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## TITLE 19—CUSTOMS DUTIES

### Chapter I—Bureau of Customs, Department of the Treasury

[T. D. 52886]

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

WAIVER OF COASTWISE LAWS

DECEMBER 18, 1951.

Navigation laws administered by the Bureau of Customs waived to permit operation of vessels requisitioned by the United States for the purpose of emergency evacuation.

Upon the written request of the Acting Secretary of Defense and pursuant to the authority vested in me by the provisions of section 1 of the act of December 27, 1950 (Public Law 891, 81st Cong.), and the order of the Acting Secretary of the Treasury dated January 23, 1951 (T. D. 52672), I hereby waive compliance with the provisions of the navigation laws administered by the Bureau of Customs to the extent necessary to permit the operation of vessels requisitioned by the United States for emergency evacuation.

It is hereby found that compliance with the notice of proposed rule making, public rule making procedure thereon, and effective date requirements of the Administrative Procedure Act is contrary to the public interest.

(Pub. Law 891, 81st Cong.)

[SEAL] FRANK DOW,
*Commissioner of Customs.*

[F. R. Doc. 51-15107; Filed, Dec. 19, 1951; 10:58 a. m.]

## TITLE 21—FOOD AND DRUGS

### Chapter I—Food and Drug Administration, Federal Security Agency

[Docket No. FDC-59]

PART 53—TOMATO PRODUCTS; DEFINITIONS AND STANDARDS OF IDENTITY; QUALITY; AND FILL OF CONTAINER

CANNED TOMATOES

In the matter of amending the definition and standard of identity for canned tomatoes:

By virtue of the authority vested in the Federal Security Administrator by the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055; 21 U. S. C. 341, 371) and upon the basis of substantial evidence received at the public hearing held pursuant to a notice published in the FEDERAL REGISTER on July 4, 1951 (16 F. R. 6543), no exceptions having been filed to the tentative order published in the FEDERAL REGISTER on September 22, 1951 (16 F. R. 9699), the following order is hereby promulgated:

*Findings of fact.*[1] 1. By the definition and standard of identity for canned tomatoes (21 CFR 53.40), the liquid draining from tomatoes during and after peeling and coring and which is used for filling the spaces between the tomato fruits in the container is designated as optional ingredient (a) (1) and the liquid strained from mature tomatoes which is added for this purpose is designated as optional ingredient (a) (3). Paragraph (b) of this definition and standard of identity prescribes that when optional ingredient (a) (3) is present the label shall bear the statement "with added strained tomatoes." It is not required that there be a label declaration of optional ingredient (a) (1). (R. 12, 61-63, 64-66)

2. Different lots of tomatoes as they are received by canneries vary in the amount of liquid they yield when they are being peeled and cored. In some lots as received the tomatoes yield a sufficient quantity of liquid during and after peeling and coring to meet the requirements for properly packing the canned tomatoes, but in other lots an insufficient quantity of liquid is obtained and additional liquid is prepared from other tomato fruits. Various means are used for preparing the additional liquid. In hand-packing when there is insufficient liquid in a can the packer can produce additional liquid by pushing down on the tomato fruits in the can. In canneries where a filling machine is used for adding liquid to the cans some of the tomato fruits are separately crushed to produce the liquid necessary. In some canneries these tomato fruits are simply broken up by hand; in other canneries they are mechanically crushed. The proportion of prepared liquid used in the

[1] The citations following each finding of fact refer to the pages of the transcript of the testimony and the exhibits received in evidence at the hearing.

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FEDERAL REGISTER

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## CODIFICATION GUIDE

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different cans varies widely. In some cans all the liquid may be that which is described in the definition and standard of identity as optional ingredient (a) (1). In other cans a part of the liquid will be that which is designated as optional ingredient (a) (3). The requirement that cans which contain some of the liquid designated as optional ingredient (a) (3) bear a label statement showing this fact is troublesome to canners because they must keep the packs requiring the different labels separate in the cannery and the warehouse. (R. 7-10, 17-18, 22-23, 26-28, 32, 39, 42-43, 48-52, 61-64; Ex. 2)

3. In the course of a day's run in a cannery the pack of canned tomatoes in which the only liquid added is that designated as optional ingredient (a) (1) may be insignificantly different from the pack in which the liquid designated as optional ingredient (a) (3) is used. A declaration on the labels of the presence of optional ingredient (a) (3) conveys no information of value to consumers. (R. 15, 24, 32, 40)

*Conclusion.* Upon consideration of the entire record and the foregoing findings of fact it is concluded that it will promote honesty and fair dealing in the interest of consumers to amend the definition and standard of identity for canned tomatoes by deleting the requirement that the label bear a statement showing the presence of the optional ingredient described in paragraph (a) (3) of such definition and standard of identity.

*Therefore, it is ordered,* That § 53.40 *Canned tomatoes; identity; label statement of optional ingredients* be amended in the following respects:

1. Delete the second sentence in paragraph (b) which reads, "When optional ingredient specified in paragraph (a) (3) of this section is present, the label shall bear the statement 'With Added Strained Tomatoes.' "

2. Change the fifth sentence in paragraph (b) so that as changed it reads, "If two or more of optional ingredients specified in paragraph (a) (2), (6), and (7) of this section are present, such statements may be combined, as for example, 'With Added Strained Residual Tomato Material from Preparation for Canning, Spice and Flavoring.' "

*Effective date.* These amendments shall become effective on the ninetieth day following the date of publication of this order in the FEDERAL REGISTER.

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

Dated: December 14, 1951.

[SEAL] OSCAR R. EWING, *Administrator.*

[F. R. Doc. 51-15026; Filed, Dec. 19, 1951; 8:48 a. m.]

# TITLE 7—AGRICULTURE

## Chapter IV—Federal Crop Insurance Corporation, Department of Agriculture

### PART 420—MULTIPLE CROP INSURANCE

SUBPART—REGULATIONS FOR THE 1950 AND SUCCEEDING CROP YEARS

*Correction*

In F. R. Doc. 51-14146, appearing at page 12111 of the issue for Saturday, December 1, 1951, the following changes should be made:

In the third paragraph of item 8 *Definitions* of § 420.53-2 *White County,* "1 percent" should read "10 percent".

The section heading "§ 520.64-1 *Franklin County*" on page 12129 should read "§ 420.64-1 *Franklin County.*"

## Chapter IX—Production and Marketing Administration (Marketing Agreements and Orders), Department of Agriculture

### PART 936—FRESH BARTLETT PEARS, PLUMS, AND ELBERTA PEACHES GROWN IN CALIFORNIA

RECODIFICATION

In accordance with the revised Federal Register Regulations (1 CFR Part 1), the format of the order, as amended (Order No. 36, 4 F. R. 2135; 5 F. R. 2558; 13 F. R. 9488; 14 F. R. 2684; 7 CFR Part 936) of the Secretary of Agriculture, regulating the handling of fresh Bartlett pears, plums, and Elberta peaches grown in California (including the requisite findings set forth therein), and the format of the committee rules and regulations (12 F. R. 911; 13 F. R. 8735; 14 F. R. 4515, 4748; 15 F. R. 236, 3250; 16 F. R. 1933; 7 CFR Part 936) adopted pursuant thereto with the approval of the Secretary of Agriculture, are recodified as hereinafter set forth. To facilitate cross reference between the aforesaid order and the marketing agreement and to obviate possible difficulties in future amendatory proceedings, the provisions of Marketing Agreement No. 85 shall be renumbered and the section headings redesignated to conform to the recodified order. The provisions of the said marketing agreement which are not contained in the order shall be renumbered as follows: §§ 936.95 *Counterparts;* 936.96 *Additional parties;* and 936.97 *Order with marketing agreement.*

This recasting of the format and recodification is not intended, nor shall it be deemed, to make any substantive change in the provisions of the aforesaid order of the Secretary, the aforesaid marketing agreement, and the aforesaid committee regulations.

Done at Washington, D. C., this 14th day of December 1951.

[SEAL] CHARLES F. BRANNAN, *Secretary of Agriculture.*

SUBPART—ORDER RELATIVE TO HANDLING

AUTHORITY: §§ 936.0 to 936.178 issued under sec. 5, 49 Stat. 753, as amended; 7 U. S. C. and Sup. 608c.

## SUBPART—ORDER RELATIVE TO HANDLING

SOURCE: §§ 936.0 to 936.90 contained in Order No. 36, 4 F. R. 2135; 5 F. R. 2558; 13 F. R. 9488; 14 F. R. 2684.

§ 936.0 *Findings and determinations.* The findings and determinations hereinafter set forth are supplementary to and in addition to the findings and determinations (4 F. R. 2135; 5 F. R. 2558; 13 F. R. 9488) made in connection with the issuance of this order and of each of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings on the basis of the hearing record.* Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. and Sup. I 601 et seq.) and the rules of practice and procedure effective thereunder (7 CFR part 900), a public hearing was held at Sacramento, California, beginning on December 6, 1948, upon proposed further amendments to the marketing agreement and Order No. 36 (7 CFR Part 936) regulating the handling of fresh Bartlett pears, plums, and Elberta peaches grown in the State of California. Upon the basis of the evidence introduced at such hearing, and the record thereof, it is found that:

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

(2) The said order, as amended and as hereby further amended, regulates the handling of Bartlett pears, early varieties of plums, late varieties of plums, and Elberta peaches grown in the State of California 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;

(3) The said order, as amended and as hereby further amended, is limited in its application to the smallest regional production area that is practicable, consistently with carrying out the declared policy of the act; and the issuance of several orders applicable to subdivisions of such regional production area would not effectively carry out the declared policy of the act; and

(4) The said order, as amended and as hereby further amended, prescribes, so far as practicable, such different terms, applicable to different parts of the production area, as are necessary to give due recognition to the differences in production and marketing of the fruit covered thereby.

(b) *Additional findings.* It is necessary, in the public interest, to make this order effective not later than May 21, 1949, so as to facilitate, promote, and maintain orderly marketing of the fruit covered hereunder. Shipments of early varieties of plums begin late in May and become heavy in volume almost immediately thereafter. It is necessary, therefore, to make this order effective by the aforesaid date so that regulations may be formulated and issued prior to the commencement of such volume shipments. Thus the benefits of the program will be available to producers and handlers throughout the marketing of the 1949 crop of such fruit. The provisions of this order are well known to handlers. The public hearing in connection therewith was held at Sacramento, California, on December 6 and 7, 1948; and the recommended decision and the final decision were published in the FEDERAL REGISTER on February 17, 1949, and March 23, 1949, respectively. The changes effected by this order do not require any preparation on the part of handlers. Handlers will be given adequate notice of regulations issued so that they will have sufficient time to make any necessary preparations for compliance therewith. It is hereby determined, in view of these facts and circumstances, that good cause exists for making this order effective May 21, 1949; and that it would be contrary to the public interest to delay the effective date to a date later than May 21, 1949.

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

(1) The agreement amending the marketing agreement, as amended, regulating the handling of fresh Bartlett pears, plums, and Elberta peaches grown in the State of California, upon which the aforesaid public hearing was held, has been executed by handlers (excluding cooperative associations of producers who were not engaged in processing, distributing, or shipping the fruit covered by this order) who, during the period March 1, 1948, to February 28, 1949, both dates inclusive, handled not less than 50 percent of the volume of Bartlett pears, not less than 50 percent of the volume of early varieties of plums, not less than 50 percent of the volume of late varieties of plums, and not less than 50 percent of the volume of Elberta peaches covered by said order, as amended and hereby further amended;

(2) The aforesaid agreement amending the marketing agreement, as amended, has been executed by handlers who were signatory parties to said marketing agreement, as amended, and who, during

the 1948–49 marketing season, handled not less than 67 percent of the volume of Bartlett pears, not less than 67 percent of the volume of early varieties of plums, not less than 67 percent of the volume of late varieties of plums, and not less than 67 percent of the volume of Elberta peaches, grown in the State of California, handled by all signatory handlers to said marketing agreement, as amended, during said marketing season;

(3) The issuance of this order, amending the aforesaid order as amended, is favored and approved by at least two-thirds of the producers who participated in a referendum on the question of its approval and who, during the determined representative period (March 1, 1948, to February 28, 1949, both dates inclusive), were engaged, within the State of California, in the production for market of Bartlett pears, early varieties of plums, late varieties of plums, and Elberta peaches, respectively.

It is hereby found and proclaimed that: (1) The purchasing power of early varieties of plums and late varieties of plums, respectively, grown in the State of California, cannot be satisfactorily determined from available statistics of the Department of Agriculture with respect to the period August 1909–July 1914; (2) the purchasing power of such fruit can be satisfactorily determined from available statistics of the Department of Agriculture with respect to the period January 1, 1920, to December 31, 1928, both dates inclusive; and (3) the period January 1, 1920, to December 31, 1928, both dates inclusive, is the base period for determining the purchasing power of such fruit.

*It is, therefore, ordered,* That, on and after 12:01 a. m., P. s. t., May 21, 1949, the handling of fresh Bartlett pears, early varieties of plums, late varieties of plums, and Elberta peaches grown in the State of California shall be in conformity to, and in compliance with, the terms and conditions of the aforesaid order, as amended. Such order, as amended, reads as follows:

DEFINITIONS

§ 936.1 *Secretary.* "Secretary" means the Secretary of Agriculture of the United States.

§ 936.2 *Act.* "Act" means Public Act No. 10, 73d Congress (48 Stat. 31), as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937 (50 Stat. 246), as amended and further amended by Public Law 305, 80th Cong., approved August 1, 1947.

§ 936.3 *Person.* "Person" means any individual, partnership, corporation, association, or any other business unit.

§ 936.4 *Fruit.* "Fruit" means any one or more of the following types of deciduous fruit and designated varietal groupings of plums grown in the State of California and shipped in fresh form: (a) Bartlett pears; (b) Elberta peaches; (c) early varieties of plums, consisting of plums of the Beauty, Formosa, Santa Rosa, and Climax varieties; and (d) late varieties of plums, consisting of plums of all varieties other than those listed in paragraph (c) of this section.

§ 936.5 *Grower and producer.* "Grower" and "producer" are synonymous and mean any person who produces fruit, as owner or tenant, for sale or shipment in the current of interstate or foreign commerce, or so as directly to burden, obstruct, or affect such commerce.

§ 936.6 *Ship and handle.* "Ship" and "handle" are synonymous and mean, except as used in §§ 936.50 through 936.62, to convey in, or handle for shipment in, to ship in or cause to be conveyed or handled for shipment in, or in any other way to put fruit in, the channels of trade by conveying or causing fruit to be conveyed by railroad, truck, boat, or any other means whatsoever (except as a common carrier of fruit owned by another person), in the current of interstate or foreign commerce, or so as directly to burden, obstruct, or affect such commerce.

§ 936.7 *Shipper and handler.* "Shipper" and "handler" are synonymous and mean, except as used in §§ 936.50 through 936.62, any person (except a common carrier for another person) who ships, or is engaged in shipping, marketing, consigning, or dealing in fruit, either in person or as or through an agent, broker, representative, or otherwise, in the current of interstate or foreign commerce, or so as directly to burden, obstruct, or affect such commerce.

§ 936.8 *Season.* "Season" means the 12-month period beginning on March 1 of each year and ending on the last day of February of the following year, both dates inclusive.

§ 936.9 *Variety.* "Variety" means any subspecies of fruit, such as the Santa Rosa plum.

§ 936.10 *Area.* "Area" means the State of California.

§ 936.11 *District.* "District" means any of the following subdivisions of the State of California:

(a) "North Sacramento Valley District" includes and consists of Glenn County, Shasta County, Tehama County, Modoc County, Siskiyou County, Lassen County, Plumas County, and Colusa County.

(b) "Central Sacramento Valley District" includes and consists of Sutter County, Butte County, Yuba County, and Sierra County.

(c) "Sacramento River District" includes and consists of Sacramento County, that portion of Yolo County east of a straight line from the northwest corner of Sacramento County to the northeast corner of Solano County, and that portion of Solano County east of a straight line from the northeast corner of Solano County to the town of Rio Vista.

(d) "Eldorado District" includes and consists of Eldorado County.

(e) "Colfax District" includes and consists of Nevada County and that portion of Placer County north and east of a straight line running northwest through the town of Bowman and extending to the Bear River and southeast to the American River.

(f) "Placer District" includes and consists of that portion of Placer County not included in Colfax District.

(g) "Solano District" includes and consists of that portion of Yolo County not included in the Sacramento River District, and that portion of Solano County not included in the Sacramento River District.

(h) "Contra Costa District" includes and consists of Contra Costa County.

(i) "Santa Clara District" includes and consists of Alameda County, Monterey County, Santa Clara County, San Mateo County, Santa Cruz County, and San Benito County.

(j) "Lake District" includes and consists of Lake County.

(k) "North Coast District" includes and consists of Mendocino County, Humboldt County, Trinity County, and Del Norte County.

(l) "South Coast District" includes and consists of San Luis Obispo County, Santa Barbara County, Ventura County, and that portion of Los Angeles County south of the Tehachapi Mountains and west of a straight line running from the town of Saugus to Point Fermin.

(m) "Stockton District" includes and consists of San Joaquin County, Amador County, Calaveras County, and Alpine County.

(n) "Stanislaus District" includes and consists of Merced County, Stanislaus County, Tuolumne County, and Mariposa County.

(o) "Fresno District" includes and consists of Madera County, Fresno County, and Mono County.

(p) "Tulare District" includes and consists of Kings County and Tulare County.

(q) "Kern District" includes and consists of that portion of Kern County west of the Tehachapi Mountains.

(r) "Tehachapi District" includes and consists of that portion of Los Angeles County north of the San Gabriel Mountains and north of that portion of Kern County not included in Kern District, and Inyo County.

(s) "Southern California District" includes and consists of San Bernardino County, Orange County, San Diego County, Imperial County, Riverside County, and that portion of Los Angeles County not included in the South Coast District and the Tehachapi District.

(t) "North Bay District" includes and consists of Sonoma County, Napa County, and Marin County.

ADMINISTRATIVE BODIES

§ 936.15 *Designation of Control Committee.* A Control Committee is hereby established consisting of 12 shipper members and 13 grower members, and the members shall be selected in accordance with the provisions of this subpart. The members shall be selected annually for a term ending on February 1, and said members shall serve until their respective successors are selected and qualified. The initial members of the Control Committee, including both the grower members and the shipper members, shall be selected by the Secretary as soon as reasonably possible after the effective date of this subpart (May 29, 1939). In thus selecting the initial

members, the Secretary may consider such nominations or suggestions, if any, submitted by growers and shippers, and such nominations or suggestions may be by virtue of elections conducted by groups of growers and groups of shippers prior to, or immediately subsequent to, the effective date of this subpart (May 29, 1939). The members of the Control Committee selected subsequent to the initial members shall be selected in accordance with the provisions of §§ 936.16 through 936.18.

§ 936.16 *Nomination of shipper members of the Control Committee.* Nominations for the 12 members of the Control Committee to represent shippers, subsequent to the initial members, shall be made in the following manner:

(a) Elective bodies may be formed consisting of any shipper or group of shippers who shipped at least one-third of the total tonnage of fruit shipped by all shippers during the preceding season. Each elective body shall be entitled to nominate four persons for members. In the event an elective body is composed of more than one shipper, each such shipper shall cast his vote on the basis of fruit shipped by such shipper during the previous season. Voting shall be cumulative. Shippers who have sufficient tonnage to form one or more elective bodies shall not be entitled to use their additional fractional tonnage, if any, toward the formation of an additional elective body.

(b) In the event all nominations for the shipper membership of the Control Committee are not made by elective bodies, as provided in paragraph (a) of this section, by February 1 of each year, the then existing Control Committee shall promptly announce a time of and place for a meeting of all shippers of fruit who have not individually or collectively formed an elective body nor in any manner participated therein, and such Control Committee shall conduct the election of nominees at such meeting. At said election meeting, such shippers shall select a nominee for each of the aforesaid positions of the Control Committee for which nominees have not been selected pursuant to the provisions of paragraph (a) of this section. In such election, each such shipper shall cast only one vote. No shipper who formed an elective body, or participated therein with another shipper or shippers, shall participate in or vote at such election held pursuant to the provisions of this paragraph.

(c) No shipper shall be entitled to participate in the nomination of members of the Control Committee, or be eligible for membership on either the Control Committee or the Sales Managers' Committee, if such shipper has failed to pay the assessments, due to be paid by him pursuant to the provisions of § 936.73.

§ 936.17 *Nomination of grower members of the Control Committee.* Nominations for the 13 members of the Control Committee to represent growers, subsequent to the initial members, shall be made by the commodity committees in the following manner:

(a) A nomination for one member shall be made by each commodity committee selected pursuant to § 936.24. Nominations for the remaining members to represent growers shall be made by the respective commodity committees as provided in this section. The number of remaining members which each commodity committee shall be entitled to nominate shall be based upon the proportion that the previous three seasons' shipments of the kind of fruit for which the respective commodity committee has been established, pursuant to the provisions of § 936.19, is of the total shipments of all fruit, as defined in § 936.4 during such previous three seasons: *Provided, however,* That, in the event statistical information regarding such shipments is not available for one of the aforesaid three seasons, the nominations shall be based, as aforesaid, on the three seasons for which statistics are available, next preceding the season during which the nominations are being made.

(b) A person nominated by any commodity committee for membership on the Control Committee shall be an individual person who produced, during the previous season, at least 51 percent of the total fruit shipped by the respective person during such season: *Provided, however,* That a person nominated by any commodity committee for membership on the Control Committee may be an individual person who represents an organization which produced, during the previous season, at least 51 percent of the fruit shipped by such organization during such season. Each member of each commodity committee shall have only one vote in the selection of nominees for membership on the Control Committee.

§ 936.18 *Selection of members of the Control Committee.* From the nominations made by each elective body pursuant to paragraph (a) of § 936.16, or from other persons, the Secretary shall select four members of the Control Committee. From the nominations made pursuant to paragraph (b) of § 936.16, or from other persons, the Secretary shall select the remaining shipper members of the Control Committee. From the nominations made pursuant to § 936.17, or from other persons, the Secretary shall select the grower members of the Control Committee. Any person selected as a member of the Control Committee, including but not being limited to those selected as the initial members, shall qualify by filing with the Secretary, or with the designated representative of the Secretary, a written acceptance of the appointment.

§ 936.19 *Designation of members of commodity committees.* There is hereby established the Bartlett Pear Commodity Committee consisting of 12 members, and the Plum Commodity Committee and the Elberta Peach Commodity Committee each consisting of 7 members. The members of each commodity committee shall be selected annually for a term ending on January 15, and such members shall serve until their respective successors are selected and qualified. The initial members of each commodity committee shall be selected by the Secretary as soon as reasonably possible after the effective date of this subpart. In making such selections, the Secretary may consider such nominations or suggestions, if any 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 (May 29, 1939). The members of each commodity committee selected subsequent to the initial members shall be selected in accordance with the provisions of § 936.24.

§ 936.20 *Nomination of Bartlett Pear Commodity Committee members.* Nominations for membership on the Bartlett Pear Commodity Committee shall be made by the growers of Bartlett pears, as follows:

(a) One nominee by the growers in the North Sacramento Valley District and Central Sacramento Valley District.

(b) One nominee by the growers in the Placer District.

(c) Three nominees by the growers in the Sacramento River District and Stockton District.

(d) One nominee by the growers in the Solano District.

(e) One nominee by the growers in the Contra Costa District and Santa Clara District.

(f) One nominee by the growers in the Lake District.

(g) One nominee by the growers in the North Coast District and North Bay District.

(h) One nominee by the growers in the Colfax District.

(i) Two nominees by the growers in the Eldorado District and all of the area not included in the North Sacramento Valley District, Central Sacramento Valley District, Colfax District, Placer District, Sacramento River District, Stockton District, Solano District, Contra Costa District, Santa Clara District, Lake District, North Coast District, and North Bay District.

§ 936.21 *Nomination of Elberta Peach Commodity Committee members.* Nominations for membership on the Elberta Peach Commodity Committee shall be made by the growers of Elberta peaches, as follows:

(a) Two nominees by the growers in the Fresno District.

(b) One nominee by the growers in the Tulare District and Kern District.

(c) Two nominees by the growers in the Stanislaus District.

(d) One nominee by the growers in the North Sacramento Valley District.

(e) One nominee by the growers in all of the area not included in the Fresno District, Tulare District, Kern District, Stanislaus District, and North Sacramento Valley District.

§ 936.22 *Nomination of Plum Commodity Committee members.* Nominations for membership on the Plum Commodity Committee shall be made by the growers of plums, as follows:

(a) Three nominees by the growers in the Colfax District and Placer District.

(b) One nominee by the growers in the Central Sacramento Valley District and Solano District.

(c) Two nominees by the growers in the Fresno District, Tulare District, Kern District, and Southern California District.

(d) One nominee by the growers in all of the area not included in the Colfax District, Placer District, Central Sacramento Valley District, Solano District, Fresno District, Tulare District, Kern District, and Southern California District.

§ 936.23 *Procedure for nominating members of various commodity committees.* The nominations for membership on the Bartlett Pear Commodity Committee shall be made by the growers of Bartlett pears in the districts specified in § 936.20 who are present in person at a general meeting in each district or districts as specified in § 936.20, and at each such meeting each grower of Bartlett pears shall be entitled to vote only if present and to cast only one vote on behalf of himself, his agents, partners, affiliates, subsidiaries, and representatives. The growers of plums in the districts specified in § 936.22 shall select nominees for membership on the Plum Commodity Committee in the same manner and according to the same voting regulations as prescribed in this section regarding the selection of nominees for membership on the Bartlett Pear Commodity Committee. The growers of Elberta peaches in the districts specified in § 936.21 shall select nominees for membership on the Elberta Peach Commodity Committee in the same manner and according to the same voting regulations as prescribed in this section regarding the selection of members of the Bartlett Pear Commodity Committee. Nominations for membership on the various commodity committees, selected subsequent to the initial committees, shall be supervised by the then existing Control Committee which shall prescribe, from time to time, such procedure incident to such nominations as shall be reasonable and fair to all persons concerned.

§ 936.24 *Selection of members of various commodity committees.* The Secretary shall select the members of each commodity committee, subsequent to the initial members, from nominations made by growers, as provided in §§ 936.20 through 936.22, or from among other persons. A person nominated or selected for membership on a commodity committee shall be an individual grower who produced, during the previous season, at least 51 percent of the fruit shipped by him during such season, or an individual person who represents an organization which produced, during the previous season, at least 51 percent of the fruit shipped by it during such season. Any person selected as a member of a commodity committee, including but not being limited to those designated as the initial members, shall qualify by filing with the Secretary, or with the designated representative of the Secretary, a written acceptance of the appointment.

§ 936.25 *Failure to make nominations for committee memberships.* In the event nominations are not made for membership on the various commodity committees, pursuant to the provisions of §§ 936.20 through 936.22, by February 15 of each year, the Secretary may select such members without waiting for nominees to be designated. In the event nominations are not made for membership on the Control Committee, pursuant to the provisions of §§ 936.16 and 936.17, by March 1 of each year, the Secretary may select such members without waiting for nominees to be designated.

§ 936.26 *Alternates.* There shall be an alternate for each member of the Control Committee, and an alternate for each member of each commodity committee. Each such alternate shall possess the same qualifications, shall be nominated and selected in the same manner and shall hold office for the same term, as the member for whom he is alternate. An alternate shall, in the event of such member's absence at a meeting of the committee of which he is a member, act in the place and stead of such member; and, in the event of such member's removal, resignation, disqualification, or death, the alternate for such member shall, until a successor for the unexpired term of said member has been selected, act in the place and stead of said member.

