acids or other corrosive liquids, white label, must not be loaded with yellow label articles, ammunition for cannon with or without projectiles or smokeless powder.

[c] Explosives, class A, and explosives, class B, must not be loaded or stored with chemical ammunition containing incendiary charges either with or without bursting charges. Chemical ammunition of the same classification containing incendiary charges may be loaded and stored together.

NOTE 1. Charged electric storage batteries must not be loaded in the same car nor stored with any class A explosives.
NOTE 2. Cyanides or cyanide mixtures must not be loaded or stored with acids or corrosive liquids.
NOTE 3. Gas identification sets may be loaded and transported with all articles named except those in column c.

SUBPART D—UNLOADING FROM CARS

2. Section 74.561 (o) (formerly paragraph (o) sec. 561, order August 16, 1940), is amended to read as follows:

(o) As soon as a tank car is completely unloaded, all valves must be made tight, the unloading connections must be removed and all other closures made tight, except that heater coil inlet and outlet pipes must be left open for drainage. The manhole cover must be applied by the use of a bar or wrench, the outlet valves reducer and outlet valve cap by the use of a wrench having a handle at least 36 inches long, and the outlet valve cap plug, end plug, and all other closures of openings and of their protective housings by the use of a suitable tool.

PART 77—REGULATIONS APPLYING TO SHIPMENTS BY WAY OF COMMON, CONTRACT, OR PRIVATE CARRIERS BY PUBLIC HIGHWAY

1. Section 77.825 (formerly section 825, order November 8, 1941 as amended), is amended to read as follows:

§ 77.825 *Loading and storage chart of explosives and other dangerous articles.* Explosives or other dangerous articles must not be loaded, transported or stored together, except as provided in the loading and storage chart of explosives and other dangerous articles shown in this section.

The following table shows the explosives and other dangerous articles which must not be loaded or stored together. The letter x at an intersection of horizontal and vertical columns shows that these articles must not be loaded or stored together, for example: Detonating fuzes, boosters (explosive) (g) horizontal column must not be loaded or stored with high explosives (b) vertical column.		Low explosives or black powder a	High explosives, and smokeless powder for small arms in quantity exceeding 50 pounds net weight b	Initiating or priming explosives wet: Diazodinitrophenol, fulminate of mercury, guanyl nitrosamino guanylidene hydrazine, lead azide, lead styphnate, nitro mannite, nitrosoguanidine, pentaerythrite tetranitrate, tetrazene c	Blasting caps, with or without safety fuse (including electric blasting caps), detonating primers d	Ammunition for cannon with explosive projectiles, gas projectiles, smoke projectiles, incendiary projectiles, illuminating projectiles or shell, ammunition for small arms with explosive bullets, or ammunition for small arms with explosive projectiles, or rocket ammunition with explosive projectiles, gas projectiles, smoke projectiles, incendiary projectiles or illuminating projectiles [c] e	Explosive projectiles, bombs, torpedoes, or mines, rifle or hand grenades (explosive), jet thrust units (jato), class A [c] f	Detonating fuzes, boosters (explosive) g	Ammunition for cannon with empty inert-loaded or solid projectiles, or without projectiles, or rocket ammunition with empty projectiles, inert-loaded or solid projectiles or without projectiles 1	Smokeless powder for cannon or not exceeding 50 pounds net weight of smokeless powder for small arms, or jet thrust units (jato), class B 2	Fireworks, special 3	Small arms ammunition 4	Primers for cannon or small arms, empty cartridge bags—black powder igniters, empty cartridge cases, primed, empty grenades, primed, combination primers or percussion caps, toy caps, explosive cable cutters, explosive rivets 5	Percussion fuzes, tracer fuzes or tracers 6	Time or combination fuzes 7	Cordeau detonant fuse, safety squibs, fuse lighters, fuse igniters, delay electric igniters, electric squibs or instantaneous fuse 8	Fireworks, common 9	Flammable liquids or compressed flammable gases, red label 10	Flammable solids or oxidizing materials, yellow label 11	Acids or corrosive liquids, white label 12	Compressed nonflammable gases, green label 13	Poisonous gases or liquids, in cylinders, projectiles or bombs, poison gas label 14	Radioactive materials (class D poison) 15
Class A explosives																							
Low explosives or black powder	a			x							x						x	x	x	x	x	x	x
High explosives, and smokeless powder for small arms in quantity exceeding 50 pounds net weight	b			x				x			x						x	x	x	x	x	x	x
Initiating or priming explosives, Wet: Diazodinitrophenol, fulminate of mercury, guanyl nitrosamino guanylidene hydrazine, lead azide, lead styphnate, nitro mannite, nitrosoguanidine, pentaerythrite tetranitrate, tetrazene	c	x	x		x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x
Blasting caps, with or without safety fuse (including electric blasting caps), detonating primers	d			x		x	x				[a]x						[a]x	[a]x	[a]x	[a]x	[a]x	x	x
Ammunition for cannon with explosive projectiles, gas projectiles, smoke projectiles, incendiary projectiles, illuminating projectiles or shell, ammunition for small arms with explosive bullets, or ammunition for small arms with explosive projectiles, or rocket ammunition with explosive projectiles, gas projectiles, smoke projectiles, incendiary projectiles or illuminating projectiles [c]	e			x	x			x			x						x	x	x	x	x	x	x
Explosive projectiles, bombs, torpedoes, or mines, rifle or hand grenades (explosive), jet thrust units (jato), class A [c]	f			x	x			x			x						x	x	x	x	x	x	x
Detonating fuzes, boosters (explosive)	g		x	x		x	x				x						x	x	x	x	x	x	x
Class B explosives																							
Ammunition for cannon with empty inert-loaded or solid projectiles, or without projectiles, or rocket ammunition with empty projectiles, inert-loaded or solid projectiles or without projectiles	1			x																[b]x		x	
Smokeless powder for cannon or not exceeding 50 pounds net weight of smokeless powder for small arms, or jet thrust units (jato), class B	2			x																[b]x		x	
Fireworks, special	3	x	x	x	[a]x	x	x	x														x	
Class C explosives																							
Small arms ammunition	4			x																			
Primers for cannon or small arms, empty cartridge bags-black powder igniters, empty cartridge cases, primed, empty grenades, primed, combination primers or percussion caps, toy caps, explosive cable cutters. Explosive rivets	5			x																			
Percussion fuzes, tracer fuzes or tracers	6			x																			
Time or combination fuzes	7			x																			
Cordeau detonant fuze, safety squibs, fuze lighters, fuze igniters, delay electric igniters, electric squibs or instantaneous fuze	8			x																			
Fireworks, common	9	x	x	x	[a]x	x	x	x															

[a] Blasting caps or electric blasting caps in quantities not exceeding 1,000 caps may also be loaded and transported with all articles named except those in columns c, e, and f. Blasting caps and/or electric blasting caps may be transported in the same motor vehicle with high explosives or nitroglycerin, desensitized nitroglycerin, or diethylene glycol dinitrate, in conformity with § 77.824 of these regulations.

[b] Acids or other corrosive liquids, white label, must not be loaded above or adjacent to flammable solids or oxidizing materials, yellow label, ammunition for cannon with or without projectiles, or smokeless powder.

[c] Explosives, class A, and explosives, class B, must not be loaded or stored with chemical ammunition containing incendiary charges either with or without bursting charges. Chemical ammunition of the same classification containing incendiary charges may be loaded and stored together.

The following table shows the explosives and other dangerous articles which must not be loaded or stored together.

The letter x at an intersection of horizontal and vertical columns shows that these articles must not be loaded or stored together, for example: Detonating fuzes, boosters (explosive) (g) horizontal column must not be loaded or stored with high explosives (b) vertical column.

		a. Low explosives or black powder	b. High explosives, and smokeless powder for small arms in quantity exceeding 50 pounds net weight	c. Initiating or priming explosives wet: Diazodinitrophenol, fulminate of mercury, guanyl nitrosamino guanylidene hydrazine, lead azide, lead styphnate, nitro mannite, nitrosoguanidine, pentaerythrite tetranitrate, tetrazene	d. Blasting caps, with or without safety fuse (including electric blasting caps), detonating primers	e. Ammunition for cannon with explosive projectiles, gas projectiles, smoke projectiles, incendiary projectiles, illuminating projectiles or shell, ammunition for small arms with explosive bullets, or ammunition for small arms with explosive projectiles, or rocket ammunition with explosive projectiles, gas projectiles, smoke projectiles, incendiary projectiles or illuminating projectiles [c]	f. Explosive projectiles, bombs, torpedoes, or mines, rifle or hand grenades (explosive), jet thrust units (jato), class A [c]	g. Detonating fuzes, boosters (explosive)	1. Ammunition for cannon with empty inert-loaded or solid projectiles, or without projectiles, or rocket ammunition with empty projectiles, inert-loaded or solid projectiles or without projectiles	2. Smokeless powder for cannon or not exceeding 50 pounds net weight of smokeless powder for small arms, or jet thrust units (jato), class B	3. Fireworks, special	4. Small arms ammunition	5. Primers for cannon or small arms, empty cartridge bags—black powder igniters, empty cartridge cases, primed, empty grenades, primed, combination primers or percussion caps, toy caps, explosive cable cutters, explosive rivets	6. Percussion fuzes, tracer fuzes or tracers	7. Time or combination fuzes	8. Cordeau detonant fuse, safety squibs, fuse lighters, fuse igniters, delay electric igniters, electric squibs or instantaneous fuse	9. Fireworks, common	10. Flammable liquids or compressed flammable gases, red label	11. Flammable solids or oxidizing materials, yellow label	12. Acids or corrosive liquids, white label	13. Compressed nonflammable gases, green label	14. Poisonous gases or liquids, in cylinders, projectiles or bombs, poison gas label	15. Radioactive materials (class D poison)
Other dangerous articles																							
Flammable liquids or compressed flammable gases, red label	10	x	x	x	[a] x	x	x	x														x	
Flammable solids or oxidizing materials, yellow label	11	x	x	x	[a] x	x	x	x												[b] x		x	
Acids or corrosive liquids, white label	12	x	x	x	[a] x	x	x	x	[b] x	[b] x									[b] x			x	
Compressed nonflammable gases, green label	13	x	x	x	[a] x	x	x	x															
Poisonous gases or liquids, in cylinders, projectiles or bombs, poison gas label	14	x	x	x	x	x	x	x	x	x	x							x	x	x			
Radioactive materials (class D poisons)	15	x	x	x	x	x	x	x															

[a] Blasting caps or electric blasting caps in quantities not exceeding 1,000 caps may also be loaded and transported with all articles named except those in columns c, e, and f. Blasting caps and/or electric blasting caps may be transported in the same motor vehicle with high explosives or nitroglycerin, desensitized nitroglycerin, or diethylene glycol dinitrate, in conformity with § 77.824 of these regulations.

[b] Acids or other corrosive liquids, white label, must not be loaded above or adjacent to flammable solids or oxidizing materials, yellow label, ammunition for cannon with or without projectiles, or smokeless powder.

[c] Explosives, class A, and explosives, class B, must not be loaded or stored with chemical ammunition containing incendiary charges either with or without bursting charges. Chemical ammunition of the same classification containing incendiary charges may be loaded and stored together.

NOTE 1: Charged electric storage batteries must not be loaded in the same vehicle with explosives, class A.
NOTE 2: Cyanides or cyanide mixtures must not be loaded or stored with acids or corrosive liquids.
NOTE 3: Gas identification sets may be loaded and transported with all articles named except those in column c.

It is further ordered, That the foregoing amendments to the aforesaid regulations shall have full force and effect on July 29, 1950, and that such regulations as herein amended shall thereafter be observed until further order of the Commission.

It is further ordered, That compliance with the aforesaid regulations as herein amended is hereby authorized on and after the date of service of this order.

And it is further ordered, That copies of this order be served upon all parties of record herein, and that notice shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of Federal Register.

(49 Stat. 546, as amended, sec. 835, 62 Stat. 739; 49 U. S. C. 304, 18 U. S. C., Sup., 835)

By the Commission.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 50-3955; Filed, May 16, 1950; 8:49 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Production and Marketing Administration

[7 CFR, Part 932]

[Docket No. AO 33-A 15]

HANDLING OF MILK IN FORT WAYNE, INDIANA, MARKETING AREA

NOTICE OF HEARING ON PROPOSED AMENDMENTS TO TENTATIVELY APPROVED MARKETING AGREEMENT, AS AMENDED, AND TO ORDER, AS AMENDED

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR, Part 900), notice is hereby given of a public hearing to be held at Van Orman Hotel, 128 West Berry Street, Fort Wayne, Indiana, beginning at 10:00 a. m., c. d. s. t., June 1, 1950, for the purpose of receiving evidence with respect to economic and emergency conditions which relate to the handling of milk in the Fort Wayne, Indiana, marketing area and to the proposed amendments to the tentatively approved marketing agreement and to the order, as amended, regulating the handling of milk in the said marketing area (7 CFR, 932.0 et seq.) set forth herein below, or modifications thereof. The amendments proposed have not received the approval of the Secretary of Agriculture.

The following amendments have been proposed by the Allen Dairy Products, Inc., and Wayne Cooperative Milk Producers, Inc., Fort Wayne, Indiana:

Proposal No. 1. 1. Delete from § 932.2 (c) (10) (ii) the word "price" and substitute therefor the word "prices."

2. Delete § 932.7 (b) and substitute therefor the following:

(b) *Computation of uniform price.* For each delivery period the market administrator shall compute for each handler a "uniform price" per hundredweight, on the basis of 4% butterfat content, received from producers as follows:

(1) From the value of milk computed for such handler pursuant to paragraph (a) of this section, subtract, if the weighted average butterfat test of producer milk received by him is greater than 4% or add, if the weighted average butterfat test of such milk is less than 4%, an amount computed by, multiplying the amount by which its weighted average butterfat test varies from 4% by the butterfat differential computed pursuant to § 932.8 (c), and multiplying the resulting figure by the hundredweight of such milk;

(2) Add or subtract as the case may be, the amount necessary to correct errors in classification for previous delivery periods as disclosed by audit of the market administrator;

(3) Adjust the resulting amount by the sum of money used in adjusting the uniform price, pursuant to subparagraph (5) of this paragraph, for the previous delivery period to the nearest cent;

(4) Divide the result by the total hundred-weight of producer milk represented by the value computed to paragraph (a) of this section; and

(5) Adjust the resulting figure to the nearest cent.

3. Delete § 932.7 (c) (3) and redesignate § 932.7 (c) (4) as § 932.7 (c) (3).

4. Delete from § 932.8 (a) (1) the proviso contained therein.

Proposal No. 2. Delete from § 932.1 paragraph (f) and substitute therefor the following:

(f) "Fort Wayne, Indiana, marketing area," hereinafter called the "marketing area," means all the territory within the county of Allen; in the State of Indiana.

Proposal No. 3. The decision of the Secretary issued on May 9, 1950 (15 F. R. 2847) deferred consideration on changes in the provisions of § 932.4 (e) relating to proposal No. 4 contained in the notice of hearing issued January 24, 1950 (15 F. R. 466) to delete the phrases "or diversion" and "or diverted," wherever they appear and re-caption to read "transfers" pending further consideration at a public hearing. The hearing is reopened for the purpose of receiving additional evidence in this respect, at this time.

Amendment proposed by the Dairy Branch, Production and Marketing Administration:

Proposal No. 4. Make such other changes as may be required to make the entire marketing agreement and order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and of the order, as amended, now in effect, may be procured from the Market Administrator, Room 407, Strauss Building, Fort Wayne, Indiana, or from the Hearing Clerk, United States Department of Agriculture, Room 1353, South Building, Washington 25, D. C., or may be there inspected.

Dated: May 16, 1950, at Washington, D. C.

[SEAL] JOHN I. THOMPSON, *Assistant Administrator.*

[F. R. Doc. 50-4268; Filed, May 16, 1950; 12:19 p. m.]

[7 CFR, Part 962]

[Docket No. AO-162-A2]

HANDLING OF FRESH PEACHES GROWN IN GEORGIA

DECISION WITH RESPECT TO PROPOSED AMENDMENTS TO MARKETING AGREEMENT AND ORDER

Pursuant to Public Act No. 10, 73d Congress (May 12, 1933), as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders (7 CFR, Part 900), a public hearing was held at Macon, Georgia, beginning on February 23, 1950, pursuant to notice thereof published in the FEDERAL REGISTER (15 F. R. 875), upon proposed amendments to Marketing Agreement No. 99, hereinafter referred to as the "marketing agreement," and Order No. 62 (7 CFR, Part 962), hereinafter referred to as the "order," regulating the handling of fresh peaches grown in the State of Georgia.

Upon the basis of the evidence introduced at the hearing and the record thereof, the Assistant Administrator, Production and Marketing Administration, on April 12, 1950, filed with the Hearing Clerk, United States Department of Agriculture, the recommended decision in this proceeding. The notice of the filing of such recommended decision, affording opportunity to file written exceptions thereto, was published in the FEDERAL REGISTER (15 F. R. 2146). No exception to said recommended decision was filed.

The material issues, findings and conclusions, and the general findings of the recommended decision, set forth in the FEDERAL REGISTER (F. R. Doc. 50-3210; 15 F. R. 2146), are hereby approved, adopted and incorporated herein as the material issues, findings and conclusions, and general findings of this decision as if set forth in full herein.