§ 936.27 *Procedure for filling vacancies on committees.* To fill any vacancy, which occurs prior to March 1, 1940, occasioned by the failure of any person selected as a member of the Control Committee to qualify, or the death, removal, resignation, or disqualification of any qualified member of the Control Committee prior to March 1, 1940, a successor for his unexpired term shall be selected in the same manner provided in § 936.15 for the selection of the initial members of the Control Committee; and to fill any vacancy, which occurs subsequent to March 1, 1940, occasioned by the failure of any person selected as a member of the Control Committee to qualify, or the death, removal, resignation, or disqualification of any qualified member of such committee, a successor for the unexpired term shall be nominated and selected in the same manner provided in §§ 936.16 through 936.18 for the nomination and selection of members of the Control Committee nominated and selected subsequent to the initial members. To fill any vacancy, which occurs prior to February 15, 1940, occasioned by the failure of any person selected as a member of any commodity committee to quality, or the death, removal, resignation, or disqualification of any qualified member of any commodity committee prior to February 15, 1940, a successor for his unexpired term shall be selected in the same manner provided in § 936.19 for the selection of the initial members of any commodity committee; and to fill any vacancy, which occurs subsequent to February 15, 1940, occasioned by the failure of any person, selected as a member of any commodity committee to qualify, or the death, removal, resignation, or disqualification of any qualified member of any such committee, a successor for the unexpired term shall be nominated and selected in the same manner provided in §§ 936.20 through 936.24 for the nomination and selection of members of any commodity committee nominated and selected subsequent to the initial members. If nomination for any such vacancy on the Control Committee or any commodity committee is not made within 20 days after the beginning of such vacancy, the Secretary may select the successor for the unexpired term without waiting for nomination to be made.

§ 936.28 *Organization of committees.* (a) The Control Committee shall not perform any of its duties or exercise any of the powers granted in this subpart while there are more than seven vacancies in its membership. A majority of all of the members of the Control Committee shall constitute a quorum, and any action of the Control Committee shall require the concurrence of the majority of all members present at the meeting.

(b) The Bartlett Pear Commodity Committee shall not perform any of its duties or exercise any of the powers granted in this subpart while there are more than three vacancies in its membership. None of the other commodity committees provided in § 936.19 shall perform any of its respective duties or exercise any of the powers granted in this subpart while there are more than two vacancies in its membership. A quorum of the Bartlett Pear Commodity Committee shall consist of eight members; and a quorum of each of the other commodity committees shall consist of five members.

(c) The Control Committee and each commodity committee shall give to the Secretary, or to the designated agent of the Secretary, the same notice of each meeting that is given to the members of the respective committee.

(d) The Control Committee or any commodity committee may, subject to disapproval by the Secretary, provide for, upon due notice to all of the members of the respective committee, voting by letter, telegraph, or telephone: *Provided*, That any member voting by telephone shall promptly thereafter confirm in writing his vote so cast.

§ 936.29 *Removal and disapproval.* The members of the Control Committee, including their respective successors and alternates, and the members of each commodity committee, including their respective successors and alternates, and any agent or employee appointed or employed by the Control Committee or any other committee established pursuant to the provisions of this subpart, shall be subject to removal or suspension at any time by the Secretary. Each regulation, decision, determination, or other act of the Control Committee, or any commodity committee, or any other committee established pursuant to the provisions of this subpart, shall be subject to the continuing right of the Secretary to disapprove of the same at any time; and, upon such disapproval, each such regulation, decision, determination, or other act, 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.

§ 936.30 *Compensation.* The shipper members of the Control Committee, and their respective alternates, shall serve without compensation; but said members, and their respective alternates, shall be reimbursed for expenses necessarily incurred in the performance of their respective duties. The members of each commodity committee may receive compensation in an amount not in excess of $5 per diem for attendance at each meeting of the respective committee; and, in addition to said per diem, the aforesaid members may be reimbursed for necessary expenses actually incurred in attending each such meeting. The members of each commodity committee may be reimbursed for necessary expenses actually incurred in performing such services, if any, in addition to attending said committee meetings, as may be authorized by the proper committee in accordance with the provisions of this subpart; and, in addition to reimbursement for the said necessary expenses actually incurred, such members may receive compensation in an amount not in excess of $5 per diem as payment for performing such additional services. The grower members of the Control Committee may receive per diem compensation and additional reimbursement according to the same rules and limitations set forth in this section relative to the members of each commodity committee.

§ 936.31 *Funds and other property.* (a) All funds received by the Control Committee, pursuant to the provisions of this subpart, shall be used solely for the purposes specified in this subpart; and the Secretary may require the Control Committee and its members to account for all receipts and disbursements.

(b) Upon the death, resignation, removal, or expiration of the term of any member or employee of the Control Committee, or of any member of any commodity committee, all books, records, funds, and other property in his possession belonging to the Control Committee or any commodity committee shall be delivered to the Control Committee or to his successor in office; and such assignments and other instruments shall be executed as may be necessary to vest in the Control Committee full title to all the books, records, funds, and other property in the possession or under the control of such member or employee, pursuant to the provisions of this subpart.

(c) The Control Committee may, with the approval of the Secretary, maintain in its own name, or in the name of its members, a suit against any shipper for the collection of such shipper's pro rata share of expenses, pursuant to the provisions of this subpart.

§ 936.32 *Powers of Control Committee.* The Control Committee shall have the following powers:

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

(b) To make administrative rules and regulations in accordance with and to effectuate the terms and provisions of this subpart;

(c) To receive, investigate, and report to the Secretary complaints of violations of the provisions of this subpart; and

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

§ 936.33 *Duties of Control Committee.* The Control Committee shall have the following duties:

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

(b) To keep minute books and records which will clearly reflect all of the acts and transactions of said Control Committee; and such minute books and records shall be subject at any time to examination by the Secretary or by such person as may be designated by the Secretary;

(c) To investigate, from time to time, and assemble data on the growing, shipping, and marketing conditions respecting fruit, as defined in § 936.4, grown in the State of California; to engage in such research and service activities in connection with the handling of such fruit as may be approved, from time to time, by the Secretary; and to furnish to the Secretary such available information as may be requested;

(d) To employ a manager who shall, among other duties, act as the secretary of the Control Committee, all commodity committees, and the Sales Managers' Committee established pursuant to this subpart; to employ such other employees as it deems necessary; to determine the salary and duties of such manager and other employees; and to authorize, if the committee deems such to be necessary, the manager to employ temporarily, subject to such limitations and qualifications as may be specified by the committee, such persons as the manager deems necessary, and to determine the salaries of such persons, which salaries shall be reasonable and within the limitations of the budget and such other limitations as may be prescribed by the committee, and to define the respective duties of such persons;

(e) To perform such duties as may be assigned to it from time to time by the Secretary 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, approved by the President on August 24, 1935, as amended;

(f) To submit at the beginning of each season to the Secretary, for his approval, a budget of its expenses;

(g) To confer with representatives of shippers and growers of fruit produced in other states and areas with respect to the formulation or operation of marketing agreements providing for the regulation of shipments among the several States and areas in the United States in which such fruit is grown;

(h) To establish a Sales Managers' Committee of seven members, the members of which shall be selected by the shipper members of the Control Committee, and no sales manager or other person shall be eligible for membership on the Sales Managers' Committee unless the organization he represents has paid the assessments, due by it, pursuant to § 936.73, and at least one member shall be the representative of a cooperative marketing association; the Sales Managers' Committee may attend each commodity committee meeting to consider (1) regulation of unfair trade practices pursuant to § 936.38, or (2) regulation by grades and sizes or minimum standards of quality and maturity pursuant to §§ 936.40 through 936.43 or (3) regulation of daily shipments pursuant to §§ 936.50 through 936.62;

(i) To establish and define the duties of additional committees or subcommittees to assist in the performance of any of the duties and functions of the Control Committee;

(j) To disapprove, if it deems proper, any action or recommendation of any commodity committee: *Provided,* That, such disapproval must be by the affirmative vote of at least 17 members of the Control Committee, and the reasons for such disapproval shall be immediately submitted to the Secretary;

(k) With the approval of the Secretary, to redefine the districts into which the State of California has been divided under § 936.11 or change the representation of any district on any commodity committee: *Provided, however,* That, if any of such changes are made representation on any such committee from the various districts shall be based, so far as practicable, upon the proportionate quantity of the respective fruit shipped from the respective districts during the preceding three seasons: *Provided, however,* That, in the event statistical information regarding such shipments is not available for one of the aforesaid three seasons, the nominations shall be based, as aforesaid, on the three seasons, for which the shipments are available, next preceding the season during which the nominations are being made;

(l) To defend all legal proceedings against any committee members (individually or as members) or any officers or employees of such committees arising out of any act or omission made in good faith pursuant to the provisions of this subpart; and

(m) To cause the books of the Control Committee to be audited by a competent accountant at least once each season and at such other time or times as the Control Committee may deem necessary or as the Secretary may request. Such audit shall indicate whether the funds have been received and expended in accordance with the provisions of this subpart.

§ 936.34 *Powers and duties of each commodity committee.* Each commodity committee shall have the following powers and duties:

(a) With regard to the respective fruit for which it was established, to recommend to the Secretary regulation of shipments pursuant to the provisions of this subpart, and to possess such other powers and exercise such other duties as will properly effectuate the purposes of this subpart: *Provided, however,* That, the Bartlett Pear Commodity Committee shall make said recommendation pursuant to §§ 936.40 through 936.43 and §§ 936.50 through 936.62 only upon the

affirmative vote of not less than eight members of said committee: *Provided further,* That, such recommendation pursuant to §§ 936.40 through 936.43 can be made by each of the other commodity committees only upon the affirmative vote of not less than five members of the respective committee;

(b) To make such rules and regulations with respect to fruit for which it was established as may be necessary to effectuate the terms and provisions of this subpart;

(c) To submit, at the beginning of each season, a budget of its expenses to the Control Committee for the approval of the Control Committee;

(d) To forward to the Control Committee and to the Secretary a record of the minutes of each meeting of the commodity committee;

(e) To establish such other committees to aid the commodity committee in the performance of its duties under this subpart as may be deemed advisable; and, among other things, to provide, if the respective committee deems proper, that growers in any respective district may establish a Growers' Advisory Committee to be selected by the growers in the respective district, and said Growers' Advisory Committee may submit suggestions and advice to the members of the respective commodity committee;

(f) To authorize, whenever the committee deems it necessary, an employee or employees (employed pursuant to § 936.33) to perform any duties of the respective committee, subject to the exceptions and limitations set forth in § 936.42: *Provided,* That such authorization by the respective committee shall specify the employee or employees and state definitely the limitation or limitations of the authority thus vested in the respective employee or employees: *Provided further,* That the committee shall not authorize any employee or employees to perform (1) the duties of the committee relating to the recommendations to the Secretary for the regulation of shipments pursuant to § 936.38, §§ 936.40 through 936.43, and §§ 936.50 through 936.62, 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: *Provided further,* That the committee may retain concurrent authority with the employee or employees thus empowered to perform certain functions; and

(g) Each season prior to any recommendation to the Secretary for a regulation of shipments pursuant to § 936.38, §§ 936.40 through 936.43, or §§ 936.50 through 936.62 to determine the marketing policy to be followed for the respective commodity during the ensuing season and to submit such policy to the Secretary, said policy report to contain, among other provisions, information relative to the estimated total production and shipments of the fruit by districts, information as to the expected general quality and size of fruit possible or expected demand conditions of different market outlets, supplies of competitive commodities, such analysis of the foregoing factors and conditions as the committee deems appropriate, and the type of regulations of shipments expected to be recommended for the respective fruit.

REGULATION OF UNFAIR TRADE PRACTICES AND UNFAIR METHODS OF COMPETITION

§ 936.38 *Regulation.* The shipment of Elberta peaches packed in such manner as to be deceptive regarding the quantity of fruit therein or the size of fruit therein, or the shipment of Elberta peaches in a package or other container that is deceptive regarding the quantity of fruit in such package or other container, or deceptive regarding the size of fruit in such package or other container, is an unfair trade practice and an unfair method of competition; and the shipment of Elberta peaches packed as aforesaid or in packages or containers as aforesaid is prohibited. Whenever the Elberta Peach Commodity Committee deems it advisable, in order to effectuate the declared policy of the act, to specify or describe packs, packages, or containers that are deceptive regarding the quantity or size of Elberta peaches therein, such committee shall so recommend to the Secretary; and in the event the committee makes a recommendation as aforesaid to the Secretary, the committee shall furnish to the Secretary the information and facts on which such recommendation is predicated. Based upon the aforesaid recommendation and information submitted by the committee, or upon other information available to the Secretary, the Secretary may issue an order or orders specifying or describing packs, packages, or containers that are deceptive regarding the quantity or size of fruit therein, and are, therefore, prohibited by the provisions of this section as being unfair trade practices and unfair methods of competition. A copy of each such order, issued by the Secretary pursuant to this section, shall be forwarded promptly to the Elberta Peach Commodity Committee; and thereupon said committee shall give such notice thereof as may be reasonably calculated to bring such order to the attention of all interested parties.

REGULATION BY GRADES AND SIZES AND BY MINIMUM STANDARDS OF QUALITY AND MATURITY

§ 936.40 *Regulation by grades and sizes*—(a) *Recommendation.* Whenever a commodity committee deems it advisable to regulate the shipment of any grade or size of any variety or varieties of fruit, for which the respective commodity committee has been established, it shall so recommend to the Secretary. In the event that the commodity committee makes a recommendation to the Secretary, with regard to regulation by grades or sizes, the commodity committee shall furnish to the Secretary the information and facts on which such recommendation is predicated, including, but not being limited to, information with respect to the factors affecting the supply of and demand for the respective fruit by grades and sizes thereof; and such commodity committee shall furnish to the Secretary such additional information as may be requested.

(b) *Establishment.* Based upon the aforesaid recommendation and information furnished by the commodity committee, or upon other information available to the Secretary, the Secretary shall limit, if he finds that such limitation would tend to effectuate the declared policy of the act, the total quantity of any grade and size, or either thereof, of any variety or varieties of fruit which may be shipped during any period from any or all districts. When the Secretary determines to regulate shipments as provided in this section, he shall immediately notify the respective commodity committee of the determination made by him pursuant to the provisions of this section; and the commodity committee shall give such notice thereof as may be reasonably calculated to bring such determination to the attention of all interested parties.

§ 936.41 *By minimum standards of quality and maturity*—(a) *Recommendation.* Whenever a commodity committee, established pursuant to this subpart for a particular fruit, deems it advisable to establish during any period minimum standards of quality or maturity, or both, to govern shipments of such fruit pursuant to this section, it shall so recommend to the Secretary. Each such recommendation of the committee shall be in terms of (1) minimum standards of maturity; (2) freedom of fruit from material waste; (3) freedom of fruit from material impairment of shipping quality; (4) freedom of fruit from material impairment of edible quality; (5) freedom of fruit from serious damage to appearance; (6) minimum size requirements; or (7) any combination of the foregoing. With each such recommendation, the committee shall submit to the Secretary the information and data on which such recommendation is predicated; and such commodity committee shall also submit to the Secretary such other information as he may request.

(b) *Establishment.* Whenever the Secretary finds, from the recommendation and information submitted by a commodity committee established pursuant to this subpart for a particular fruit or from other available information, that to establish minimum standards of quality or maturity, or both, for such fruit and to limit the shipment of such fruit during any period to that meeting the minimum standards would be in the public interest and would tend to effectuate the declared policy of the act, he shall establish such standards, designate such period, and so limit the shipment of such fruit. The Secretary shall immediately notify such commodity committee of the minimum standards so established and the period so designated; and the committee shall give such notice thereof as may be reasonably calculated to bring such regulation to the attention of all interested parties.

§ 936.42 *Exemptions.* (a) Each commodity committee, established pursuant to this subpart for a particular fruit, shall, subject to the approval of the Secretary, adopt the procedural rules to govern the issuance of exemption certificates.

(b) In the event the Secretary issues a regulation for a particular fruit pursuant to the provisions of §§ 936.40 and 936.41, the commodity committee established pursuant to this subpart for such fruit shall determine what the percentage of such fruit permitted to be shipped from each district is of the total quantity of such fruit which would be shipped from such district in the absence of such regulation. An exemption certificate shall thereafter be issued by such committee to any grower who furnishes proof, satisfactory to such committee, that by reason of conditions beyond his control he will be prevented, because of the regulation issued, from shipping, or having shipped, a percentage of his crop of such fruit equal to the percentage, determined as aforesaid ,of all such fruit permitted to be shipped from his district. The certificate shall permit such grower to ship, or have shipped, a percentage of his crop of such fruit equal to the percentage determined as aforesaid. Each such commodity committee shall maintain a record of all applications submitted for exemption certificates pursuant to the provisions of this section, and shall maintain a record of all certificates issued, including the information used in determining in each instance the quantity of fruit thus to be exempted, and a record of all shipments of exempted fruit. Such additional information as the Secretary may require shall be recorded in the records of such committee. Each commodity committee shall, from time to time, submit to the Secretary reports stating in detail the number of exemption certificates issued, the quantity of fruit thus exempted, and such additional information as may be requested by the Secretary.

(c) In the event the commodity committee, established pursuant to this subpart for a particular fruit, determines that by reason of general crop failure or any other unusual conditions within a particular district or districts, it is not feasible or would not be equitable to issue exemption certificates to growers within such district or districts on the basis set forth in paragraph (b) of this section, it may issue exemption certificates on the basis of the average of the percentages, as determined under paragraph (b) of this section, of the crops of such fruit permitted to be shipped from all districts. An exemption certificate shall thereafter be issued by such committee to any grower who furnishes proof satisfactory to such committee to the effect that such grower will be prevented, because of the aforesaid regulation, from shipping, or having shipped, as large a percentage of his crop of such fruit as the average of the percentages, as determined under paragraph (b) of this section, of the crops of such fruit permitted to be shipped from all districts. The certificate shall permit such grower to ship, or have shipped, a percentage of his crop of such fruit equal to the average of the percentages determined as aforesaid.

(d) If any grower is dissatisfied with the action of a commodity committee taken with respect to his application for an exemption certificate, such grower may appeal to the Secretary: *Provided,* That such appeal shall be made promptly. The Secretary may, upon an appeal made 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 shall be final and conclusive.

§ 936.43 *Inspection and certification.* Upon the recommendation of the commodity committee, or other information available to the Secretary, the Secretary may require that all shipments of fruit made during a regulation period, established pursuant to the provisions of §§ 936.40 and 936.41, shall be inspected and certified on the basis of grades and sizes or minimum standards of quality and maturity. In the event of such requirement each shipper, prior to making a shipment of fruit, shall have the fruit included in each such shipment inspected by a duly authorized representative of an inspection service, designated by the respective commodity committee and approved by the Secretary; and each such shipper shall submit promptly, or cause to be submitted promptly, to the respective commodity committee shipping point inspection certificates issued by such inspection service stating the grade and size or quality and maturity of fruit in each such shipment.

REGULATION OF DAILY SHIPMENTS

§ 936.50 *Definitions.* As used in §§ 936.50 through 936.62, the following terms shall have the following meanings:

(a) "Railroad assembly point" means any railroad shipping point designated by the Bartlett Pear Commodity Committee.

(b) "Cold storage assembly point" means any cold storage plant in the State of California.

(c) "Shipping point" means any point, in the State of California, from which fruit is shipped by railroad or truck.

(d) "Arrive" or "arrival" means (1) the actual time of arrival of a car of fruit at a railroad assembly point, if such car is not pre-cooled at such assembly point, (2) the actual time when precooling is completed if the car or fruit is pre-colled at railroad assembly point, or (3) such time subsequent to the actual delivery of a car of fruit, or the equivalent thereof, at a cold storage assembly point as the commodity committee may prescribe by rules and regulations.

(e) "Cold storage" means retention of fruit under refrigeration in a storage warehouse for such period of time, at such place, and under such conditions as the commodity committee may prescribe by rules and regulations.

(f) "Available" means (1) when used with reference to the fruit of a shipper whose fruit is being regulated at assembly point, the quantity of fruit controlled by him arriving, on a particular day, at any or all assembly points such day, (2) when used with reference to the fruit of a shipper whose fruit is being regulated at shipping point, the quantity of fruit which he controls packed by or for him for interstate shipment and foreign shipment on the Continent of North America on such particular day at such shipping point.

(g) "Total available" means the quantity of fruit available for shipment on a particular day by all shippers whose shipments are regulated at shipping points plus the quantity of fruit, arriving on such particular day at all assembly points, controlled by all shippers electing regulation at assembly points.

(h) "Fruit controlled" means fruit to which the shipper has legal title or fruit which the shipper has been authorized by the owner to ship.

(i) "Ship" and "market" are synonymous and mean to convey in, or handle for shipment in, to ship or cause to be conveyed or handled for shipment in, or in any other way to put fruit in, the channels of trade by conveying or causing fruit to be conveyed by railroad, truck, boat, or any other means whatsoever (except as a common carrier of fruit owned by another person), in the current of interstate or foreign commerce on the Continent of North America, or so as directly to burden, obstruct, or affect such commerce.

(j) "Shipper" and "handler" are synonymous and mean any person who ships, or is engaged in shipping, marketing, consigning, or dealing in fruit, either in person or as or through an agent, broker, representative, or otherwise, in the current of interstate or foreign commerce on the Continent of North America, or so as directly to burden, obstruct, or affect such commerce.

(k) "Fruit" means Bartlett pears grown in the State of California and shipped in fresh form.

(l) "Car of fruit" or "carload of fruit" means such quantity of fruit as may be specified in the rules and regulations adopted by the commodity committee.

(m) "Commodity committee" or "committee" means the Bartlett Pear Commodity Committee.

§ 936.51 *Recommendation of regulation.* The commodity committee may, during the effective time of a regulation established pursuant to § 936.40, recommend, from time to time, to the Secretary the establishment of a period of time during which the daily shipments of fruit will be regulated. Such recommendation shall specify the period of time for regulation and the advisable daily shipments of fruit during such period; and the Secretary shall be furnished with the information upon which each such recommendation is predicated.

§ 936.52 *Establishment of regulation.* If the Secretary shall find, upon the basis of such information and recommendation pursuant to the provisions of § 936.51, or upon other information available to the Secretary, that the limitation of daily shipments, as provided in §§ 936.50 through 936.62, during a regulation period will tend to effectuate the declared policy of the act, he shall establish a regulation period and determine the total advisable quantity of fruit to be shipped daily to all markets, outside of the State of California and on the Continent of North America, during such period; and the Secretary

shall promptly notify the commodity committee of the establishment of the regulation period. The commodity committee shall give such notice of the establishment of the regulation period as may be reasonably calculated to bring such regulation to the attention of all interested persons. A shipper who has made no shipment from a particular shipping point during the particular season, and who elects regulation at shipping point as provided in § 936.53, may apply to the committee for exemption from regulations pursuant to this section. The commodity committee shall, if it finds that the shipper who has made such application would otherwise be unable to begin operations at said shipping point, exempt such shipper from such regulation pursuant to this section for a period not to exceed 72 consecutive hours following the packing of the first fruit by such shipper at such shipping point.

§ 936.53 *Election of type of regulation by shipper.* Each shipper desiring to ship fruit, during a regulation period, shall promptly elect whether such fruit shall be regulated at railroad assembly points, cold storage assembly points, or shipping point; and each shipper shall promptly advise the commodity committee with regard to the choice thus made by the respective shipper. The fruit of any shipper who fails to make such election shall be regulated at railroad assembly points and cold storage assembly points. Except as provided in §§ 936.50 through 936.62, any shipper electing regulation at assembly points, for fruit from any particular shipping point, shall not be eligible to elect regulation at any such shipping point until all of such fruit at assembly points has been released. Each shipper whose fruit is regulated at railroad assembly points shall file with the carrier an order directing it to stop each carload of the respective shipper's fruit at such assembly points until the release of such fruit has been ordered by the commodity committee.

§ 936.54 *Reports by shippers.* Each shipper whose fruit is regulated at cold storage assembly points shall report or authorize the cold storage companies to report to the commodity committee the time when each carload, or the equivalent quantity thereof, of such fruit controlled by him entered a cold storage assembly point. Each shipper shall furnish or authorize the cold storage companies to furnish to the commodity committee the time of entrance into cold storage of each carload, or the equivalent thereof, of such fruit controlled by him.

§ 936.55 *Allotment percentage.* The allotment percentage for fruit for a particular day, during a regulation period established pursuant to the provisions of § 936.52, shall be the percentage obtained by dividing the total advisable quantity of such fruit to be shipped that day, determined by the Secretary pursuant to § 936.52, by the total available of such fruit on the second day prior to such particular day, as computed by the commodity committee pursuant to the provisions of §§ 936.50 through 936.62. In no case shall the allotment percentage exceed 100 percent. The allotment percentage shall be calculated by the commodity committee: *Provided*, That in the event the allotment percentage for a particular day cannot be calculated, pursuant to the foregoing provisions of this section, the allotment percentage on the first previous day on which an allotment percentage can be calculated, pursuant to the provisions of this section, shall be used in calculating allotments for such particular day.

§ 936.56 *Determination of allotments at shipping point.* The allotment of fruit, for a particular day, for any shipper who has elected to have his shipments regulated at shipping point, shall be the result obtained by applying the allotment percentage for such day, calculated as provided in § 936.55, to such shipper's component part of the available used in determining the allotment percentage. No shipper whose fruit is regulated at shipping point shall ship from shipping point fruit in excess of his allotments: *Provided, however*, That the shipment of less than one carload in excess of a shipper's allotment shall not be a violation of the provisions of this section if such shipper advises the commodity committee, with regard to such overshipment, by not later than the end of the day following the day on which such overshipment was made. The quantity of fruit shipped in excess of the allotment, as permitted pursuant to the provisions of this section, shall be offset by a reduction of an equal amount from the respective shipper's allotment for the next succeeding day on which such shipper ships, or, if such allotment is less than the overshipment, then such excess shipment shall be deducted from succeeding allotments until such excess shipment has been entirely offset. If any shipper ships less than his allotment for a particular day, such shipper may ship, only during the next day in which such shipper is entitled to an allotment, a quantity equal to such undershipment in addition to his allotment: *Provided*, That such undershipment is promptly reported to the commodity committee. The committee shall determine, pursuant to the provisions of this section, each shipper's allotment, and advise each shipper relative to his allotment. Except as provided in this section and in § 936.52 and § 936.70, no shipper shall ship fruit in excess of his allotment. The commodity committee may, at such time and in such manner as it may prescribe in rules and regulations, require any shipper to account to it for the disposition of the quantity of fruit in excess of the respective shipper's allotment. Fruit shipped pursuant to allotments at shipping points shall not be detained at assembly points. Each day on which any shipper who has elected to have his shipments regulated at shipping point shall fail to pack for shipment and ship fruit under the terms of this section shall, with respect to such shipper, be excluded from all calculations under this section or under § 936.55.

§ 936.57 *Shipments from assembly points.* The quantity of fruit which may be shipped, on any day during a regulation period, except the first two days thereof, from all assembly points by shippers who have not elected to have their fruit regulated at shipping points shall be the total advisable quantity to be shipped that day, determined by the Secretary pursuant to the provisions of § 936.52, less (a) the quantity of fruit shipped pursuant to § 936.56 by shippers electing regulation at shipping points and arriving at railroad assembly points in time to depart that day, and (b) the quantity of fruit which was shipped by boat, to destinations on the Continent of North America by all shippers on such prior day as the commodity committee may prescribe in rules and regulations approved by the Secretary: *Provided*, That if the quantity of fruit that is actually shipped on a particular day is in excess of or less than the quantity advisable for shipment on the respective day then, in such event, the quantity shipped on the following day shall be increased or decreased respectively by the amount of such excess shipment or undershipment: *Provided, further*, That the quantity of fruit which may be shipped on each of the first and second days of the initial regulation period, or any other regulation period which does not immediately follow a previous regulation period, from all assembly points by shippers who have not elected to have their fruit regulated at shipping points shall be that quantity which is the result of the application of the percentage, obtained by dividing the total quantity of fruit shipped by such shippers during the second day prior thereto by the quantity shipped by all shippers during such prior day, to the quantity advisable to be shipped on the first and second days, respectively, of the regulation period. The first carload of fruit arriving at any assembly point and subject to regulation thereat shall be the first carload released for shipment from all assembly points on any particular day, and succeeding carloads shall be released for shipment in the order of arrival until the total quantity for the particular day has been released. The maximum time that cars may be held in assembly points shall be prescribed by the commodity committee in rules and regulations approved by the Secretary: *Provided*, That no car shall be held at any assembly point longer than 4 days whenever there are any cars being regulated at railroad assembly points: *Provided, further*, That fruit shipped pursuant to allotments at shipping points shall not be detained at assembly points. Whenever any shipper has one or more carloads of fruit at an assembly point or points which have priority of shipment at a given time, and such shipper also has other carloads which do not have priority, such shipper may substitute any carload without priority for any carload having such priority. The commodity committee shall, in accordance with the provisions of this section, release fruit, subject to regulation at assembly points, for shipment from assembly points; and fruit, subject to regulation at assembly points, shall not be shipped from any railroad assembly point or cold storage assembly point until it has been released by the commodity committee.

§ 936.58 *Adjustment for shipments by boat.* If a shipper whose fruit is regulated at assembly point ships by boat a quantity of fruit to a destination on the Continent of North America, the commodity committee shall, on such day or days prior to the expected arrival of the boat at its destination as may be specified in the rules and regulations adopted by the committee and approved by the Secretary, adjust the priority of time of release of carloads then in assembly points so that no carload of such shipper's fruit then in assembly points shall be shipped until a quantity of fruit entering assembly points subsequently to the aforesaid carload, equal to the quantity of fruit contained in said shipment by boat, has been permitted to be shipped.

§ 936.59 *Prohibition of loading.* The Secretary may, in order to effectuate the declared policy of the act, prohibit for a period of 48 hours, upon the recommendation of the commodity committee supported by the specific information upon which such recommendation is based, or upon the basis of other information available to the Secretary, the loading of fruit for shipment to any or all railroad assembly points: *Provided,* That there shall elapse not less than 96 hours between the last day of one prohibition period, established pursuant to the provisions of this section, and the first day of the next succeeding prohibition period. Any quantity of fruit loaded for shipment to any cold storage assembly point, during a prohibition period, shall not be eligible for release for shipment, except as provided in § 936.60, during such time as said fruit is being regulated pursuant to the provisions of §§ 936.50 through 936.62. No shipper who shipped fruit to any or all assembly points during the 48 hours prior to the beginning of a prohibition period, established pursuant to the provisions of this section, shall, for a period of 48 hours succeeding the termination of the respective prohibition period, load for shipment fruit to assembly points in excess of the quantity of such fruit loaded for shipment by the respective shipper during the period of 48 hours immediately prior to the beginning of such prohibition period: *Provided,* That any shipper who has made no shipments from a particular district, during the particular season, before the beginning of a prohibition period, established pursuant to the provisions of this section, may apply to the commodity committee for exemption from such restrictions applicable after the termination of such prohibition period, and, if said committee determines that said restrictions operate inequitably to said shipper in a particular district, said committee shall exempt such shipper from such restrictions, after a prohibition period, as are provided in this section.

§ 936.60 *Shipment of storage fruit.* Fruit in cold storage shall not be shipped on any particular day during a regulation period, established pursuant to the provisions of § 936.52, unless the quantity of fruit regulated at shipping points and arriving at railroad assembly points in time to depart during the particular day plus the quantity of the fruit eligible for release at assembly points during said particular day is less than the total advisable quantity of the fruit for shipment on said day. When the aforesaid conditions exist, such fruit may be released from cold storage for shipment, during a regulation period, in the same sequence as that in which such fruit has been placed in storage: *Provided,* That such releases for shipment from cold storage on any day shall be limited to the amount of the fruit advisable to be shipped, pursuant to the provisions of § 936.52, less the quantity of the fruit regulated at shipping points and arriving at railroad assembly points in time to depart during the particular day and the quantity of the fruit eligible for release at assembly points on said particular day: *Provided further,* That any quantity of fruit in cold storage may be substituted for the same quantity of fruit eligible to be shipped pursuant to regulation at shipping points or assembly points.

§ 936.61 *Revision and correction of reports.* The commodity committee may investigate and check the accuracy of any reports filed pursuant to the provisions of §§ 936.50 through 936.62, and said committee may verify the same in such manner as it may determine; and, on the basis of the findings by said committee, it may revise and correct any such report. The commodity committee shall prescribe reasonable means whereby any grower or shipper, who may be dissatisfied with the action taken by said committee, may protest to that committee, or its representative, concerning the action taken by said committee; and in the event of such protest, the action taken by the committee shall be reconsidered and revised to any such extent as the committee may find to be proper. Thereafter, such person protesting, if dissatisfied, may appeal to the Secretary from the committee's final decision on said protest; and the Secretary's determination on such appeal shall be conclusive and final.

§ 936.62 *Exceptions.* Cars containing 200 standard packages (as specified in the Agricultural Code of California) or less, or the equivalent thereof in weight, of fruit covered by a regulation pursuant to the provisions of §§ 936.50 through 936.62 shall be exempt from such regulations: *Provided,* That, such exempted fruit shall be grown in the district from which it is shipped or shipped from a district in which no such fruit is being harvested during the period of such regulation.

MODIFICATION, SUSPENSION, OR TERMINATION

§ 936.68 *Modification, suspension, or termination.* Whenever a commodity committee, established pursuant to this subpart for a particular fruit, deems it advisable to modify, suspend, or terminate any or all of the regulations issued pursuant to this subpart for such fruit or any variety or varieties thereof, it shall so recommend to the Secretary. With each such recommendation submitted to the Secretary, the commodity committee shall forward the information upon which it acted in making such recommendation. If the Secretary finds, upon the basis of such recommendation and information or from other available information, that to modify 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 and information 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 such commodity committee, and such committee shall promptly give adequate notice to handlers and growers, of the issuance 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.

EXEMPTIONS FOR SHIPMENTS FOR CHARITABLE AND OTHER PURPOSES

§ 936.70 *Exemptions for shipments.* Nothing contained in this subpart shall be construed to authorize any limitation on the right to ship fruit in any amount for canning, freezing, drying, conversion into by-products, or for charitable or unemployment relief purposes.

EXPENSES AND ASSESSMENTS

§ 936.72 *Expenses.* The Control Committee is authorized to incur such expenses as the Secretary may find are reasonable and are likely to be incurred by the Control Committee during the then current season for the maintenance and functioning of such committee and the respective commodity committees, and for such research and service activities relating to the handling of fruit as the Secretary may determine to be appropriate. The funds to cover such expenses shall be acquired by the levying of assessments as provided in § 936.73.

§ 936.73 *Assessments.* Each shipper of a particular fruit shall, upon demand, pay to the Control Committee such shipper's pro rata share of the expenses which the Secretary finds will be incurred, as aforesaid, during the current season with respect to such fruit. Each such shipper's share of such expenses shall be that proportion thereof which the total quantity of such fruit shipped by such shipper during said season is of the total quantity of the same fruit shipped by all shippers during the same season. The Secretary shall fix the rate of assessment which shippers of such fruit shall pay. The Secretary may, from time to time, increase such rate of assessment in order to secure sufficient funds to cover any later finding by the Secretary relative to the expenses which may be incurred during said season for such fruit; and such increase shall be applicable to all such fruit shipped during the season. In order to provide funds to carry out the functions of the Control Committee and commodity committees prior to the commencement of shipments in any season, shippers may make advance payments of assessments, which advance payments shall be credited to such shippers and the assessments of such shippers shall be adjusted

so that such assessments are based upon the quantity of fruit shipped by such shippers during such season. Any shipper who ships fruit for the account of a grower may deduct, from the account of sale covering such shipment or shipments, the amount of assessment levied on said fruit shipped for the account of such grower. At the end of each season the Control Committee shall credit each contributing shipper with the excess of the amount paid by such shipper above his pro rata share of the expenses, or debit such shipper with the difference between his pro rata share and the amount paid by such shipper. Any such debits shall become due and payable upon the demand of the Control Committee.

REPORTS

§ 936.76 *Information to Secretary.* All shippers shall severally, from time to time, upon request of the Secretary furnish such information as the Secretary finds to be necessary to enable him to ascertain and determine the extent to which the provisions of this subpart have been carried out or have tended to effectuate the purposes of the act, and with such other information as he finds to be necessary to determine whether or not there has been an abuse of the privilege of exemption from the anti-trust laws. Such information shall be furnished in accordance with forms of reports to be prescribed by the Secretary.

§ 936.77 *Reports to Control Committee.* Upon the request of the Control Committee, made with the approval of the Secretary, each shipper shall furnish to the Control Committee, in such manner and at such times as it prescribed, such information as will enable it to perform its powers and duties.

§ 936.78 *Reports to committees.* For the purpose of enabling the Control Committee and the commodity committees to perform their respective functions under this subpart, each shipper shall furnish, or authorize any or all railroad companies and transportation companies to furnish, to the manager of the Control Committee complete daily information, in such form and at such times and substantiated in such manner as shall be prescribed by the commodity committee and approved by the Secretary, with regard to each shipment of fruit. Such reports may include the number of cars ordered; the time of departure of each shipment of fruit from the specified railroad points; the time of shipment of each car of fruit; the name of the shipper; the car number; the number of packages of fruit or the equivalent thereof in weight in each shipment; the price per package at which sold, including specific and detailed information relative to all discounts, allowances, rebates, or other adjustments thereof; the kind, variety, grade, and size of fruit; the grower for whom such fruit is shipped; the point of origin; and the destination and routing, and any diversion of the shipment of any carload of fruit made through any or all agencies. Upon receipt of the foregoing by the manager of the Control Committee, he shall promptly have such information compiled; and a summary of such compiled information shall be made available promptly to all shippers and other interested parties. Each such summary, however, shall not reveal the identity of any informant. The manager and each person engaged in the preparation of any such compilation or summary, shall not disclose any information obtained pursuant to this section except in the aforesaid summary: *Provided,* That the manager and each person engaged, as aforesaid, shall, if so directed by the Secretary, submit all of said information, including the original reports, to the Secretary or such other person or persons as the Secretary may direct.

EFFECTIVE TIME AND TERMINATION

§ 936.80 *Effective time.* The provisions of this subpart shall become effective May 29, 1939, and shall continue in force until terminated in one of the ways specified in § 936.81: *Provided, however,* That, the provisions of this subpart may be made effective and applicable by the Secretary with regard to fresh Bartlett pears, plums, and Elberta peaches, jointly or severally, and the failure to make the provisions of this subpart effective and applicable to one or two of said fruits shall not prevent the Secretary from making the provisions of this subpart effective and applicable with regard to the other fruit or fruits.

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

(b) The Secretary shall terminate the provisions of this subpart as to a particular fruit covered hereby, whenever he finds by referendum or otherwise that such termination is favored by a majority of the growers of such fruit, who, during the current marketing season for such fruit, have been engaged in the production of such fruit, in the area covered by this subpart, for shipment in fresh form: *Provided,* That, such majority have, during such season, produced for shipment in fresh form more than 50 percent of the volume of such fruit, produced within the area for shipment in fresh form: *Provided,* That, such termination shall be and become effective on the first day of March subsequent to the announcement thereof by the Secretary: *Provided further,* That the Secretary shall hold such a referendum within the period beginning December 1, 1940, and ending February 1, 1941, and also within the same 2-months' period of every second marketing season after the 1940 marketing season. The marketing season for all fruits shall be March 1 of one year until the last day of February of the following year.

(c) The provisions of this subpart shall terminate whenever the provisions of the act authorizing it cease to be in effect.

§ 936.82 *Proceedings after termination.* Upon the termination of this subpart the members of the Control Committee then functioning shall continue as trustees, for the purpose of liquidating the affairs of the said committee, of all funds and property then in the possession of or under the control of the Control Committee, including but not being limited to claims for any funds unpaid or property not delivered at the time of such termination; and 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. 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 funds and property on hand, together with all books and records of the Control Committee and the trustees, to such person as the Secretary shall direct, and shall, upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title to all funds and claims vested in the Control Committee or the trustees pursuant to the provisions of this subpart; and the said trustees shall refund to each contributing shipper the excess of the amount paid by such shipper above his pro rata share of expenses, or debit each shipper with the difference between his pro rata share and the amount paid by any such shipper if such amount is less than his pro rata share. Any such debit shall become due and payable upon the demand of the said trustees. Nothing stated in §§ 936.80 through 936.82 shall be deemed to preclude the bringing of a suit for assessments levied by the Control Committee at any time prior to the termination of this subpart. Any person to whom funds, property, or claims have been delivered by the Control Committee or its members upon direction of the Secretary, as provided in this subpart, shall be subject to the same obligations and duties with respect to said funds, property, or claims as are imposed upon the members of said committee or upon said trustees by this section.

MISCELLANEOUS

§ 936.85 *Compliance.* Each shipper must comply with all regulations. No shipper shall ship fruit in violation of the provisions of this subpart or in violation of an order issued by the Secretary pursuant to the provisions of this subpart.

§ 936.86 *Duration of immunities.* The benefits, privileges, and immunities conferred by virtue of the provisions of this subpart shall cease upon its termination except with respect to acts done under and during the time the provisions of this subpart are in force and effect.

§ 936.87 *Agents.* The Secretary may by a designation in writing name any person, including any officer or employee of the Government or 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.

§ 936.88 *Derogation.* Nothing contained in this subpart is or shall be con-

strued 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, and in accordance with such powers to act in the premises whenever such action is deemed advisable.

§ 936.89 *Liability of committee members.* No member of the Control Committee, or any commodity committee, or any subcommittees, or any employee of the Control Committee shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any shipper or any other person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member or employee, except for acts of dishonesty.

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

SUBPART—RULES AND REGULATIONS

SOURCE: §§ 951.100 to 951.178 appear at 12 F. R. 911; 13 F. R. 8735; 14 F. R. 4515, 4748; 15 F. R. 236, 3250; 16 F. R. 1933.

DEFINITIONS

§ 936.100 *Order.* "Order" means Order No. 36, as amended (7 CFR Part 936), regulating the handling of fresh Bartlett pears, plums, and Elberta peaches grown in the State of California.

§ 936.101 *Marketing agreement.* "Marketing agreement" means Marketing Agreement No. 85, as amended.

§ 936.102 *Terms* Terms used in this subpart shall have the same meaning as when used in the marketing agreement and order, as amended.

GENERAL

§ 936.110 *Communications.* Unless otherwise prescribed in this subpart, or in the marketing agreement and order, or required by the Control Committee or a particular commodity committee, all reports, applications, submittals, requests, and communications in connection with the marketing agreement and order shall be addressed as follows:

Control Committee,
California Tree Fruit Agreement,
1515 Ninth Street,
Sacramento 14, California.

ADMINISTRATIVE BODIES

§ 936.115 *Nomination of shipper members for the Control Committee.* (a) All shippers who, prior to February 1 of the then current year, have not advised the manager of the Control Committee in writing of their participation in the formation of an elective body shall be notified promptly by the manager after that date, by mail, of the time and place for a meeting of such shippers to elect nominees for shipper membership on the Control Committee.

(b) The chairman of the then existing Control Committee shall schedule a meeting of shippers in the month of February of the then current year, for the purpose of making nominations to the shipper membership of the Control Committee; and such chairman is authorized to appoint a member of the Control Committee to act as chairman of the meeting and to conduct the election.

§ 936.116 *Changes in the representation of certain districts on Bartlett Pear Commodity Committee.* The representation or membership on the Bartlett Pear Commodity Committee is changed to provide for:

(a) Three (3) members to represent the North Sacramento Valley District, Central Sacramento Valley District, Sacramento River District, and Stockton District;

(b) Two (2) members to represent the Placer District;

(c) One (1) member to represent the Solano District;

(d) One (1) member to represent the Contra Costa District and Santa Clara District;

(e) One (1) member to represent the Lake District;

(f) One (1) member to represent the North Coast District and North Bay District;

(g) One (1) member to represent the Colfax District; and

(h) Two (2) members to represent the Eldorado District and all of the area not included in the North Sacramento Valley District, Central Sacramento Valley District, Colfax District, Placer District, Sacramento River District, Stockton District, Solano District, Contra Costa District, Santa Clara District, Lake District, North Coast District, and North Bay District.

§ 936.117 *Changes in the representation of certain districts on Elberta Peach Commodity Committee.* The representation or membership on the Elberta Peach Commodity Committee is changed to provide for:

(a) Three (3) members to represent the area included in the Fresno District;

(b) One (1) member to represent the area included in the Tulare District and Kern District;

(c) Two (2) members to represent the area included in the Stanislaus District and Contra Costa District; and

(d) One (1) member to represent all of the territory in California not included in the foregoing districts.

§ 936.118 *Changes in the representation of certain districts on Plum Commodity Committee.* The representation or membership on the Plum Commodity Committee is changed to provide for three members to represent the area included in the Fresno, Tulare, Kern, and Southern California Districts, three members to represent the area included in the Colfax and Placer Districts, and one member to represent all of the territory in California not included in the foregoing districts.

§ 936.119 *Procedure for nominating members for various commodity committees; meetings.* (a) The manager of the then existing Control Committee shall arrange for, and publicize, meetings of growers to nominate members for the different commodity committees, and each such meeting shall be attended by one or more employees of the Control Committee. Members of the Agricultural Extension Service of the University of California may be authorized by the manager to assist in calling such meetings and advise growers, on their respective mailing lists, of such meetings.

(b) Growers assembled at any such meetings may select a chairman and secretary, but in the event none of the aforesaid employees of the Control Committee is selected as secretary of the meeting, one such employee shall, nevertheless, record all nominations made.

(c) The nominations at any meeting shall be conducted according to Robert's rules of order. However, voting may be by secret ballot or by acclamation in accordance with the desire of the majority of the growers attending the meeting.

REGULATION OF UNFAIR TRADE PRACTICES AND UNFAIR METHODS OF COMPETITION

§ 936.138 *Regulation.* (a) The shipping of Elberta peaches of the size described in paragraph (b) of this section, or smaller sizes, in the standard fruit boxes numbered 15, 16, 17, 18, and 18A, and in the number 12B California Peach Box (as such boxes are defined in section 828.25 of the Agricultural Code of California) when packed so that the longitudinal axis of each such peach forms an angle with the bottom of the container which is less than 70 degrees is deceptive with regard to the quantity of fruit and the size of the fruit in such boxes and is, therefore, an unfair trade practice and an unfair method of competition; and the shipment of such peaches, packed as aforesaid, is prohibited in accordance with the applicable provisions of the marketing agreement and order.

(b) The specific size of Elberta peaches referred to in paragraph (a) of this section is the size (1) that will pack 66 peaches in the aforesaid standard fruit boxes with two layers in each box, and each layer containing three rows of six peaches each and three rows of five peaches each, and (2) that will pack 60 peaches in the aforesaid California Peach Box with two layers in each such box and each layer containing six rows of five peaches per row, and all such peaches in the aforesaid containers being packed in accordance with the specifications of a standard pack, as specified in the Standards for Peaches, issued by the United States Department of Agriculture, effective April 22, 1933, and reissued February 4, 1946.

REGULATION BY GRADES, SIZES, AND MINIMUM STANDARDS OF QUALITY AND MATURITY

§ 936.140 *Package ratio.* The quantity of plums packed in 3 California peach boxes (including other packages and containers of comparable capacity) shall be deemed to be the equivalent of the quantity of plums packed in 2 standard 4-basket crates.

§ 936.141 *Exemptions.* (a) Any application for an exemption certificate authorizing the shipment of Bartlett

pears, plums, or Elberta peaches shall be submitted to the secretary of the appropriate commodity committee and shall contain the following information on Form E–1, "Grower Application for Exemption Certificate":

(1) The name and address of the applicant;

(2) The location of the orchard (by district and distance from nearest town) from which the fruit is to be shipped pursuant to the exemption certificate;

(3) The number and age of the trees of the particular fruit for which exemption is requested;

(4) The grade or size regulation or the minimum standards of quality and maturity from which exemption is requested;

(5) The estimated crop of such fruit in such terms as required by the applicable form of application for an exemption certificate;

(6) The number of standard containers of the particular fruit, by grades and sizes, which the applicant has available for shipment during the remainder of the regulation period, and for which exemption is requested;

(7) The number of standard containers of the particular fruit, by grades and sizes, which the applicant has sold or otherwise disposed of since the beginning of the particular regulation period;

(8) The reasons why the quantity of fruit for which exemption is requested does not meet the requirements of the grades or sizes or minimum standards of quality and maturity of fruit permitted to be shipped under the particular regulation;

(9) The name of the shipper;

(10) The shipments of the particular fruit during the preceding season; and

(11) Such additional data and information as the respective commodity committee may require in order to determine whether the applicant is entitled to an exemption certificate.

(b) The respective commodity committee shall promptly verify all statements contained in each application for an exemption certificate and determine whether an application shall be approved or disapproved. The determination, in case of approval, shall be evidenced by the issuance, to the applicant, of an exemption certificate and, in case of disapproval, shall be evidenced by written notice of such disapproval.

(c) Each exemption certificate, issued by any commodity committee, shall be on Form E–2, "Grower Exemption Certificate." The exemption certificate shall be signed by the secretary, as assistant secretary, of such commodity committee. Each exemption certificate shall be issued in quadruplicate; and one copy shall be delivered to the grower, one copy shall be delivered to the shipper designated by the grower to receive such copy, one copy shall be delivered to the appropriate field representative of the Control Committee, and one copy shall be retained as part of the permanent records of the particular commodity committee.

(d) Each shipper handling fruit pursuant to an exemption certificate shall keep an accurate record of all shipments of such fruit. Such shipper, after having shipped as much fruit as authorized by an exemption certificate, shall promptly furnish, upon demand of the appropriate commodity committee or its duly authorized representative, an accurate record of each such shipment, showing the following information:

(1) Exemption certificate number;

(2) Name of grower applicant;

(3) Name of shipper;

(4) Shipping point;

(5) District where fruit was produced;

(6) Variety of fruit;

(7) Number of packages of grower applicant's fruit included in the particular shipment which were handled other than pursuant to the exemption certificate;

(8) Number of packages of grower applicant's fruit included in the particular shipment which were handled pursuant to the exemption certificate;

(9) Date fruit was packed;

(10) Date fruit was shipped; and

(11) Car or truck number or numbers in which fruit was loaded and shipped.

(e) If any grower is dissatisfied with the determination of any employee authorized to issue exemption certificates and who has exercised jurisdiction with regard to an application submitted by such grower, such grower may appeal to the appropriate commodity committee. Such appeal must, however, be taken promptly after the determination by such employee. If any grower is dissatisfied with the determination of any commodity committee regarding any application for an exemption certificate, any exemption certificate, or any appeal by such grower to any such commodity committee, the grower may appeal to the Secretary of Agriculture. Any such appeal shall be taken promptly after determination by the particular commodity committee. Any such grower making an appeal to the Secretary of Agriculture shall file a written statement with the particular commodity committee to the effect that the grower is thus appealing from the determination of such commodity committee. In the event any such grower files a written statement of appeal, as aforesaid, to the Secretary of Agriculture, the appropriate commodity committee shall promptly forward to the Secretary of Agriculture the written appeal by the grower, a true and correct copy of all of the written documents pertaining to the application by the grower for an exemption certificate and the consideration of such application, the written information and proof submitted to, or obtained by, the commodity committee with regard to such application, the report submitted by the employee of the Control Committee regarding such application, the determination of the appropriate commodity committee with regard to the application, and a written summary of all of the information obtained by, or submitted to, such commodity committee relative to the application.

REGULATION OF DAILY SHIPMENTS

§ 936.150 *Railroad assembly points.* Each of the following railroad yards in the State of California is designated as a "railroad assembly point":

(a) The railroad yards of the Southern Pacific Railroad in the cities of Roseville, Colfax, Sacramento, Gerber, and Colton;

(b) The railroad yards of the Western Pacific Railroad in the cities of Sacramento, Marysville, and Portola;

(c) The railroad yards of the Northwestern Pacific Railroad in the city of Santa Rosa; and

(d) The railroad yards of the Santa Fe Railroad in the cities of Bakersfield, Stockton, Barstow, and Needles.

§ 936.151 *Carlot equivalent.* A "car of Bartlett pears" or a "carload of Bartlett pears" shall constitute a quantity of Bartlett pears equivalent to the quantity of such fruit which may be packed, in accordance with the requirements of a standard pack (as such pack is defined in the U. S. Standards for Summer and Fall Pears, issued by the United States Department of Agriculture on June 27, 1940, as subsequently reissued on September 3, 1942), in not less than 200 or more than 800 standard pear boxes (as such standard pear box is defined in section 828.3 of the Agricultural Code of California).

§ 936.152 *Arrival at cold storage.* The "arrival" of a car of Bartlett pears at a cold storage assembly point shall be 48 hours subsequent to the time of actual delivery of such car of fruit. If a car of Bartlett pears is delivered to a cold storage assembly point in diverse lots, the "arrival" of such car of fruit shall be 48 hours subsequent to the time of actual delivery of the last lot.

§ 936.153 *Cold storage fruit.* The retention of Bartlett pears under refrigeration in a storage warehouse in the State of California under any of the following conditions shall constitute "cold storage" of such fruit:

(a) The Bartlett pears are designated as stored by the shipper;

(b) The Bartlett pears are placed in a cold storage assembly point for precooling and are not reported to the manager of the Control Committee within 48 hours after delivery; and

(c) The Bartlett pears are not loaded for shipment within 48 hours after the shipper is notified of the release, in accordance with the marketing agreement and order, of such fruit from the cold storage assembly point.

§ 936.154 *Undershipments.* Undershipments of allotments of Bartlett pears shall be reported to the Bartlett Pear Commodity Committee by 12:00 o'clock noon of the day following the day on which the respective undershipments are made.

§ 936.155 *Reports.* Each shipper shall account to the Bartlett Pear Commodity Committee for the disposition of any quantity of Bartlett pears in excess of such shipper's allotment at shipping point by reporting to such commodity committee, each day, regarding the disposition of each quantity of Bartlett pears in excess of the shipper's allotment for the preceding day. Each such report shall show:

(a) If placed in cold storage, the location of the cold storage plant and the quantity of Bartlett pears so placed.

(b) If exported off the Continent of North America, the car number or the name of the boat on which the shipment was made, and the quantity of Bartlett pears so exported.

(c) If sold for fresh consumption within the State of California, the destination.

(d) The quantity of Bartlett pears together with an adequate description of any other channel of disposition or destination of such fruit.

§ 936.156 *Maximum time.* The maximum time any car of Bartlett pears may be held at any assembly points is 96 hours.

§ 936.157 *Boat shipments.* Adjustments for shipments of Bartlett pears by boat made by a shipper whose pears are regulated at assembly points shall be made 9 days prior to the expected day of arrival of such boat shipment.

§ 936.158 *Appeals.* If any grower is dissatisfied with the decision or determination of the Bartlett Pear Commodity Committee relative to the action taken by said committee pursuant to the provisions of §§ 936.150 through 936.157, such grower may appeal to the Secretary of Agriculture. Such appeal must be taken promptly after the determination by such commodity committee and there must be filed a written statement with said committee to the effect that the grower is thus appealing from its decision or determination. In the event a grower appeals, as aforesaid, to the Secretary of Agriculture, the Bartlett Pear Commodity Committee shall promptly forward to the Secretary of Agriculture a true and correct copy of all of the documents pertaining to the controversy including, but not being limited to, (a) a copy of each report filed by or for such grower; (b) a copy of the findings by the committee; (c) a copy of the grower's written statement of appeal; and (d) a written summary of all of the information obtained by, or submitted to, such committee relative to such controversy.

REPORTS

§ 936.176 *Bartlett pears*—(a) *Report of daily shipments.* Each shipper who ships Bartlett pears shall furnish, or authorize any or all railroad companies and transportation companies to furnish, to the manager of the Control Committee complete daily information stating: (1) The time of departure of each shipment of Bartlett pears from specified railroad points, (2) the time of shipment of each car of Bartlett pears, (3) the name of the shipper, (4) the car number, (5) the number of packages of such pears (or the equivalent thereof in weight) by grades and sizes in each shipment, (6) the point of origin, and (7) the destination. The foregoing information is to be reported promptly and substantiated by a copy of the manifest covering the shipment or a recapitulation of the manifest. The daily information shall also include any diversion of the shipment of any carload of Bartlett pears made through any or all agencies as soon as possible after filing such diversion with any common carrier. In the event any such shipment includes Bartlett pears for which exemption certificates have been issued, information concerning the name of the grower for whom such exempted fruit has been shipped shall be included either on the aforesaid manifest or on separate reports.