Amendments to the marketing agreement and order. Annexed hereto and made a part hereof are two documents entitled, respectively, "Agreement Amending the Marketing Agreement Regulating the Handling of Fresh Peaches Grown in the State of Georgia" and "Order Amending the Order Regulating the Handling of Fresh Peaches Grown in the State of Georgia," which have been decided upon as the appropriate and detailed means of effecting the foregoing conclusions. The aforesaid amendments shall not become effective unless and until the requirements of § 900.14 of the aforesaid rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

It is hereby ordered, That all of this decision, except the attached agreement amending the marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of the said agreement are identical with those contained in the attached order which will be published with this decision.

Done at Washington, D. C., this 12th day of May 1950.

[SEAL] CLAUDE R. WICKARD, *Acting Secretary of Agriculture.*

Order[1] Amending the Order Regulating the Handling of Fresh Peaches Grown in the State of Georgia

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[1] This order shall not become effective unless and until the requirement of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

AUTHORITY: §§ 962.0 to 962.92, issued under 48 Stat. 31, as amended; 7 U. S. C. 601 et seq.

FINDINGS AND DETERMINATIONS

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

(a) *Findings upon the basis of the hearing record.* Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the rules of practice and procedure effective thereunder (7 CFR, Part 900), a public hearing was held at Macon, Georgia, beginning on February 23, 1950, upon proposed amendments to the marketing agreement and Order No. 62, effective April 27, 1942, regulating the handling of fresh peaches grown in the State of Georgia. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

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

(2) The said order as hereby amended regulates the handling of fresh peaches grown in the State of Georgia in the same manner as, and is applicable only to persons in the respective classes of industrial and commercial activity specified in, the marketing agreement upon which hearings have been held; and

(3) There are differences in the marketing of peaches grown in the production area covered by said order as hereby amended that make necessary different terms and provisions applicable to different marketing areas; and said amendatory order prescribes, so far as practicable, such different terms, applicable to different marketing areas, as are necessary to give due recognition to such differences.

It is, therefore, ordered, That, on and after the effective date hereof, the handling of fresh peaches grown in the State of Georgia shall be in conformity to, and in compliance with, the terms and conditions of the aforesaid order as hereby amended; and such order is hereby amended to read as follows:

Sections 962.1 to 962.92, inclusive, of Subpart-Order Relative to Handling contained in the Assistant Administrator's recommended decision, as published in the FEDERAL REGISTER (F. R. Doc. 50-3210; 15 F. R. 2146), are hereby adopted and incorporated into this order as the terms and conditions hereof as if set forth in full herein.

DEFINITIONS

§ 962.1 *Secretary.* "Secretary" means the Secretary of Agriculture of the United States, or the Under Secretary of Agriculture of the United States, or the Assistant Secretary of Agriculture of the United States, or any officer or employee of the United States Department of Agriculture to whom the Secretary of Agriculture of the United States has heretofore lawfully delegated, or to whom the Secretary of Agriculture of the United States may hereafter lawfully delegate, the authority to act in his stead.

§ 962.2 *Act.* "Act" means Public Act No. 10, 73d Congress (May 12, 1933), as amended and reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.).

§ 962.3 *Person.* "Person" means an individual, marketing agent, partnership, corporation, marketing agency, association, legal representative, or any organized group or business unit of individuals.

§ 962.4 *Area.* "Area" means and includes the entire State of Georgia.

§ 962.5 *Peaches.* "Peaches" means and includes all varieties of peaches grown within the aforesaid area.

§ 962.6 *Shipper.* "Shipper" is synonymous with "handler" and means any person who, as owner, agent, or otherwise, handles peaches.

§ 962.7 *Ship.* "Ship" is synonymous with "handle" and means to sell, transport, or in any other way (except as a common or contract carrier of peaches owned by another person) to place peaches, in fresh form, in the current of commerce between the State of Georgia and any point outside thereof.

§ 962.8 *Grower.* "Grower" means any person engaged in the production of peaches for market; however, as used in § 962.62 "grower" shall also include any purchaser of a crop of peaches on the trees.

§ 962.9 *Fiscal period.* "Fiscal period" means the period beginning on March 1 of each year and ending on the last day of February of the following year.

§ 962.10 *District.* "District" means the applicable one of the following described geographical subdivisions of the area:

(a) "South Georgia District" shall include the counties of Muscogee, Chattahoochee, Marion, Taylor, Crawford, Bibb, Twiggs, Wilkinson, Washington, Jefferson, Glascock, Burke, Johnson, Emanuel, Jenkins, Screven, Stewart, Webster, Schley, Macon, Peach, Houston, Sumter, Dooly, Pulaski, Bleckley, Laurens, Quitman, Randolph, Terrell, Lee, Crisp, Wilcox, Dodge, Troutlen, Chandler, Bulloch, Effingham, Clay, Calhoun, Dougherty, Worth, Turner, Tift, Irwin, Ben Hill, Telfair, Wheeler, Montgomery, Toombs, Tattnall, Evans, Bryan, Chatham, Early, Miller, Baker, Mitchell, Colquitt, Cook, Berrien, Coffee, Bacon, Wayne, McIntosh, Jeff Davis, Appling, Long, Liberty, Seminole, Decatur, Grady, Thomas, Brooks, Lowndes, Lanier, Echols, Atkinson, Clinch, Ware, Pierce, Brantley, Glynn, Charlton, and Camden;

(b) "Central Georgia District" shall include the counties of Carroll, Douglas, Fulton, De Kalb, Rockdale, Newton, Walton, Morgan, Greene, Taliaferro, Warren, McDuffie, Columbia, Heard, Coweta, Fayette, Clayton, Henry, Jasper, Putnam, Hancock, Troup, Meriwether, Spalding, Butts, Pike, Lamar, Monroe, Jones, Baldwin, Richmond, Harris, Talbot, and Upson; and

(c) "North Georgia District" shall include the counties of Dade, Catoosa, Whitfield, Murray, Fannin, Union, Towns, Rabun, Walker, Chattooga, Gordon, Gilmer, Pickens, Lumpkin, White, Habersham, Floyd, Bartow, Cherokee, Dawson, Hall, Banks, Stephens, Franklin, Hart, Polk, Haralson, Paulding, Cobb, Forsyth, Gwinnett, Barrow, Jackson, Madison, Clarke, Oconee, Oglethorpe, Elbert, Wilkes, and Lincoln.

§ 962.11 *Adjacent markets.* "Adjacent markets" means the States of Florida, Alabama, Tennessee, North Carolina, and South Carolina.

COMMITTEES

§ 962.15 *Establishment of Industry Committee.* An Industry Committee, consisting of eight (8) members, is hereby established to administer the terms and provisions of this part. The members of said Industry Committee, and their respective alternates, shall be selected in accordance with the provisions of this part.

§ 962.16 *Representation by districts on Industry Committee.* Three (3) members of the Industry Committee shall be selected from among growers in the South Georgia District; three (3) members of the committee shall be selected from among growers in the Central Georgia District; and two (2) members of the committee shall be selected from among growers in the North Georgia District.

§ 962.17 *Selection of initial members of Industry Committee.* The initial members of the Industry Committee, and their respective alternates, shall be selected by the Secretary as soon as reasonably possible after the effective date of this subpart (Apr. 27, 1942). In thus selecting the initial members and alternates, the Secretary may consider such nominations or suggestions, if any, as may be submitted by growers, and such nominations or suggestions may be by virtue of elections conducted by groups of growers prior to, or immediately subsequent to, the effective date of this subpart (Apr. 27, 1942). Each of the initial members and his respective alternate shall serve for a term ending on February 28, 1943, and in the event that the respective person's successor has not been selected and qualified by February 28, 1943, such person shall serve until his successor has been selected and qualified. In selecting such initial members and their alternates, the Secretary shall make his selection upon the basis of the representation by districts provided for in §§ 962.15 through 962.38.

§ 962.18 *Nomination of succeeding members of Industry Committee.* The Industry Committee shall, after the year 1942, hold or cause to be held prior to January 31 of each year a meeting or meetings of growers in each of the districts designated in § 962.10, for the purpose of designating nominees from among whom the Secretary may select members and alternate members of the Industry Committee. The committee shall give adequate notice of any such meeting or meetings to all growers in the respective district.

§ 962.19 *Conduct of nomination meetings.* At each election meeting held to nominate members and alternate members of the Industry Committee, the growers eligible to participate therein shall select a chairman and a secretary therefor. The chairman of each meeting shall announce at such meeting the name of each person for whom a vote has been cast, whether as member or alternate member, and the number of votes cast for each such person, and the chairman or the secretary of the meeting shall forthwith transmit such information to the Secretary or the designated representative of the Secretary. At each such meeting at least two nominees shall be designated for each position as member and at least two nominees shall be designated for each position as alternate member on the committee as representative or representatives of the respective district.

§ 962.20 *Eligibility to vote at nomination meetings.* Only growers in attendance at a meeting for election of nominees shall participate in the nomination of members and their alternates. In the event a grower is engaged in producing peaches in more than one district, such grower shall elect the district within which he shall participate in designating nominees. Each grower shall be entitled to cast only one vote on behalf of himself, his agents, affiliates, subsidiaries, and representatives for each position on the committee for which such voter is eligible to participate in designating a nominee at the respective meeting.

§ 962.21 *Selection of members of Industry Committee.* The Secretary may select the members of the Industry Committee and their respective alternates, subsequent to the initial members and alternates, from nominations made by growers as provided in §§ 962.15 through 962.38 or the Secretary may select such members and alternates from among other persons.

§ 962.22 *Vacancies.* In the event nominations are not made for membership on the Industry Committee, pursuant to the provisions of §§ 962.15 through 962.38, by February 15 of the respective fiscal period, the Secretary may select such members and their respective alternates without waiting for nominees to be designated. To fill any vacancy occasioned by the failure of any person, selected as a member of the Industry Committee or as an alternate member thereof, to qualify, or in the event of the death, removal, resignation, or disqualification of any qualified member or alternate, a successor for his unexpired term shall be selected by the Secretary.

§ 962.23 *Qualification.* Each person selected as a member of the Industry Committee or as an alternate member thereof shall promptly qualify by filing with the Secretary, or with the designated representative of the Secretary, a written acceptance of appointment.

§ 962.24 *Alternate members of Industry Committee.* There shall be an alternate member for each member of the Industry Committee. Each such alternate member shall have the same qualifications and shall be selected in the same manner as the respective member for whom such individual is to serve as alternate. The alternate for a member of the committee shall, in the event of the respective member's absence, act in the place of said member; and, in the event of such member's removal, resignation, disqualification, or death, the alternate for said member shall, until a successor for the unexpired term of said member has been selected, act in the place of said member.

§ 962.25 *Eligibility for membership on Industry Committee.* A person nominated or selected to serve as a member or as an alternate member of the Industry Committee, for any particular period, shall be an individual grower of peaches in the respective district for which selected, or an officer, employee, or agent of a corporate grower or corporate growers in such district.

§ 962.26 *Term of office.* The members of the Industry Committee and their respective alternates, selected subsequent to the initial members and alternates, shall serve for the fiscal period for which they have been selected and if their successors have not been selected and qualified prior to the end of the respective fiscal period, each such member or alternate shall continue to serve until his respective successor shall have been selected and qualified.

§ 962.27 *Compensation and reimbursement for expenses.* Each member of the Industry Committee, and each alternate member when acting for a member or when designated by the committee to attend, may receive compensation in an amount not in excess of five dollars ($5.00) per day (a) for attending each meeting of the committee; (b) while attending to such committee business as may be authorized by the committee; and (c) for attending each consultation or conference with any committee, or representatives thereof, established under any marketing agreement and order program, pursuant to the act, with respect to the handling of peaches grown in the area or in any other State. In addition to said compensation, each of the aforesaid members and alternate members may be reimbursed for all reasonable expenses necessarily incurred in attending each such meeting, conference, or consultation, or while attending to such committee business.

§ 962.28 *Powers.* The Industry Committee shall have the following powers:

(a) To administer, as herein specifically provided the terms and provisions of this part;

(b) To make, in accordance with the provisions herein contained, administrative rules and regulations;

(c) To receive, investigate, and report to the Secretary complaints of violation hereof; and

(d) To recommend to the Secretary amendments to this subpart.

§ 962.29 *Duties.* The Industry Committee shall have the following duties:

(a) To act as intermediary between the Secretary and any grower or handler;

(b) To keep minutes, books, and records which will clearly reflect all of its acts and transactions, and such minutes, books, and records shall at all times be subject to examination by the Secretary;

(c) To furnish the Secretary such available information as may be requested by the Secretary;

(d) To select such employees as it may deem necessary, and to determine the salaries and define the duties of such employees;

(e) To cause its books to be audited by one or more competent accountants at least once each fiscal period, and at such other times as it deems necessary or as the Secretary may request, and to file with the Secretary a copy of each such audit report;

(f) To prepare from time to time statements of the financial operations of the committee and to make such statements, together with the minutes of the meetings of said committee, available, at the office of the committee, for inspection by any grower;

(g) To perform such duties in connection with the administration of section 32 of the act to amend the Agricultural Adjustment Act, and for other purposes, Public Act No. 320, 74th Congress (August 24, 1935), as amended, as may from time to time be assigned to the committee by the Secretary;

(h) To consult with any other committee established under any marketing agreement and order program, pursuant to the aforesaid act, with respect to the handling of peaches grown in the area or in any other State; and to authorize members and alternate members of the Distributors' Advisory Committee to attend such conferences and consultations;

(i) To defend all legal proceedings against any Industry Committee member or members (individually or as members), or any officer or employee of such committee, arising out of any act or omission made in good faith pursuant to the provisions of this subpart;

(j) To select a chairman of the Industry Committee and such other officers as it may deem advisable;

(k) To redefine, subject to the approval of the Secretary, the districts into which the area has been divided in this subpart or change the representation, subject to the approval of the Secretary, from any district on the Industry Committee;

(l) To authorize, whenever the committee deems it advisable, an employee or employees of the committee to perform any ministerial duties of the committee, subject to the limitations set forth in this subpart: *Provided*, That such authorization by the committee shall specify the employee or employees and state definitely the limitation of the authority thus vested in the respective employee or employees: *Provided further*, That the committee shall retain concurrent authority in connection with any such duties and shall not authorize any employee or employees to perform: (1) Any duties of the committee relating to the recommendations to the Secretary pursuant to §§ 962.60 through 962.63; or (2) the duties or authority of the committee relating to the establishment of rules and regulations pursuant to the provisions and subject to the limitations set forth in this subpart;

(m) Each season, prior to making any recommendation to the Secretary for a regulation of shipments pursuant to this subpart to determine the marketing policy to be followed during the ensuing season and to submit a report of such policy to the Secretary as required by § 962.48;

(n) To supervise the regulation of shipments of peaches pursuant to this subpart;

(o) To establish such other committees or subcommittees to aid the Industry Committee in the performance of its duties under this subpart as the Industry Committee may deem advisable;

(p) To submit to the Secretary, prior to May 1 of each fiscal period, a budget of its expenses and a proposed rate of assessment for the then current fiscal period;

(q) To give to the Distributors' Advisory Committee or the chairman thereof the same notice of meetings of the Industry Committee as is given to the members of the said Industry Committee; and

(r) To investigate and to assemble data with respect to the growing, harvesting, shipping, and marketing conditions relating to peaches.

§ 962.30 *Procedure.* (a) The Industry Committee may, upon the selection and qualification of a majority of its members, organize and commence to function. A quorum shall consist of five (5) members or alternate members then serving in the place and stead of any members. For any decision of the Industry Committee to be valid, not less than five (5) affirmative votes shall be necessary.

(b) The Industry Committee may provide for the members thereof, including the alternates when acting as members, to vote by mail, telephone, teletypewriter, telegraph, or radiograph, and any such vote by telephone shall be confirmed promptly in writing: *Provided*, That if any assembled meeting of the committee is held, all votes shall be cast in person.

(c) The committee may adopt such rules, not inconsistent with the provisions of this subpart, relative to the method of conducting its business as it may deem advisable.

(d) The Industry Committee shall give to the Secretary or to the designated representative of the Secretary the same notice of its meetings as is given to the members thereof.

§ 962.31 *Funds.* All funds received by the Industry Committee pursuant to any provision of this subpart shall be used solely for the purposes specified in this subpart and shall be accounted for in the following manner: (a) The Secretary may, at any time, require the committee and its members, including alternate members, to account for all receipts and disbursements; and (b) whenever any person ceases to be a member or alternate member of the committee, he shall account for all receipts and disbursements and deliver all property and funds in his hands, together with all books and records in his possession, to his successor in office or to such person as the Secretary may designate, and shall execute such assignments and other instruments as may be necessary or appropriate to vest in such successor or in such designated person the right to all the property, funds, or claims vested in such member.

§ 962.32 *Distributors' Advisory Committee.* A Distributors' Advisory Committee consisting of seven (7) members, selected by the handlers in accordance with the provisions of this subpart, is hereby established. There shall be an alternate for each member of such committee. Each alternate member shall be designated by the respective person for whom he serves as alternate. An alternate member shall, in the event of such member's absence from a meeting of the committee, act in the place and stead of such member, and, in the event of a vacancy in the office of such member, shall act in the place and stead of such member until a successor for the unexpired term of such member has been selected.