(b) *Report of Bartlett pears held in storage.* Each shipper who has Bartlett pears under refrigeration in a storage warehouse shall, upon request, file with the manager of the Control Committee within the time specified in the request an accurate report containing the following information:

(1) The name and address of the shipper;

(2) The total quantity, as of the date specified in the request, of such Bartlett pears in storage outside the State of California, and in storage in the State of California for a period in excess of 5 days.

§ 936.177 *Plums*—(a) *Report of daily shipments.* Each shipper who ships plums shall furnish, or authorize any or all railroad companies and transportation companies to furnish, to the manager of the Control Committee complete daily information stating: (1) The name of the shipper, (2) the car number, (3) the number of packages by variety and size (or the equivalent thereof), (4) the weight of each shipment, (5) the point of origin, and (6) the destination. The foregoing information is to be reported promptly and substantiated by a copy of the manifest covering the shipment or a recapitulation of the manifest. The daily information shall include any diversion of the shipment of any carloads of plums made through any or all agencies as soon as possible after filing such diversion with any common carrier. In the event the shipment includes plums for which exemption certificates have been issued, information concerning the name of the grower for whom such exempted fruit has been shipped shall be included either on the manifest or on separate reports.

(b) *Report of plums held in storage.* Each shipper who has plums under refrigeration in a storage warehouse shall, upon request, file with the manager of the Control Committee within the time specified in the request, an accurate report containing the following information:

(1) The name and address of the shipper;

(2) The total quantity, as of the date specified in the request, of each variety of such plums in storage in the State of California, and the portion of such quantity which has been in such storage for a period less than 60 hours; and

(3) The total quantity of each variety of such plums in storage outside of the State of California as of such date.

§ 936.178 *Elberta peaches.* Each shipper who ships Elberta peaches shall furnish, or authorize any or all railroad companies and transportation companies to furnish, to the manager of the Control Committee complete daily information stating: (a) The name of the shipper, (b) the car number, (c) the number of packages of Elberta peaches by size (or the equivalent thereto), (d) the weight of each shipment, (e) the point of origin, and (f) the destination. The foregoing information is to be reported promptly and substantiated by a copy of the manifest covering the shipment or a recapitulation of the manifest. The daily information shall include any diversion of the shipment of any carload of Elberta peaches made through any or all agencies as soon as possible after filing such diversion with any common carrier. In the event the shipment includes Elberta peaches for which exemption certificates have been issued, information concerning the name of the grower for whom such exempted fruit has been shipped shall be included either on the manifest or on separate reports.

[F. R. Doc. 51-15025; Filed, Dec. 19, 1951; 8:48 a. m.]

# TITLE 15—COMMERCE AND FOREIGN TRADE

## Chapter III—Bureau of Foreign and Domestic Commerce, Department of Commerce

### Subchapter C—Office of International Trade

[5th Gen. Rev. of Export Regs., Amdt. P. L. 64 [1]]

### PART 399—POSITIVE LIST OF COMMODITIES AND RELATED MATTERS

MISCELLANEOUS AMENDMENTS

Section 399.1 *Appendix A—Positive List of Commodities* is amended in the following particulars:

1. The following commodities are added to the Positive List:

| Dept. of Commerce Schedule B No. | Commodity | Unit | Processing code and related commodity Group | GLV dollar value limits | Validated license required |
|---|---|---|---|---|---|
| | Asbestos: | | | | |
| | Unmanufactured: | | | | |
| 545150 | Waste and refuse | L. ton | MINL | 100 | RO |
| 787150 | Irrigation systems | | AGMT | 100 | RO |
| 787190 | Parts for irrigation systems (§ 399.2, Int. 5) | | AGMT | 100 | RO |

[1] This amendment was published in Current Export Bulletin No. 649, dated Dec. 6, 1951.

This part of the amendment shall become effective as of 12:01 a. m., December 18, 1951.

2. The following are changed from R to RO commodities:

| Dept. of Commerce Schedule B No. | Commodity | Unit | Processing code and related commodity group | GLV dollar value limits | Validated license required |
|---|---|---|---|---|---|
| | Coal-tar intermediates, except coal-tar acids: | | | | |
| 802550 | Dimethylaniline | Lb. | COTA 61 | 100 | RO |
| 802590 | Aminophenol, para type only | Lb. | COTA 61 | 100 | RO |
| | Photographic chemicals of coal-tar origin: | | | | |
| 806980 | Hydroquinone | Lb. | COTA | 100 | RO |
| 828800 | Quaternary ammonium compounds | Lb. | SALT | 100 | RO |
| 832500 | Synthetic collecting reagents for concentration of ores, metals, or minerals. | Lb. | ORGN | 100 | RO |
| | Organic chemicals not of coal-tar origin, n. e. s.: | | | | |
| 832990 | Amino acetates | Lb. | ORGN | 100 | RO |
| 832990 | Ethyl cellulose | Lb. | ORGN | 100 | RO |
| | Potassium compounds, except fertilizers (report fertilizers and fertilizer materials in 850500–855100): | | | | |
| | Potassium compounds, n. e. s.: | | | | |
| 835900 | Potassium persulfate | Lb. | SALT | 100 | RO |
| | Sodium compounds: | | | | |
| 839900 | Sodium cyanide | Lb. | SALT | 100 | RO |
| 837990 | Sodium persulfate | Lb. | SALT | 100 | RO |
| | Ammonium compounds, except fertilizers (report fertilizers and fertilizer materials in 850500–855100): | | | | |
| | Ammonium compounds, n. e. s.: | | | | |
| 838500 | Ammonium persulfate | Lb. | SALT | 100 | RO |

This part of the amendment shall become effective as of 12:01 a. m., December 18, 1951.

3. The dollar value limit in the column headed "GLV dollar-value limit" set forth opposite the commodities listed below is amended to read as follows:

| Dept. of Commerce Schedule B No. | Commodity | GLV dollar-value limit |
|---|---|---|
| 571400 | Sulfur, crude (see § 373.16 of this subchapter) | 25 |
| 571500 | Sulfur, crushed, ground, refined, sublimed and flowers (see § 373.16 of this subchapter) | 25 |
| | Steam engines, boilers, and accessories: | |
| 713900 | Steam boiler parts (report boiler tubes shipped as spares or replacements under tubular products according to material) | 250 |
| 713900 | Other steam specialties, and parts | 250 |
| 763000 | Rubber-working machinery, and parts | 500 |
| | Blowers and ventilating machinery, and parts: | |
| 764100 | Axial flow and positive displacement types of compressors, rotary blowers and exhausters, fans, and parts | 100 |
| | Air conditioning and refrigeration equipment and parts: | |
| 766030 | Parts peculiar to the air-conditioning and refrigeration industry, for foreign assembly or manufacture (Positive List types only) | 100 |
| 766050 | Replacement parts, peculiar to the air conditioning and refrigeration industry, for maintenance of existing installations (Positive List types only) | 25 |
| 775027 | Parts for crushers and grinders for cement and lime-making machinery installations | 25 |
| | Clay-working machinery, and parts: | |
| 775070 | Parts for crushers and grinders for clay-working machinery | 100 |
| | Industrial machinery and parts, n. e. s.: | |
| 775098 | Axial flow and positive displacement types of compressors, rotary blowers and exhausters, fans, and parts. | |
| 775098 | Parts for crushers and grinders | 100 |
| | Plastics and resin materials: | |
| | Synthetic gums and resins in all unfinished forms, except laminates (report laminated sheets, plates, strips, rods, and tubes in 826000): | |
| | Alkyd resins: | |
| 825320 | Phthalic anhydride type | 100 |
| 825350 | Other alkyd resins | 100 |
| | Molding compositions: | |
| 825910 | Polyethylene (specify whether virgin or scrap) | 25 |
| 825910 | Other molding compositions, except para coumarone and silicone molding compositions, resins, and adhesives | 100 |
| | All other unfinished forms: | |
| 825950 | Polyethylene (specify whether virgin or scrap) | 25 |
| 825950 | Other unfinished forms, n. e. s. | 100 |
| | Synthetic gums and resins, laminated (Sheets, plates, strips, rods, and tubes): | |
| 826000 | Polyethylene (specify whether virgin or scrap) | 25 |
| 826000 | Polyacrylic | 100 |
| | Plastics and resin materials—Continued | |
| | Cellulose plastic materials: | |
| | Cellulose acetate, cellulose acetate-butyrate, and cellulose acetate-propionate: | |
| 826505 | Molding powders, granules, and pellets | 100 |
| | Sheets, rods, tubes, and other similar forms: | |
| 826520 | Cellulose acetate electrical insulating material | 1 |
| | Other unfinished forms: | |
| 826590 | Cellulose acetate electrical insulating material | 1 |
| | Sodium compounds: | |
| 836500 | Sodium carbonate, calcined or soda ash | 1,000 |
| 836600 | Causticized soda ash | 1,000 |
| | Sodium hydroxide or caustic soda, except in packages of less than 50 pounds (report packages of less than 50 pounds in 837330): | |
| 837310 | Solid | 1,000 |
| 837320 | Liquid (converted to dry weight for statistical purposes) | 1,000 |
| | Other industrial chemicals: | |
| 839900★ | Zirconium oxides in all forms | 1 |
| 839900★ | Zirconium silicates | 1 |
| 839900 | Other zirconium compounds | 1 |

★The commodities described in this Positive List entry are excepted from the provisions of General In-Transit License GIT. See § 371.9 (c) of this subchapter.

This part of the amendment shall become effective as of December 13, 1951, with respect to changes increasing the GLV limits, and effective as of 12:01 a. m., December 18, 1951, with respect to changes decreasing the GLV limits.

4. The following revisions are made in commodity descriptions. These revisions include changes in validated license control.

| Dept. of Commerce Schedule B No. | Commodity | Unit | Processing code and related commodity group | GLV dollar value limits | Validated license required |
|---|---|---|---|---|---|
| | Asbestos: | | | | |
| | Unmanufactured: | | | | |
| 545110 | Crude asbestos and spinning fibers (specify by grade). (See § 378.16 of of this subchapter.)[1] | L. ton | MINL | 100 | RO |
| | Graphite, natural: | | | | |
| 547210★ | Amorphous (specify carbon content and country of origin).[2] | Lb. | MINL | 100 | RO |
| | Carbon or graphite products (natural and artificial): | | | | |
| 547300★ | Electrodes for furnace or electrolytic work (specify size).[3] | Lb. | MINL | None | RO |
| 548050★ | Crucibles, retorts and stoppers [4] | No. | MINL | None | RO |
| 548098★ | Carbon or artificial graphite electrodes other than for furnace or electrolytic work (specify size) (report electrodes for furnace or electrolytic work in 547300).[3] | Lb. | MINL | None | RO |
| 548098★ | Carbon and graphite products (including artificial), n. e. s. (specify by name).[5] | Lb. | MINL | None | RO |
| | Steam engines, boilers, and accessories: | | | | |
| 712900 | Parts for mechanical-drive turbines, 300 horsepower and over.[6] | | GIEQ | 100 | R |
| | Construction equipment, and parts, n. e. s.: | | | | |
| 723100 | Concrete block machines, high speed (capacity of 200 blocks or more per hour), and parts therefor.[7] | | CONS | 100 | R |
| | Pumping equipment: | | | | |
| 736990★ | Parts for pumps included on the Positive List under Schedule B Nos. 735500 through 736910 for which validated license is required to R or O country destinations.[8] | | CONS | 100 | RO |

★The commodities described in this Positive List entry are excepted from the provisions of General In-Transit License GIT. See § 371.9 (c) of this subchapter.

[1] The above revised entry is substituted for the entry presently on the Positive List under Schedule B No. 545110. The effect of this amendment is to extend the coverage to include all crude asbestos and spinning fibers.

[2] The above revised entry is substituted for the entry presently on the Positive List under Schedule B No. 547210. The effect of this amendment is to request the exporter to specify the carbon content and country of origin of the amorphous graphite for which export license is requested, and to add amorphous graphite to the list of commodities excepted from the provisions of General In-Transit License GIT.

[3] The above revised entry is substituted for the three entries presently on the Positive List under Schedule B No. 547300. The effect of this amendment is to place all carbon or graphite electrodes for furnace or electrolytic work on

the Positive List and to add such electrodes which are less than 1 inch in cross-sectional dimension to the list of commodities excepted from the provisions of General In-Transit License GIT; to reduce the GLV dollar-value limit from $25 to none for carbon or artificial graphite electrodes for furnace or electrolytic work, ¾ inch up to, but not including 1 inch in cross-sectional dimension; and to request the exporter to specify the size of electrodes for which export license is requested.

[4] The above revised entry is substituted for the two entries presently on the Positive List under Schedule B No. 548050. The effect of this amendment is to reduce the GLV dollar-value limit for graphite crucibles from $25 to none; and for graphite retorts and stoppers from $100 to none; and to add graphite retorts and stoppers to the list of commodities excepted from the provisions of General In-Transit License GIT.

[5] The above two revised entries are substituted for the first, second, and fourth through the eighth entries presently on the Positive List under Schedule B No. 548098. The effect of this amendment is to reduce the GLV dollar-value limit from $25 to none for carbon or artificial graphite electrodes less than 1 inch in cross-sectional dimension and to add these electrodes to the list of commodities excepted from the provision of General In-Transit License GIT; and to reduce the GLV dollar-value limit from $100 to none for commodities presently covered by the entry "Carbon products, n. e. s."

[6] The above revised entry is substituted for the second entry presently on the Positive List under Schedule B No. 712900. The effect of this amendment is to remove from the Positive List parts for stationary steam engines.

[7] The above revised entry is substituted for the first entry presently on the Positive List under Schedule B No. 723100. The amendment clarifies the description without making substantive change.

[8] The above revised entry is substituted for the two entries presently on the Positive List under Schedule B No. 736990. The effect of this amendment is to extend the controls from R to RO for parts of pumps included in the Positive List under Schedule B No. 735500 through 736910 for which license is required to R country destinations only, as parts may be used interchangeably for pumps for which license is required to R or O country destinations; and to change the GLV dollar-value limit from none to $100 for parts presently under RO control. Parts for centrifugal pumps fabricated of, or lined with, stainless steel are excepted from the provisions of General In-Transit License GIT. See § 371.9 (c) of this subchapter.

This part of the amendment shall become effective as of 12:01 a. m., December 18, 1951, except that the changes of the entries under Schedule B No. 712900 and 723100 shall become effective as of 12:01 a. m., December 13, 1951.

5. The following commodities are deleted from the Positive List:

| Dept. of Commerce Schedule B No. | Commodity |
|---|---|
| 712900 | Steam engines, boilers, and accessories:<br>Valves and bearings for marine steam engines. |

This part of the amendment shall become effective as of December 6, 1951.

6. The processing code as set forth opposite the commodities listed below is amended to read as follows:

| Dept. of Commerce Schedule B No. | Commodity | Processing code |
|---|---|---|
| 669198 | Cupro-nickel resistance wire; Dumet wire; thermocouple wire; phosphor copper pipe and tubes; phosphor copper powder; phosphor copper rods, bars, and wire; cupro-nickel wire; nickel-silver wire; phosphor copper plates, sheets, and flat or coiled strip; and cupro-nickel strip. | NONF |

This part of the amendment shall become effective as of December 6, 1951.

Shipments of any commodities removed from general license to Country Group R or Country Group O destinations, or whose GLV dollar-value limits were reduced, as a result of changes set forth in Parts 1, 2, 3, and 4 of this amendment which were on dock, on lighter, laden aboard an exporting carrier, or in transit to a port of exit pursuant to actual orders for export prior to 12:01 a. m., December 13, 1951, may be exported under the previous general license provisions up to and including January 5, 1952. Any such shipment not laden aboard the exporting carrier on or before January 5, 1952, requires a validated license for export.

Section 399.3 *Appendix C—Commodity Processing Codes* is simultaneously amended to reflect the changes in processing codes set forth in Part 6 above.

(Sec. 3, 63 Stat. 7; 50 U. S. C. App. Sup. 2023. 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.)

LORING K. MACY,
*Director,*
*Office of International Trade.*

[F. R. Doc. 51-15014; Filed, Dec. 19, 1951; 8:45 a. m.]

# TITLE 24—HOUSING AND HOUSING CREDIT

## Chapter VIII—Office of Rent Stabilization, Economic Stabilization Agency

[Controlled Housing Rent Reg., Amdt. 434]

[Controlled Rooms in Rooming Houses and Other Establishments Rent Reg., Amdt. 429]

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

### ILLINOIS, MICHIGAN, NEW JERSEY, AND TEXAS

Amendment 434 to the Controlled Housing Rent Regulation (§§ 825.1 to 825.12) and Amendment 429 to the Rent Regulation for Controlled Rooms in Rooming Houses and Other Establishments (§§ 825.81 to 825.92). Said regulations are amended in the following respects:

1. Schedule A, Item 83, is amended to describe the counties in the Defense-Rental Area as follows:

Cook County, except the cities of Berwyn, Blue Island, Calumet City, Chicago Heights, Des Plaines, Harvey, Park Ridge, and that portion of the city of Elgin located therein, and the villages of Arlington Heights, Bartlett, Brookfield, Burnham, Dolton, Flossmoor, Franklin Park, Glencoe, Glenview, Homewood, Kenilworth, La Grange, La Grange Park, Lansing, Lyons, Markham, Matteson, Mount Prospect, Northfield, Oak Forest, Orland Park, Palatine, Phoenix, Riverdale, River Forest, Riverside, South Holland, Tinley Park, Westchester, Western Springs, Wheeling, Wilmette, Winnetka, and those portions of the villages of Barrington, Hinsdale and Steger located therein; Du Page County, except the cities of West Chicago and Wheaton, and the villages of Bensenville, Glen Ellyn, Itasca, Roselle and Villa Park, and that portion of the village of Hinsdale located therein; Kane County, except that portion of the city of Elgin located therein, the cities of Batavia, Geneva, and St. Charles, and the villages of East Dundee, South Elgin and West Dundee, and Lake County, except the city of Lake Forest, the villages of Deerfield and Grayslake, and that portion of the village of Barrington located therein.

This decontrols the village of Villa Park in Du Page County, Illinois, and the village of Grayslake in Lake County, Illinois, portions of the Chicago, Illinois, Defense-Rental Area.

2. Schedule A, Item 152, is amended to describe the counties in the Defense-Rental Area as follows:

Calhoun County, except the city of Battle Creek and the township of Battle Creek.

In Kalamazoo County, the townships of Charleston, Portage, and Rose, and the cities of Augusta, Galesburg, and Parchment.

This decontrols the township of Comstock in Kalamazoo County, Michigan, a portion of the Kalamazoo-Battle Creek, Michigan, Defense-Rental Area.

3. Schedule A, Item 191, is amended to describe the counties in the Defense-Rental Area as follows:

Warren County, except the borough of Washington, the towns of Belvidere and Hackettstown, and the townships of Blairstown, Franklin, Greenwich, Hope, Independence, Mansfield, Oxford, Pahaquarry, Pohatcong, Hardwick, Frelinghausen and White.

The counties of Hunterdon and Mercer.

This decontrols the town of Hackettstown in Warren County, New Jersey, a portion of the Trenton, New Jersey, Defense-Rental Area.

4. Schedule A, Item 320, is amended to describe the counties in the defense-rental area as follows:

Bell County, except the city of Temple; Coryell County; and in Williamson County, precincts 4 and 5.

This decontrols the city of Temple in Bell County, Texas, a portion of the Florence-Killeen-Temple Defense-Rental Area.

All decontrols affected by these amendments are based on resolutions submitted in accordance with section 204 (j) (3) of the Housing and Rent Act of 1947, as amended.

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

These amendments shall be effective December 20, 1951.

Issued this 17th day of December 1951.

TIGHE E. WOODS,
*Director of Rent Stabilization.*

[F. R. Doc. 51-15038; Filed, Dec. 19, 1951; 8:49 a. m.]

# TITLE 32—NATIONAL DEFENSE

## Chapter VI—Department of the Navy

### Subchapter C—Personnel

### PART 725—DISPOSITION OF CASES INVOLVING PHYSICAL DISABILITY

REVISION OF PART

Effective January 1, 1952, Part 725 is revised to read as follows:

Sec.



AUTHORITY: §§ 725.1 to 725.30 issued under sec. 413, 63 Stat. 824; 37 U. S. C. Sup. 283. Interpret or apply Title IV, 63 Stat. 816; 37 U. S. C. Sup. 271–282, 284, 285.

NOTE: §§ 725.1 to 725.30 are contained in Chapter IX of Naval Supplement to the Manual for Courts-Martial, United States, 1951.

§ 725.1 *Source of authority.* Title IV of the Career Compensation Act of 1949 (37 U. S. C. 271–285) provides that, subject to certain other requirements, when it is determined that a member of the uniformed services is unfit to perform the duties of his office, rank, grade or rating by reason of physical disability, he may be retired or separated from the service. Section 413 of such act provides that the Secretary of the Navy shall prescribe regulations, subject to certain limitations, for the administration of such title. The regulations in this part are prescribed pursuant to such provision of law, and are designed to afford an individual whose physical fitness is being evaluated a full and fair hearing, if he shall demand it, and to provide the Secretary of the Navy, in whom reposes the responsibility for the final determination in each case, a sound basis for such determination. To accomplish these ends, various agencies shall function as prescribed in this part.

MEDICAL BOARDS

§ 725.2 *Function.* Medical Boards are constituted to evaluate and report upon the present state of health of members of the Navy or Marine Corps, including the Reserve components thereof.

§ 725.3 *Jurisdiction.* A Medical Board shall have jurisdiction to act in the case of any member referred to it by competent authority.

§ 725.4 *Composition.* Medical Boards, whenever practicable, shall consist of three medical officers of the Navy or Naval Reserve serving on active duty. When three medical officers of the naval service are not available, the Board may consist, in whole or in part, of medical officers of the Army, Navy, Air Force, or of the Public Health Service. In exceptional cases, Medical Boards may consist of a lesser number of medical officers. When the Board is reporting upon conditions which normally fall within the professional jurisdiction of the dental department, the membership of the board shall include a dental officer when one is available.

§ 725.5 *Convening authorities.* Medical Boards may be appointed by a commander in chief, commander of a subdivision of a fleet, senior officer present afloat, commandant of a naval district or of a river command, commanding officer of a naval station or other shore command, or by the senior officer present and by officers of the Marine Corps commanding comparable Marine Corps units or activities.

§ 725.6 *Appointment of boards.* Orders appointing Medical Boards shall designate the place of meeting and list the membership of the board. More than three members may be listed in the orders, in which case such orders shall contain the provision that "Any three members are empowered to act in any one case." In the event a Medical Board is appointed consisting of less than three members, the orders appointing such board shall set forth the exceptional circumstances necessitating such action.

§ 725.7 *Orders for appearance.* Orders directing a member to appear before (or referring the case of a member whose personal appearance might adversely affect his health to) a Medical Board shall be issued in such manner as competent authority may direct.

§ 725.8 *General instructions*—(a) *Procedure.* A Medical Board shall meet to consider the case of any member who is directed to appear or whose case has been referred to it for consideration. The member shall appear in person provided he is physically and mentally able to appear and provided it is considered by competent medical authority that such appearance will not adversely affect his health. The board shall require and examine such records in the case as are necessary to formulate a considered conclusion regarding the member's present state of health. It shall conduct such examination of the member as is considered necessary.

(b) *Report*—(1) *General.* When a medical board is of the opinion that a member is or may be sufficiently unfit to perform the duties of his office, rank, grade or rating so as to warrant presenting the case to a Physical Evaluation Board for possible retirement or separation, the Board shall prepare a clinical report. The clinical report shall be prepared in letter form. The subject of the report shall include the member's full name, rank, grade or rate, file or service number, and date of birth. The body of the letter shall present a summary in longitudinal form of pertinent data concerning each complaint, symptom, disease, injury, or disability presented by the member which causes or is alleged to cause impairment of health. Where no impairment exists the report shall so indicate. In presenting its summary, the board shall set forth accurate and fully descriptive data. Wherever possible, impairment of function should be indicated in terms of objective tests or findings rather than as opinion, conjecture, or speculation. The report must contain data to permit a reviewer to conclude whether the member suffers impairment of health in any respect. The discussion of any such impairment should be presented in such manner as to show the limitation of activity imposed by disabling conditions, or by disease of or injury to any organ or system or part; and the significance of subjective symptoms alleged to cause impairment. Such evidence is intended for use in rating disabilities in the event the member is later held to be unfit to perform the duties of his grade, rank or rate. The disability rating, which will be based in part on the data presented, is governed by the ability of the body as a whole, or of the psyche, or of a system or organ of the body, according to the general or localized effects of disease or injury, to function under the circumstances of ordinary activity in daily life, including employment. While the report must set forth expert clinical appraisal of functional status, it shall not contain opinions as to existence or permanency of unfitness to perform the duties of the member's grade, rank, or rate nor as to conduct or line of duty status of any impairment which the member reported upon may present. All evidence bearing upon the permanent or temporary character of impairment of any organ, system, or part shall be completely set forth.

(2) *Opinion.* The clinical report shall contain an opinon as to whether personal appearance of the member before a Physical Evaluation Board would or would not be deleterious to the members physical or mental health, and whether disclosure to the member of information relative to the member's physical or mental condition would or would not adversely affect the member's physical or mental health.

(c) *Authentication and forwarding of report.* The clinical report shall be signed by all of the acting members of the Medical Board and shall be transmitted to the convening authority. A

photostatic or typed copy of the complete record shall be appended to and forwarded with the report.

§ 725.9 *Review of and action on reports*—(a) *Convening authority concurs that member's case should be presented to a Physical Evaluation Board*—(1) *Forwarding of report.* The convening authority, if he concurs that the member's case should be presented to a Physical Evaluation Board, shall forward the clinical report to a Physical Evaluation Board, and shall forward a copy of the report to the Bureau of Medicine and Surgery.

(2) *Issuance of orders.* The convening authority of the Medical Board, as soon as practicable, shall issue orders directing or authorizing the member to appear before an appropriate Physical Evaluation Board, excepting that, when such orders involve entitlement to receive travel and transportation allowance, they shall be issued in accordance with current instructions relating thereto.

(3) *Action of member upon receipt of orders.* Upon receipt of orders directing or authorizing appearance before a Physical Evaluation Board, the member concerned shall immediately advise, in writing, the recorder of such board whether he waives or does not waive his right to appear in person before such board and whether or not he desires that counsel be detailed to assist or represent him in presenting his case before the Physical Evaluation Board.

(4) *Cases involving discipline.* When court-martial proceedings or investigative proceedings which might lead to court-martial are pending, indicated or have been completed, and in cases of uncompleted sentences of courts-martial involving confinement or discharge, the clinical report, together with all pertinent facts relative to the disciplinary aspect of the case, shall be forwarded by the convening authority to the Bureau of Naval Personnel or Headquarters, Marine Corps, as appropriate, via the Bureau of Medicine and Surgery, for such administrative action as is deemed warranted and no orders directing or authorizing the appearance of the member before a Physical Evaluation Board shall be issued by the convening authority.

(b) *Convening authority does not concur that member's case should be presented to a Physical Evaluation Board.* When a medical board submits a clinical report but the convening authority of the medical board is of the opinion that the member's case should not be presented to a Physical Evaluation Board, the convening authority shall forward the report, together with a full statement setting forth his reasons for nonconcurrence, to the Physical Review Council for determination as to the disposition to be effected.

PHYSICAL EVALUATION BOARDS

§ 725.10 *Function.* Physical Evaluation Boards are constituted to evaluate the physical fitness of certain members of the Navy and Marine Corps, including the Reserve components thereof, to perform the duties of their office, rank, grade or rating, and to make recommended findings appropriate to such evaluations; and to determine certain issues under laws in effect prior to October 1, 1949 relative to the physical incapacity of certain officers and former officers.

§ 725.11 *Jurisdiction.* Physical Evaluation Boards shall have authority to act in the following categories of cases: (a) In cases of members of the Navy and Marine Corps, including the Reserve components thereof, who have served on duty subsequent to September 30, 1949 and whose cases have been referred to a Physical Evaluation Board by competent authority and (b) in cases of officers and former officers of the Navy and Marine Corps, including the Reserve components thereof, who are eligible to have their cases adjudicated under the laws in effect prior to October 1, 1949 and whose cases have been referred to a Physical Evaluation Board by competent authority.

§ 725.12 *Composition* — (a) *Boards convened to act in cases of the category of § 725.11 (a).* A Physical Evaluation Board, convened to consider cases of members of the Navy and Marine Corps, including the Reserve components thereof, who have served on duty subsequent to September 30, 1949, shall consist of three commissioned officers as members, two of whom shall be non-medical members and one of whom shall be a medical member, and a recorder. Two members shall, whenever practicable, be senior in rank to the individual whose physical fitness is to be evaluated. In the absence of objection by the individual whose physical fitness is being evaluated, the seniority of the members of the board shall be considered as waived.

(b) *Boards convened to act in cases of the category of § 725.11 (b).* A Physical Evaluation Board, convened to consider cases of officers and former officers of the Navy and Marine Corps, including the Reserve components thereof, who are eligible to have their cases adjudicated under the laws in effect prior to October 1, 1949, shall consist of five commissioned officers as members, three of whom shall be non-medical members and two of whom shall be medical members, and a recorder. The three non-medical members shall, whenever practicable, be senior in rank to the individual whose case is being considered. In the absence of objection by the individual whose case is being considered, the seniority of the members of the board shall be considered as waived.

(c) *Limitation on medical members.* No medical officer shall act as a medical member of a Physical Evaluation Board who has had direct charge of the case immediately preceding appearance before such board or who was a member of the Medical Board which reported on the individual whose physical fitness is to be evaluated.

(d) *Limitation on non-medical members.* When the case of a member of the Navy is to be considered, the non-medical members, shall, if practicable, be officers of the Navy; when the case of a member of the Marine Corps is to be considered, the non-medical members shall, if practicable, be officers of the Marine Corps, except that if a law member is assigned, he may be an officer of the Navy.

(e) *Recorder and counsel.* The recorder of a Physical Evaluation Board shall be an officer. At the request of an individual whose case is to be considered, the convening authority of a Physical Evaluation Board shall detail an officer as counsel for such individual; in lieu thereof, the individual whose case is to be considered may obtain, at his own expense, the services of civilian counsel.

§ 725.13 *Convening authorities.* The Secretary of the Navy and such officers as he may designate may convene Physical Evaluation Boards. The following officers are hereby designated as empowered to convene such boards:

Chief of Naval Personnel.
Commandant of the Marine Corps.
Commandants of the First, Third, Fourth, Fifth, Sixth, Ninth, Eleventh and Twelfth Naval Districts.
Commandant, Potomac River Naval Command.
Commandant, Marine Corps Schools, Quantico, Virginia.
Commanding Generals of Marine Barracks, Camp Lejeune, North Carolina; and Camp Pendleton, Oceanside, California.
Commanding General, Marine Corps Recruit Depot, Parris Island, South Carolina.
Commanding General, Department of the Pacific.
Such other officers as the Secretary of the Navy may from time to time designate.

§ 725.14 *Appointment of boards.* Orders appointing Physical Evaluation Boards shall designate the time and place of meeting and shall list by name the membership and recorder of the board, provided that the medical members of the board shall be selected from medical officers made available for such duty by the Surgeon General and shall be assigned as permanent or alternate members as specified by the Surgeon General. More than the required number of members may be listed in the orders, in which case such orders shall contain provisions insuring that the requirements of § 725.12 will be complied with in any one case. Changes in the membership of boards may be made only by the authority of the convening authority. In cases where a board is appointed by an officer other than the Secretary of the Navy, the appointing orders must show that the authority to appoint has been duly granted. The original orders appointing Physical Evaluation Boards and the originals of all amendatory orders shall be retained by the boards until canceled, and certified copies only of such orders will be attached to the record of proceedings of the board in each case. Upon cancellation, the originals of such orders shall be forwarded to the Judge Advocate General, via the convening authority.

§ 725.15 *Orders for appearance.* Orders directing or authorizing a member who is within the category of § 725.11(a) to report to a Physical Evaluation Board shall be issued in accordance with § 725.9 (a) (2). Orders directing or authorizing an officer or former officer who is within the category of § 725.11 (b) to report to a Physical Evaluation Board

shall be issued by direction of the Chief of Naval Personnel or the Commandant of the Marine Corps as appropriate. Concurrently with the issuance of such orders, the issuing authority shall forward a letter to the appropriate Physical Evaluation Board, setting forth the law under which the officer or former officer is eligible to have his case considered, the issues which must be determined by the board and the phraseology to be employed in making findings concerning such issues.

§ 725.16 *General instructions*—(a) *Procedure*—(1) *General.* (i) The proceedings of Physical Evaluation Boards shall be conducted in accordance with instructions set out in this part and in accordance with Chapter III, Naval Supplement to the Manual for Courts-Martial, United States, 1951, insofar as applicable.

(ii) The members of Physical Evaluation Boards convened to act in the category of § 725.11(b) shall be sworn in each case. The form of such oath shall be as follows:

> You, and each of you, do solemnly swear (or affirm) that you will honestly and impartially examine and report upon the case of ----------, about to be examined by the board.

Such oath shall be administered to the members of the Board by the recorder.

(iii) Physical Evaluation Boards shall have the authority to administer oaths to witnesses and to take testimony. The form of such oaths shall be as follows:

> You, ----------, do solemnly swear (or affirm) that you will make true answers to such questions as may be put to you in the case of ----------, now under examination by the board.

(2) *Challenges.* Physical Evaluation Boards shall be duly convened and the members thereof shall be subject to challenge for cause by an individual whose case is being considered if he be present or represented by counsel. In challenging a member, the individual must state the cause therefor. The challenged member may be examined on his vior dire by the individual concerning the stated cause, if the individual so requests. In such cases, the procedure set out in paragraph 62*h*, Manual for Courts-Martial, United States, 1951, shall be followed.

(3) *Full and fair hearing.* An individual whose case is to be considered shall be afforded a full and fair hearing if he so demands it, which includes the right to be present in person, to be represented by counsel, to present evidence in his own behalf, to cross-examine witnesses, and to file a rebuttal to the recommended findings or findings of the board. An individual whose case is being considered may testify in his own behalf or may be called as a witness by the board. Not less than three days prior to the date set for the hearing, all records and papers pertaining to the case shall be made available to the individual, except those cases covered in subparagraph (6) of this paragraph, and his counsel, who shall have the right to inspect such records and papers and to make such notes therefrom as may be necessary in the preparation of his case.

(4) *Waiver of appearance.* In the event that personal appearance before a Physical Evaluation Board has been waived in writing pursuant to § 725.9 (a) (3) by the individual whose case is being considered and he is not represented by counsel, the board, when it arrives at its recommended findings or findings, shall immediately, and prior to recording said findings in final form, advise the individual concerned thereof in order that he may take such action, within the period allowed in paragraph (d) of this section, as he deems appropriate.

(5) *Failure to appear.* In the event an individual who has been directed or authorized to appear before a Physical Evaluation Board fails to so appear and is not represented by counsel, he shall be deemed to have waived his right to be present, and the board may proceed to consider his case in his absence. The board, however, when it has recorded its recommended findings or findings in such case, shall advise the individual concerned of such findings and he may, within the period allowed in paragraph (d) of this section, file a rebuttal thereto.

(6) *Appearance precluded by physical or mental condition.* When a Medical Board has expressed an opinion that the personal apeparance of an individual before a Physical Evaluation Board would be deleterious to his physical or mental health, or that disclosure to an individual of information relative to his physical or mental condition would adversely affect his physical or mental health, such individual shall be represented by counsel before the Physical Evaluation Board.

(b) *Evidence.* A Physical Evaluation Board shall consider all documentary evidence transmitted to it by proper authority and such other evidence as may be adduced at the hearing. All oral evidence shall be taken under oath. The board may, in addition, require and examine such records as may be in the files of the Navy Department that relate to the issues before the board. All evidence having probative value as to the determination of issues before the board may be considered by the board.

(c) *Findings*—(1) *Boards convened to act in cases of the category of § 725.11 (a)*—(i) *Evaluation of fitness of regular members and reserve members on extended active duty.* After deliberating on the evidence before it, a Physical Evaluation Board, in the case of a member of the Regular Navy or Marine Corps entitled to receive basic pay or a member of a Reserve component thereof entitled to receive basic pay who has been called or ordered to extended active duty for a period in excess of thirty days, shall make a recommended finding whether the member is fit or unfit to perform the duties of his office, rank, grade, or rating and, if unfit, whether such unfitness is by reason of physical disability or by reason of a condition not a physical disability. In this connection, physical disability shall mean any impairment of physical or mental function which is the result of a disease or injury.

(ii) *Additional recommended findings in the case of a member found unfit by reason of physical disability who has less than 8 years of active service.* If the recommended finding of the board is that a member described in subdivision (i) of this subparagraph be found unfit to perform the duties of his office, rank, grade or rating by reason of physical disability, and if the member has completed less than eight years of active service, the board shall make recommended findings with respect to the following factors: (*a*) Each and every condition constituting an impairment of physical or mental function expressed in the terminology set forth in Joint Armed Forces Statistical Classification and Basic Diagnostic Nomenclature, (*b*) whether each such condition that is a disability was or was not incurred while such member was entitled to receive basic pay: *Provided,* That any disability shown to have been aggravated by service while entitled to receive basic pay shall be considered to have been incurred, to the extent of such aggravation, while such member was entitled to receive basic pay, (*c*) whether each such condition that is a disability is or is not due to the intentional misconduct or wilful neglect of the member and whether each such condition that is a disability was or was not incurred during a period of unauthorized absence of such member, (*d*) whether each such condition that is a disability is or is not considered to be the proximate result of the performance of active duty: *Provided,* That any such disability shown to have been incurred in line of duty during a period of active service in time of war or national emergency shall be considered to be the proximate result of performance of active duty: *And provided further,* That any disability shown to have been aggravated as the proximate result of the performance of active duty shall be considered, to the extent of such aggravation, to be the proximate result of the performance of active duty, (*e*) whether the disability or combination of disabilities presented by the member is or is not considered to be thirty per centum or more in accordance with the standard schedule for rating disabilities in current use by the Vaterans' Administration, specifying the code number and the percentage rating assigned to each disability: *Provided,* That, as to such disabilities incurred while entitled to receive basic pay by reason of aggravation by service, the computation of the percentage of such aggravation made in accordance with the standard schedule for rating disabilities in current use by the Veterans' Administration shall be set forth: *And provided further,* That any disability which was not incurred while the member was entitled to receive basic pay, is due to the intentional misconduct or wilful neglect, was incurred during a period of unauthorized absence of the member or is not the proximate result of the performance of active duty shall be excluded from the computation of the per centum of the combined disabilities: *And provided further,* That any impairment of physical or mental function which is not the result of disease or injury shall be excluded from the computation of the per centum of the combined disabilities, and (*f*) whether or not accepted medical principles indicate that each such condition that is a disability may be of a permanent nature or

whether each such condition that is a disability is of a permanent nature.

(iii) *Additional recommended findings in the case of a member found unfit by reason of physical disability who has at least 8 years of active service.* If the recommended finding of the board is that a member described in subdivision (i) of this subparagraph be found unfit to perform the duties of his office, rank, grade or rating by reason of physical disability, and if the member has completed at least eight years of active service, the board shall make recommended findings with respect to each of the factors set forth in subdivision (ii) of this subparagraph except that no recommended finding shall be made with respect to whether each disability is or is not considered to be the proximate result of the performance of active duty: *And provided,* That no disability shall be excluded from the computation of the per centum of the combined disabilities by reason of its not being the proximate result of the performance of active duty.

(iv) *Evaluation of fitness of members not within subdivision (i) of this subparagraph.* After deliberating on the evidence before it, the Physical Evaluation Board, in the case of a member other than those members described in subdivision (i) of this subparagraph, shall make a recommended finding whether the member is fit or unfit to perform the duties of his office, rank, grade or rating by reason of physical disability resulting from an injury. If the recommended finding of the board is that the member be found unfit to perform the duties of his office, rank, grade or rating by reason of physical disability resulting from an injury, the board shall make additional recommended findings with respect to the following factors: (*a*) Each and every condition resulting from an injury and constituting an impairment of physical or mental function, expressed in the terminology set forth in Joint Armed Forces Statistical Classification and Basic Diagnostic Nomenclature, (*b*) whether each such injury was or was not the result of intentional misconduct or wilful neglect of such member, (*c*) whether each such injury was or was not the proximate result of the performance of active duty, full time training duty, other full time duty, or inactive duty training, as the case may be, (*d*) whether such disability or combination of such disabilities is or is not considered to be thirty per centum or more in accordance with the standard schedule for rating disabilities in current use by the Veterans' Administration, specifying the code number and the percentage rating assigned each disability: *Provided,* That any such disability which is the result of an injury which is due to intentional misconduct or wilful neglect of a member or was not the proximate result of the performance of active duty, full time training duty, other full time duty or inactive duty training, as the case may be, shall be excluded from the computation of the per centum of the combined disabilities, and (*e*) whether or not accepted medical principles indicate that each such disability may be of a permanent nature or whether each such disability is of a permanent nature.

(2) *Boards convened to act in cases of the category of § 725.11 (b).* After deliberating on the evidence before it, a Physical Evaluation Board, in the case of an officer or former officer of the Navy or Marine Corps, or a Reserve component thereof, who is eligible to have his case adjudicated under the laws in effect prior to October 1, 1949, shall make findings on the issues and in the form prescribed by the Chief of Naval Personnel or Commandant of the Marine Corps, as appropriate, pursuant to § 725.15.

(d) *Rebuttal.* A Physical Evaluation Board shall, when it arrives at its recommended findings or findings, advise the individual concerned or his counsel, if appropriate, of such findings, that such findings do not indicate what the final determination of the Secretary of the Navy will be, and that such findings are communicated to him only for the purpose of filing a rebuttal if he so desires. The individual concerned shall be afforded five days, excluding Sundays and holidays, after receipt by him, or his counsel, of a copy of the record of proceedings and recommended findings or findings within which to file a rebuttal thereto. In exceptional cases, and upon request, the time of filing a rebuttal may be extended in the discretion of the board.

(e) *Preparation, authentication and forwarding of record.* The record of proceedings of a Physical Evaluation Board shall be prepared in accordance with Chapter III, Naval Supplement to the Manual for Courts-Martial, United States, 1951, insofar as applicable. Such record shall be signed by the senior member and the recorder and shall be transmitted, together with all documents which have been before the board, including a rebuttal, if one be filed, to the Physical Review Council. A copy of the record of proceedings and recommended findings or findings shall be furnished the individual whose case has been considered, or in appropriate cases, his counsel. The recipient of such copy of the record of proceedings shall give a dated receipt therefor.

§ 725.17 *Revision proceedings.* In the event a Physical Evaluation Board is directed, in accordance with § 725.22 (a), to conduct proceedings in revision, such proceedings shall be conducted and the record prepared in the same manner as if the board were meeting in the first instance. The record of proceedings in revision shall be prefixed to the original record.

PHYSICAL REVIEW COUNCIL

§ 725.18 *Function.* The Physical Review Council is constituted to review records of proceedings of Physical Evaluation Boards in the light of established medical and legal principles and personnel policies, and to express its view thereon for the information of the Secretary of the Navy, to act upon reports of Medical Boards referred to it, and to perform such other duties as the Secretary of the Navy may from time to time direct.

§ 725.19 *Jurisdiction.* The Physical Review Council shall have jurisdiction to act in any particular relating to or implementing its function described in § 725.18.

§ 725.20 *Composition.* The Physical Review Council and additional panels of such Council, if appointed, shall consist of the Chief of Naval Personnel or his designated representative acting for him, or, when acting in cases involving personnel of the Marine Corps, the Commandant of the Marine Corps or his designated representative acting for him, the Chief of the Bureau of Medicine and Surgery or his designated representative acting for him, and the Judge Advocate General, or his designated representative acting for him, as members, and a recorder.

§ 725.21 *Convening authority.* The Secretary of the Navy shall convene the Physical Review Council and additional panels thereof, if required.

§ 725.22 *General instructions*—(a) *Review of records of Physical Evaluation Boards convened to act in cases of the category of § 725.11 (a)*—(1) *Procedure.* After consideration of all the evidence concerning a case before it, and in the light of established medical and legal principles and personnel policies, the members of the Physical Review Council shall advise the Secretary of the Navy that they concur in the recommended findings of a Physical Evaluation Board or that they do not concur, in whole or in part, in such finding. In the latter case they shall, in lieu of the recommended finding or findings in which they do not concur, present substitute or additional recommended findings to the Secretary of the Navy. The Physical Review Council, on its own initiative, may return a case to a Medical Board for further study, to the Physical Evaluation Board for reconsideration of its recommended findings or to a different Physical Evaluation Board for recommended findings. In the event that any member of the Council does not concur in the recommended findings of a Physical Evaluation Board and if the substitute or additional findings which he proposes to submit to the Secretary of the Navy would, upon approval, affect the ultimate disposition of the member concerned or would decrease the amounts payable to him, such member shall be notified of such substitute or additional findings, together with a brief statement of the reasons therefor, and shall be afforded an opportunity to file a rebuttal thereto, if he so desires. Such rebuttal shall be filed with the Council within five days, exclusive of Sundays and holidays, after receipt by such member of such notification. In exceptional cases, and upon request, the time of filing of a rebuttal may be extended in the discretion of the Council.

(2) *Authentication and forwarding of records.* The record of proceedings of the Physical Review Council shall be prepared in such form as it may desire and shall be signed by all the members and the recorder. When all the members of the Council concur in the recommended findings of a Physical Evaluation Board, the entire record shall be transmitted to the Secretary of the Navy

for his action on the case. If any member of the Council does not concur in the recommended findings, in whole or in part, of a Physical Evaluation Board and the evaluee concerned either concurs in the substitute or additional findings proposed by such member of the Council or fails to file a rebuttal thereto within the time allowed, the entire record shall be transmitted to the Secretary of the Navy. If, in the event of such Council member's nonconcurrence, the evaluee has filed a rebuttal to the proposed substitute or additional findings, the entire record shall be transmitted to the Physical Disability Appeal Board.

(b) *Review of records of Physical Evaluation Boards convened to act in cases of the category of § 725.11 (b)—(1) Procedure.* After a consideration of the record of proceedings of a Physical Evaluation Board convened to act in cases of the category of § 725.11 (b), the members of the Physical Review Council shall recommend to the Secretary of the Navy that the findings of such board be approved or disapproved, or that orders be issued in the case. In the event other than approval is recommended, the reasons therefor shall be stated.

(2) *Authentication and forwarding of records.* The record of proceedings of the Physical Review Council shall be prepared in such form as it may desire and shall be signed by all the members and the recorder. It shall be transmitted to the Judge Advocate General.

(c) *Action on cases received from the Physical Disability Appeal Board pursuant to § 725.27.* Upon the receipt of an entire record from the Physical Disability Appeal Board, forwarded pursuant to § 725.27, the members of the Physical Review Council shall consider such record and advise the Secretary of the Navy that they concur in the recommended findings of the Physical Disability Appeal Board or that they do not concur, in whole or in part, in such findings and adhere to their original action. In the event any member of the Council does not concur in such findings, he shall record the reasons for his non-concurrence. The entire record shall then be transmitted to the Secretary of the Navy for his action on the case. In the event any member of the Physical Review Council, on the basis of additional evidence received subsequent to his prior action, neither concurs in the recommended findings of the Physical Disability Appeal Board nor adheres to his original action, he shall make new findings and the entire record, together with such additional evidence, shall be returned to the Physical Evaluation Board for further consideration, except in a case where the proposed new findings neither affect the ultimate disposition of the member concerned nor decrease the amounts payable to him, in which case the entire record shall be transmitted to the Secretary of the Navy for his action on the case.

(d) *Action on Medical Board reports of periodic physical examinations of members on the temporary disability retired list.* Upon the receipt of a Medical Board report of a periodic physical examination of a member on the temporary disability retired list, forwarded pursuant to § 725.29, the Physical Review Council shall evaluate such report. If less than five years have elapsed since the date of the placement of the member on the temporary disability retired list and if the Physical Review Council consider that no change in the status of the member is indicated, no action shall be taken on such report. If the Physical Review Council consider that a change in status is indicated in such report, or upon the termination of a period of five years from the date of the placement of the member on the temporary disability retired list, except when a member is considered physically fit to perform the duties of his office, rank, grade or rating, the Physical Review Council shall refer the case to a Physical Evaluation Board, which board shall follow all the procedures and shall make the recommended findings as prescribed in this part. In the event the Physical Review Council determines from the report that the member is physically fit to perform the duties of his office, rank, grade or rating, the case shall be referred to the Secretary of the Navy for his action thereon.

PHYSICAL DISABILITY APPEAL BOARD

§ 725.23 *Function.* The Physical Disability Appeal Board is constituted to review certain records of proceedings of Physical Evaluation Boards in the light of the action taken by the Physical Review Council and the contentions of the individual concerned and to express its view thereon for the information of the Secretary of the Navy, and to perform such other duties as the Secretary of the Navy may from time to time direct.

§ 725.24 *Jurisdiction.* The Physical Disability Appeal Board shall have jurisdiction to act in any case referred to it pursuant to these regulations.

§ 725.25 *Composition.* The Physical Disability Appeal Board shall consist of five commissioned officers, three nonmedical members and two medical members, designated by the Secretary of the Navy, and a recorder.

§ 725.26 *Convening authority.* The Secretary of the Navy shall convene the Physical Disability Appeal Board.

§ 725.27 *General instructions.* After consideration of all the evidence concerning a case before it, the Physical Disability Appeal Board shall record its concurrence or non-concurrence, in whole or in part, with the action of the Physical Review Council. If it concurs in such action, the entire record, together with the notice of such concurrence, shall be transmitted to the Secretary of the Navy for his action on the case. If the Physical Disability Appeal Board does not concur in the action of the Physical Review Council, in whole or in part, it shall prepare its own recommended findings and insofar as such findings differ from the action of the Physical Review Council, shall state the reasons therefor. In the event the recommended findings of the Physical Disability Appeal Board would, upon approval, affect the ultimate disposition of the member concerned or would decrease the amounts payable to him, such member shall be advised of such recommended findings and shall be afforded an opportunity to file a rebuttal thereto, if he so desires. Such rebuttal shall be filed with the Appeal Board within five days, exclusive of Sundays and holidays, after the receipt by such member of such notification. In exceptional cases and upon request, the time of filing a rebuttal may be extended in the discretion of the Appeal Board. The entire record shall then be transmitted to the Physical Review Council. The record of proceedings of a Physical Disability Appeal Board shall be prepared in such form as it may desire and shall be signed by all the members and the recorder.

PERIODIC PHYSICAL EXAMINATIONS

§ 725.28 *Requirements.* An individual whose name has been placed on the temporary disability retired list shall be given periodic physical examinations, not less frequently than every eighteen months during the period that his name is carried on such list, to determine whether the disability for which he was placed on such list has changed.

§ 725.29 *Procedure.* Orders shall be issued by the Chief of Naval Personnel or the Commandant of the Marine Corps, as appropriate, directing a member to report to an appropriate command for such periodic physical examination. An individual whose name is on the temporary disability retired list and who considers that there has been a change in his disability which would warrant consideration prior to his next scheduled periodic physical examination may request the Chief of Naval Personnel or the Commandant of the Marine Corps, as appropriate, to issue orders for such earlier consideration. In reporting upon such examination, examiners shall bear in mind the fact that the examination is for the purpose of furnishing information upon which a determination can be made as to whether the disability for which the member was placed on the temporary disability retired list has changed. Subject to the foregoing, examiners shall report upon such examinations in accordance with the provisions of § 725.8 (a) and § 725.8 (b) (1), with particular attention to the latter. When considered necessary, the examiners may request that the Bureau of Medicine and Surgery furnish the complete medical record of the member under examination. The report of the examiners shall be headed "Report of Periodic Physical Examination" and be submitted to the Physical Review Council, via routine channels.

FINAL ACTION

§ 725.30 *Action by the Secretary of the Navy—(a) Cases involving members within the category of § 725.11 (a).* The Secretary of the Navy, after considering the entire record of a case involving a member within the category of § 725.11 (a), will determine whether or not the requirements of Title IV of the Career Compensation Act of 1949, as amended, as applicable to such case, have been met, and will direct the disposition of the member whose case has been considered. Except as may be otherwise directed, the Judge Advocate

General is authorized and directed to take the final action herein prescribed for the Secretary of the Navy.

(b) *Cases involving members within the category of § 725.11 (b).* The Secretary of the Navy, after considering the record of proceedings and findings of a Physical Evaluation Board convened in the case of a member within the category of § 725.11 (b), will approve or disapprove, or issue orders in such case.

DAN A. KIMBALL,
*Secretary of the Navy.*

NOVEMBER 7, 1951.

[F. R. Doc. 51-15036; Filed, Dec. 19, 1951; 8:45 a. m.]

# TITLE 32A—NATIONAL DEFENSE, APPENDIX

## Chapter III—Office of Price Stabilization, Economic Stabilization Agency

[Ceiling Price Regulation 30, Amdt. 3 to Supplementary Regulation 2, Revision 1]

### CPR 30—MACHINERY AND RELATED MANUFACTURED GOODS

#### SR 2—MACHINE TOOLS

#### ELECTION TO USE SUPPLEMENTARY REGULATION 4

Pursuant to the Defense Production Act of 1950, as amended, Executive Order 10161 (15 F. R. 6105), and Economic Stabilization Agency General Order No. 2 (16 F. R. 738), this Amendment 3 to Ceiling Price Regulation 30 Supplementary Regulation 2, Revision 1 is hereby issued.

#### STATEMENT OF CONSIDERATIONS

This amendment permits manufacturers of machine tools, machine tool attachments and certain machine tool parts to elect to use SR 4 to CPR 30, instead of the provisions of this revised supplementary regulation. SR 4 to CPR 30 establishes procedures for adjustment under section 402 (d) (4) of the Defense Production Act of 1950, as amended. Manufacturers making the election, however, are prohibited from using the provisions of SR 2, Rev. 1.

In view of the nature of this amendment, formal consultations with representatives of industry have been found by the Director of Price Stabilization to be impracticable and unnecessary.

#### AMENDATORY PROVISIONS

Supplementary Regulation 2, Revision 1 to Ceiling Price Regulation 30 is amended in the following respects:

1. Paragraph (b) of section 1 is amended to read as follows:

(b) You may elect to use SR 4 to CPR 30, instead of this revised supplementary regulation to CPR 30, but in the event you do so elect, you may not use the provisions of this revised supplementary regulation.

2. Paragraph (c) is added to section 1 to read as follows:

(c) This section is intended only as a general description to aid in understanding this revised supplementary regulation; if you use this revised supplementary regulation, the following sections are controlling.

(Sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154)

*Effective date.* This amendment shall become effective on December 24, 1951.

MICHAEL V. DISALLE,
*Director of Price Stabilization.*

DECEMBER 19, 1951.

[F. R. Doc. 51-15125; Filed, Dec. 19, 1951; 12:10 p. m.]

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[Ceiling Price Regulation 75, Amdt. 1]

### CPR 75—CEILING PRICES FOR CERTAIN PROCESSED SOUPS

#### CHANGE IN SALES INCLUDED IN BASE PRICE

Pursuant to the Defense Production Act of 1950, as amended, Executive Order 10161 (15 F. R. 6105), and Economic Stabilization Agency General Order No. 2 (16 F. R. 738), this Amendment 1 to Ceiling Price Regulation 75 is issued.

#### STATEMENT OF CONSIDERATIONS

This amendment changes the kind of sales and sales contracts to be included in figuring the weighted average base period sales price by providing that a processor shall include all sales of the 1949 pack made in the regular course of business but may, if he desires, also include sales of a prior year's pack made during the base period. The regulation as originally issued required a processor to include all sales made in the regular course of business during the base period regardless of the year of pack.