§ 962.33 *Apportionment of representation.* One (1) member of the Distributors' Advisory Committee shall be the handler who shipped during the preceding marketing season the largest proportion of the total shipments of peaches. One (1) member of the committee shall be the handler who shipped during the preceding marketing season the second largest proportion of the total shipments of peaches. One (1) member of the committee shall be the handler who shipped during the preceding marketing season the third largest proportion of the total shipments of peaches. The remaining four (4) members of the committee shall be selected from among other handlers, and in the election of such members each handler shall be entitled to cast one (1) vote for each 387 bushels of peaches, or the equivalent thereof, shipped by such handler during the preceding marketing season for each nominee to be elected: *Provided*, That the aforesaid three (3) members, who shall serve on the said committee, and any corporations, marketing agencies, and cooperative associations which designate any of the three said members to serve on the committee shall not participate in selecting any of the remaining four (4) members of the committee. Each district shall be represented by at least one member, and his respective alternate, on the committee.

§ 962.34 *Eligibility for membership.* Any individual person, except one who is a member or alternate member of the Industry Committee, shall be eligible for membership on the Distributors' Advisory Committee. The membership of the committee may include, but is not limited to, officers, employees, or agents of corporate handlers, marketing agencies, or cooperative associations; and in the event a corporation, marketing agency, or cooperative association qualifies, is elected, or is eligible to serve as a member, under the rules in § 962.33, such corporation, marketing agency, or cooperative association may designate an officer or employee thereof to serve as member or alternate member.

§ 962.35 *Election of initial members.* The initial meeting of handlers, at which members of the Distributors' Advisory Committee are to be selected, shall be called and conducted by the Secretary as soon as reasonably possible after the effective date of this subpart (Apr. 27, 1942). Each handler who desires to vote at said meeting for the selection of members of the Distributors' Advisory Committee shall file with the Secretary an affidavit stating the volume of his shipments and sales of peaches during the preceding marketing season.

§ 962.36 *Election of succeeding members.* Election meetings held subsequent to the initial meeting shall be called and conducted by the Industry Committee not later than April 15 of each fiscal period; and each handler who desires to vote thereat shall file with the Industry Committee, prior to the respective meeting, a statement including the volume of his shipments and sales of peaches during the preceding marketing season.

§ 962.37 *Duties.* The Distributors' Advisory Committee may submit its recommendations at each meeting of the Industry Committee relative to recommendations with respect to the regulation of shipments pursuant to this subpart. When authorized by the Industry Committee, members and alternate members of the Distributors'

Advisory Committee may attend, and participate in, conferences and consultations with any other committee, or representatives thereof, established under any marketing agreement and order program, pursuant to the act, with respect to the handling of peaches grown in the area or in any other State.

§ 962.38 *Compensation and reimbursement for expenses.* Each member of the Distributors' Advisory Committee, and each alternate member when acting for a member, may receive from the Industry Committee compensation and reimbursement for all reasonable expenses necessarily incurred for attendance, when authorized by the Industry Committee, at each meeting of the Distributors' Advisory Committee and at each conference or consultation, as aforesaid, and while attending to such business of the Distributors' Advisory Committee as may be approved by the Industry Committee. The rates of compensation and reimbursement for reasonable expenses incurred, as aforesaid, shall be the same as those applicable to members and alternate members of the Industry Committee.

EXPENSES AND ASSESSMENTS

§ 962.40 *Expenses.* The Industry Committee is authorized to incur such expenses as the Secretary finds may be necessary in order to enable the committee to perform its functions, in accordance with the provisions of this subpart, during each fiscal period. The funds to cover such expenses shall be acquired by the levying of assessments, as provided in § 962.41, upon handlers.

§ 962.41 *Assessments.* Each handler who first ships peaches shall pay, upon demand, to the Industry Committee such handler's pro rata share of the expenses which the Secretary finds will be necessarily incurred by the committee for its maintenance and functioning during each fiscal period: *Provided,* That no assessment shall be levied against peaches that are exempt pursuant to § 962.71. Such handler's pro rata share of such expenses shall be equal to the ratio between the total assessable quantity of peaches shipped by such handler as the first shipper thereof, during the applicable fiscal period, and the total assessable quantity of peaches shipped by all handlers as the first shippers thereof during the same fiscal period.

§ 962.42 *Rate of assessment.* The Secretary shall specify the rate of assessment to be paid by such handlers.

§ 962.43 *Increase in rate of assessment.* The Secretary may, at any time during or after a fiscal period, increase the rate of assessment in order to secure sufficient funds to cover any later finding by the Secretary relative to the expenses of the Industry Committee. Any such increase in the rate of assessment shall be applicable to all assessable peaches shipped during the specified fiscal period. In order to provide funds to enable the Industry Committee to perform its functions under this subpart, handlers may make advance payment of assessments.

§ 962.44 *Accounting.* If, at the end of any fiscal period, the assessments collected are in excess of expenses incurred, each handler entitled to a proportionate refund shall be credited with such refund, unless such handler demands payment thereof, in which case such sum shall be paid to the respective handler.

§ 962.45 *Suit to enforce collection.* The Industry Committee may, with the approval of the Secretary, maintain in its own name or in the name of its members a suit against any handler for the collection of such handler's pro rata share of expenses.

MARKETING POLICY

§ 962.48 *Must be submitted prior to recommendation.* Before making any recommendation pursuant to §§ 962.60 through 962.63 for a particular marketing season, the Industry Committee shall submit to the Secretary a report setting forth the advisable marketing policy, for such season, for peaches. Such marketing policy report shall set forth the estimated regulation or regulations which may be recommended by the committee during such season, the justification therefor, and the estimates and other factors enumerated in § 962.49. In the event the committee deems it advisable to alter such marketing policy, subsequent to submitting a report thereon to the Secretary, the committee shall submit to the Secretary a report setting forth such revised marketing policy.

§ 962.49 *Factors to be considered.* In determining such marketing policy, or such revised marketing policy, the Industry Committee, after due consideration, shall include in the report its determinations and estimates of the following factors and conditions: (a) The estimated total quantity of each variety of peaches available for shipment in each district during the season, including the estimated percentage of such quantity of each variety in each district which will be represented by each of the various grades and sizes; (b) the estimated date that peaches of each variety in each district will be mature and ready for shipment; (c) the estimated commercial crop of peaches produced in competing States and the expected time of shipments of peaches from such states; (d) the anticipated competition to peaches from other fruits and melons; (e) the estimated market prices and marketing conditions that are expected to prevail for peaches grown in the area; (f) the estimated harvesting and marketing costs and charges that are expected to apply to peaches grown in the area; (g) the level and trend in commodity prices and consumer purchasing power; and (h) other factors which the Industry Committee deems pertinent to the regulation of the marketing of peaches.

§ 962.50 *Notice shall be given.* The Industry Committee shall promptly notify handlers and growers regarding any marketing policy report in such manner as may be reasonably expected to bring such schedules of proposed regulations, and such other information as the committee deems advisable, to the attention of all handlers and growers.

MATURITY REGULATION

§ 962.54 *Establishment.* The Secretary shall issue an order, whenever he determines that the initial Industry Committee provided for in this subpart is prepared to exercise its powers and perform its duties herein assigned, which will provide for the regulation pursuant to §§ 962.54 through 962.56 being and becoming effective at the time specified in said order. After the effective time specified in said order, issued pursuant to the provisions of this section, no handler shall ship peaches which do not meet the requirements for maturity set forth and defined in the U. S. Standards for Peaches, issued by the United States Department of Agriculture, effective April 22, 1933, or as such standards may be modified, revised, or new standards promulgated.

§ 962.55 *Modification.* The Industry Committee may recommend to the Secretary the modification of the maturity regulation provided in § 962.54 as to any or all varieties of peaches, and such recommendation should be accompanied by supporting information. If the Secretary finds, upon the basis of such recommendation and information submitted by said committee, or upon the basis of other available information, that to modify such maturity regulation as to any or all varieties of peaches will tend to effectuate the declared policy of the act, he shall so modify such regulation. Such modification may include, but it is not necessarily limited to, a redefinition of the maturity, of any or all varieties of peaches, established pursuant to § 962.54 or the specification of a tolerance or tolerances for immature peaches. Such modification may be made applicable during a specified period. In like manner and upon the same basis, the Secretary may terminate any such modification.

§ 962.56 *Suspension.* The Industry Committee may recommend to the Secretary the suspension of maturity regulation pursuant to §§ 962.54 and 962.55 and each such recommendation should be accompanied by supporting information. If the Secretary finds, upon the basis of such recommendation and information submitted by said committee, or upon the basis of other available information, that to suspend such maturity regulation will tend to effectuate the declared policy of the act, he shall suspend the operation of such maturity regulation so as to permit the shipment of peaches, the shipment of which would otherwise be prohibited pursuant to §§ 962.54 through 962.56. Such suspension may be made applicable during a specified period. In like manner and upon the same basis, the Secretary may terminate any such suspension.

REGULATION OF SHIPMENTS

§ 962.60 *By grades and sizes*—(a) *Industry Committee recommendations.* Whenever the Industry Committee deems it advisable to limit the shipment of any variety or varieties of peaches, it shall recommend to the Secretary the grades or sizes, or both, thereof deemed advisable by it to be shipped during a specified period or periods; and any such recommendation may include a proposal that separate requirements be made applicable to shipments of any such variety or varieties of peaches to destinations in adjacent markets different from the proposed grade and size limitations applicable to shipments of the same variety to destinations other than in adjacent markets. At the time of submitting each such recommendation, the Industry Committee shall submit to the Secretary the supporting data and information upon which it acted in making such recommendation, and shall give consideration, among other things, to the factors required to be considered in connection with the marketing policy. The committee shall submit such other data and information as may be requested by the Secretary. The committee shall promptly give adequate notice to handlers and growers of each such recommendation submitted by it to the Secretary.

(b) *Establishment of grade and size regulations.* Whenever the Secretary finds, from the recommendation and information submitted by the Industry Committee or from other available information, that to limit the shipment of any variety or varieties of peaches to particular grades or sizes, or both, would tend to effectuate the declared policy of the act, he shall so limit the shipment of peaches during a specified period or periods; and any such regulation may prescribe separate requirements for shipments of any such variety or varieties of peaches to destinations in adjacent markets different from the grade and size limitations applicable to shipments of the same variety to destinations other than in adjacent markets. The Secretary shall immediately notify the committee of the issuance of each such regulation, and the committee shall promptly give adequate notice thereof to handlers and growers.

(c) *Safeguards.* The Industry Committee may, with the approval of the Secretary, prescribe adequate safeguards to prevent peaches that are permitted to be shipped only to destinations in adjacent markets from being shipped to destinations other than in adjacent markets.

§ 962.61 *By minimum standards of quality and maturity*—(a) *Industry Committee recommendation.* Whenever the Industry Committee deems it advisable to establish minimum standards of quality or maturity, or of both quality and maturity, to govern shipments of peaches, it shall recommend to the Secretary the particular minimum standards which shipments of peaches must meet. Each such recommendation of the committee shall be in terms of (1) maturity; (2) minimum standards of quality, including but not being limited to, freedom from damage by worms and worm holes and freedom from decay, or (3) any combination or combinations of the foregoing. At the time of submitting each such recommendation to the Secretary, the Industry Committee shall also submit the supporting data and information upon which it acted in making such recommendation. The said committee shall also furnish such other data and information as may be requested by the Secretary.

(b) *Establishment of minimum standards of quality and maturity.* Whenever the Secretary finds, from the recommendation and information submitted by the Industry Committee, or from other available information, that to establish minimum standards of quality or maturity, or of both quality and maturity, for peaches and to limit the shipment of peaches to those meeting such minimum standards would be in the public interest and would tend to effectuate the declared policy of the act, he shall establish such standards, and so limit the shipment of peaches during a specified period or periods. The Secretary shall immediately notify the Industry Committee of the minimum standards so established.

§ 962.62 *Exemption certificates.* (a) The Industry Committee shall, subject to the conditions set forth in this section, provide for the issuance of exemption certificates to growers: *Provided,* That exemption certificates shall not be issued with respect to any variety of peaches during any period when a regulation, pursuant to § 962.60, is in effect and prescribes separate requirements for peaches that may be shipped only to destinations in adjacent markets. The Industry Committee shall, subject to the approval of the Secretary, adopt procedural rules to govern the issuance of exemption certificates, and, after their approval by the Secretary, the Committee shall give adequate notice of such rules to handlers and growers.

(b) In the event the Secretary issues a regulation pursuant to § 962.60 or § 962.61, the Industry Committee shall determine the percentage which the grades or sizes, or both, of each variety of peaches permitted to be shipped from each district, by such regulation issued by the Secretary, is of the total quantity of each variety of peaches which could be shipped from the respective district in the absence of regulation. An exemption certificate shall thereafter be issued to any grower who furnishes proof, satisfactory to the Industry Committee, that by reason of conditions beyond his control he will be prevented because of the regulation established, from shipping a percentage of a particular variety of his peaches equal to the percentage determined as aforesaid. Such exemption certificate shall permit the respective grower to whom the certificate is issued to ship, or have shipped, a percentage of his crop of such variety of peaches equal to the percentage determined as aforesaid. No exemption certificate shall be granted to include peaches which do not meet the maturity requirements then in effect.

(c) The Industry Committee shall maintain a record of all applications submitted for exemption certificates pursuant to the provisions of this section; and the committee shall maintain a record of all certificates issued, including the information used in determining in each instance the quantity of peaches thus to be exempted, and a record of all shipments of exempted peaches; and such additional information shall be recorded in the records of the committee as the Secretary may specify. The Industry Committee shall from time to time submit to the Secretary reports stating in detail the number of exemption certificates issued, the quantity of peaches thus exempted, and such additional information as may be requested by the Secretary.

(d) In the event the Industry Committee shall determine and report to the Secretary that by reason of general crop failure or any other unusual conditions within a particular district or districts it is not feasible and would not be equitable to issue exemption certificates to growers within that district or those districts on the basis set forth in preceding paragraphs of this section, the Industry Committee may, by resolution duly adopted, specify that an exemption certificate shall be issued to any grower who submits proof satisfactory to said committee to the effect that the respective grower will be prevented because of such regulation from shipping as large a percentage of his peaches of such variety as the average of all growers of such variety of peaches in the number or group of districts specified or enumerated in the resolution thus adopted by the committee.

(e) The Industry Committee may authorize an employee to receive applications for exemption certificates, make the necessary investigation with regard to whether an exemption certificate should be issued and, if so, the quantity of peaches which should be thus exempted, and issue for and on behalf of the committee an exemption certificate: *Provided,* That the committee shall not authorize an employee or employees (1) to determine the grades or sizes, or both, which could be shipped in the absence of any regulation; (2) determine for any district or districts, the percentage that the quantity of a particular variety or varieties of peaches permitted to be shipped pursuant to grade or size regulation, or both, is of the quantity which could be shipped in the absence of grade or size regulation, or both; or (3) designate a group or number of districts to be used as the area which, because of general crop failure or any other extraordinary conditions within a particular district or districts, shall be used in calculating or determining the average percentage of a variety of peaches that could be shipped by all growers, as set forth in paragraph (d) of this section.

(f) If any grower is dissatisfied with the determination of an employee or employees who have exercised jurisdiction with regard to the application submitted by the respective grower, such grower may appeal to the Industry Committee: *Provided,* That such appeal must be taken promptly after the decision by the respective employee or employees. If any grower is dissatisfied with the determination by the Industry Committee with respect to the grower's application for an exemption certificate or with regard to an appeal, as aforesaid, by said grower from the determination of an employee or employees, such grower may appeal to the Secretary: *Provided,* That such appeal shall be taken promptly after the determination by the committee. The Secretary may, upon an appeal as aforesaid, modify or reverse the action of the committee from which such appeal was taken. The authority of the Secretary to supervise and control the issuance of exemption certificates is unlimited and plenary; and any determination by the Secretary with respect to an exemption certificate, the application for an exemption certificate, or an appeal from the action of the committee with respect to an application for an exemption certificate shall be final and conclusive.

§ 962.63 *Modification, suspension, or termination.* Whenever the Industry Committee deems it advisable to recommend the modification, suspension, or termination of any or all of the regulations established pursuant to §§ 962.60 and 962.61, it shall so recommend to the Secretary. If the Secretary finds, upon the basis of such recommendation or upon the basis of other available information, that to modify any such regulations will tend to effectuate the declared policy of the act, he shall so modify such regulations. If the Secretary finds, upon the basis of such recommendation or upon the basis of other available information, that any such regulations obstruct or do not tend to effectuate the declared policy of the act he shall suspend or terminate such regulations. The Secretary shall immediately notify the Industry Committee, and such committee shall promptly give notice to handlers and growers, of each order modifying, suspending, or terminating any such regulations. In like manner and upon the same basis the Secretary may terminate any such modification or suspension.

INSPECTION AND CERTIFICATION

§ 962.64 *Inspection.* During any period in which the shipment of peaches is regulated pursuant to the provisions of this subpart, each handler shall, prior to making each shipment of peaches, cause each such shipment to be inspected by the Federal Inspection Service or the Federal-State Inspection Service or any other inspection service designated by the Secretary: *Provided*, That this requirement shall not be applicable to any shipment of peaches which has been so inspected or which is exempt pursuant to § 962.71. Each handler shall, promptly after making each shipment of peaches, submit to the Industry Committee a copy of the inspection certificate or memorandum issued with respect to such shipment of peaches; and such certificate or memorandum shall state the maturity of the peaches in such shipment and in the event of grade regulation such certificate or memorandum shall also state the grade or grades of peaches in such shipment, and in the event of size regulation such certificate or memorandum shall also state the size or sizes of peaches in such shipment, and in the event separate requirements are in effect for shipments of peaches to destinations in adjacent markets such certificate or memorandum shall also state the composition of such shipment in terms of such requirements, and in the event of regulation by minimum standards of quality or maturity, or both, such certificate or memorandum shall also state the composition of such shipment in terms of such minimum standards. The aforesaid certificate or memorandum shall also state whether the peaches in such shipment meet the then effective requirements applicable to such shipment.

§ 962.70 *Compliance of handlers.* Except as provided in § 962.71, no handler shall ship peaches, the shipment of which has been prohibited in accordance with this subpart; and no handler shall ship peaches except in conformity to the provisions of this subpart and the provisions of the regulations, if any, issued by the Secretary pursuant to the provisions of this subpart.

PEACHES NOT SUBJECT TO REGULATION

§ 962.71 *Peaches not subject to regulation.* Peaches shipped for consumption by a charitable institution or for distribution for relief purposes or for distribution by a relief agency or distribution by non-profit school lunch agencies or peaches for manufacturing, processing, canning, or conversion into by-products on a commercial scale or peaches shipped by express or parcel post, or peaches included in shipments of peaches to any person during any day by any handler if such shipments do not aggregate more than the equivalent of five (5) bushels shall be exempt from the provisions of this subpart. The Secretary may prescribe, on the basis of the recommendation and the information submitted by the Industry Committee, or on the basis of any other available information, adequate safeguards to prevent such peaches from entering the commercial channels of trade for consumption in fresh form.

REPORTS

§ 962.75 *Reports.* For the purpose of enabling the Industry Committee to perform its functions and duties pursuant to the provisions of this subpart, each handler shall furnish to the committee such information, in such form and at such times and substantiated in such manner as shall be prescribed by the committee and approved by the Secretary, as may thus be requested by the committee with regard to each shipment of peaches.

EFFECTIVE TIME AND TERMINATION

§ 962.80 *Effective time.* The provisions of this subpart shall become effective April 27, 1942, and shall continue in force until terminated in one of the ways specified in § 962.81.

§ 962.81 *Termination.* (a) The Secretary may, at any time, terminate the provisions of this subpart by giving at least one (1) day's notice by means of a press release or in any other manner which he may determine.

(b) The Secretary may terminate or suspend the operation of any of the provisions of this subpart whenever he finds that any such provision does not tend to effectuate the declared policy of the act.

(c) The Secretary shall terminate the provisions of this subpart at the end of any fiscal period whenever he finds, by referendum or otherwise, that such termination is favored by the majority of the growers who, during such representative period as may be determined by the Secretary, have been engaged in the production of peaches for market: *Provided*, That such majority has, during such representative period, produced for market more than fifty (50) percent of the volume of such peaches produced for market within the area; but such termination shall be effective only if announced on or before the last day of February of the then current fiscal period. The Secretary shall hold such a referendum within the period beginning on September 1, 1944, and ending April 1, 1945, and also each succeeding two years, within the same seven-months' period, to determine whether the termination hereof is favored, as aforesaid, by growers.

(d) The provisions of this subpart shall, in any event, terminate whenever the provisions of the act authorizing them cease to be in effect.

§ 962.82 *Proceedings after termination.* (a) Upon the termination of the provisions of this subpart, the then functioning members of the Industry Committee shall continue as trustees, for the purpose of liquidating the affairs of the said committee, of all the funds and property then in the possession of or under control of such committee, including claims for any funds unpaid or property not delivered at the time of such termination. The procedural rules governing the activities of said trustees, including but not being limited to the determination as to whether action shall be taken by a majority vote of the trustees, shall be prescribed by the Secretary.

(b) The said trustees shall continue in such capacity until discharged by the Secretary; and shall, from time to time, account for all receipts and disbursements and deliver all property on hand, together with all books and records of the Industry Committee and of the trustees, to such person as the Secretary may direct; and shal', upon request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person the right to all of the funds, property, and claims vested in the committee or the trustees pursuant to this subpart.

(c) Any person to whom funds, property, or claims have been transferred or delivered by the Industry Committee or its members, pursuant to this section, shall be subject to the same obligations imposed upon the members of said committee and upon the said trustees.

(d) Any funds collected for expenses pursuant to the provisions of this subpart and held by such trustees or such other person, over and above amounts necessary to meet outstanding obligations and the expenses incurred necessarily by the trustees or such other person in the performance of their duties hereunder, shall, as soon as practicable after the termination of this subpart, be returned to the handlers pro rata in proportion to their contributions made pursuant to § 962.41.

MISCELLANEOUS PROVISIONS

§ 962.85 *Right of the Secretary.* The members of the Industry Committee, including successors and alternates thereof, and any agent or employee appointed or employed by the committee, shall be subject to removal or suspension at any time by the Secretary. Each and every order, regulation, determination, decision, or other act of each committee provided for in this subpart shall be subject to the continuing right of the Secretary to disapprove of such order, regulation, decision, determination, or other act, and upon such disapproval, at any time, such action by a committee shall be deemed null and void except as to acts done in reliance thereon or in compliance therewith prior to such disapproval by the Secretary.

§ 962.86 *Duration of immunities.* The benefits, privileges, and immunities conferred upon any person by virtue of this subpart shall cease upon the termination hereof, except with respect to acts done under and during the existence of this subpart.

§ 962.87 *Agents.* The Secretary may, by designation in writing, name any person, including any officer or employee of the Government, or name any bureau or division in the United States Department of Agriculture to act as his agent or representative in connection with any of the provisions of this subpart.

§ 962.88 *Derogation.* Nothing contained in this subpart is, or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States to exercise any powers granted by the act or otherwise, or, in accordance with such powers, to act in the premises whenever such action is deemed advisable.

§ 962.89 *Personal liability.* No member or alternate of said Industry Committee, nor any employee thereof, shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any handler or to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate, or employee, except for acts of dishonesty.

§ 962.90 *Separability.* If any provision of this subpart is declared invalid, or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder of this subjart, or the applicability thereof to any other person, circumstance, or thing, shall not be affected thereby.

§ 962.91 *Amendments.* Amendments to this subpart may be proposed, from time to time, by the Industry Committee or by the Secretary.

§ 962.92 *Effect of termination or amendment.* Unless otherwise expressly provided by the Secretary, the termination of this subpart or of any regulation issued pursuant hereto, or the issuance of any amendment to either thereof, shall not (a) affect or waive any right, duty, obligation, or liability which shall have arisen prior thereto, or (b) release or extinguish any violation of this subpart or of any regulation issued hereunder, or (c) affect or impair any right or remedy of the United States, or of the Secretary, or of any other person with respect to any such violation.

[F. R. Doc. 50-4199; Filed, May 16, 1950; 8:51 a. m.]

[7 CFR, Part 962]

[Docket No. AO-162-A2]

HANDLING OF FRESH PEACHES GROWN IN GEORGIA

ORDER DIRECTING THAT REFERENDUM BE CONDUCTED; DESIGNATION OF AGENTS TO CONDUCT REFERENDUM; DETERMINATION OF REPRESENTATIVE PERIOD

Pursuant to the applicable provisions of Public Act No. 10, 73d Congress (May 12, 1933), as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.), it is hereby directed that a referendum be conducted among the producers who, during the period March 1, 1949, to February 28, 1950, both dates inclusive (which period is hereby determined to be a representative period for the purpose of such referendum), were engaged, in the State of Georgia, in the production of peaches for market, to ascertain whether such producers favor the issuance of an order amending Order No. 62, effective April 27, 1942, regulating the handling of fresh peaches grown in the State of Georgia; and said amendatory order is annexed to the decision of the Secretary of Agriculture filed [1] simultaneously herewith. D. K. Young and E. E. Pinkston of the Fruit and Vegetable Branch, Production and Marketing Administration, United States Department of Agriculture, are hereby designated agents of the Secretary of Agriculture to perform, jointly or severally, the following functions in connection with the referendum:

(a) Conduct said referendum in the manner herein prescribed:

(1) By determining the time of commencement and termination of the period of the referendum, and by giving opportunity to each of the aforesaid producers to cast his ballot in the manner herein authorized, relative to the aforesaid amendatory order, on a copy of the appropriate ballot form. A cooperative association of such producers, bona fide engaged in marketing fresh peaches grown in the State of Georgia or in rendering services for or advancing the interests of the producers of such peaches, may vote for the producers who are members of, stockholders in, or under contract with such cooperative association (such vote to be cast on a copy of the appropriate ballot form), and the vote of such cooperative association shall be considered as the vote of such producers.

(2) By giving public notice, as prescribed in (a) (3) hereof, (i) of the time during which the referendum will be conducted, (ii) that any ballot may be cast by mail, (iii) that all ballots so cast must be addressed to D. K. Young, Chief, Southeastern Marketing Field Office, Fruit and Vegetable Branch, 449 West Peachtree Street, Northeast, Atlanta 3, Georgia, and (iv) of the time prior to which such ballots must be postmarked.

(3) By giving public notice (i) by utilizing (without advertising expense) available agencies of public information, including both press and radio facilities serving the State of Georgia; (ii) by mailing a notice thereof (including a copy of the text of the amendatory order and a copy of the appropriate ballot form) to each such cooperative association and to each producer whose name and address is known; and (iii) by such other means as said referendum agents may deem advisable.

(4) By conducting meetings of producers and arranging for balloting at the meeting places, if said referendum agents determine that voting shall be at meetings. At each such meeting, balloting shall continue until all of the producers who are present, and who desire to do so, have had an opportunity to vote. Any producer may cast his ballot at any such meeting in lieu of voting by mail.

(5) By giving ballots and copies of the text of the amendatory order to producers at the meeting; and receiving any ballots when they are cast.

(6) By securing the name and address of each person casting a ballot, and inquiring into the eligibility of such person to vote in the referendum. Any individual casting a ballot on behalf of a producer or a corporation or cooperative associations of producers shall submit, with the ballot, evidence of his authority to cast such ballot.

(7) By giving reasonable advance public notice of the time and place of each meeting authorized hereunder, and, so far as may be practicable, by giving additional notice in the manner prescribed in paragraph (a) (3) hereof.

(8) By appointing any county agricultural agent, and by authorizing the chairman of the State Production and Marketing Administration committee in the State of Georgia to appoint any member or members of a county Production and Marketing Administration committee in the State of Georgia, and by appointing any other persons deemed necessary or desirable, to assist the said referendum agents in performing their duties hereunder. Each such person so appointed shall serve without compensation; may be authorized by the said referendum agents to perform any or all of the functions set forth in paragraphs (a) (3), (4), (5), (6), and (7) hereof (which, in the absence of such appointment of subagents, shall be performed by said referendum agents) in accordance with the requirements herein set forth; and shall forward to D. K. Young, Chief, Southeastern Marketing Field Office, Fruit and Vegetable Branch, 449 West Peachtree Street, Northeast, Atlanta 3, Georgia, immediately after the close of the referendum, the following:

(i) A list containing the name and address of each producer to whom a ballot form was given;

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[1] See F. R. Doc. 50-4199, *supra*.

(ii) A list containing the name and address of each producer from whom an executed ballot was received;

(iii) All of the ballots received by the respective referendum agent or appointee (as the case may be) in connection with the referendum, together with a certificate to the effect that the ballots forwarded are all of the ballots cast and which were received by the respective agent or appointee during the referendum period;

(iv) A statement showing when and how notice of referendum was given and, if the notice was mailed to producers, the mailing list showing the names and addresses to which the notice was mailed and the time of such mailing; and

(v) A detailed statement reciting the method used in giving publicity of such referendum.

(b) Each referendum agent and appointee pursuant hereto shall not refuse to accept a ballot submitted or cast; but should they, or any of them, deem that a ballot should be challenged for any reason, or, if such ballot is challenged by any other person, said agent or appointee shall endorse above his signature, on the back of said ballot, a statement that such ballot was challenged, by whom challenged, and the reasons therefor; and the number of such challenged ballots shall be stated when they are forwarded as provided herein.

(c) Upon receipt by D. K. Young of all ballots cast and such other documents as are required pursuant hereto, the ballots shall be canvassed by him and the results of the referendum shall be forwarded with the ballots and other required documents to the Fruit and Vegetable Branch, Production and Marketing Administration, United States Department of Agriculture, Washington 25, D. C.

(d) The Fruit and Vegetable Branch shall prepare and submit to the Secretary a detailed report covering the results of the referendum, the manner in which the referendum was conducted, the extent and kind of public notice given, and all other information pertinent to the full analysis of the referendum and its results.

(e) All ballots shall be kept confidential.

The Director of the Fruit and Vegetable Branch, Production and Marketing Administration, United States Department of Agriculture, is hereby authorized to prescribe additional instructions, not inconsistent with the provisions hereof, to govern the procedure to be followed by the said referendum agents and appointees in conducting said referendum.

Copies of the text of the aforesaid amendatory order may be examined in the Office of the Hearing Clerk, United States Department of Agriculture, Room 1353, South Building, Washington 25, D. C., and at the Southeastern Marketing Field Office, Fruit and Vegetable Branch, Production and Marketing Administration, United States Department of Agriculture, 449 West Peachtree Street Northeast, Atlanta 3, Georgia.

Ballots to be cast in the referendum may be obtained from any referendum agent, and any appointee hereunder.

Done at Washington, D. C., this 12th day of May 1950.

[SEAL] CLAUDE R. WICKARD,
Acting Secretary of Agriculture.

[F. R. Doc. 50-4225; Filed, May 16, 1950; 8:51 a. m.]

CIVIL AERONAUTICS BOARD

[14 CFR, Parts 40, 61]

LONG-DISTANCE DOMESTIC SCHEDULED AIR CARRIER OPERATIONS

NOTICE OF PROPOSED RULE MAKING

Pursuant to authority delegated by the Civil Aeronautics Board to the Bureau of Safety Regulation, notice is hereby given that the Bureau will propose to the Board an extension of the provisions of Special Civil Air Regulation SR-341 until December 31, 1950.

Interested persons may participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should be submitted, in duplicate, to the Civil Aeronautics Board, attention Bureau of Safety Regulation, Washington 25, D. C. All communications received prior to June 12, 1950, will be considered by the Board before taking further action on the proposed rule. Copies of such communications will be available after June 14, 1950, for perusal by interested persons at the Docket Section of the Board, Room 5412, Commerce Building, Washington 25, D. C.

Special Civil Air Regulation SR-341 which currently expires June 30, 1950, provides special operating rules for scheduled air carriers operating in accordance with Part 61 at altitudes in excess of 12,500 feet above sea level east of longitude 100° W. and at altitudes in excess of 14,500 feet above sea level west of longitude 100° W. in long-distance operations. At the time that special regulation was adopted it was anticipated that a revision of Parts 40 and 61, which would incorporate provisions similar to those contained in SR-341, would be completed prior to June 30, 1950. However, while the Bureau has been actively engaged in that project, that revision has not been completed. It is, therefore, believed desirable to extend the effective date of SR-341 until December 31, 1950, or until such earlier date as the projected revision may become effective.

This special regulation is proposed under the authority of Title VI of the Civil Aeronautics Act of 1938, as amended.

(Sec. 205 (a), 52 Stat. 984; 49 U. S. C. 425 (a). Interpret or apply secs. 601-610, 52 Stat. 1007-1012; 49 U. S. C. 551-560; 62 Stat. 1216, act of July 1, 1948)

Dated on May 12, 1950, at Washington, D. C.

By the Bureau of Safety Regulation.

[SEAL] JOHN M. CHAMBERLAIN,
Director.

[F. R. Doc. 50-4223; Filed, May 16, 1950; 8:53 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR, Part 3]

[Docket No. 9518]

AURAL AND VISUAL TRANSMITTERS OF TELEVISION STATIONS

ORDER CONTINUING ORAL ARGUMENT

In the matter of amendment of § 3.661 (b) of the Commission's rules and regulations relating to the separate operation of aural and visual transmitters of television stations.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 9th day of May 1950;

The Commission having under consideration the oral argument now scheduled in the above proceeding for May 12, 1950; and a letter, dated May 8, 1950, from counsel for Paramount Television Productions, Inc., requesting that said letter be accepted as late notification of intention to appear and present argument in this proceeding; and

It appearing, upon consideration of the Commission's schedule for May 1950, that it would be in the public interest to continue said oral argument to June 2, 1950; and

It further appearing, that, on January 9, 1950, Paramount Television Productions, Inc., filed comments in this proceeding but inadvertently failed to notify the Commission of its intention to participate in the oral argument on or before the specified date of May 1, 1950; and that said letter, dated May 8, 1950, should, therefore, be accepted as late notification of intention to participate in the oral argument in this proceeding;

It is ordered, On the Commission's own motion, that oral argument in the above-entitled proceeding, now scheduled for May 12, 1950, is continued to June 2, 1950, commencing at 2:00 p. m.; and that the letter, dated May 8, 1950, from Paramount Television Productions, Inc., is accepted as notification of intention to participate in the oral argument in this proceeding.

Released: May 9, 1950.

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

[F. R. Doc. 50-4198; Filed, May 16, 1950; 8:50 a. m.]

NOTICES

DEPARTMENT OF STATE

[Public Notice 45]

FIELD ORGANIZATION

CORRECTION

Through error, the Field Organization of the Department of State (Public Notice 43), as published in the FEDERAL REGISTER for May 3, 1950 (15 F. R. 2498), omitted the following Post:

Tenerife, Canary Islands........ Consulate.