It has recently been brought to the attention of the Director of Price Stabilization that some soup processors at the beginning of the 1949 pack of certain seasonal soups sold their prior year's pack at substantially reduced prices in order to move the goods to make way for the current year's pack. The prices at which the soup was sold were substantially below the price at which the 1949 pack of the same soup was sold. The original requirement for inclusion in the weighted average base price of all sales made during the base period, regardless of the year of pack, works a particular hardship on those processors who sold their prior year's pack at a price considerably lower than the 1949 pack price. This situation has not been typical of all processors in the soup industry but has worked a substantial hardship on those processors who did have the practice of selling a prior year's pack at a reduced figure. Moreover, CPR 75 aims at establishing cost-price relationship in the normal year as the basis for calculating ceiling prices. The inclusion of sales of items packed under different cost conditions than those which existed in the base period year dilutes the representative character of the base period prices.

The action taken by this amendment will bring the soup regulation into conformity with the canned fruit and vegetable regulations which permit processors to exclude sales of packs processed prior to the base period year in figuring base period prices. As in the case of canned soups, sales of prior year packs of canned fruits and vegetables are frequently made at prices considerably lower than current pack prices at the beginning of the new packs in order to move inventories.

The changes made in CPR 75 by this amendment are the result of informal suggestions of the industry affected. While formal consultation with representatives of the industry was not practicable, it is the judgment of the Director of Price Stabilization that the changes made reflect the views of the industry, that the provisions of this amendment are generally fair and equitable, and that they conform to the objectives of the Defense Production Act of 1950, as amended.

#### AMENDATORY PROVISION

Section 2 (a) (1) of Ceiling Price Regulation 75 is amended to read as follows:

(1) *What sales and sales contracts you include in your "weighted average sales price."* All sales and confirmed sales contracts at firm prices of the 1949 pack of the item you made in the regular course of business during the base period shall be included, regardless of the date of delivery. If you desire, you may include in your computations of your weighted average sales prices, sales and confirmed sales contracts at firm prices made during the base period of items of a prior year's pack. Sales contracts made at times other than during the base period shall not be included, even though delivery was made during the base period. However, the following sales and sales contracts shall be excluded, even though made during the base period: Sales at retail (including sales to growers and employees) and sales at wholesale, sales to government agencies, institutional and commercial users, state agencies and political subdivisions thereof; and sales of damaged goods or of goods packed for experimental purposes.

(Sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Supp. 2154)

*Effective date.* This amendment is effective December 24, 1951.

MICHAEL V. DISALLE,
*Director of Price Stabilization.*

DECEMBER 19, 1951.

[F. R. Doc. 51-15131; Filed, Dec. 19, 1951; 4:00 p. m.]

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[General Ceiling Price Regulation, Supplementary Regulation 83]

### GCPR, SR 83—CEILING PRICES FOR WOODEN MINE MATERIALS PRODUCED IN VIRGINIA AND WEST VIRGINIA WHEN SOLD FOR DELIVERY OR USE WITHIN VIRGINIA AND WEST VIRGINIA

Pursuant to the Defense Production Act of 1950, as amended, Pub. Law 774, 81st Cong., Pub. Law 96, 82nd Cong., Executive Order 10161 (15 F. R. 6105), and Economic Stabilization Agency General Order No. 2 (16 F. R. 738), this Supplementary Regulation No. 83 to the

General Ceiling Price Regulation is hereby issued.

STATEMENT OF CONSIDERATIONS

This supplementary regulation establishes new ceiling prices for sellers of wooden mine materials produced and used in the States of Virginia and West Virginia. Each seller of wooden mine materials in this area must re-calculate his ceiling prices on such materials by adding a specified percentage to the highest price which he received during the base period, May 24, 1950 to June 24, 1950. On items of 5 and 6 inch diameters cut to specified lengths, the authorized increase is 25 percent, and on items of 7 inch diameters and larger cut to specified lengths, the permitted increase is 35 percent over the base period price.

This action is taken to alleviate the shortage of wooden mine materials which has developed in these states, according to purchasers of this commodity. This shortage threatens to curtail the mining of coking coal which is vitally essential to the production of steel. The need for this action is urgent because under the seasonal logging pattern the cutting of those materials will soon be severely curtailed, and only speedy action can avert threatened shortages. The Defense Solid Fuels Administration has indicated to OPS that these mine timber supplies are essential to the production of metallurgical coal and to the safety of the men working in the mines. The National Production Authority has advised the OPS that the supply of metallurgical coal be maintained or increased to meet the needs of the expanding steel production in the defense program.

Although mine timbers are indispensable to the operation of a coal mine, the cost of these materials constitutes an insignificant part of the total cost of operating a mine. Consequently this action will have no effect on the price of metallurgical coal or on the price of steel. Moreover this action will affect only a very small proportion of the total amount of timber cut in this area. This is an interim measure pending the completion of a tailored regulation for wooden mine materials.

This supplementary regulation applies only to the ceiling prices of mine materials produced and sold for use in the States of Virginia and West Virginia. Although the price problem which this supplementary regulation is designed to correct exists at the primary producing level, the mine timbers affected often move through the hands of middlemen before they reach the using mines. This supplementary regulation, therefore, affords relief to all sellers of wooden mine materials in this area. If this were not done, the price squeeze upon the middlemen would interrupt the flow of the materials to the mines.

The Director of Price Stabilization has consulted with representatives of the industry insofar as practicable and has considered their recommendations. In the judgment of the Director of Price Stabilization, this supplementary regulation is generally fair and equitable and is necessary to effectuate the purposes of Title IV of the Defense Production Act of 1950, as amended.

REGULATORY PROVISIONS

SEC.
1. What this supplementary regulation does.
2. Ceiling prices for wooden mine materials.
3. Definitions.
4. Miscellaneous.

AUTHORITY: Sections 1 to 4 issued under sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154. Interpret or apply Title IV, 64 Stat. 803, as amended; 50 U. S. C. App. Sup. 2101–2110. E. O. 10161, Sept. 9, 1950, 15 F. R. 6105; 3 CFR, 1950 Supp.

SECTION 1. *What this supplementary regulation does.* This supplementary regulation supersedes sections 3 through 5 (pricing provisions) of the General Ceiling Price Regulation with respect to all sales and purchases of wooden mine materials produced in Virginia and West Virginia when sold for delivery and use in Virginia and West Virginia, and establishes new ceiling prices for such materials.

SEC. 2. *Ceiling prices for wooden mine materials.* The ceiling prices for sales and purchases of wooden mine materials produced in Virginia and West Virginia when sold for delivery and use within Virginia and West Virginia shall be as follows:

(a) Five and 6 inch diameters cut to specified lengths; 25 percent above the highest price the seller received during the period May 24, 1950 to June 24, 1950, inclusive.

(b) Seven inch diameters and larger, cut to specified lengths: 35 percent above the highest price the seller received during the period May 24, 1950 to June 24, 1950, inclusive.

SEC. 3. *Definitions.* When used in this supplementary regulation, the term:

(a) "Wooden mine materials" means wooden props from which one or more of the following enumerated items are made to be used in mines: Mine ties, switch ties, cross bars, cribbing, lagging, posts, caps, wedges, stull timber, pit posts and pit blocks.

SEC. 4. *Miscellaneous.* Except as herein specifically modified, all of the provisions of the General Ceiling Price Regulation remain in effect.

*Effective date.* This supplementary regulation shall become effective December 19, 1951.

MICHAEL V. DISALLE,
*Director of Price Stabilization.*

DECEMBER 19, 1951.

[F. R. Doc. 51-15126; Filed, Dec. 19, 1951; 12:11 p. m.]

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[General Ceiling Price Regulation, Amdt. 25]

GENERAL CEILING PRICE REGULATION

GENERAL INCREASES AND DECREASES BY MANUFACTURERS AND WHOLESALERS

Pursuant to the Defense Production Act of 1950, as amended (Pub. Law 774, 81st Cong., Pub. Law 96, 82d Cong.), Executive Order 10161 (15 F. R. 6105), and Economic Stabilization Agency General Order No. 2 (16 F. R. 738), this Amendment 25 to the General Ceiling Price Regulation is hereby issued.

STATEMENT OF CONSIDERATIONS

Section 3 (b) (3) of the General Ceiling Price Regulation was intended to permit a manufacturer or wholesaler to establish ceiling prices by reference to a price list issued before or during the GCPR base period even though during the base period he did not make deliveries of all items on the list at the new prices. Where base period deliveries of significant items had been made in accordance with the price list, it was considered desirable, in the interest of restoring normal pricing relationships, to allow the list to be used to set the ceiling prices for all items which it covered. Normally, such a list would have contained general increases. Otherwise there would be no reason for a seller to resort to the price list for establishing ceiling prices.

To insure that the price list was bona fide in the sense that items which had been sold against it during the base period were significant, section 3 (b) (3) contained the requirement that the commodities sold at the increased prices in the price list must have been ones whose 1950 sales represented at least 30 percent of the 1950 sales of all commodities on the price list. The section spoke in terms of increased prices as that would be the normal situation where a manufacturer would have occasion to use a base period price list to determine his ceiling prices.

It has come to the attention of the Director of Price Stabilization that there are some situations in which base period price lists contained both increases and decreases, and sales of items at the new list prices (including deliveries at the new lower prices as well as at the new higher prices) met the 30 percent test, i. e., they were commodities whose 1950 sales constituted at least 30 percent of the 1950 sales of all commodities on the price list. Under these circumstances there was no valid reason for distinguishing between the two types of list (i. e., one containing only increases, and the other both increases and decreases), and section 3 (b) (3) was not intended to do so. In both cases, the lists were followed as to significant items, and are considered bona fide price lists for purposes of determining ceiling prices.

Accordingly, this amendment clarifies the original language of section 3 (b) (3) by expressly covering the situation where the base period list in question contained both general increases and decreases, and the price list received substantial base period usage at the new prices, whether increased or decreased.

It should be noted that this clarifying amendment requires that after the price list became effective, the commodities on which price reductions were announced must not have been sold at higher prices. This parallels the requirement that items sold at increased prices must not have been thereafter sold at lower prices, and is designed to insure that the price list actually served to set the prices of such items.

The safeguards mentioned, together with the fact that ceiling prices established under this amendment will in-

clude a substantial number of decreases, are considered to be consistent with the aims of the stabilization program. In addition, this amendment makes clear that sellers whose price lists contained some decreases as well as increases are intended to be treated the same as sellers whose price lists contained only increases.

In the formulation of this amendment, special circumstances have rendered consultation with industry representatives, including trade association representatives, impracticable. However, the Director has consulted informally with representatives of affected companies and has given consideration to their recommendations.

AMENDATORY PROVISIONS

The General Ceiling Price Regulation is amended in the following respects:

1. Section 3 (a) is amended by substituting the words "by paragraph (b)" for the words "by paragraph (b) (1)" so that the last sentence of paragraph (a) reads as follows: "If you are a manufacturer or a wholesaler, you cannot, unless permitted by paragraph (b) of this section, use a price as your ceiling price to a class of purchaser unless you made at least 10 percent by dollar volume of your total deliveries of the commodity during the base period to that class of purchaser at that price or at a higher price."

2. Section 3 (b) (3) is amended to read as follows:

(3) *General increases or general increases and decreases on several items.* If, before or during the base period, you announced in writing price increases or price increases and decreases on a list of commodities, and if,

(i) You made deliveries which, under the preceding paragraphs of this section, established the increased price or prices as the ceilings to all classes of purchasers of one or more of the commodities covered by the price list, or

(ii) After the effective date of the announcement and before January 26, 1951, you made deliveries of one or more of the commodities on the list at the decreased price or prices and none of the commodities on which price decreases were announced were delivered at higher prices (except pursuant to written firm commitments made before the price decreases were announced),

and if the commodities, if any, which you delivered as provided in (i) above, together with the commodities, if any, which you delivered as provided in (ii) above, accounted during the year 1950 for at least 30 percent of your dollar sales of the commodities covered by the price list, then the price list prices are your ceiling prices for all the items on the list.

(Sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154)

*Effective date.* This amendment shall become effective December 19, 1951.

MICHAEL V. DISALLE,
*Director of Price Stabilization.*

DECEMBER 19, 1951.

[F. R. Doc. 51-15129; Filed, Dec. 19, 1951; 4:00 p. m.]

[General Ceiling Price Regulation, Amdt. 1 to Supplementary Regulation 52]

## GCPR, SR 52—ADJUSTMENT OF CEILING RATES OF CONTRACT MOTOR CARRIERS OF LIQUID COMMODITIES HANDLED IN TANK TRUCKS (EXCEPT MILK)

APPLICABILITY TO ALASKA, HAWAII, AND PUERTO RICO

Pursuant to the Defense Production Act of 1950, as amended, Executive Order 10161 (15 F. R. 6105), and Economic Stabilization Agency General Order No. 2 (16 F. R. 738), this Amendment 1 to Supplementary Regulation 52 is hereby issued.

STATEMENT OF CONSIDERATIONS

When Supplementary Regulation 52 to the General Ceiling Price Regulation was originally issued its geographical applicability was limited to the 48 States of the United States and the District of Columbia. Since that time however, it has been brought to the attention of the Director of Price Stabilization that provision should be made for necessary rate adjustments for contract motor carriers of liquid commodities in tank trucks (except milk) operating in Alaska, Hawaii, and Puerto Rico. Accordingly, this amendment to Supplementary Regulation 52 to the General Ceiling Price Regulation is herewith issued to extend the applicability of the regulation to Alaska, Hawaii and Puerto Rico.

Consultation with formal industry advisory committees was found to be impracticable. However, consideration has been given to the reported views of those affected by this amendment, and in the judgment of the Director of Price Stabilization, this amendment is generally fair and equitable and is necessary to effectuate the purposes of the Defense Production Act of 1950, as amended.

AMENDATORY PROVISIONS

Section 1 (b) of Supplementary Regulation 52 to the General Ceiling Price Regulation is amended to read as follows:

(b) The provisions of this regulation are applicable to the 48 States of the United States, the District of Columbia, Alaska, Hawaii and Puerto Rico.

(Sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154.)

*Effective date.* This Amendment 1 to Supplementary Regulation 52 to the General Ceiling Price Regulation shall become effective December 24, 1951.

MICHAEL V. DISALLE,
*Director of Price Stabilization.*

DECEMBER 19, 1951.

[F. R. Doc. 51-15130; Filed, Dec. 19, 1951; 4:00 p. m.]

# Chapter IV—Salary and Wage Stabilization, Economic Stabilization Agency

## Subchapter A—Salary Stabilization Board

[General Salary Order No. 8]

## GSO 8—REGULARLY EXTENDED WORK-WEEK FOR PROFESSIONAL ENGINEERS

STATEMENT OF CONSIDERATIONS

Many professional engineers are regularly required at the present time to work hours in excess of those that were contemplated in determining their current salaries. The purpose of this order is to authorize the payment to such engineers of additional compensation under the circumstances and in the manner set forth in this order.

In the formulation of this order due consideration has been given to the standards and procedures set forth in Title IV and Title VII of the Defense Production Act, as amended; there has been consultation with industry representatives and consideration has been given to their recommendations.

REGULATORY PROVISIONS

Sec.
1. Scope of this order.
2. Extended work-week.

AUTHORITY: Sections 1 and 2 issued under sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154. Interpret or apply Title IV, 64 Stat. 803, as amended; 50 U. S. C. App. Sup. 2101-2110. Executive Order 10161, Sept. 9, 1950, 15 F. R. 6105; 3 CFR, 1950 Supp.

SECTION 1. *Scope of this order.* This order applies to professional engineers. For purposes of this order a professional engineer is a person employed in a professional capacity, who, by reason of his special knowledge of the mathematical and physical sciences and the principles and methods of engineering analysis and design, acquired by professional education and practical experience, is qualified to practice engineering.

SEC. 2. *Extended work-week.* (a) An employer who on or prior to January 25, 1951, had a plan or practice of paying professional engineers additional compensation for hours worked in excess of a normal work-week may continue to pay additional compensation to such employees in accordance with such plan or practice.

(b) An employer who did not have such a plan or practice may pay a professional engineer employed in a professional capacity, as distinguished from an executive, administrative, or outside salesman capacity, additional compensation during a regularly extended work-week for hours worked in excess of the normal work-week, but the additional compensation shall not, without approval of the Office of Salary Stabilization, exceed his straight-time rate.

By Order of the Salary Stabilization Board:

JUSTIN MILLER,
*Chairman.*

DECEMBER 14, 1951.

[F. R. Doc. 51-15109; Filed, Dec. 19, 1951; 11:34 a. m.]

# Chapter VI—National Production Authority, Department of Commerce

[NPA Reg. 2, Direction 4]

## NPA REG. 2—BASIC RULES OF THE PRIORITIES SYSTEM

DIR. 4—ELECTRON TUBES AND RESISTORS SEQUENCE OF DELIVERIES FOR SMALL ORDERS

This direction to NPA Reg. 2 is found necessary and appropriate to promote the national defense and is issued pursuant to the authority granted by section

101 of the Defense Production Act of 1950, as amended. In the formulation of this direction there has been consultation with industry representatives, including representatives of trade associations, and consideration has been given to their recommendations.

SECTION 1. (a) Within the limitations stated in Table I of this direction, any manufacturer of any product listed in Table I may deliver such product against rated orders in advance of the sequence of deliveries elsewhere provided in NPA Reg. 2.

(b) No manufacturer shall, by reason of this direction, delay delivery pursuant to any DX rated order, or any portion of an order bearing a DX rating. He may, however, delay deliveries pursuant to any DO rated or any unrated order to the minimum extent necessary to enable him to make the accelerated deliveries permitted by this direction.

(Sec. 704, 64 Stat. 816, Pub. Law 96, 82d Cong.; 50 U. S. C. App. Sup. 2154)

This direction shall take effect December 19, 1951.

NATIONAL PRODUCTION AUTHORITY,
By JOHN B. OLVERSON,
*Recording Secretary.*

TABLE I OF DIR. 4 TO NPA REG. 2

*Product and Limitation*

Electron tubes (except power tubes): Not more than 10 percent of total deliveries of any type of tube in any calendar month. Not more than 50 tubes of any one type to any one customer in any calendar month.

Resistors, fixed composition, ½ watt: Not more than 5 percent of total deliveries in any calendar month. Not more than 1,000 units to any one customer in any calendar month.

Resistors, fixed composition, 1 watt: Not more than 5 percent of total deliveries in any calendar month. Not more than 500 units to any one customer in any calendar month.

Resistors, fixed composition, 2 watt: Not more than 5 percent of total deliveries in any calendar month. Not more than 250 units to any one customer in any calendar month.

Resistors, variable composition: Not more than 5 percent of total deliveries in any calendar month. Not more then 100 units to any one customer in any calendar month.

Resistors, wire-wound (precision only): Not more than 10 percent of total deliveries in any calendar month. Not more than 100 units to any one customer in any calendar month.

[F. R. Doc. 51-15111; Filed, Dec. 19, 1951; 11:44 a. m.]

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[NPA Reg. 2, Interpretation 2]

REG. 2—BASIC RULES OF THE PRIORITIES SYSTEM

INT. 2—SIGNATURE FOR CERTIFICATION ON PURCHASE OR DELIVERY ORDERS

1. This is an interpretation of section 8, paragraph (b), of NPA Reg. 2 which prescribes who must sign the required certification of DO ratings and how the certification shall be signed. Certain other NPA regulations, including CMP regulations and certain M orders of NPA, provide that certification of DO ratings pursuant thereto shall be signed as required by NPA Reg. 2. It is also intended that this interpretation shall apply to forms of certification required by other NPA regulations and orders.

2. Section 8, paragraph (b), of NPA Reg. 2 provides in part that: "The required form of certification on purchase or delivery orders must be signed by the person placing the order or by a responsible individual who is duly authorized to sign for that purpose. Such signature must be by hand or in the form of a rubber stamp or other facsimile reproduction of a handwritten signature."

3. Section 8, paragraph (b), does not require a separate signature for any certification, if the certification is placed in the body of the purchase or delivery order over the signature of the person who signed such order, and if such order is signed in the way required by that paragraph for the certification. Under such circumstances one signature on the order is sufficient.

4. If the certification is placed on the purchase or delivery order below the signature of the person who signed the order, or in another location (such as, on the back of the order) which does not show that the certification is clearly a part of the body of the order, or is placed on a separate piece of paper attached to or clearly identifying such order, the certification must be separately signed, unless there is a statement above the signature of the person who signed the order in the way required by section 8, paragraph (b), for the certification, which shows clearly that the signature applies to the certification.

(Sec. 704, 64 Stat. 816, Pub. Law 96, 82d Cong.; 50 U. S. C. App. Sup. 2154)

Issued December 19, 1951.

NATIONAL PRODUCTION AUTHORITY,
By JOHN B. OLVERSON,
*Recording Secretary.*

[F. R. Doc. 51-15112; Filed, Dec. 19, 1951; 11:44 a. m.]

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[NPA Order M-80, Schedule B as Amended Dec. 19, 1951]

M-80—IRON AND STEEL—ALLOYING MATERIALS AND ALLOY PRODUCTS

SCHEDULE B—TOOL STEEL AND HIGH SPEED STEELS

This amended schedule is found necessary and appropriate to promote the national defense and is issued pursuant to the authority of section 101 of the Defense Production Act of 1950, as amended. In the formulation of this amended schedule there has been consultation with industry representatives including trade association representatives, and consideration has been given to their recommendations. This amended schedule is issued under NPA Order M-80, and is made a part of that order.

Schedule B to NPA Order M-80 has been amended in the following respects:

1. Paragraph (a) of section 1 is amended to exclude plain carbon steel from the definition of tool steel.

2. A new paragraph designated (c) is added to section 4 prohibiting the use of Class B high speed steel in the manufacture of hand hack saw blades. As amended, Schedule B to NPA Order M-80 reads as follows:

Sec.
1. Definitions.
2. Substitution required.
3. High speed steels.
4. Uses prohibited.
5. Exceptions.
6. Tool steel scrap.
7. Communications.

AUTHORITY: Sections 1 to 7 issued under sec. 704, 64 Stat. 816, Pub. Law 96, 82d Cong.; 50 U. S. C. App. Sup. 2154. Interpret or apply sec. 101, 64 Stat. 799, Pub. Law 96, 82d Cong.; 50 U. S. C. App. Sup. 2071; sec. 101, E. O. 10161, Sept. 9, 1950, 15 F. R. 6105; 3 CFR, 1950 Supp.; sec. 2, E. O. 10200, Jan. 3, 1951, 16 F. R. 61; secs. 402, 405, E. O. 10281, Aug. 28, 1951, 16 F. R. 8789.

SECTION 1. *Definitions.* As used in this schedule:

(a) "Tool steel" means any steel, except plain carbon steel, used for the manufacture of tools for use in mechanical fixtures, precision gages, or for hand or power hacksaws. This term includes the high speed steels defined in paragraphs (b) and (c) of this section.

(b) "Class A high speed steel" means a steel containing not less than 0.60 percent carbon and not more than 6.75 percent tungsten. Other elements may be present in Class A high speed steel.

(c) "Class B high speed steel" means a steel containing not less than 0.55 percent carbon and more than 12 percent tungsten. Other elements may be present in Class B high speed steel.

(d) "Mechanical fixture" means any power-operated machine tool used for cutting, shaping, forming, or blanking any material, either hot or cold.

(e) "Tool steel distributor" means any person who procures tool steel for sale without change in form either from domestic sources or by importing, whether or not such person receives title to or physical delivery of the tool steel. This term includes warehousemen, melters, jobbers, and brokers.

SEC. 2. *Substitution required.* No Class B high speed steel shall be used where Class A high speed steel can be substituted therefor. No person shall use any Class A high speed steel containing a higher percentage of tungsten than is necessary to perform in an efficient manner the cutting operation for which such steel is used.

SEC. 3. *High speed steels.* (a) Commencing September 1, 1951, no melter shall melt in any calendar month a tonnage of Class B high speed steel which will exceed 20 percent of the total tonnage of Class A and Class B high speed steel melted by him in that month.

(b) Subject to paragraph (c) of this section, no person, including tool steel distributors, shall place orders in any calendar month for delivery of Class B high speed steel from any melter, and no melter shall accept orders therefor from any such person, in an amount exceeding 20 percent of the total tonnage of Class A and Class B high speed steel ordered by such person from such melter during that month: *Provided, however,* That shipments by any melter to any person, including tool steel distributors, of Class B high speed steel of greater or

less tonnages than ordered for a particular month may be made, provided that shipments of such steel during any calendar quarter, commencing with the third quarter of 1951, will not exceed 20 percent of the total tonnage of Class A and Class B high speed steel shipped to such person.

(c) No person, except a tool steel distributor, shall place orders for or accept delivery of Class A or Class B high speed steels except for actual use.

(d) Commencing September 1, 1951, no person shall place orders in any calendar month for delivery of Class B high speed steel from any tool steel distributor, and no tool steel distributor shall accept orders therefor from any such person, or ship such steel, in an amount exceeding 20 percent of the total tonnage of Class A and Class B high speed steel ordered by such person from such tool steel distributor during that month.

SEC. 4. *Uses prohibited.* (a) Tool steel shall not be used for shanks in the manufacture of tipped or welded tools, or for hand tools such as hand chisels, pliers, wrenches, hammers, picks, screwdrivers, center punches, or nail sets.

(b) No person shall purchase or acquire Class A high speed steel solely for the purpose of obtaining quantities of Class B high speed steel.

(c) Class B high speed steel shall not be used in the manufacture of hand hacksaw blades.

SEC. 5. *Exceptions.* The provisions of this schedule shall not apply to:

(a) Deliveries to any person whose total receipts of Class B high speed steel from all sources do not exceed 300 pounds during any one calendar quarter, and who delivers a signed certificate to his supplier as follows:

> The undersigned, subject to statutory penalties, certifies that the acceptance of delivery and use by the undersigned of tool steel herein ordered will not be in violation of NPA Order M–80 or of Schedule B of that order.

This certification constitutes a representation by the purchaser to the seller and to NPA that delivery of the tool steel ordered may be accepted by the purchaser under NPA Order M–80 and this schedule, and that such tool steel will not be used by the purchaser in violation of that order or this schedule.

(b) Tool steel used for hot work applications, according to the generally accepted industry interpretations of such applications.

(c) Tool bits, except that the restrictions on melters contained in section 3 (a) of this schedule continue in effect irrespective of the quantity of tool bits produced by such melter.

SEC. 6. *Tool steel scrap.* Commencing September 1, 1951, no person shall use tool steel scrap having more than 5 percent total combined content of tungsten, molybdenum, or cobalt, except for the remelting of tool steels.

SEC. 7. *Communications.* All communications concerning this schedule shall be addressed to the National Production Authority, Washington 25, D. C., Ref: M–80, Schedule B.

This schedule as amended shall take effect December 19, 1951.

NATIONAL PRODUCTION AUTHORITY.
By JOHN B. OLVERSON,
*Recording Secretary.*

[F. R. Doc. 51–15113; Filed, Dec. 19, 1951; 11:45 a. m.]

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[NPA Order M–93]

## M–93—STARTING, LIGHTING, AND IGNITION ELECTRIC STORAGE BATTERIES

This order is found necessary and appropriate to promote the national defense and is issued under the authority granted by the Defense Production Act of 1950, as amended. In the formulation of this order there has been consultation with industry representatives, including trade association representatives, and consideration has been given to their recommendations.

Sec.
1. What this order does.
2. Definitions.
3. Standardization and simplification.
4. Distribution of production.
5. Request for adjustment or exception.
6. Records and reports.
7. Communications.
8. Violations.

AUTHORITY: Sections 1 to 8 issued under sec. 704, 64 Stat. 816, Pub. Law 96, 82d Cong.; 50 U. S. C. App. Sup. 2154. Interpret or apply sec. 101, 64 Stat. 799, Pub. Law 96, 82d Cong.; 50 U. S. C. App. Sup. 2071; sec. 101, E. O. 10161, Sept. 9, 1950, 15 F. R. 6105; 3 CFR, 1950 Supp.; sec. 2, E. O. 10200, Jan. 3, 1951, 16 F. R. 61; secs. 402, 405, E. O. 10281, Aug. 28, 1951, 16 F. R. 8789.