This Foreign Service Post should be added to the listing in its proper alphabetical sequence.

For the Secretary of State.

J. CARNEY HOWELL,
Deputy Director,
Office of Management and Budget.

MAY 11, 1950.

[F. R. Doc. 50-4224; Filed, May 16, 1950; 8:53 a. m.]

DEPARTMENT OF THE TREASURY

United States Coast Guard

[CGFR 50-8]

REINSTATEMENT OF APPROVAL OF EQUIPMENT

By virtue of the authority vested in me as Commandant, United States Coast Guard, by R. S. 4405 and 4491, as amended, 46 U. S. C. 375, 489, and section 101 of Reorganization Plan No. 3 of 1946, 11 F. R. 7875, 60 Stat. 1097, 46 U. S. C. 1, as well as the additional authorities cited with the specific items below, the listings of termination of approval Nos. 162.005/15/0 and 162.005/16/0, contained in a notice of termination of approval of equipment published in the FEDERAL REGISTER dated March 25, 1950, in Document CGFR 50-8, 15 F. R. 1682, are hereby voided because these two items were listed in error and no effect shall be given to the listing of termination of approval for these two items, which are set forth below for information purposes and will remain in effect for a period of five years from September 18, 1947, unless sooner canceled or suspended by proper authority:

FIRE EXTINGUISHERS, PORTABLE, HAND, CARBON-DIOXIDE TYPE

Approval No. 162.005/15/0, Kidde Model 10T, 10-Lb. carbon dioxide hand portable fire extinguisher, Assembly Dwg. No. 82507, Rev. A, dated September 27, 1945, Name plate Dwg. No. 82508, Rev. A, dated October 4, 1945, manufactured by Walter Kidde & Co., Inc., 675 Main Street, Belleville 9, N. J. (Approved, FEDERAL REGISTER, September 18, 1947.)

Approval No. 162.005/16/0, Kidde Model 15T, 15-lb. carbon dioxide hand portable fire extinguisher, Assembly Dwg. No. 82088, Rev. B, dated August 29, 1945, Name plate Dwg. No. 82307, Rev. A, dated September 19, 1945, manufactured by Walter Kidde & Co., Inc., 675 Main Street, Belleville 9, N. J. (Approved, FEDERAL REGISTER, September 18, 1947.)

(F. R. 4417a, 4426, 4479, 4492, 49 Stat. 1544, 54 Stat. 165, 166, 346, 1028, and sec. 5 (e), 55 Stat. 244, as amended; 46 U. S. C. 367, 391a, 404, 463a, 472, 490, 526g, 526p, 1333, 50 U. S. C. 1275; 46 CFR 25.5-1, 26.3-1, 27.3-1, 34.5-1, 61.13, 77.13, 95.13, 114.15)

Dated: May 9, 1950.

[SEAL] MERLIN O'NEILL,
Vice Admiral,
U. S. Coast Guard,
Commandant.

[F. R. Doc. 50-4196; Filed, May 16, 1950; 8:50 a. m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

CALIFORNIA

NOTICE FOR FILING OBJECTIONS TO ORDER WITHDRAWING PUBLIC LANDS FOR USE OF DEPARTMENT OF THE AIR FORCE[1]

For a period of 30 days from the date of publication of the above entitled order, persons having cause to object to the terms thereof may present their objections to the Secretary of the Interior. Such objections should be in writing, should be addressed to the Secretary of the Interior, and should be filed in duplicate in the Department of the Interior, Washington 25, D. C. In case any objection is filed and the nature of the opposition is such as to warrant it, a public hearing will be held at a convenient time and place, which will be announced, where opponents to the order may state their views and where the proponents of the order can explain its purpose, intent, and extent. Should any objection be filed, whether or not a hearing is held, notice of the determination by the Secretary as to whether the order should be rescinded, modified or let stand will be given to all interested parties of record and the general public.

C. GIRARD DAVIDSON,
Acting Secretary of the Interior.

MAY 10, 1950.

[F. R. Doc. 50-4171; Filed, May 16, 1950; 8:46 a. m.]

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

[Administrative Order 2615]

LOUISIANA

LOAN ANNOUNCEMENT

APRIL 14, 1950.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
Louisiana 15L Pointe Coupee	$141,000

[SEAL] CLAUDE R. WICKARD,
Administrator.

[F. R. Doc. 50-4201; Filed, May 16, 1950; 8:51 a. m.]

[Administrative Order 2616]

ALLOCATION OF FUNDS FOR LOANS

APRIL 18, 1950.

I hereby amend: (a) Administrative Order No. 441, dated March 11, 1940, by reducing the allocation of $10,000 therein made for "Indiana 0024W1 Carroll" by $9,900 so that the reduced allocation shall be $100.

[SEAL] CLAUDE R. WICKARD,
Administrator.

[F. R. Doc. 50-4202; Filed, May 16, 1950; 8:51 a. m.]

[Administrative Order 2617]

MISSOURI

LOAN ANNOUNCEMENT

APRIL 18, 1950.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
Missouri 44S Grundy	$546,000

[SEAL] CLAUDE R. WICKARD,
Administrator.

[F. R. Doc. 50-4203; Filed, May 16, 1950; 8:51 a. m.]

[Administrative Order 2618]

MISSOURI

LOAN ANNOUNCEMENT

APRIL 18, 1950.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
Missouri 27N Andrew	$345,000

[SEAL] CLAUDE R. WICKARD,
Administrator.

[F. R. Doc. 50-4204; Filed, May 16, 1950; 8:51 a. m.]

[1] See F. R. Document 50-4170, Title 43, Chapter I, Appendix, *supra*.

[Administrative Order 2619]

COLORADO

LOAN ANNOUNCEMENT

APRIL 18, 1950.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
Colorado 7P, R Mesa	$550,000

[SEAL] CLAUDE R. WICKARD, *Administrator.*

[F. R. Doc. 50-4205; Filed, May 16, 1950; 8:51 a. m.]

[Administrative Order 2620]

TEXAS

LOAN ANNOUNCEMENT

APRIL 18, 1950.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
Texas 135G Ochiltree	$620,000

[SEAL] CLAUDE R. WICKARD, *Administrator.*

[F. R. Doc. 50-4206; Filed, May 16, 1950; 8:51 a. m.]

[Administrative Order 2621]

OHIO

LOAN ANNOUNCEMENT

APRIL 19, 1950.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
Ohio 29P Pike	$630,000

[SEAL] CLAUDE R. WICKARD, *Administrator.*

[F. R. Doc. 50-4207; Filed, May 16, 1950; 8:51 a. m.]

[Administrative Order 2622]

OHIO

LOAN ANNOUNCEMENT

APRIL 19, 1950.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
Ohio 50G Union	$120,000

[SEAL] CLAUDE R. WICKARD, *Administrator.*

[F. R. Doc. 50-4208; Filed, May 16, 1950; 8:51 a. m.]

[Administrative Order 2623]

NORTH CAROLINA

LOAN ANNOUNCEMENT

APRIL 20, 1950.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
North Carolina 10S Haywood	$100,000

[SEAL] CLAUDE R. WICKARD, *Administrator.*

[F. R. Doc. 50-4209; Filed, May 16, 1950; 8:51 a. m.]

[Administrative Order 2624]

NORTH CAROLINA

LOAN ANNOUNCEMENT

APRIL 20, 1950.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
North Carolina 34P Anson	$490,000

[SEAL] CLAUDE R. WICKARD, *Administrator.*

[F. R. Doc. 50-4210; Filed, May 16, 1950; 8:51 a. m.]

[Administrative Order 2625]

NORTH CAROLINA

LOAN ANNOUNCEMENT

APRIL 20, 1950.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
North Carolina 10P Haywood	$670,000

[SEAL] CLAUDE R. WICKARD, *Administrator.*

[F. R. Doc. 50-4211; Filed, May 16, 1950; 8:51 a. m.]

[Administrative Order 2626]

MAINE

LOAN ANNOUNCEMENT

APRIL 21, 1950.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
Maine 12G Washington	$227,000

[SEAL] CLAUDE R. WICKARD, *Administrator.*

[F. R. Doc. 50-4212; Filed, May 16, 1950; 8:52 a. m.]

[Administrative Order 2627]

KANSAS

LOAN ANNOUNCEMENT

APRIL 24, 1950.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
Kansas 8P Allen	$333,000

[SEAL] CLAUDE R. WICKARD, *Administrator.*

[F. R. Doc. 50-4213; Filed, May 16, 1950; 8:52 a. m.]

[Administrative Order 2628]

NORTH CAROLINA

LOAN ANNOUNCEMENT

APRIL 24, 1950.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
North Carolina 50E Wayne	$610,000

[SEAL] CLAUDE R. WICKARD, *Administrator.*

[F. R. Doc. 50-4214; Filed, May 16, 1950; 8:52 a. m.]

[Administrative Order 2629]

NORTH CAROLINA

LOAN ANNOUNCEMENT

APRIL 26, 1950.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
North Carolina 31N Halifax	$1,070,000

[SEAL] CLAUDE R. WICKARD, *Administrator.*

[F. R. Doc. 50-4215; Filed, May 16, 1950; 8:52 a. m.]

[Administrative Order 2630]

IOWA

LOAN ANNOUNCEMENT

APRIL 26, 1950.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
Iowa 32U Butler	$270,000

[SEAL] CLAUDE R. WICKARD, *Administrator.*

[F. R. Doc. 50-4216; Filed, May 16, 1950; 8:52 a. m.]

[Administrative Order 2631]

NEW JERSEY

LOAN ANNOUNCEMENT

APRIL 26, 1950.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
New Jersey 6H Sussex	$50,000

[SEAL] CLAUDE R. WICKARD, *Administrator.*

[F. R. Doc. 50-4217; Filed, May 16, 1950; 8:52 a. m.]

[Administrative Order 2632]

NORTH CAROLINA

LOAN ANNOUNCEMENT

APRIL 26, 1950.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
North Carolina 32R Person	$100,000

[SEAL] CLAUDE R. WICKARD, *Administrator.*

[F. R. Doc. 50-4218; Filed, May 16, 1950; 8:52 a. m.]

[Administrative Order 2633]

MISSOURI

LOAN ANNOUNCEMENT

APRIL 26, 1950.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
Missouri 32R Atchison	$240,000

[SEAL] CLAUDE R. WICKARD, *Administrator.*

[F. R. Doc. 50-4219; Filed, May 16, 1950; 8:52 a. m.]

[Administrative Order 2634]

GEORGIA

LOAN ANNOUNCEMENT

APRIL 26, 1950.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
Georgia 66R Taylor	$235,000

[SEAL] CLAUDE R. WICKARD, *Administrator.*

[F. R. Doc. 50-4220; Filed, May 16, 1950; 8:52 a. m.]

[Administrative Order 2635]

WYOMING

LOAN ANNOUNCEMENT

APRIL 26, 1950.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
Wyoming 10G Platte	$320,000

[SEAL] CLAUDE R. WICKARD, *Administrator.*

[F. R. Doc. 50-4221; Filed, May 16, 1950; 8:52 a. m.]

[Administrative Order 2636]

TEXAS

LOAN ANNOUNCEMENT

APRIL 27, 1950.

Pursuant to the provisions of the Rural Electrification Act of 1936, as amended, a loan contract bearing the following designation has been signed on behalf of the Government acting through the Administrator of the Rural Electrification Administration:

Loan designation:	Amount
Texas 76X Blanco	$172,000

[SEAL] CLAUDE R. WICKARD, *Administrator.*

[F. R. Doc. 50-4222; Filed, May 16, 1950; 8:52 a. m.]

DEPARTMENT OF COMMERCE

Office of International Trade

DELEGATIONS OF AUTHORITY

The outstanding delegations of authority by the Secretary of Commerce to the Director and Assistant Director of the Office of International Trade, as amended (11 F. R. 177A-303, 10389; 15 CFR 1946 Supp., 13 F. R. 747; 14 F. R. 1620, 5725) are further amended by striking out the words "Assistant Director" and inserting therefor the words "Deputy Director".

(63 Stat. 7; E. O. 9630, Sept. 27, 1945, 10 F. R. 12245, 3 CFR, 1945 Supp.; E. O. 9919, Jan. 3, 1948, 13 F. R. 59, 3 CFR, 1948 Supp.)

[SEAL] CHARLES SAWYER, *Secretary of Commerce.*

[F. R. Doc. 50-4194; Filed, May 16, 1950; 8:50 a. m.]

DEPARTMENT OF LABOR

Wage and Hour and Public Contracts Divisions

EMPLOYMENT OF HANDICAPPED CLIENTS BY SHELTERED WORKSHOPS

NOTICE OF ISSUANCE OF SPECIAL CERTIFICATES

Notice is hereby given that special certificates authorizing the employment of handicapped clients at hourly wage rates lower than the minimum wage rates applicable under section 6 of the Fair Labor Standards Act of 1938, as amended, and section 1 (b) of the Walsh-Healey Public Contracts Act, as amended, have been issued to the sheltered workshops hereinafter mentioned, under section 14 of the Fair Labor Standards Act of 1938, as amended (sec. 14, 52 Stat. 1068; 29 U. S. C. 214; as amended 63 Stat. 910), and Part 525 of the regulations issued thereunder, as amended (29 CFR, Part 525), and under sections 4 and 6 of the Walsh-Healey Public Contracts Act (secs. 4, 6, 49 Stat. 2038; 41 U. S. C. 38, 40) and Article 1102 of the regulations issued pursuant thereto (41 CFR 201.1102).

The names and addresses of the sheltered workshops to which certificates were issued, wage rates, and the effective and expiration dates of the certificates are as follows:

Institute for the Crippled and Disabled, Therapy Division, 400 First Avenue, New York 10, New York; at a wage rate of not less than the piece rate paid nonhandicapped employees engaged in the same occupation in regular commercial industry maintaining approved labor standards, or not less than 5 cents per hour, whichever is higher; certificate is effective May 8, 1950, and expires March 31, 1951.

Institute for the Crippled and Disabled, 400 First Avenue, New York 10, New York; at a wage rate of not less than the piece rate paid nonhandicapped employees engaged in the same occupation in regular commercial industry maintaining approved labor standards, or not less than 10 cents per hour, whichever is higher; certificate is effective May 8, 1950, and expires March 31, 1951.

Goodwill Industries of Brooklyn, Inc., 369 De Kalb Avenue, Brooklyn 5, New York; at a wage rate of not less than the piece rate paid nonhandicapped employees engaged in the same occupation in regular commercial industry maintaining approved labor standards, or not less than 50 cents per hour, whichever is higher, and a rate of not less than 40 cents for each new client during his initial 4-week evaluation period in the workshop; certificate is effective May 9, 1950, and expires April 30, 1951.

The Columbus Goodwill Industries, 94 North Sixth Street, Columbus 15, Ohio; at a wage rate of not less than the piece rate paid non-handicapped employees engaged in the same occupation in regular commercial industry maintaining approved labor standards, or not less than 20 cents per hour, whichever is higher, and a rate of not less than 10 cents for each new client during his initial 4-week evaluation period in the workshop; certificate is effective May 1, 1950 and expires April 30, 1951.

Goodwill Industries of Kentucky, 214 South 8th Street, Louisville 2, Kentucky; at a wage rate of not less than the piece rate paid non-handicapped employees engaged in the same occupation in regular commercial industry maintaining approved labor standards, or not less than 25 cents per hour, whichever is higher, and a rate of not less than 20 cents for each new client during his initial 4-week evaluation period in the workshop; certificate is effective May 1, 1950 and expires June 30, 1950.

Minneapolis Society for the Blind, Inc., 1936 Lyndale Avenue South, Minneapolis, Minnesota; at a wage rate of not less than the piece rate paid non-handicapped employees engaged in the same occupation in regular commercial industry maintaining approved labor standards, or not less than 22 cents per hour, whichever is higher, and a rate of not less than 10 cents for each new client during his initial 4-week evaluation period in the workshop; certificate is effective May 1, 1950 and expires June 30, 1950.

Union Gospel Mission, 716½ First Avenue, Seattle 4, Washington; at a wage rate of not less than the piece rate paid non-handicapped employees engaged in the same occupation in regular commercial industry maintaining approved labor standards, or not less than 50 cents per hour, whichever is higher, and a rate of not less than 25 cents for each new client during his initial 4-week evaluation period in the workshop; certificate is effective January 25, 1950 and expires January 24, 1951.

The employment of handicapped clients in the above-mentioned sheltered workshops under these certificates is limited to the terms and conditions therein contained and is subject to the provisions of Part 525 of the regulations, as amended. These certificates have been issued on the applicants' representations that they are sheltered workshops as defined in the regulations and that special services are provided their handicapped clients. A sheltered workshop is defined as, "A charitable organization or institution conducted not for profit, but for the purpose of carrying out a recognized program of rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury, and to provide such individuals with remunerative employment or other occupational rehabilitating activity of an educational or therapeutic nature."

These certificates may be cancelled in the manner provided by the regulations, as amended. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within fifteen days after publication of this notice in the FEDERAL REGISTER.

Signed at Washington, D. C., this 5th day of May 1950.

JACOB I. BELLOW,
Assistant Chief,
Field Operations.

[F. R. Doc. 50-4175; Filed, May 16, 1950; 8:47 a. m.]

INTERDEPARTMENTAL COMMITTEE ON TRADE AGREEMENTS

TRADE-AGREEMENT NEGOTIATIONS WITH CERTAIN COUNTRIES

I. Trade-agreement negotiations with Denmark, the Dominican Republic, India, Indonesia, Italy, and Sweden, which are contracting parties to the General Agreement on Tariffs and Trade or will be such by May 30, 1950;

II. Supplementary notice as to trade-agreement negotiations with the countries named in the notice of April 11, 1950, published April 14, 1950 (15 F. R. 2114);

III. Possible adjustment in preferential rates on Cuban products.

Pursuant to section 4 of the Trade Agreements Act, approved June 12, 1934, as amended (48 Stat. 945, ch. 474, Public Law 307, 81st Cong.) and to paragraph 4 of Executive Order 10082 of October 5, 1949 (14 F. R. 6105), notice is hereby given by the Interdepartmental Committee on Trade Agreements of intention to conduct trade-agreement negotiations with the following countries, including in each case areas in respect of which the country has authority to conduct trade-agreement negotiations: Denmark, the Dominican Republic, India, Indonesia, Italy, and Sweden. This notice is supplementary to the notice by the Committee dated April 11, 1950 and published April 14, 1950 (15 F. R. 2114).

There is annexed hereto a list of articles imported into the United States to be considered for possible modification of duties and other import restrictions, imposition of additional import restrictions, or specific continuance of existing customs or excise treatment in proposed trade-agreement negotiations with the above countries, and with any of the countries with which trade-agreement negotiations were proposed in the notice of April 11, 1950 published April 14, 1950 (15 F. R. 2114), viz., Australia, Austria, Belgium, Brazil, Canada, France, the Federal Republic of Germany, Guatemala, Korea, Luxemburg, New Zealand, the Netherlands, Norway, Peru, Turkey, the Union of South Africa, and the United Kingdom. Articles included in the list annexed to the Committee's notice published April 14, 1950, may be considered also in negotiations with the new countries named in this notice.

In the case of each article in the list annexed to this notice with respect to which the corresponding product of Cuba is subject to preferential treatment, the negotiations will involve the elimination, reduction, or continuation of the preference, perhaps with an adjustment or specification of the rate applicable to the product of Cuba.

No article will be considered in the negotiations for possible modification of duties or other import restrictions, imposition of additional import restrictions, or specific continuance of existing customs or excise treatment unless it is included, specifically or by reference, in the list annexed to the notice by the Committee of April 11, 1950, published April 14, 1950 (15 F. R. 2114), in the annexed list, or unless it is subsequently included in a supplementary public list. No duty or import tax imposed under a paragraph or section of the Tariff Act or Internal Revenue Code other than the paragraph or section listed with respect to such article will be considered for a possible decrease, although an additional or separate duty on an article included in the annexed list which is imposed under a paragraph or section other than that listed may be bound against increase as an assurance that the concession under the listed paragraph or section will not be nullified.

Persons interested in export items may present their views regarding any tariff (including preferential tariff) or other concessions that might be requested of Denmark, the Dominican Republic, India, Indonesia, Italy, and Sweden.

Pursuant to section 4 of the Trade Agreements Act, as amended, and Paragraph 5 of Executive Order 10082 of October 5, 1949, information and views as to any aspect of the proposals announced in this notice may be submitted to the Committee for Reciprocity Information in accordance with the announcement of this date issued by that Committee.[1]

The United States Tariff Commission has issued a notice (15 F. R. 2114) stating the location and availability of tariff and commodity information pertinent to the pending negotiations.

By direction of the Interdepartmental Committee on Trade Agreements this 15th day of May, 1950.

CARL D. CORSE,
Chairman, Interdepartmental Committee on Trade Agreements.

[1] See F. R. Doc. 50-4263, *infra*.

LIST OF ARTICLES IMPORTED INTO THE UNITED STATES WHICH IT IS PROPOSED SHOULD BE CONSIDERED IN TRADE-AGREEMENT NEGOTIATIONS WITH THE COUNTRIES SPECIFIED IN FOREGOING PUBLIC NOTICE

The following list contains descriptions of articles imported into the United States which it is proposed should be considered for possible modification of duties and other import restrictions, imposition of additional import restrictions, or specific continuance of existing customs or excise treatment in the trade-agreement negotiations which are proposed with the countries specified in the foregoing public notice.

For the purpose of facilitating identification of the articles listed, reference is made in the list to the paragraph numbers of the tariff schedules in the Tariff Act of 1930. The descriptive phraseology is frequently limited to a narrower scope than that covered by the cited paragraph. In such cases only the articles covered by the descriptive phraseology of the list will come under consideration for negotiation.

In the event that an article which as of January 1, 1950, was regarded as classifiable under a description included in the list is excluded therefrom by judicial decision or otherwise prior to the inclusion of such description in a trade agreement, the list will nevertheless be considered as including such article.

The United States Tariff Commission has issued a notice (15 F. R. 2114) stating the location and availability of tariff and commodity information pertinent to the pending negotiations announced herein.

SCHEDULE 1—CHEMICALS, OILS, AND PAINTS

38. Extracts, dyeing and tanning: Chestnut, divi-divi, and hemlock.

41. Glue, not specially provided for, of animal origin, and valued at less than 40 cents per pound.

SCHEDULE 2—EARTHS, EARTHENWARE, AND GLASSWARE

202. (a) Tiles, unglazed, glazed, ornamented, hand painted, enameled, vitrified, semivitrified, decorated, encaustic, ceramic mosaic, flint, spar, embossed, gold decorated, grooved or corrugated, and all other earthern tiles and tiling by whatever name known (except pill tiles, but including tiles wholly or in part of cement):

Clay floor and wall tiles, glazed, however provided for above (except ceramic mosaic tiles and except quarries or quarry tiles), valued at more than 40 cents per square foot; floor and wall tiles, wholly or in part of cement; and tiles other than floor and wall tiles.

208. (e) Mica plates and built-up mica, and all manufactures of mica, or of which mica is the component material of chief value, by whatever name known, and to whatever use applied, and whether or not named, described, or provided for in any paragraph of the Tariff Act of 1930 other than paragraph 208.

210. Common yellow, brown, red, or gray earthenware, plain or embossed, composed of a body wholly of clay which is unwashed, unmixed, and not artificially colored; common salt-glazed stoneware; all the foregoing, and manufactures wholly or in chief value of such ware (not including stoneware and earthenware crucibles), not specially provided for.

218. (f) All articles of every description not specially provided for, composed wholly or in chief value of glass, blown or partly blown in the mold or otherwise, or colored, cut, engraved, etched, frosted, gilded, ground (except such grinding as is necessary for fitting stoppers or for purposes other than ornamentation), painted, printed in any manner, sandblasted, silvered, stained, or decorated or ornamented in any manner:

Christmas tree ornaments valued at $7.50 or more per gross.

SCHEDULE 3—METALS AND MANUFACTURES OF

331. Cut tacks and brads, of iron or steel, not exceeding two inches in length.

353. Electrical X-ray apparatus, instruments (other than laboratory), and devices (except X-ray tubes); calculating machines specially constructed for multiplying and dividing, having as an essential feature an electric motor; all the foregoing and parts thereof, finished or unfinished, wholly or in chief value of metal, and not specially provided for.

360 [1559.] Slide rules wholly or in chief value of synthetic resins.

366. Pistols and revolvers: Automatic, single-shot, magazine, or revolving, valued at more than $8 each.

368. Clockwork mechanisms, and any mechanism, device, or instrument intended or suitable for measuring time, distance, speed, or fares, or the flowage of water or gas, or similar uses, or for regulating, indicating, or controlling the speed of arbors, drums, disks, or similar uses, or for recording or indicating time, or for recording, indicating, or performing any operation or function at a predetermined time or times, all the above, whether or not in cases, containers, or housing, if valued at more than $10 each (except the articles enumerated or described in paragraph 367, Tariff Act of 1930, and except mechanisms, devices, or instruments intended or suitable for measuring the flowage of electricity, pigeon timers, ships' logs, depth-sounding mechanisms, devices, or instruments, and time switches); and parts provided for in paragraph 368 (c) (6), Tariff Act of 1930 (except parts for clocks, clock movements, including lever movements, or for time-keeping, time-measuring, or time-indicating mechanisms, devices and instruments).

(g) Taximeters and parts thereof, finished or unfinished.

372. All other machines, finished or unfinished, not specially provided for, and parts, not specially provided for, wholly or in chief value of metal or porcelain: Calculating and accounting machines; tobacco machines (except tobacco cutting and industrial cigarette making machines); wrapping and packaging machines (except machines for packaging pipe tobacco, machines for wrapping cigarette packages, machines for wrapping candy, and combination candy cutting and wrapping machines); sawing and wood-working machines; and parts of any of the foregoing.

396. Bit braces, if hand tools, and parts thereof, wholly or in chief value of metal, not specially provided for.

397. Articles or wares not specially provided for, if composed wholly or in chief value of iron, steel, lead, copper, brass, nickel, pewter, zinc, aluminum, or other metal, but not plated with platinum, gold, or silver, or colored with gold lacquer, whether partly or wholly manufactured: Blow torches and incandescent lamps, designed to be operated by compressed air and kerosene or gasoline; and parts of carbonated-water siphons.

SCHEDULE 5—SUGAR, MOLASSES, AND MANUFACTURES OF

502. Molasses and sugar sirups, not specially provided for (except molasses and sugar sirups containing soluble non-sugar solids, excluding any foreign substance that may have been added or developed in the product, equal to more than 6 per centum of the total soluble solids).

SCHEDULE 6—TOBACCO AND MANUFACTURES OF

601. Wrapper tobacco, and filler tobacco when mixed or packed with more than 35 per centum of wrapper tobacco.

SCHEDULE 7—AGRICULTURAL PRODUCTS AND PROVISIONS

717. (a) Fish, fresh or frozen (whether or not packed in ice), whole, or beheaded or eviscerated or both, but not further advanced (except that the fins may be removed): Turbot.

(b) Fish, fresh or frozen (whether or not packed in ice), filleted, skinned, boned, sliced, or divided into portions, not specially provided for: Turbot.

718. (a) Fish, prepared or preserved in any manner, when packed in oil or in oil and other substances: Anchovies, valued at not over 9 cents per pound, including the weight of the immediate container.

[1559] Antipasto, valued at not over 9 cents per pound, including the weight of the immediate container.

(b) Fish, prepared or preserved in any manner, when packed in air-tight containers weighing with their contents not more than fifteen pounds each (except fish packed in oil or in oil or other substances): Eels, smelts, and fish livers.

724. Corn or maize, including cracked corn, when imported into Puerto Rico.

752. Fruits in brine, pickled, dried, desiccated, evaporated, or (if other than guavas) otherwise prepared or preserved, and not specially provided for (except bananas, dried, desiccated, or evaporated), and mixtures of two or more fruits, prepared or preserved.

756. Chestnuts (including marrons), candied, crystallized, or glace, or prepared or preserved in any manner.

761. Cashew nuts, shelled or unshelled.

763. Grass seeds and other forage crop seeds: Kentucky bluegrass.

770. Garlic.

774. Vegetables in their natural state: Crude horseradish.

781. Spices and spice seeds: Curry and curry powder.

SCHEDULE 8—SPIRITS, WINES, AND OTHER BEVERAGES

802. Rum.

804. Still wines, including ginger wine or ginger cordial (except still wines produced from grapes, containing 14 per centum or less of absolute alcohol by volume, and not including vermouth or rice wine or sake); and beverages, not specially provided for, similar to any of the beverages specified in paragraph 804, Tariff Act of 1930.

SCHEDULE 9—COTTON MANUFACTURES

909. Pile fabrics (not including pile ribbons), cut or uncut, whether or not the pile covers the entire surface, wholly or in chief value of cotton: Twill-back velveteens.

911. (a) Blankets or blanket cloth, napped or unnapped, if Jacquard-figured.

923. Manufactures, wholly or in chief value of cotton, not specially provided for: Badminton nets.

SCHEDULE 10—FLAX, HEMP, JUTE, AND MANUFACTURES OF

1003. Jute yarns or roving, single.

1004. (a) Single yarns, of flax mixed with hemp or ramie or with hemp and ramie.

1015. Fabrics, with fast edges, not exceeding 12 inches in width, wholly or in chief value of vegetable fiber: Webbing wholly or in chief value of jute.

1019. Bagging for cotton, gunny cloth, and similar fabrics, suitable for covering cotton, composed of single yarns made of jute, jute butts, or other vegetable fiber, not bleached, dyed, colored, stained, painted, or printed, not exceeding sixteen threads to the square inch, counting the warp and filling, and weighing not less than fifteen ounces nor more than thirty-two ounces per square yard.

1021. Carpets, carpeting, mats, matting, and rugs, wholly or in chief value of flax or hemp, or a mixture thereof, or a mixture of either or both with jute.

1022. Pile mats and floor coverings, wholly or in chief value of cocoa fiber.

SCHEDULE 12—SILK MANUFACTURES

1205. Woven fabrics in the piece, wholly or in chief value of silk, not specially provided for: Jacquard-figured, not bleached, printed, dyed, or colored; Jacquard-figured, with fibers chiefly but not wholly of silk, bleached, printed, dyed, or colored, and valued at more than $5 per pound; or not Jacquard-figured, with fibers chiefly but not wholly of silk, bleached, printed, dyed, or colored.

Woven fabrics in the piece, not exceeding thirty inches in width, whether woven with fast or split edges, wholly or in chief value of silk, including umbrella silk or Gloria cloth: Whether or not Jacquard-figured, with fibers chiefly but not wholly of silk, bleached, printed, dyed, or colored, and valued at more than $5 per pound.

1211. All manufactures, wholly or in chief value of silk, not specially provided for.

SCHEDULE 13—MANUFACTURES OF RAYON OR OTHER SYNTHETIC TEXTILE

1306. Woven fabrics in the piece, wholly or in chief value of rayon or other synthetic textile, not specially provided for, valued at not more than $4 per pound, and whether or not Jacquard-figured.

SCHEDULE 14—PAPERS AND BOOKS

1402. Leather board or compress leather, solid fiber shoe board and all counterboard, not plate finished, supercalendered or friction calendered, laminated by means of an adhesive substance, coated, surface stained or dyed, lined or vat-lined, embossed, printed, decorated or ornamented in any manner, nor cut into shapes for boxes or other articles and not specially provided for.

1406. Labels, flaps, and bands, composed wholly or in chief value of paper lithographically printed in whole or in part from stone, gelatin, metal, or other material, not specially provided for:

Cigar bands, printed in 8 or more colors (bronze printing to be counted as 2 colors), but not printed in whole or in part in metal leaf; and

Labels, flaps, and bands (except cigar bands), not exceeding 10 square inches cutting size in dimensions, if embossed or die-cut and printed in whole or in part in metal leaf.

SCHEDULE 15—SUNDRIES

1504. (b) Hats, bonnets, and hoods, composed wholly or in chief value of straw, chip, grass, willow, osier, rattan, real horsehair, cuba bark, or ramie, whether wholly or partly manufactured:

(1) Not blocked or trimmed, and not bleached, dyed, colored, or stained (not including hats and hoods composed wholly or in chief value of the fiber of the Carludovica palmata, commercially known as toquilla fiber or straw).

(2) Not blocked or trimmed, if bleached, dyed, colored, or stained.

1513. Dolls and doll clothing, composed in any part, however small, of any of the laces, fabrics, embroideries, or other materials or articles provided for in paragraph 1529 (a), Tariff Act of 1930; and all other dolls and parts of dolls (including clothing and doll heads but not including dolls and parts of dolls composed wholly or in chief value of any product provided for in paragraph 31, Tariff Act of 1930).

1516. Wax matches.

1527. (c) Articles valued above 20 cents per dozen pieces, designed to be worn on apparel or carried on or about or attached to the person, and parts thereof, finished or unfinished:

(2) Composed wholly or in chief value of metal other than gold or platinum (whether or not enameled, washed, covered, or plated, including rolled gold plate), or (if not composed in chief value of metal and if not dutiable under clause (1) of subparagraph (c) of paragraph 152, Tariff Act of 1930) set with and in chief value of precious or semiprecious stones, pearls, cameos, coral, amber, imitation precious or semiprecious stones, or imitation pearls: Mesh bags and parts thereof, valued at not above $5 per dozen pieces or parts.

1528. Rubies and sapphires, cut but not set, and suitable for use in the manufacture of jewelry. Imitation precious stones, cut or faceted, and imitation semiprecious stones, faceted.

1530. (b) Leather (except leather provided for in subparagraph (d) of paragraph 1530, Tariff Act of 1930), made from hides or skins of cattle of the bovine species:

[1559.] (5) Hides, untanned, but dehaired and oiled or greased, and cut to even thickness.

(7) Buffalo leather, rough, partly finished, finished, or curried, not specially provided for.

(c) Leather (except leather provided for in subparagraph (d) of paragraph 1530, Tariff Act of 1930), made from hides or skins of animals (not including cattle of the bovine species), in the rough, in the white, crust, or russet, partly finished, or finished: Skivers.

Vegetable-tanned rough leather made from goat skins (including those commercially known as India-tanned goat skins).

Leather (except leather provided for in subparagraph (d) of paragraph 1530, Tariff Act of 1930), if made from sheep, lamb, reptile, shark, or pig skins, and cut or wholly or partly manufactured into uppers, vamps, or any forms or shapes suitable for conversion into boots, shoes, or footwear.