SECTION 1. *What this order does.* The purpose of this order is to conserve critical materials used in the production of 6-volt lead-acid electric storage batteries for starting, lighting, and ignition purposes. This order prohibits the manufacture or rebuilding of certain types of electric storage batteries after February 29, 1952. It also requires, except for certain exceptions, that distribution of production between the various types of batteries be preserved in accordance with the existing production pattern. The purpose of this provision is to assure the optimum use of the critical materials and at the same time preserve for the benefit of consumers the supply of electric storage batteries.

SEC. 2. *Definitions.* As used in this order:

(a) "Person" means any individual, corporation, partnership, association, or any other organized group of persons, and includes any agency of the United States Government or of any other government.

(b) "Producer" means any person engaged in the manufacture or rebuilding of electric storage batteries for sale.

(c) "Electric storage battery" means any 6-volt lead-acid electric storage battery which has been completely assembled and sealed, whether charged or uncharged, and which is designed and built for operating a starter, ignition system, lighting system, or electrical signalling device of a motor vehicle.

(d) "Ampere-hour rating" means the ampere-hour capacity of an electric storage battery as developed on or before the third discharge when tested at the 20-hour rate at 80 degrees Fahrenheit.

(e) "AABM" means the Association of American Battery Manufacturers, Inc.

(f) "SAE" means the Society of Automotive Engineers, Inc.

(g) "Battery type" means the respective classifications of the AABM or the SAE.

SEC. 3. *Standardization and simplification.* After February 29, 1952, no producer shall manufacture or rebuild any 6-volt electric storage battery of the battery types listed except in conformity with the following table:

| Battery type—Number | | Ampere-hour rating—Range (20-hr. rate at 80° F.) | | Electrolyte—Specific gravity at 80° F. as fully charged (maximum) |
|---|---|---|---|---|
| AABM | SAE | Minimum | Maximum | |
| 1 | 1M–1H | 90 | 120 | 1.285 |
| 2L | 2L | 90 | 115 | 1.285 |
| 2 | 2M–2H | 100 | 135 | 1.285 |
| 2E | 2E | 100 | 135 | 1.285 |
| 2F | 2F | 100 | 135 | 1.285 |

The production of 6-volt electric storage batteries of the following types are not affected by the limitations contained in this section: AABM: 3–H, 4–H, 3–T, and 7–D; SAE: 3–H, 4–H, 7–G, and 7–D; and motorcyle batteries.

SEC. 4. *Distribution of production.* No producer shall manufacture or rebuild more batteries of a specific ampere-hour rating within the types listed in the table in section 3 of this order in any monh than he manufactured or rebuilt during the comparable month of 1951: *Provided, however,* That if any producer manufactured or rebuilt batteries during 1951 of an ampere-hour rating lower than the minimum set forth in the table, he may add to his monthly production of batteries of the lowest specific ampere-hour rating permitted the number of batteries manufactured or rebuilt by him of lower ampere-hour ratings in the comparable month of 1951; or if any producer manufactured or rebuilt batteries during 1951 of an ampere-hour rating higher than the maximum set forth in the table, he may add to his monthly production of any of the battery types permitted the number of batteries manufactured or rebuilt by him of higher ampere-hour ratings in the comparable month of 1951.

SEC. 5. *Request for adjustment or exception.* Any person affected by any provision of this order may file a request for adjustment or exception upon the ground that such provision works an undue or exceptional hardship upon him not suffered generally by others in the same trade or industry, or that its enforcement against him would not be in the interest of the national defense or in the public interest. In examining requests for adjustment or exception

claiming that the public interest is prejudiced by the application of any provision of this order, consideration will be given to the requirements of the public health and safety, civilian defense, and dislocation of labor and resulting unemployment that would impair the defense program. Each request shall be in writing, by letter in triplicate, and shall set forth all pertinent facts, the nature of the relief sought, and the justification therefor.

SEC. 6. *Records and reports.* (a) Each person participating in any transaction covered by this order shall make and preserve, for at least 3 years thereafter, accurate and complete records of receipts, deliveries, inventories, production, and use, in sufficient detail to permit the determination, after audit, whether each transaction complies with the provisions of this order. This order does not specify any particular accounting method and does not require alteration of the system of records customarily used, provided such records supply an adequate basis for audit. Records may be retained in the form of microfilm or other photographic copies instead of the originals by those persons who, at the time such microfilm or other photographic records are made, maintain such copies of records in the regular and usual course of business.

(b) All records required by this order shall be made available for inspection and audit by duly authorized representatives of the National Production Authority, at the usual place of business.

(c) Persons subject to this order shall make such records and submit such reports to the National Production Authority as it shall require, subject to the terms of the Federal Reports Act of 1942 (5 U. S. C. 139–139F).

SEC. 7. *Communications.* All communications concerning this order shall be addressed to the National Production Authority, Washington 25, D. C., Ref: NPA Order M–93.

SEC. 8. *Violations.* Any person who wilfully violates any provision of this order, or any other order or regulation of NPA, or who wilfully furnishes false information or conceals any material fact in the course of operation under this order, is guilty of a crime and upon conviction may be punished by fine or imprisonment or both. In addition, administrative action may be taken against any such person to suspend his privilege of making or receiving further deliveries of materials or using facilities under priority or allocation control and to deprive him of further priorities assistance.

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

This order shall take effect December 19, 1951.

NATIONAL PRODUCTION AUTHORITY,
By JOHN B. OLVERSON,
*Recording Secretary.*

[F. R. Doc. 51–15114; Filed, Dec. 19, 1951; 11:45 a. m.]

## Chapter XVIII—National Shipping Authority, Maritime Administration, Department of Commerce

[NSA Order No. 56 (OPR–3)]

### OPR–3—LAUNCH SERVICES

Sec.
1. What this order does.
2. Authority for launch hire.

AUTHORITY: Sections 1 and 2 issued under sec. 204, 49 Stat. 1987, as amended; 46 U. S. C. 1114.

SECTION 1. *What this order does.* This order prescribes the circumstances under which launch hire will be accepted by National Shipping Authority as vessel operating expense.

SEC. 2. *Authority for launch hire.* Launch hire in foreign and domestic ports will be accepted by National Shipping Authority as vessel operating expense, subject to the provisions of Article 5 of GAA 3–19–51 and BAA 9–19–51, only under the following circumstances:

(a) When incurred by the Master of an NSA vessel, or by an agent of NSA or by his sub-agent, for the purpose of properly conducting the owners' activities and business of NSA vessels;

(b) When incurred in transporting liberty parties to or from an NSA vessel with the approval of the Master or the General Agent as properly for account of the vessel owner; and

(c) When incurred for the transportation of workmen required aboard the vessel, if the contract for the work provides that such service shall be for account of NSA, and the launch service is authorized by the representative of NSA or the agent who ordered the work to be performed for account of NSA.

Approved: December 12, 1951.

[SEAL] C. H. MCGUIRE,
*Director,*
*National Shipping Authority.*

[F. R. Doc. 51–15065; Filed, Dec. 19, 1951; 8:50 a. m.]

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[NSA Order No. 57 (DRO–38)]

### DRO–38—RATES ON COAL IN BULK BETWEEN HAMPTON ROADS, BALTIMORE, PHILADELPHIA, CHARLESTON, SOUTH CAROLINA OR MOBILE, ALABAMA AND FRANCE

Sec.
1. What this order does.
2. Freight rates and charter terms and conditions required under "WARSHIPVOY" form of charter as revised August 15, 1944.

AUTHORITY: Sections 1 and 2 issued under sec. 204, 49 Stat. 1987, as amended; 46 U. S. C. 1114.

SECTION 1. *What this order does.* This order hereby authorizes the following freight rates and charter terms and conditions for the transportation of full cargoes of Coal, in bulk, under "WARSHIPVOY" form of charter as revised August 15, 1944 in vessels operated for account of the National Shipping Authority, from Hampton Roads, Baltimore, Philadelphia, Charleston, South Carolina or Mobile, Alabama to a port of discharge in France, effective on vessels commencing to load on and after January 1, 1952. And NSA Order No. 12 (DRO–7) published in FEDERAL REGISTER of June 1, 1951 (16 F. R. 5122) is hereby superseded as of January 1, 1952.

SEC. 2. *Freight rates and charter terms and conditions required under "WARSHIPVOY" form of charter as revised August 15, 1944.*

[All rates in U. S. currency per ton of 2,240 pounds]

| To— | Freight rate | Discharge rate (tons) |
|---|---|---|
| North France: All ports | $11.00 | 1,500 |
| South France: | | |
| Port de Bouc (Caronte) | 11.80 | 1,500 |
| Marseilles or Toulon | 11.95 | 1,300 |
| Sete | 12.10 | 1,200 |
| All other South France ports | 13.25 | 750 |

NOTE 1: On vessels loading at Mobile, Alabama add One Dollar and fifty cents ($1.50) per ton of 2,240 pounds to the applicable freight rate as shown above.

NOTE 2: Foregoing rates apply to cargoes loaded at one port and discharged at one port; for more than one port of loading or discharge add fifty cents (50¢) U. S. currency per ton for each such additional port to the highest applicable rate, the total rate thus formed to apply on the entire cargo. Cargoes for more than one port of loading or discharge shall be subject to negotiation and mutual agreement between the owners and the charterers.

The following clauses are to be inserted in paragraphs E, F, G, H, and I of Part I of "WARSHIPVOY":

E. Freight rate (insert applicable rate as above set forth, including, if applicable, additions for extra ports of discharge).

Freight fully prepaid in the United States on bill of lading quantity and to be considered due and payable and earned on the cargo as taken aboard, vessel and/or cargo lost or not lost.

Demurrage: Charterers to pay demurrage at the rate of $_____[1] per day for each and every day or pro rata for part of a day for all time used in loading or discharging in excess of allowed laytime.

Despatch: Despatch if earned at loading or discharging port will be payable at the rate of one-half (½) the demurrage rate per day or pro rata for part of a day for all laytime saved in loading or discharging.

F. Stevedoring: Loading and trimming expenses shall be for vessel's account at Hampton Roads, Baltimore, Philadelphia or Charleston, South Carolina, and for charterer's account at Mobile; discharging expenses shall be for charterer's account.

G. Loading Time: Loading to be at the rate of 1,500 tons per day, Sundays and holidays excepted unless used.

H. Discharging Time: Cargo shall be discharged at the rate of _____[2] tons per day, Sundays and holidays excepted unless used. Time lost in discharging due to weather preventing discharge shall not count as laytime.

I. Special Provisions: 1. Charterers have the option of shipping not more than 250 tons of Coke at the same rate of freight as the Coal, charterers paying all additional expense.

2. "Droite de Qui", to the extent levied on vessel's net registered tonnage and on cargo tonnage shall be for account of the vessel.

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[1] Insert applicable demurrage rate, i. e., fifteen hundred dollars ($1,500) for Liberty type vessels and eighteen hundred dollars ($1,800) for Victory type vessels.

[2] Insert applicable rate of discharge as shown hereinabove under caption "Discharge Rate."

3. Any lightening required to enable vessel to reach her destination to be at charterer's risk and expense and time occupied to count as laytime.

4. General Average Clause: The adjustment and settlement of general average claims, pursuant to Clause 21, Part II shall be governed by the York-Antwerp Rules of 1950, exclusive of Rule 22.

5. Wherever the words "United States Maritime Commission" appear in Part II hereof same shall be understood to mean National Shipping Authority.

6. This contract is subject to the approval of the National Shipping Authority.

Approved: December 13, 1951.

[SEAL] C. H. McGUIRE,
*Director,*
*National Shipping Authority.*

[F. R. Doc. 51-15064; Filed, Dec. 19, 1951; 8:50 a. m.]

## Chapter XXI—Office of Rent Stabilization, Economic Stabilization Agency

[Rent Regulation 3, Amdt. 20 to Schedule A]

RR 3—HOTEL REGULATION

SCHEDULE A—DEFENSE RENTAL AREA

TEXAS

Amendment 20 to Schedule A of Rent Regulation 3—Hotel Regulation. Said regulation is amended in the following respect:

Schedule A, Item 320, is amended to describe the counties in the defense-rental area as follows:

Bell County, except the city of Temple; Coryell County; and in Williamson County, precincts 4 and 5.

This decontrols from Rent Regulation 3—Hotel Regulation, the city of Temple in Bell County, Texas, a portion of the Florence - Killeen - Temple 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.

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

This amendment shall be effective December 20, 1951.

Issued this 17th day of December 1951.

TIGHE E. WOODS,
*Director of Rent Stabilization.*

[F. R. Doc. 51-15037; Filed, Dec. 19, 1951; 8:49 a. m.]

# TITLE 33—NAVIGATION AND NAVIGABLE WATERS

## Chapter I—Coast Guard, Department of the Treasury

PART 19—WAIVERS OF NAVIGATION AND VESSEL INSPECTION LAWS AND REGULATIONS

CROSS REFERENCE: For amendment of § 19.04 see § 154.04 of Title 46, Chapter I, Part 154, *infra*, which is identical with this Part 19.

# TITLE 46—SHIPPING

## Chapter I—Coast Guard, Department of the Treasury

### Subchapter O—Regulations Applicable to Certain Vessels During Emergency

[CGFR 51-61]

PART 154—WAIVERS OF NAVIGATION AND VESSEL INSPECTION LAWS AND REGULATIONS [1]

VESSELS REQUISITIONED BY THE UNITED STATES FOR EMERGENCY EVACUATION

Pursuant to the provisions of section 1 of Public Law 891, 81st Congress, approved December 27, 1950, the Acting Secretary of Defense on November 21, 1951, requested a general waiver of the provisions of all navigation and vessel inspection laws applicable to vessels which might be requisitioned for the purpose of emergency evacuation if conditions at some future date should make such emergency evacuation necessary.

The purpose of the following waiver order, designated 46 CFR 154.04, as well as 33 CFR 19.04, is to waive the navigation and vessel inspection laws and regulations issued pursuant thereto, which are administered by the United States Coast Guard, to the extent necessary to permit the operation of vessels which might be requisitioned by the United States for the purpose of emergency evacuation. It is hereby found that compliance with the notice of proposed rule making, public rule making procedure thereon, and effective date requirements of the Administrative Procedure Act, is contrary to the public interest.

By virtue of the authority vested in me as Commandant, United States Coast Guard, by the Acting Secretary of the Treasury in his order CGFR 51-1, dated January 23, 1951, and published in the FEDERAL REGISTER dated January 26, 1951 (16 F. R. 731), the following general waiver order is promulgated and shall become effective on and after the date of publication of this document in the FEDERAL REGISTER:

§ 154.04 *Vessels requisitioned by the United States for emergency evacuation.* Pursuant to the request of the Acting Secretary of Defense, dated November 21, 1951, made under the provisions of section 1 of Public Law 891, 81st Congress, approved December 27, 1950, I hereby waive compliance with the provisions of the navigation and vessel inspection laws administered by the United States Coast Guard, as well as the regulations issued thereunder and published in 33 CFR Chapter I or in this chapter, to the extent necessary to permit the operation of vessels which might be requisitioned by the United States for the purpose of emergency evacuation.

(Pub. Law 891, 81st Cong.)

Dated: December 18, 1951.

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

[F. R. Doc. 51-15108; Filed, Dec. 19, 1951; 10:59 a. m.]

# PROPOSED RULE MAKING

## DEPARTMENT OF AGRICULTURE

### Production and Marketing Administration

CLOUD COUNTY LIVESTOCK COMMISSION CO.

POSTING OF STOCKYARD

The Secretary of Agriculture has information that the Cloud County Livestock Commission Company, Concordia, Kansas, is a stockyard as defined in section 302 of the Packers and Stockyards Act, 1921, as amended (7 U. S. C. 202), and should be made subject to the provisions of that act.

Therefore, notice is hereby given that the Secretary of Agriculture proposes to issue a rule designating the stockyard named above as a posted stockyard subject to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U. S. C. 181 et seq.), as is provided in section 302 of that act. Any interested person who desires to do so may submit, within 15 days of the publication of this notice, any data, views or arguments, in writing, on the proposed rule to the Director, Livestock Branch, Production and Marketing Administration, United States Department of Agriculture, Washington 25, D. C.

Done at Washington, D. C., this 17th day of December 1951.

[SEAL] H. E. REED,
*Director, Livestock Branch, Production and Marketing Administration.*

[F. R. Doc. 51-15042; Filed, Dec. 19, 1951; 8:49 a. m.]

[1] This is also codified in 33 CFR Part 19.

# NOTICES

## DEPARTMENT OF AGRICULTURE

### Production and Marketing Administration

PAYETTE AUCTION CO.

DEPOSTING OF STOCKYARD

It has been ascertained that the Payette Auction Company, Payette, Idaho, originally posted on March 25, 1950, as being subject to the Packers and Stockyards Act, 1921, as amended (7 U. S. C. 181 et seq.), no longer comes within the definition of a stockyard under said act for the reason that it is no longer being conducted or operated as a public livestock market. Therefore, notice is given to the owner of such stockyard and to the public that such stockyard is no longer subject to the provisions of said act.

Notice of public rule making has not preceded promulgation of the foregoing rule since it is found that the giving of such notice would prevent the due and timely administration of the Packers and Stockyards Act and would, therefore, be impractical. There is no legal warrant or justification for not deposting promptly a stockyard which is no longer being conducted or operated as a public livestock market and is, therefore, no longer a stockyard within the definition contained in said act.

The foregoing rule is in the nature of a rule granting an exemption or relieving a restriction and, therefore, may be made effective in less than 30 days after publication thereof in the FEDERAL REGISTER. This notice shall become effective upon publication in the FEDERAL REGISTER.

(7 U. S. C. 181 et seq.)

Done at Washington, D. C., this 17th day of December 1951.

[SEAL] H. E. REED,
*Director, Livestock Branch Production and Marketing Administration.*

[F. R. Doc. 51-15041; Filed, Dec. 19, 1951; 8:49 a. m.]

## DEPARTMENT OF COMMERCE

### Federal Maritime Board

[No. S-31]

FARRELL LINES, INC.

NOTICE OF PREHEARING CONFERENCE

Notice is hereby given that a prehearing conference will be held in Room 4823, Department of Commerce Building, Washington, D. C., on January 10, 1952, at 10 o'clock a. m., before Examiner F. J. Horan, concerning review by the Board of the Operating-Differential Subsidy Agreement of Farrell Lines Incorporated, with respect to combination passenger and freight vessels operated by the company on Trade Route No. 15-A (U. S. Atlantic-South and East Africa), under Title VI of the Merchant Marine Act, 1936, as amended.

The prehearing conference will be conducted under § 201.59 of the Board's rules of procedure, for the purpose of considering:

(1) Simplification of the issues;

(2) The necessity or desirability of amendments to the pleadings;

(3) The possibility of obtaining admission of fact and of documents which will avoid unnecessary proof;

(4) Limitations on the number of witnesses;

(5) The procedure at the hearing;

(6) The distribution to the parties prior to the hearing of written testimony and exhibits;

(7) Consolidation of the examination of witnesses by counsel; and

(8) Such other matters as may aid in the disposition of the proceeding.

Also at the prehearing conference a date will be set for the hearing to receive evidence to determine whether vessels during the period July 1949 to date were operated under the registry of a foreign country which were or are substantial competitors of the combination passenger and cargo vessels operated by Farrell Lines Incorporated on Trade Route No. 15-A, and whether and to what extent operating subsidy aid is necessary to place the operation of such combination vessels on a parity with vessels of foreign competitors, and is reasonably calculated to carry out effectively the purposes and policy of said act.

The hearing to receive such evidence will be conducted in conformity with the Board's rules of procedure (12 F. R. 6076), and a recommended decision will be issued by the examiner.

All persons (including individuals, corporations, associations, firms, partnerships, and public bodies) desiring to participate in the prehearing conference and in the proceeding should notify the Board on or before January 2, 1952, and should file petitions promptly for leave to intervene in accordance with § 201.81 of the Board's rules of procedure.

Dated: December 17, 1951.

By order of the Federal Maritime Board.

[SEAL] A. J. WILLIAMS,
*Secretary.*

[F. R. Doc. 51-15063; Filed, Dec. 19, 1951; 8:49 a. m.]

### National Production Authority

[Suspension Order 3; Docket No. 7]

ARMSTRONG RUBBER COMPANY; ARMSTRONG RUBBER MANUFACTURING COMPANY, INCORPORATED; ARMSTRONG TIRE AND RUBBER COMPANY, INCORPORATED; AND THE ARMSTRONG-NORWALK RUBBER CORPORATION

SUSPENSION ORDER

A hearing having been held in the above entitled matter on the 4th day of December 1951, before Morris R. Bevington, a Hearing Commissioner of the National Production Authority on a statement of charges made by the General Counsel, National Production Authority, in accordance with the National Production Authority General Administrative Order 16-06 (16 F. R. 8628) dated July 21, 1951, and Implementation 1 to National Production Authority General Administrative Order 16-06 (16 F. R. 8799), dated August 30, 1951; and

The respondents, The Armstrong Rubber Company; Armstrong Rubber Manufacturing Company, Incorporated; Armstrong Tire and Rubber Company, Incorporated; and The Armstrong-Norwalk Rubber Corporation having been duly apprised of the specific violation charged and the administrative action which may be taken, and having been fully informed of the rules and procedures which govern these proceedings, and each of them being represented by Samuel I. Rosenman, 575 Madison Avenue, New York, New York; and the respondents having pleaded and all evidence pertaining to the charge having been received, and the Hearing Commissioner being advised in the premises, it is hereby determined:

*Findings of fact.* During the period July 1, 1951, to September 30, 1951, consumption of new rubber in the manufacture of replacement passenger tires authorized to the respondents was 8,856,999 pounds of new rubber and the actual consumption by the respondents was 9,777,083 pounds of new rubber, or an excess consumption of 920,084 pounds of new rubber.

*Conclusion.* During the period beginning July 1, 1951, and ending September 30, 1951, The Armstrong Rubber Company; Armstrong Rubber Manufacturing Company, Incorporated; Armstrong Tire and Rubber Company, Incorporated; and The Armstrong-Norwalk Rubber Corporation committed an act prohibited by the National Production Authority Order M-2, as amended July 17, 1951, and the amendments and directives thereto, to wit: The unauthorized consumption of 920,084 pounds of new rubber in the manufacture of replacement passenger tires.

That there is no evidence establishing that the violations of National Production Authority regulations, orders, and directives as admitted herein were committed deliberately and that the said violations as admitted were occasioned by erroneous interpretation of such regulations, orders, and directives by the respondents with respect to the plant of the Armstrong-Norwalk Rubber Corporation, situated at Norwalk, Connecticut, which was purchased by the Armstrong Rubber Company on January 10, 1951, and which during the base period was operating under receivership with an abnormally low base period production.

*Accordingly, it is hereby ordered:*

That the consumption of new rubber in the manufacture of replacement passenger tires authorized to The Armstrong Rubber Company; Armstrong Rubber Manufacturing Company, Incorporated; Armstrong Tire and Rubber

Company, Incorporated; and The Armstrong-Norwalk Rubber Corporation during the period October 1, 1951, to December 31, 1951, pursuant to National Production Authority Order M-2, amendments and directives thereto, be reduced by 920,084 pounds of new rubber during the fourth quarter of 1951, and The Armstrong Rubber Company; Armstrong Rubber Manufacturing Company, Incorporated; Armstrong Tire and Rubber Company, Incorporated; and The Armstrong-Norwalk Rubber Corporation, and their successors or assigns, be prohibited from using any new rubber in the manufacture of replacement passenger tires in excess of the authorized consumption so reduced.

Issued this 4th day of December 1951.

NATIONAL PRODUCTION AUTHORITY,
MORRIS R. BEVINGTON,
*Hearing Commissioner.*

[F. R. Doc. 51-15115; Filed, Dec. 19, 1951; 11:45 a. m.]

## Office of International Trade

[Case No. 117]

SMOLINER & KRATKY AND FRANCESCO PARISI

ORDER REVOKING AND DENYING LICENSE PRIVILEGES

In the matter of Smoliner & Kratky, Erdbargerlaende 34, Vienna III, Austria; Francesco Parisi, 33 Wipplinger Strasse, Vienna I, Austria; respondents; Case No. 117.

This proceeding was begun by the issuance of a charging letter, dated July 2, 1951, from the Office of International Trade, Department of Commerce, charging Smoliner & Kratky of Vienna, Austria, and Francesco Parisi, also of Vienna, Austria (hereinafter referred to as respondents when not referred to as Smoliner or Parisi-Vienna, respectively), with having violated the Export Control Act of 1949 (63 Stat. 7), and the regulations issued thereunder.

The respondents filed written answers to the charging letter and did not request an oral hearing. The charges, answers and evidence were duly presented to the Compliance Commissioner and he has filed his report and recommendations with the Assistant Director for Export Supply.

After reviewing the whole record and carefully considering the evidence and the report and recommendations of the Compliance Commissioner, it is hereby found that:

(1) Smoliner, by reason of its position in the automotive sales, repair and parts industry, knew, or had reason to know, in March, April, May, June and July 1950, that the United States Government controlled the export of goods and the destinations to which they were exported.

(2) On or about March 17, 1950, for the purpose of having exported from the United States three Universal jeeps, Smoliner sent a written order for them to Willys-Overland, Toledo, Ohio, and therein designated Vienna, Austria, as the ultimate destination.

(3) At the same time it made arrangements with Parisi-Vienna for handling the transportation of said jeeps out of the United States to Trieste for Smoliner, Vienna, Austria.

(4) Thereafter, on March 29, 1950, Parisi-USA, as agent for Smoliner, applied to the Office of International Trade, Department of Commerce, for an export license and in said application stated and represented that Smoliner, Vienna, Austria, was the ultimate purchaser and consignee and that Vienna, Austria, was the country of ultimate destination.

(5) Parisi-USA informed Parisi-Vienna that it had stated in the license application that Vienna, Austria, was the country of ultimate destination.

(6) Both Parisi-Vienna and Smoliner, not later than April 12, 1950, knew that an export license application, in which this fact was stated, had been submitted to the Office of International Trade.

(7) At the same time that Parisi-Vienna and Smoliner knew that such statements had been made in the export license application, they also knew that the jeeps were to be consigned to a Trieste forwarding agent for delivery to a consignee in Belgrade, Yugoslavia.

(8) At no time prior to issuance of the license or prior to the exportation of the jeeps from the United States and their transshipment to Belgrade, Yugoslavia, did either Parisi-Vienna or Smoliner notify Parisi-USA or any official of the United States Government that it was the intention not to receive and sell the said jeeps in Austria for use in that country but to transship them from Trieste to Belgrade although ample time in which such notification might have been given had elapsed between the time of application for and issuance of the export license.

(9) With knowledge of the fact that the export license had been granted upon the statement and representation that the ultimate purchaser and consignee was Smoliner in Vienna, Austria, both Smoliner and Parisi-Vienna participated in and arranged for the transshipment of the jeeps, exported from the United States under said license, from Trieste to Belgrade, and the said jeeps did ultimately arrive in Belgrade.

From the above it is concluded that:

(1) It must be assumed that Smoliner and Parisi-Vienna knew that the representations as to the purchaser and ultimate consignee in connection with the application for the export license were material and necessary in determining whether or not such license should be granted;

(2) Having knowledge that the jeeps were not in fact to be delivered to Smoliner in Vienna as purchaser and ultimate consignee but were to be transshipped from Trieste to Belgrade, and failing to disclose such knowledge to Parisi-USA or to any official of the United States Government prior to the issuance of the export license, they thereby concealed and caused to be concealed a material fact from the Office of International Trade thereby causing a false statement to be submitted to that Office upon which it relied in issuing the license;

(3) With knowledge that the export license had been granted upon the statement and representation that Smoliner was the ultimate consignee and purchaser and that Austria was the country of ultimate destination, the arrangement by both Smoliner and Parisi-Vienna for handing over the jeeps to a forwarding agent for transshipment to Belgrade, after arrival at Trieste, was an unlawful diversion of the jeeps from the country of ultimate destination stated in the license to a country other than therein stated.

After reporting the facts, the Compliance Commissioner considered the nature of the acts, various surrounding circumstances, the nature and type of business conducted by respondents and the impact which any order entered herein might have on other persons or firms innocent of the acts charged herein. He thereupon made certain recommendations which are found to be fair and reasonable, under the particular facts of this case, and should be adopted.