1558. Articles manufactured, in whole or in part, not specially provided for (except the following: Banana flour and plantain flour; dog food, unfit for human consumption; frog legs; preparations (other than sauces) for flavoring or seasoning food, in chief value of yeast extract, and containing no alcohol; thick soy; edible preparations for human consumption; synthetic rubber and synthetic rubber articles; textile grasses or fibrous vegetable substances; tall oil or liquid rosin; incense; fatty acids derived from vegetable, animal, or fish oils, or from animal fats or greases; marine-glue pitch; coconut shell char; lecithin and materials made therefrom; ficin powder; and yeast).

FREE LIST

1656. Coir yarn.

1662. Cotton, not specially provided for (except linters), and cotton waste.

1669. Psyllium seed, senna, and sandalwood, all the foregoing which are natural and uncompounded drugs and not edible, and not specially provided for, and are in a crude state, not advanced in value or condition by shredding, grinding, chipping, crushing, or any other process or treatment whatever beyond that essential to the proper packing of the drugs and the prevention of decay or deterioration pending manufacture and not containing alcohol.

1670. Dyeing or tanning materials: Divi-divi, myrobalans fruit, and curupay bark, whether crude or advanced in value or condition by shredding, grinding, chipping, crushing, or any similar process, not containing alcohol, and not specially provided for.

1684. Grasses and fibers: Sunn, not dressed or manufactured in any manner, and not specially provided for.

1686. Gums and resins: Copal, kadaya, talka, and cashew nut shell liquid, not specially provided for.

1719. Minerals, crude, or not advanced in value or condition by refining or grinding, or by other process of manufacture, not specially provided for: Kyanite, sillimanite, ilmenite, and ilmenite sand.

1731. Oils, distilled or essential: Palmarosa, not mixed or compounded with or containing alcohol.

1732. Oils, expressed or extracted; Sweet almond.

1765. Skins of all kinds, raw, and hides not specially provided for: Goat and kid.

1768. Spices and spice seeds: (2) Fennel.

[F. R. Doc. 50-4262; Filed, May 16, 1950; 2:30 p. m.]

COMMITTEE FOR RECIPROCITY INFORMATION

TRADE-AGREEMENT NEGOTIATIONS WITH CERTAIN COUNTRIES

SUBMISSION OF INFORMATION TO COMMITTEE

I. Trade-agreement negotiations with Denmark, the Dominican Republic, India, Indonesia, Italy, and Sweden, which are contracting parties to the General Agreement on Tariffs and Trade or will be such by May 30, 1950;

II. Supplementary notice as to trade-agreement negotiations with the countries named in the notice of April 11, 1950, published April 14, 1950 (14 F. R. 2114);

III. Possible adjustment in preferential rates on Cuban products.

Submission of information to the Committee for Reciprocity Information. Closing date for application to be heard, June 5, 1950. Closing date for submission of briefs, June 12, 1950. Public hearings open, June 19, 1950.

The Interdepartmental Committee on Trade Agreements has issued on this day a notice of intention[1] to conduct trade-agreement negotiations with the following countries including in each case areas in respect of which the country has authority to conduct trade-agreement negotiations: Denmark, the Dominican Republic, India, Indonesia, Italy, and Sweden.

Annexed to the notice by the Interdepartmental Committee on Trade Agreements is a list of articles imported into the United States to be considered for possible trade-agreement negotiations supplementary to the list annexed to the notice by that Committee of April 11, 1950, published April 14, 1950 (15 F. R. 2114). Articles in either list may be considered for negotiation with the above countries and with the countries named in the notice published April 14, 1950.

The Interdepartmental Committee on Trade Agreements has also announced in such notice that, in the case of each article in the list with respect to which the corresponding product of Cuba is subject to preferential treatment, the negotiations referred to will involve the elimination, reduction, or continuation of the preference, perhaps with an adjustment or specification of the rate applicable to the product of Cuba.

The Committee for Reciprocity Information hereby gives notice that all applications for oral presentation of views in regard to the foregoing proposals, which must indicate the product or products on which the individuals or groups desire to be heard, shall be submitted to the Committee for Reciprocity Information not later than 12:00 noon, June 5, 1950, and all information and views in writing in regard to the foregoing proposals shall be submitted to the Committee for Reciprocity Information not later than 12:00 noon, June 12, 1950.

Such communications shall be addressed to "The Chairman, Committee for Reciprocity Information, Tariff Commission Building, Washington 25, D. C.". Ten copies of written statements, either typed, printed, or duplicated shall be submitted, of which one copy shall be sworn to.

Public hearings will be held before the Committee for Reciprocity Information, at which oral statements will be heard. The first hearing will be at 10:00 a. m. on June 19, 1950, in the Hearing Room in the Tariff Commission Building, 7th and E Streets NW., Washington 25, D. C. Witnesses who make application to be heard will be advised regarding the time and place of their individual appearances. Appearances at hearings before the Committee may be made only by or on behalf of those persons who have filed written statements and who have within the time prescribed made written application for oral presentation of views. Statements made at the public hearings shall be under oath.

Persons or groups interested in import products may present to the Committee their views concerning possible tariff concessions by the United States on any product, whether or not included in the list annexed to the notice of intention to negotiate. However, as indicated in the notice of intention to negotiate, no tariff reduction will be considered on any product which is not included in the list annexed to the public notice by the Interdepartmental Committee on Trade Agreements of April 11, 1950, published April 14, 1950 (15 F. R. 2114), the list annexed to the notice issued by said Committee on this date, or in a supplementary public list.

Persons interested in export items may present their views regarding any tariff (including preferential tariff) or other concessions that might be requested of Denmark, the Dominican Republic, India, Indonesia, Italy, and Sweden.

Copies of the list attached to the notice of intention to negotiate may be obtained from the Committee for Reciprocity Information at the address designated above and may be inspected at the field offices of the Department of Commerce. The United States Tariff Commission has issued a notice (15 F. R. 2114) stating the location and availability of tariff and commodity information pertinent to the pending negotiations announced herein.

By direction of the Committee for Reciprocity Information this 15th day of May, 1950.

EDWARD YARDLEY,
Secretary, Committee for Reciprocity Information.

[F. R. Doc. 50-4263; Filed, May 16, 1950; 2:30 p. m.]

[1] See F. R. Doc. 50-4262, *supra*.

FEDERAL POWER COMMISSION

[Docket No. E-6271]

IOWA PUBLIC SERVICE CO.

NOTICE OF ORDER AUTHORIZING ISSUANCE OF SECURITIES

MAY 12, 1950.

Notice is hereby given that, on May 11, 1950, the Federal Power Commission issued its order entered May 10, 1950, authorizing issuance of securities in the above-designated matter.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 50-4193; Filed, May 16, 1950; 8:50 a. m.]

[Docket No. E-6280]

MONTANA-DAKOTA UTILITIES CO.

NOTICE OF ORDER AUTHORIZING ISSUANCE OF PROMISSORY NOTES

MAY 11, 1950.

Notice is hereby given that, on May 10, 1950, the Federal Power Commission issued its order entered May 9, 1950, authorizing issuance of promissory notes in the above-designated matter.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 50-4173; Filed, May 16, 1950; 8:46 a. m.]

[Docket No. G-1333]

UNITED NATURAL GAS CO.

NOTICE OF FINDINGS AND ORDER ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

MAY 11, 1950.

Notice is hereby given that, on May 10, 1950, the Federal Power Commission issued its findings and order entered May 9, 1950, issuing certificate of public convenience and necessity in the above-designated matter.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 50-4174; Filed, May 16, 1950; 8:47 a. m.]

[Docket No. G-1386]

TENNESSEE GAS TRANSMISSION CO.

NOTICE OF APPLICATION

MAY 11, 1950.

Take notice that Tennessee Gas Transmission Company (Applicant), a Delaware corporation, of the Commerce

Building, Houston, Texas, filed on May 4, 1950, an application for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, authorizing the sale of natural gas to Inland Gas Corporation (Inland) through an existing connection between the facilities of Applicant and Inland located in Carter County, Kentucky.

Applicant has heretofore served gas to Inland on an interruptible basis pursuant to authorization granted by the Commission in its orders of August 1, 1947, at Docket No. G-808 and July 26, 1949, at Docket No. G-962. Applicant now proposes to serve Inland 20,000 Mcf per day on a firm basis as provided for in the contract between the parties dated January 26, 1950, which contract was received in evidence as Exhibit 27 in the proceedings in Docket No. G-1248. The capacity to enable Applicant to render the service will be provided for out of facilities to be authorized in Docket No. G-1248 or out of facilities subsequently to be applied for and authorized by the Commission.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before the 31st day of May 1950. The application is on file with the Commission for public inspection.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 50-4192; Filed, May 16, 1950; 8:50 a. m.]

INTERSTATE COMMERCE COMMISSION

[Rev. S. O. 562, Amdt. 2 to Rev. King's I. C. C. Order 23]

PENNSYLVANIA RAILROAD CO. ET AL.

REROUTING OR DIVERSION OF TRAFFIC

Upon further consideration of Revised King's I. C. C. Order No. 23 and good cause appearing therefor: *It is ordered*, That:

Revised King's I. C. C. Order No. 23, be, and it is hereby amended by substituting the following paragraph (a) for paragraph (a) thereof:

(a) *Rerouting traffic.* The Pennsylvania Railroad west of Harrisburg, Pennsylvania, and New Boston Junction, Pennsylvania; the New York Central System west of Buffalo, New York; the Southern Railway System; the Gulf, Mobile and Ohio Railroad Company between Corinth, Mississippi, and Memphis, Tennessee, and between Corinth, Mississippi, and Birmingham, Alabama; the Colorado and Southern Railway Company between Denver, Colorado, and Pueblo, Colorado; The Chesapeake and Ohio Railway Company between Orange, Virginia, and Potomac Yards, Virginia; and the Atchison, Topeka and Santa Fe Railway Company (not including the Gulf, Colorado and Santa Fe), and their connections are hereby authorized to reroute or divert traffic routed over their lines affected by strike of firemen over any available route to expedite the movement; the billing covering all such cars rerouted shall carry a reference to this order as authority for the rerouting.

It is further ordered, That this amendment shall become effective at 4:00 p. m., May 10, 1950, and that this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all the railroads subscribing to the car service and per diem agreement under the terms of that agreement, and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., May 10, 1950.

INTERSTATE COMMERCE COMMISSION,
HOMER C. KING,
Agent.

[F. R. Doc. 50-4179; Filed, May 16, 1950; 8:47 a. m.]

[4th Sec. Application 25096]

PAPER FROM ATLANTA, GA., TO VIRGINIA

APPLICATION FOR RELIEF

MAY 12, 1950.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: R. E. Boyle, Jr., Agent, for and on behalf of the Atlantic Coast Line Railroad Company and other carriers named in the application.

Commodities involved: Paper and paper articles, carloads.

From: Atlanta, Ga.

To: Celco and Pearisburg, Va.

Grounds for relief: Circuitous routes.

Schedules filed containing proposed rates: C. A. Spaninger's tariff I. C. C. No. 1069, Supplement 118.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 50-4180; Filed, May 16, 1950; 8:48 a. m.]

[4th Sec. Application 25097]

ONIONS FROM RACINE, WIS., TO THE SOUTH

APPLICATION FOR RELIEF

MAY 12, 1950.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: R. G. Raasch, Agent, for and on behalf of carriers parties to his tariff I. C. C. No. 578.

Commodities involved: Onions, without tops, carloads.

From: Racine, Wis.

To: Points in the south.

Grounds for relief: Circuitous routes.

Schedules filed containing proposed rates: R. G. Raasch's tariff I. C. C. No. 578, Supplement 106.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 50-4181; Filed, May 16, 1950; 8:48 a. m.]

[4th Sec. Application 25098]

ASPHALT FROM NORFOLK, VA., AND WILMINGTON, N. C.

APPLICATION FOR RELIEF

MAY 12, 1950.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: R. E. Boyle, Jr., Agent, for and on behalf of the Atlantic Coast Line Railroad Company and other carriers named in the application.

Commodities involved: Asphalt, tank carloads.

From: Norfolk, Va., and Wilmington, N. C.

To: Points in North Carolina and South Carolina.

Grounds for relief: Circuitous routes.

Schedules filed containing proposed rates: W. P. Emerson, Jr.'s tariff I. C. C. No. 369, Supplement 50.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 50-4182; Filed, May 16, 1950; 8:48 a. m.]

[4th Sec. Application 25099]

BITUMINOUS ROCK FROM AND TO POINTS IN THE SOUTH

APPLICATIONS FOR RELIEF

MAY 12, 1950.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: R. E. Boyle, Jr., Agent, for and on behalf of carriers parties to Agent C. A. Spaninger's tariff I. C. C. No. 1083.

Commodities involved: Bituminous rock, carloads.

Between: Points in the south, between points in Virginia in trunk line territory, and between said points, on the one hand, and points in southern territory, on the other.

Grounds for relief: Circuitous routes and to maintain grouping.

Schedules filed containing proposed rates: C. A. Spaninger's tariff I. C. C. No. 1083, Supplement 19.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 50-4183; Filed, May 16, 1950; 8:48 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File Nos. 50-34, 70-2340—2343]

PHILADELPHIA CO. ET AL.

ORDER PERMITTING WITHDRAWAL OF APPLICATIONS-DECLARATIONS

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C. on the 11th day of May 1950.

In the matter of Philadelphia Company, Equitable Gas Company, Pittsburgh and West Virginia Gas Company, Kentucky West Virginia Gas Company, File No. 70-2343; Philadelphia Company, File No. 70-2342; Philadelphia Company, File No. 50-34; Standard Gas and Electric Company, File No. 70-2341; Standard Gas and Electric Company, Philadelphia Company, File No. 70-2340.

Standard Gas and Electric Company ("Standard"), and its subsidiary, Philadelphia Company ("Philadelphia"), both registered holding companies, having filed, in the above consolidated proceedings, applications-declarations and amendments thereto pursuant to the Public Utility Holding Company Act of 1935 ("act") proposing, at File No. 70-2341, the sale by Standard of all the outstanding shares of Common Stock of its public utility subsidiary, Wisconsin Public Service Corporation and, at File No. 70-2340, the loan by Standard to Philadelphia of the proceeds of such sale and the application of such proceeds, together with other funds to be borrowed from banks by Philadelphia, to the redemption of all the outstanding funded indebtedness of Philadelphia; and

Said transactions having been proposed as an alternative to a proposal at File No. 70-2342, regarding the sale by Philadelphia of all the outstanding Common Stock of Equitable Gas Company and the application of the proceeds, in part, to the redemption of the funded indebtedness of Philadelphia; and

Applicants-declarants having elected to proceed with the sale by Philadelphia of the Common Stock of Equitable Gas Company and having reserved the right to withdraw said applications-declarations relating to the sale of the Common Stock of Wisconsin Public Service Corporation; and

Philadelphia having consummated the sale of the Common Stock of Equitable Gas Company, pursuant to orders, dated March 14 and March 27, 1950, of this Commission and said orders having reserved jurisdiction over, among other things, all fees and expenses proposed to be paid in connection with such consolidated proceedings; and

Applicants-declarants, on May 4, 1950, having filed an application to withdraw the said applications-declarations at File Nos. 70-2341 and 70-2340; and

The Commission deeming it appropriate to grant said application subject, however, to the continuation of jurisdiction regarding fees and expenses heretofore reserved with respect to said filings:

It is ordered, That the applications-declarations, at File Nos. 70-2341 and 70-2340, of Standard and Philadelphia be, and the same hereby are, permitted to be withdrawn.

It is further ordered, That jurisdiction heretofore reserved regarding fees and expenses in connection with said applications-declarations be, and the same hereby is, continued in full force and effect.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 50-4185; Filed, May 16, 1950; 8:49 a. m.]

[File Nos. 54-75, 54-161, 59-8, 59-20]

COMMONWEALTH & SOUTHERN CORP. (DEL.) ET AL.

NOTICE OF FILING AND ORDER FOR HEARING ON APPLICATIONS FOR ALLOWANCE OF FEES AND EXPENSES

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C., on the 11th day of May A. D. 1950.

In the matter of the Commonwealth & Southern Corporation (Delaware), File No. 54-161; the Commonwealth & Southern Corporation (Delaware), respondent, File No. 59-20; the Commonwealth & Southern Corporation (Delaware), and its subsidiary companies, respondents, File No. 59-8; the Commonwealth & Southern Corporation (Delaware), File No. 54-75.

The Commission on November 22, 1948, having issued its order approving a plan filed by the Commonwealth & Southern Corporation ("Commonwealth"), a registered holding company, pursuant to section 11 (e) of the Public Utility Holding Company Act of 1935 (the "act"), providing, among other things, for the distribution of substantially all of Commonwealth's assets to the holders of its preferred and common stocks, and for the dissolution of Commonwealth; and the District Court of the United States for the District of Delaware on July 15, 1949, having issued an order approving and enforcing said plan, and a motion for a stay of the proceedings pending appeal having been denied by the United States Court of Appeals for the Third Circuit by its order of September 19, 1949, and the plan having become effective on October 1, 1949; and

The plan having provided for the payment by Commonwealth of all fees and expenses in connection therewith, and the Commission in its said order having reserved jurisdiction over the determination of the reasonableness and appropriate allocation of all fees and expenses and other remuneration incurred or to be incurred in connection with the said plan and transactions incident thereto; and

Applications having now been filed by numerous persons with respect to the payment of requested fees and reimbursement for expenses;

Notice is hereby given that applications for the payment of fees and reimbursement of expenses have been filed by the following persons and in the following amounts:

Applicant	Fees	Expenses	Total
For services on behalf of Commonwealth [1]			
(1) Winthrop, Stimson, Putnam & Roberts Counsel for Commonwealth	$256,500.00	$2,379.34	$258,879.34
(2) Jay Samuel Hartt, expert witness for Commonwealth	44,147.13	11,780.40	55,927.53
(3) Lionel D. Edie & Co., economic adviser to Commonwealth	2,050.00		2,050.00
(4) Roswell Magill, expert witness for Commonwealth	1,000.00		1,000.00
(5) Bankers Trust Co., exchange agent in re prior voluntary exchange plan (File No. 54-151)	[3] 3,500.35		[3] 3,500.35
(6) Bankers Trust Co.: Distribution and scrip agent with respect to common stock in re dissolution plan (File No. 54-161)	133,392.70	4,247.87	[2] 137,640.57
(7) The First National Bank of the City of New York: Distribution and scrip agent with respect to the preferred stock in re dissolution plan (File No. 54-161)	37,633.20	3,662.01	[2] 41,295.21
(8) General expenses:			
Printing		81,877.38	81,877.38
Mailing		34,816.69	34,816.69
Accounting		11,350.00	11,350.00
Transcript		11,117.14	11,117.14
Traveling		10,198.96	10,198.96
Advertising		3,676.37	3,676.37
	478,223.38	175,106.16	653,329.54
For services on behalf of the Preferred Stockholders' Committee			
(1) Townsend, Elliott and Munson, counsel for Preferred Stockholders' Committee	150,000.00	4,220.25	154,220.25
(2) Edward Hopkinson, Jr.	100,000.00	2,203.23	102,203.23
Clarence A. Warden	15,000.00		15,000.00
James E. Gowen	5,000.00		5,000.00
Marshall S. Morgan	5,000.00		5,000.00
Archibald B. Johnson (Secretary) (Members of Preferred Stockholders' Committee.)	1,416.95		1,416.95
(3) Reis & Chandler, Inc., expert witness for Preferred Stockholders' Committee	22,000.00	601.15	22,601.15
(4) Duff and Phelps, expert witness for Preferred Stockholders' Committee		1,932.63	1,932.63
	298,416.95	8,957.26	307,374.21
For services on behalf of Commonwealth's common-stock holders			
(1) Alfred J. Snyder and Elizabeth C. Lownsbury [4]	$300,000.00	$5,158.59	$305,158.59
(2) George Rosier, counsel for common-stock holders	125,000.00	2,155.03	127,155.03
(3) Hays, St. John, Abramson and Schulman, counsel for common-stock holders	75,000.00	777.43	75,777.43
(4) William H. Brantley,[4] counsel for common-stock holders	75,000.00	2,429.23	77,429.23
(5) Albert Shassol, a common-stock holder	20,000.00	185.00	20,185.00
	595,000.00	10,705.28	605,705.28
For services on behalf of Commonwealth's option warrant holders			
(1) Lawrence E. Brown, counsel for option warrant holders	9,000.00	1,000.00	10,000.00
	1,380,640.33	195,768.70	1,576,409.03

[1] Items (2) through (8) and part of Item (1) ($146,500) have been paid by Commonwealth.
[2] Includes fees and expenses.
[3] Consists of amounts billed up to November 30, 1949. Further bills for services and reimbursement of expenses are to be submitted in accordance with the schedule of fees heretofore submitted to this Commission.
[4] Also represented option warrant holders.

The Commission deeming it appropriate in the public interest and in the interest of investors and consumers that a hearing be held with respect to said applications:

It is ordered, Pursuant to sections 11 (e) and 18 of the act, that the hearings herein be reconvened for the purpose of taking evidence on said applications, said hearings to commence on May 24, 1950, at 10:00 a. m., e. d. s. t., at the offices of the Commission, 425 Second Street NW., Washington 25, D. C. On such date the hearing room clerk in Room 101 will advise as to the room in which the hearing will be held. Any person desiring to be heard or otherwise wishing to participate in the proceedings shall file with the Secretary of the Commission, on or before May 22, 1950, a request or application relative thereto as provided by Rule XVII of the Commission's rules of practice.

It is further ordered, That Richard Townsend or any other officer or officers of the Commission designated by it for the purpose shall preside at the hearing on such matters. The officer so designated to preside at such hearing is hereby empowered to exercise all such powers granted to the Commission under section 18 (c) of the act and to a hearing officer under the Commission's rules of practice.

The Division of Public Utilities of the Commission having advised the Commission that it has made a preliminary examination of said applications and that, upon the basis thereof, the following matters and questions are presented for consideration by the Commission, without prejudice to its specifying additional matters and questions upon further examination:

1. Whether the services and disbursements for which remuneration is sought are compensable, and whether it is lawful or appropriate to grant any allowances for fees and expenses to the persons making such claims.

2. Whether the amounts claimed are fair and reasonable and if not, what amounts should be fixed by the Commission.

It is further ordered, That particular attention be directed at said hearing to the foregoing matters and questions.

It is furthered ordered, That a copy of this notice shall be mailed by registered mail to Commonwealth, the Southern Company, and the applicants herein, that notice shall be given to all other persons by general release of this Commission, which shall be distributed to the press and mailed to the mailing list for releases under the act, and that further notice shall be given to all persons by publication of this notice in the FEDERAL REGISTER.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 50-4184; Filed, May 16, 1950; 8:48 a. m.]

[File No. 70-2324]

SOUTH JERSEY GAS CO.

ORDER GRANTING APPLICATION

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 11th day of May 1950.

South Jersey Gas Company ("South Jersey"), a utility subsidiary of the United Corporation, a registered holding company, having filed an application and an amendment thereto pursuant to section 6 (b) of the Public Utility Holding Company Act of 1935 with respect to the following transaction:

South Jersey proposes to issue and sell, from time to time prior to November 30, 1950, an aggregate of $3,300,000 of its promissory notes. Said notes will be issued and sold pursuant to a loan agreement between South Jersey and four commercial banks which provides, inter alia, that $2,550,000 of said notes are to bear interest at the rate of 2¼% per annum and mature June 30, 1951, and $750,000 of said notes are to bear interest at the rate of 2¾% per annum and to mature serially in principal amounts of $75,000 commencing June 30, 1951, and at successive six-month intervals thereafter. *It is also provided*, That South Jersey will pay a commitment fee of ½ of 1 percent on the daily unused balance of notes computed from the date South Jersey shall have obtained appropriate authorizations from this Commission and the several regulatory commissions hereinafter set forth.

Of the proceeds of the sale of said notes $1,647,000 is to be utilized to construct approximately 77 miles of pipeline and related facilities for the transportation and distribution of straight natural gas and $578,000 to repay certain bank loans permitted to be made by order of this Commission dated March 21, 1950, as interim financing for this purpose; $325,000 is to be utilized to refund an existing like amount of other bank loans, and $750,000 is to be utilized to convert customers gas appliances for the use of natural gas.

The Federal Power Commission has issued to South Jersey a certificate of public convenience and necessity in respect of the construction of the proposed pipeline and related facilities. The Board of Public Utility Commissioners of the State of New Jersey has approved the proposed issuance and sale of promissory notes.

Said application and the amendment thereto having been duly filed, and notices of said filings having been duly given in the form and manner prescribed by Rule U-23 promulgated pursuant to said act, and the commission not having received a request for hearing with respect to said application and the amendment within the periods specified in said notices, or otherwise, and not having ordered a hearing thereon; and

The Commission finding that no adverse findings are necessary with respect to the proposed transaction, and deeming it appropriate in the public interest and in the interest of investors and consumers that said application be granted so that the application may become effective forthwith:

It is ordered, Pursuant to Rule U-23 and the applicable provisions of the act and subject to the terms and conditions prescribed by Rule U-24, that the application, as amended, be, and the same hereby is, granted forthwith, subject to the terms and conditions provided in Rule U-24 of the rules and regulations promulgated under the act.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 50-4187; Filed, May 16, 1950; 8:49 a. m.]

[File No. 70-2358]

COLUMBIA GAS SYSTEM, INC., ET AL.

ORDER GRANTING APPLICATION AND PERMITTING DECLARATION TO BECOME EFFECTIVE

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 11th day of May A. D. 1950.

In the matter of the Columbia Gas System, Inc., Atlantic Seaboard corporation, Amere Gas Utilities Company, Virginia Gas Distribution Corporation, File No. 70-2358.

The Columbia Gas System, Inc. ("Columbia"), a registered holding company, Atlantic Seaboard Corporation ("Seaboard"), a registered holding company and a subsidiary of Columbia, Amere Gas Utilities Company ("Amere"), Virginia Gas Distribution Corporation ('Distribution"), the latter two companies being subsidiaries of Seaboard, having filed a joint application-declaration pursuant to the provisions of sections 6 (b), 7, 9 and 10 of the act with respect to the following proposed transactions:

Seaboard proposes to issue and sell to Columbia, from time to time, prior to March 31, 1951, its 3¼ percent unsecured notes in such principal amounts as in the aggregate will not exceed $1,700,000. Pursuant to an interest agreement between Seaboard and Columbia, it is provided that the interest to be paid on all of Seaboard's 3¼ percent notes now or hereafter held by Columbia will be in such amount as will result in an average interest not in excess of 3¼ percent on all indebtedness of Seaboard held by Columbia. Giving effect to the issue and sale of the 3¼ percent notes proposed Columbia will hold $12,700,000 principal amount of 3¼ percent notes and $10,665,000 principal amount of 6 percent notes of Seaboard. The $1,700,000 notes herein proposed will mature in equal annual installments on February 15, of each of the years 1952 to 1976, inclusive.

Of the proceeds of the sale of said notes Seaboard will utilize $625,000 to finance, in part, its 1950 construction program, $550,000 and $525,000 will be applied to the purchase of like aggregate principal amounts of 3¼ percent notes of Amere and Distribution respectively, which are herein also proposed to be issued and sold. Said notes will be issued and sold from time to time prior to March 31, 1951, and will mature in 25 equal annual installments commencing February 15, 1952. The proceeds of the sale of said notes by Amere and Distribution will be used in connection with their respective 1950 construction programs, except that $97,000 thereof will be used by Amere to reimburse its working capital for expenditures heretofore made in connection with its construction program.

The issuance and sale of said notes by Amere and Distribution have been approved by the Public Service Commission of West Virginia and the State Corporation Commission of Virginia, respectively.

Said joint application - declaration having been filed on March 15, 1950, and notice of said filing having been duly given in the form and manner prescribed by Rule U-23 promulgated pursuant to said act, and the Commission not having received a request for hearing with respect to said joint application-declaration within the period specified in said notice, or otherwise, and not having ordered a hearing thereon; and

The Commission finding with respect to said joint application-declaration that the requirements of the applicable provisions of the act and rules thereunder are satisfied, and deeming it appropriate in the public interest and in the interest of investors and consumers that the said joint application-declaration be granted and permitted to become effective:

It is ordered, Pursuant to Rule U-23 and the applicable provisions of said act, that the said joint application-declaration be, and hereby is, granted and permitted to become effective forthwith, subject to the terms and conditions prescribed in Rule U-24.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 50-4188; Filed, May 16, 1950; 8:49 a. m.]

[File No. 70-2372]

WORCESTER COUNTY ELECTRIC CO. AND NEW ENGLAND ELECTRIC SYSTEM

ORDER GRANTING APPLICATION

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C., on the 11th day of May A. D. 1950.

New England Electric System ("NEES"), a registered holding company, and its public utility subsidiary, Worcester County Electric Company ("Worcester County"), having filed a joint application pursuant to the Public Utility Holding Company Act of 1935, particularly sections 6 (b) and 10 thereof and Rules U-23 and U-42 (b) (2) of the rules and regulations promulgated thereunder, with respect to the following proposed transactions:

Worcester County proposes to issue and sell 20,000 shares of capital stock of the par value of $25 per share and NEES, the owner of all of Worcester County's 152,125 shares of capital stock presently outstanding, proposes to acquire said additional 20,000 shares of capital stock for a cash consideration of $1,500,000. Worcester County proposes to apply the proceeds derived from said sale to retire $1,500,000 principal amount of 2¼ percent promissory notes of which there are presently outstanding under a bank letter agreement an aggregate amount of $4,250,000.

The joint application states that incidental services in connection with the proposed transactions will be performed by New England Power Service Company, an affiliated service company, at the actual cost thereof, estimated not to exceed $1,500 with respect to Worcester County and $300 with respect to NEES. The total expenses to be borne by Worcester County are estimated at $2,300. The joint application further states that the Massachusetts Department of Public Utilities has approved the proposed sale of capital stock by Worcester County and that no State Commission or Federal Commission, other than this Commission, has jurisdiction over the acquisition of such stock by NEES.

NEES and Worcester County request that the Commission's order herein become effective upon the issuance thereof.

Said application having been filed on April 14, 1950, and notice of said filing having been duly given in the form and manner prescribed by Rule U-23 promulgated pursuant to said act and the Commission not having received a request for hearing with respect to said application within the period specified in said notice, or otherwise, and not having ordered a hearing thereon; and

The Commission finding that the proposed transactions are in compliance with the applicable standards of the act, that no adverse findings are necessary in connection therewith and the Commission deeming it appropriate that said application be granted without the imposition of any terms and conditions other than those contained in Rule U-24 and the Commission also deeming it appropriate to grant applicants' request that the order herein become effective forthwith upon its issuance:

It is ordered, Pursuant to said Rule U-23 and the applicable provisions of said act that said application, be, and the same hereby is, granted forthwith, subject to the terms and conditions contained in Rule U-24.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 50-4189; Filed, May 16, 1950; 8:49 a. m.]

[File No. 70-2390]

LEE MOOR

NOTICE REGARDING FILING

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C., on the 10th day of May 1950.

Notice is hereby given that an application has been filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 by Lee Moor. Applicant has designated sections 9 (a) (2) and 10 of the act as applicable to the proposed transaction.

Notice is further given that any interested person may, not later than May 22, 1950, at 5:30 p. m., e. d. 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 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, 425 Second Street NW., Washington 25, D. C. At any time after May 22, 1950, said application, as filed, or as amended, may be granted as provided in Rule U-23 of the rules and regulations promulgated under the act, or the Commission may exempt such transaction as provided in Rules U-20 (a) and U-100 thereof.

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

Applicant states that he is an affiliate of Arkansas Western Gas Company ("Arkansas"), as that term is defined in section 2 (a) (11) (A) of the act, by reason of his ownership of 43,497 shares or 16.64 percent of Arkansas' outstanding voting securities, including 15,994 shares held as trustee for Betty Lee Moor McGuire and 379 shares held as trustee for Bess Waskey. Applicant states that he is also an affiliate of Southern Union Gas Company by reason of his ownership of 219,900 shares or 14.7 percent of the outstanding voting securities, being common stock and 4,553 shares or 16.92 percent of the outstanding 4¼ percent preferred stock of that company. Applicant proposes to acquire, directly or indirectly, warrants entitling him to subscribe, directly or indirectly as trustee, for not to exceed 4,833 shares of additional common stock to be issued by Arkansas pro rata to its stockholders, and through the exercise of such warrants to acquire, directly or indirectly, 4,833 shares of such additional common stock, at $10.00 per share. Applicant also proposes to acquire, directly or indirectly, additional shares, if any, which the warrants authorize to be subscribed, subject to allotment and which are in fact allotted thereunder. Applicant states that, if desirable, he proposes to acquire as trustee for Betty Lee Moor McGuire all or any part of the warrants issuable to him in his indivdual capacity pursuant to warrant offering by Arkansas, or the common stock subject to subscription pursuant to such warrants, or both such warrants and common stock.

By the Commission.

[SEAL] NELLYE A. THORSEN,
Assistant Secretary.

[F. R. Doc. 50-4186; Filed, May 16, 1950; 8:49 a. m.]

UNITED STATES TARIFF COMMISSION

[List No. 18 (E)]

EMERGENCY LEAD COMMITTEE

APPLICATION FOR INVESTIGATION

MAY 12, 1950.

Application has been filed with the United States Tariff Commission for investigation, under the escape clause procedure, to determine whether as a result of unforeseen developments and of the concession granted in a trade agreement the articles listed below are being imported in such relatively increased quantities and under such conditions as to cause or threaten serious injury to the domestic industry producing like or directly competitive articles. The application was filed under the provisions of Part III of Executive Order 10082 of October 5, 1949.

Name of article	Purpose of request	Date received	Name and address of applicant
Lead-bearing ores, flue dust, and mattes of all kinds, and lead bullion or base bullion, lead in pigs and bars, lead dross, reclaimed lead, and scrap lead (Items 391 and 392, Schedule II of the trade agreement with Mexico).	Increase in duty.	May 11, 1950	Emergency Lead Committee, New York, N. Y.

The application listed above is available for public inspection at the office of the Secretary, United States Tariff Commission, Eighth and E Streets NW., Washington, D. C., and in the New York Office of the Tariff Commission, located in Room 437 of the Custom House, where it may be read and copied by persons interested.

[SEAL] SIDNEY MORGAN,
Secretary.

[F. R. Doc. 50-4197; Filed, May 16, 1950; 8:50 a. m.]