Now, therefore, it is ordered as follows: (1) That all outstanding validated export licenses in which Smoliner appears as purchaser, intermediate or ultimate consignee, or otherwise as a participant in any capacity, be revoked and forthwith returned to the Office of International Trade for cancellation.

(2) That Smoliner be denied for a period of three months from the date hereof, and that Parisi-Vienna be denied for a period of thirty (30) days commencing and following thirty days from the date hereof, the privilege of participating, directly or indirectly, either as purchaser, intermediate consignee, ultimate consignee, or otherwise in any capacity in the obtaining or using of export licenses, including general licenses as well as validated licenses or being directly or indirectly or otherwise connected with any shipment from the United States to any destination of any commodity subject to export control, excepting however: (1) This denial of export privileges to Smoliner shall not apply to limited quantities of spare parts and repair parts for jeeps, provided that formal application for any license to export such parts is submitted to the Office of International Trade and is supported by an affidavit that there is a current need for such parts to service jeeps in use in Austria and also an acceptance of order by Willys-Overland, the quantity and items, if any, to be subject to decision at the time of each such application; (2) nor shall this order affect or prejudice the application heretofore filed herein on October 3, 1951, by Willys-Overland, bearing Case No. 2649625, for license to export 30 jeeps to the Ministry of Agriculture and Forests of Austria under ECA authorization No. 31-820-00-6547, wherein Smoliner is named as intermediate consignee, and said application shall be decided upon its merits and without reference or regard to the action provided herein, provided that an amendment of said application is submitted within 15 days from the date hereof, deleting from said application all reference to Smoliner and substituting for it some other person, firm or agency not related directly or indirectly to Smoliner.

(3) Such revocation and denial of export license privileges shall extend not

only to Smoliner and Parisi-Vienna, but also, except as specifically provided below, to any person, firm, corporation, or other business organization with which they may have been on April 12, 1950, or thereafter related by ownership, control, responsible position, or other connection in the conduct of export or import trade: *Provided, however,* That this paragraph shall not extend to nor include a restriction on the business or activities of Francesco Parisi, Trieste, or Francesco Parisi International Transports (USA) Inc., or any of their branch offices or affiliates in existence on April 12, 1950, other than Parisi-Vienna, if such business or activities do not directly or indirectly result in an evasion of or disregard of this order as respects Parisi-Vienna.

(4) No person or business organization shall knowingly (a) apply for or obtain any license, shipper's export declaration, bill of lading or other export control document relating to any exportation from the United States of commodities to or for either of the respondents or those persons and business organizations covered in paragraph (3) hereinabove; or (b) order, receive, service, or otherwise act as a party to, any exportation of commodities from the United States, in such manner that either of the aforestated respondents or those persons and business organizations covered in paragraph (3) hereinabove will directly or indirectly obtain any benefit therefrom, without prior disclosure of such facts to, and specific authorization of, the Office of International Trade.

Dated: December 14, 1951.

JOHN C. BORTON,
*Assistant Director*
*for Export Supply.*

[F. R. Doc. 51-15013; Filed, Dec. 19, 1951; 8:45 a. m.]

## CIVIL AERONAUTICS BOARD

[Docket Nos. 1890, 1932]

NORTHEAST AIRLINES, INC.; TEMPORARY MAIL RATE CASE

NOTICE OF HEARING

In the matter of the compensation for the transportation of mail by aircraft, the facilities used and useful therefor, and services connected therewith.

Notice is hereby given, pursuant to the provisions of the Civil Aeronautics Act of 1938, as amended, that hearing on the order to show cause, E-5831, in the above-entitled proceeding is assigned to be held on December 27, 1951, at 9:30 a. m., e. s. t., in Room 5-E-129 (Wing C), Temporary Building No. 5, Sixteenth and Constitution Avenue NW., Washington, D. C., before Examiner Walter W. Bryan.

Dated at Washington, D. C., December 17, 1951.

By the Civil Aeronautics Board.

[SEAL] FRANCIS W. BROWN,
*Chief Examiner.*

[F. R. Doc. 51-15040; Filed, Dec. 19, 1951; 8:49 a. m.]



## FEDERAL POWER COMMISSION

[Docket Nos. G-1710, G-1842]

TRANSCONTINENTAL GAS PIPE LINE CORP.

ORDER POSTPONING HEARING, CONSOLIDATING PROCEEDINGS FOR HEARING, AND FIXING DATE OF HEARING

By order issued on June 14, 1951, as amended by order issued July 9, 1951, in Docket No. G-1710, the Commission instituted an investigation for the purpose of determining whether any rate, charge, or classification demanded, observed, charged or collected by Transcontinental Gas Pipe Line Corporation (Transcontinental) in connection with any transportation or sale of natural gas, subject to the jurisdiction of the Commission, pursuant to the provisions of Transcontinental's Rate Schedule EM-1, or EX-1, on file with the Commission, or any rule, regulation, practice, or contract affecting such rate, charge or classification, is unjust, unreasonable, unduly discriminatory or preferential. Said matter was set for hearing on August 6, 1951, and later was continued to December 17, 1951.

Transcontinental, pursuant to Part 154 of the Commission's general rules and regulations, on October 23, 1951, filed with the Commission proposed First Revised Sheets Nos. 5, 9, 12, 19, and 24 and Second Revised Sheet No. 16 to its FPC Gas Tariff, Original Volume No. 1, setting forth therein proposed revisions in its Rate Schedules CD-1, CD-2, G-1, and G-2, to become effective December 1, 1951; and on November 15, 1951, filed with the Commission First Revised Sheets Nos. 27, 28, and 28-A and Second Revised Sheet No. 28-C to its FPC Gas Tariff, Original Volume No. 1, proposing revisions in its Rate Schedules E and EM-1 and proposing the cancellation of its Rate Schedule EX-1 and the form of service agreement applicable thereto, to become effective December 15, 1951.

By order issued on November 29, 1951, in Docket No. G-1842, the Commission suspended the proposed rate schedules described in the preceding paragraph hereof, and ordered that a public hearing be held at a date thereafter to be fixed concerning the lawfulness of the rates, charges, classifications, and services, subject to the jurisdiction of the Commission, as set forth in said tariff sheets.

On December 3, 1951, Transcontinental filed a motion to consolidate said two proceedings for the purpose of hearing, and further requested that the hearing in Docket No. G-1710, set for December 17, 1951, be postponed to commence simultaneously with the hearing to be set in Docket No. G-1842.

The Commission finds:

(1) Good cause exists for consolidating said proceedings for hearing and for holding such hearing, as hereinafter ordered.

(2) It is necessary and appropriate to carry out the provisions of the Natural Gas Act, and it is in the public interest, that the procedure hereinafter prescribed shall be followed at such hearing.

The Commission orders:

(A) The hearing in Docket No. G-1710, now set to commence on December 17, 1951, be and the same is hereby postponed to the date specified in paragraph (C) hereof.

(B) The proceedings in Docket Nos. G-1710 and G-1842 be and the same are hereby consolidated for the purpose of hearing only, as provided in paragraph (C) and (D) below.

(C) The public hearing in said consolidated proceedings shall commence on January 28, 1952, at 10:00 a. m. e. s. t., in the Hearing Room of the Federal Power Commission, 1800 Pennsylvania Avenue NW., Washington, D. C.

(D) The order of procedure at the public hearing referred to in paragraph (C) hereof shall be:

(i) First, the presentation of data by all participants, including the staff of the Federal Power Commission, relating to the matters and issues involved in Docket No. G-1710 in the manner specified in the Commission's order issued June 14, 1951, in said proceeding, as amended by its order issued July 9, 1951;

(ii) Thereafter, pursuant to the provisions of section 4 (e) of the Natural Gas Act, Transcontinental shall go forward with the burden of proof imposed upon it, presenting its justification with respect to the issues raised by paragraph (A) of the order issued November 29, 1951, in Docket No. G-1842;

(iii) After Transcontinental has so presented its justification respecting the issues in Docket No. G-1842, other parties and participants, including Commission staff counsel, shall conduct as much of their cross-examination with respect to Transcontinental's justification respecting the issues in Docket No. G-1842 as they are then prepared to undertake. Thereupon, the Presiding Examiner shall recess the hearing to a date to be fixed by further order of the Commission, in order to permit such preparation for the remainder of such cross-examination as the facts and circumstances may warrant, to expedite the proceeding.

(E) Interested State Commissions may participate as provided by §§ 1.8 and 1.37 (f) (18 CFR 1.8 and 1.37 (f)) of the said rules of practice and procedure.

Date of issuance: December 14, 1951.

By the Commission.

[SEAL] LEON M. FUQUAY,
*Secretary.*

[F. R. Doc. 51-15016; Filed, Dec. 19, 1951; 8:46 a. m.]

[Docket No. G-1844]

HOPE NATURAL GAS CO.

NOTICE OF APPLICATION

DECEMBER 13, 1951.

Take notice that Hope Natural Gas Company (Applicant), a West Virginia corporation, address, Clarksburg, West Virginia, filed on November 29, 1951, an application for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, as amended, authorizing the acquisition and operation of certain natural-gas

transmission facilities, subject to the jurisdiction of the Commission, from the South Penn Natural Gas Company (South Penn), as hereinafter described.

Applicant proposes to acquire certain gathering pipelines and compressor station facilities, with incidental property and facilities and the distribution system now owned by South Penn and described in an agreement between the parties entered into on November 8, 1951, and seeks authority to acquire such of said properties as Applicant proposes to classify and operate as transmission facilities to be operated as an integral part of its existing transmission system in the State of West Virginia. Said properties which Applicant proposes to classify as transmission facilities consist of three field compressor stations, known as Emmons Station in Kanawha County, West Virginia, Griffiths Station in Lincoln County, West Virginia, and Madison Station in Boone County, West Virginia; and nine gas gathering lines involving approximately 105.7 miles of various size pipe, ranging from 1-inch to 16-inch pipe, and located in Boone, Lincoln, Kanawha, Logan, and Roane Counties, in West Virginia.

Applicant states that it presently purchases natural gas from South Penn under a gas purchase agreement dated April 10, 1930, as amended, and that following the transfer of facilities, as proposed, it will continue to purchase gas pursuant to said contract, but that the delivery points for such purchased gas will be moved to meters established on South Penn's field lines by Applicant, and thereafter Applicant will extract the hydrocarbons from such gas rather than South Penn, and will secure the treatment of the gas by Carbide and Carbon Chemicals Corporation and will receive the revenues therefrom. Applicant states that it will benefit from the proposed acquisition by such operations, and the cost of its purchased gas will be decreased by the proposed purchases.

The purchase price which Applicant proposes to pay for said facilities will be the net original cost thereof of $157,059.29 as shown by the books of South Penn, and Applicant proposes to finance the cost of the proposed purchase with cash on hand.

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 2d day of January 1952. The application is on file with the Commission for public inspection.

[SEAL] LEON M. FUQUAY,
*Secretary.*

[F. R. Doc. 51-15018; Filed, Dec. 19, 1951; 8:46 a. m.]

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[Docket No. G-1845]

CITIES SERVICE GAS CO.

NOTICE OF APPLICATION

DECEMBER 13, 1951.

Take notice that Cities Service Gas Company (Applicant), a Delaware corporation, address, Oklahoma City, Oklahoma, filed on November 30, 1951, an application for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, authorizing the construction and operation of one 1,100 horsepower compressor unit at a point on its existing 20-inch natural-gas transmission pipeline at the junction of Applicant's Edmond-Drumright 12-inch transmission line and its Oklahoma City 20-inch line to Blackwell, in Oklahoma County, Oklahoma.

Applicant proposes to operate said facility to provide 16,500 Mcf per day of additional natural gas through its Blackwell and Drumright compressor stations to markets on the East side of its system. The additional volumes of gas are to be made available by the West Edmond Gasoline Plant under a new contract. Applicant states that deliveries from said plant are limited to 500 pounds which requires installation and operation of the proposed facility to enable it to transport the additional gas.

The estimated total over-all capital cost of the proposed facility is $340,000.

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 2d day of January 1952. The application is on file with the Commission for public inspection.

[SEAL] LEON M. FUQUAY,
*Secretary.*

[F. R. Doc. 51-15019; Filed, Dec. 19, 1951; 8:46 a. m.]

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[Projects Nos. 67, 120, 382]

SOUTHERN CALIFORNIA EDISON CO.

NOTICE OF ORDER RESCINDING ORDERS AUTHORIZING AMENDMENT OF LICENSES AND TERMINATING PROCEEDINGS.

DECEMBER 14, 1951.

Notice is hereby given that, on December 13, 1951, the Federal Power Commission issued its order, entered December 11, 1951, rescinding orders (12 F. R. 6264) authorizing amendment of licenses and terminating proceedings in the above-entitled matters.

[SEAL] LEON M. FUQUAY,
*Secretary.*

[F. R. Doc. 51-15017; Filed, Dec. 19, 1951; 8:46 a. m.]

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## OFFICE OF DEFENSE MOBILIZATION

[RC-22; No. 10]

SAN MARCOS, TEXAS, AREA

DETERMINATION AND CERTIFICATION OF CRITICAL DEFENSE HOUSING AREA

DECEMBER 19, 1951.

Upon specific data which has been prescribed by and presented to the Secretary of Defense and the Director of Defense Mobilization and on the basis of other information available in the discharge of their official duties, the undersigned find that the conditions required by section 204 (1) of the Housing and Rent Act of 1947, as amended, exist in the area designated as

San Marcos, Texas, Area: The area consists of Caldwell, Comal, Guadeloupe, and Hays Counties; all in Texas.

Therefore, pursuant to section 204 (1) of the Housing and Rent Act of 1947, as amended, and Executive Order 10276 of July 31, 1951, the undersigned jointly determine and certify that the aforementioned area is a critical defense housing area.

WILLIAM C. FOSTER,
*Acting Secretary of Defense.*
C. E. WILSON,
*Director of Defense Mobilization.*

[F. R. Doc. 51-15097; Filed, Dec. 19, 1951; 10:21 a. m.]

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[RC-23; No. 96]

WICHITA FALLS, TEXAS, AREA

DETERMINATION AND CERTIFICATION OF CRITICAL DEFENSE HOUSING AREA

DECEMBER 19, 1951.

Upon specific data which has been prescribed by and presented to the Secretary of Defense and the Director of Defense Mobilization and on the basis of other information available in the discharge of their official duties, the undersigned find that the conditions required by section 204 (1) of the Housing and Rent Act of 1947, as amended, exist in the area designated as

Wichita Falls, Texas, Area: The area consists of Wichita County, Texas.

Therefore, pursuant to section 204 (1) of the Housing and Rent Act of 1947, as amended, and Executive Order 10276 of July 31, 1951, the undersigned jointly determine and certify that the aforementioned area is a critical defense housing area.

WILLIAM C. FOSTER,
*Acting Secretary of Defense.*
C. E. WILSON,
*Director of Defense Mobilization.*

[F. R. Doc. 51-15098; Filed, Dec. 19, 1951; 10:21 a. m.]

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[RC-24; No. 291]

GREEN COVE SPRINGS, FLORIDA, AREA

DETERMINATION AND CERTIFICATION OF A CRITICAL DEFENSE HOUSING AREA

DECEMBER 19, 1951.

Upon specific data which has been prescribed by and presented to the Secretary of Defense and the Director of Defense Mobilization and on the basis of other information available in the discharge of their official duties, the undersigned find that the conditions required by section 204 (1) of the Housing and Rent Act of 1947, as amended, exist in the area designated as

Green Cove Springs, Florida, Area: The area consists of the entire Clay County, Florida.

Therefore, pursuant to section 204 (1) of the Housing and Rent Act of 1947, as

amended, and Executive Order 10276 of July 31, 1951, the undersigned jointly determine and certify that the aforementioned area is a critical defense housing area.

WILLIAM C. FOSTER,
*Acting Secretary of Defense.*
C. E. WILSON,
*Director of Defense Mobilization.*

[F. R. Doc. 51-15099; Filed, Dec. 19, 1951; 10:21 a. m.]

## SECURITIES AND EXCHANGE COMMISSION

[File No. 70-2066]

NORTH AMERICAN CO. AND UNION ELECTRIC COMPANY OF MISSOURI

ORDER EXTENDING TIME FOR DISPOSITION BY UNION ELECTRIC COMPANY OF MISSOURI OF ITS INTEREST IN WATER PROPERTIES AND BUSINESS OF MISSOURI POWER & LIGHT COMPANY

DECEMBER 14, 1951.

The North American Company ("North American"), a registered holding company, and its public utility subsidiary, Union Electric Company of Missouri ("Union"), also a registered holding company, having filed a joint application-declaration and amendments thereto, pursuant to the Public Utility Holding Company Act of 1935 ("act") and the rules and regulations promulgated thereunder, with respect to the transfer by North American to Union of all of the outstanding common stock of Missouri Power & Light Company ("Missouri"), then a direct public utility subsidiary of North American; and

The Commission, by order dated December 28, 1950, having granted and permitted to become effective said application-declaration, as amended, subject, among other things, to the following condition: "(1) That within six months after the receipt by Union of the Missouri common stock, or such further time as the Commission may grant upon good cause shown, Union shall cause the disposition of its interest in Missouri's water and ice properties and businesses and Missouri's electric properties located at Clinton, Missouri; and that North American shall cause Union to take such action;" and Missouri having heretofore disposed of its ice properties located at Mexico, Missouri; and its electric properties located at Clinton, Missouri; and Union and Missouri having heretofore requested an additional six months in which to comply fully with the aforesaid condition which request was granted by the Commission by order dated June 13, 1951; and Union and Missouri, by letter dated December 6, 1951, having stated that they have been unable in the exercise of due diligence to dispose of Missouri's water properties at Excelsior Springs, Missouri; and Mexico, Missouri; and having requested the Commission to extend for an additional period, of not less than six months, the time in which to continue efforts to comply with the Commission's order of December 28, 1950; and

The Commission having considered such request and the reasons advanced in support thereof and deeming that the public interest and the interests of investors and consumers will not be affected adversely by granting such request:

*It is ordered,* That the time prescribed for compliance by Union and North American with the above-recited condition relating to the water properties and business of Missouri be, and hereby is, extended to June 30, 1952.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
*Secretary.*

[F. R. Doc. 51-15023; Filed, Dec. 19, 1951; 8:47 a. m.]

[File No. 70-2738]

CAMBRIDGE ELECTRIC LIGHT CO.

ORDER AUTHORIZING SALE BY SUBSIDIARY COMPANY OF PROMISSORY NOTE

DECEMBER 14, 1951.

Cambridge Electric Light Company ("Cambridge Electric"), a subsidiary company of New England Gas and Electric Association, a registered holding company, having filed an application pursuant to section 6 (b) of the Public Utility Holding Company Act of 1935 ("act") and Rule U-50 (a) (2) and U-50 (a) (4) promulgated thereunder with respect to the following proposed transaction:

Cambridge Electric proposes to issue and sell to The First National Bank of Boston its promissory note in a principal amount not to exceed $500,000, bearing interest at the rate of 3 percent per annum and maturing not later than 18 months after the date of issuance. Cambridge Electric will use the proceeds of the proposed note issuance and sale to reimburse, in part, its plant replacement fund.

The filing states that no Federal commission, other than this Commission, and no State commission, other than the Department of Public Utilities of Massachusetts, which has issued an order approving the proposed note sale, has jurisdiction over the proposed transaction, and that the total expenses in connection with the proposed transaction are estimated at $500, including a legal fee of $50.

Due notice having been given of the filing of the application and a hearing not having been requested of or ordered by the Commission; and the Commission finding that the applicable provisions of the act and the rules promulgated thereunder are satisfied and that no adverse findings are necessary, and deeming it appropriate in the public interest and in the interest of investors and consumers that said application be granted, effective forthwith;

*It is ordered,* Pursuant to Rule U-23 and the applicable provisions of the act, that said application be, and it hereby is, granted effective forthwith, subject to the terms and conditions prescribed in Rule U-24.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
*Secretary.*

[F. R. Doc. 51-15024; Filed, Dec. 19, 1951; 8:47 a. m]

[File No. 70-2759]

NEW ENGLAND POWER CO.

NOTICE OF PROPOSED ISSUANCE AND SALE OF PROMISSORY NOTES TO BANK

DECEMBER 14, 1951.

Notice is hereby given that a declaration has been filed with this Commission, pursuant to the Public Utility Holding Company Act of 1935, by New England Power Company ("NEPCO"), a subsidiary of New England Electric System ("NEES"), a registered holding company. NEPCO has designated sections 6 (a) and 7 of the act and Rule U-23 thereunder as applicable to the proposed transactions which are summarized as follows:

Pursuant to a bank loan agreement with five banks, NEPCO has outstanding $9,900,000 of unsecured promissory notes, due April 1, 1952, of which $7,400,000 bear interest at the rate of 2½ percent per annum and the balance, $2,500,000, bear interest at the rate of 2¾ percent per annum, it being stated that such interest rates are the prime rate generally charged by banks on the date of issue. NEPCO proposes to issue to the same banks additional unsecured promissory notes under an amendment to its bank loan agreement which amendment provides (1) for the increase in the borrowing limits from an aggregate of $12,000,000 to $16,000,000, (2) for a change in the expiration of the borrowing period from December 31, 1951, to March 31, 1952, (3) for a change in the maturity date for all notes representing borrowings under the agreement from April 1, 1952, to June 1, 1952, and (4) that interest rates shall be as follows: on the $7,400,000 borrowed prior to October 1, 1951, 2½ percent to April 1, 1952, and from then to maturity at the prime rate at April 1, 1952, but not less 2¾ percent or more than 3 percent; on borrowings made subsequent to October 1, 1951, and prior to the effectiveness of the amendment of the original agreement, 2¾ percent to April 1, 1952, and from then to maturity at the prime rate at April 1, 1952, but not less than 2¾ percent or more than 3 percent; and on borrowings subsequent to the effectiveness of the amendment, at the prime rate on the fifth business day prior to each borrowing but not less than 2¾ percent or more than 3 percent. Declarant states that the prime interest rate at the present time is 2¾ percent. The amendment will also provide for the issuance of new notes on the effective date to replace the notes then outstanding, and that commitment commissions at the rate of ¼ of 1 percent per annum will be payable to March 31, 1952, on the average daily unborrowed amounts.

The declaration states that NEPCO expects that the major portion of its note indebtedness will be financed permanently through the issuance of common stock and first mortgage bonds in the early part of 1952 and further states that NEPCO has been advised by NEES that the parent company expects to have the necessary funds to invest in such common stock from the proceeds of the sale of its Massachusetts gas properties.

The declaration further states that the expenses in connection with the pro-

posed transactions are estimated by NEPCO not to exceed $1,100. In addition, NEPCO will reimburse The First National Bank of Boston, as agent for the five lending banks, for out-of-pocket expenses, including counsel fees incurred in connection with the amendment of the loan agreement. The declaration further states that no State commission other than the Public Utilities Commission of New Hampshire and no Federal Commission, other than this Commission, has jurisdiction over the proposed issuance of notes. NEPCO requests that the Commission's order herein become effective forthwith upon issuance.

Notice is further given that any interested person may, not later than December 26, 1951, at 5:30 p. m., e. s. t., request the Commission in writing that a hearing be held on such matter, stating the reasons for such request, the nature of his interest and the issues of fact or law raised by said declaration, which he desires to controvert, or may request that be 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 December 26, 1951, said declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule U-23 of the rules and regulations promulgated under the act, or the Commission may exempt such transactions as provided in Rule U-20 (a) and Rule U-100 thereof.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 51-15020; Filed, Dec. 19, 1951; 8:46 a. m.]

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[File No. 70-2760]

ARLINGTON GAS CO. ET AL.

NOTICE OF FILING TO INCREASE BANK BORROWINGS

DECEMBER 14, 1951.

In the matter of Arlington Gas Light Company, Central Massachusetts Gas Company, Gloucester Gas Light Company, Malden and Melrose Gas Light Company, Northampton Gas Light Company, Salem Gas Light Company, Wachusett Gas Company; File No. 70-2760.

Notice is hereby given that the above named companies (hereinafter individually referred to as 'Arlington," "Central Mass.," "Gloucester," "Malden and Melrose," "Northampton," "Salem," and "Wachusett" and collectively referred to as the "borrowing companies"), all subsidiary companies of New England Electric System ("NEES"), a registered holding company, have filed declarations, pursuant to sections 6 (a) and 7 of the Public Utility Holding Company Act of 1935 and Rules U-42 (b) (2) and U-50 (a) (2) promulgated thereunder, with respect to the following transactions:

Under separate bank loan agreements with The National City Bank of New York, dated May 8, 1951, the borrowing companies were authorized by this Commission to borrow, from time to time but not later than December 31, 1951, an aggregate amount of $7,150,000, such borrowings to be evidenced by promissory notes maturing May 1, 1952 (Holding Company Act Release No. 10575). Under proposed amendments to said bank loan agreements the borrowing limits of the borrowing companies are increased to an aggregate amount of $8,250,000 and the interest rates on borrowings in excess of the limits specified in the original agreements are increased by ¼ of 1 percent per annum. In addition, the date for the making of borrowings is extended to March 31, 1952, and the commitment fee of ½ of 1 percent per annum on the average daily difference between the bank's commitment and the amount borrowed is extended to March 31, 1952.

The following table shows the aggregate borrowing limits of each of the borrowing companies under the original agreement, the aggregate borrowing limits of said companies under the proposed amended agreements and the proposed rates of interest, per annum, of said notes:

TABLE

| | Borrowing limits under original agreements | Borrowing limits under amended agreements | Interest rate per annum (percent) |
|---|---|---|---|
| Arlington | $1,200,000 | $1,800,000 | [1] 2¾ |
| Central Massachusetts | 400,000 | 550,000 | [1] 3 |
| Gloucester | 500,000 | 500,000 | 3 |
| Malden and Melrose | 3,000,000 | 3,000,000 | 2¾ |
| Northampton | 400,000 | 500,000 | [1] 3 |
| Salem | 1,400,000 | 1,650,000 | [1] 2¾ |
| Wachusett | 250,000 | 250,000 | 3 |
| | 7,150,000 | 8,250,000 | |

[1] The notes representing aggregate borrowings in excess of the limits under the original agreements will bear interest at ¼ of 1 percent higher than the indicated rate.

The declaration states that incidental services in connection with the proposed transactions will be performed at cost by New England Power Service Company, an affiliated service company, such cost being estimated not to exceed $400 for each of the borrowing companies, or an aggregate sum of $2,800. The declaration further states that each of the borrowing companies will reimburse the lending bank for out-of-pocket expenses, including counsel fees, incurred in connection with the loan agreements and it is understood by the borrowing companies that such expenses, if any, will be nominal.

The declaration further states that no State commission or Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

The borrowing companies request that the Commission order herein become effective forthwith upon issuance.

Notice is further given that any interested person may, not later than December 26, 1951, request the Commission in writing that a hearing be held on such matters, stating the nature of his interest, the reasons for such request and the issues, if any, of fact or law raised by said declaration, as filed or as amended, 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, N. W., Washington 25, D. C. At any time after December 26, 1951, said declaration, as filed or as amended, may be permitted to become effective as provided in Rule U-23 of the rules and regulations promulgated under the act, or the Commission may exempt such transactions as provided in Rule U-20 (a) and Rule U-100 thereof.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 51-15021; Filed, Dec. 19, 1951; 8:46 a. m]

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[File No. 70-2732]

GENERAL PUBLIC UTILITIES CORP.

NOTICE OF REQUEST FOR AUTHORIZATION TO AMEND CERTIFICATE OF INCORPORATION WITH RESPECT TO PREEMPTIVE RIGHTS

DECEMBER 14, 1951.

Notice is hereby given that General Public Utilities Corporation ("the Corporation"), a New York corporation which is a registered holding company, has filed an application-declaration and an amendment thereto pursuant to the Public Utility Holding Company Act of 1935 ("the act"), and has designated sections 6 (a) (1), 6 (a) (2), 7 and 12 (c) thereof and Rules U-23 and U-42 thereunder as applicable to the proposed transactions, which are summarized as follows:

After this application-declaration as amended shall become effective and after the written consent of the holders of 80 percent in principal amount of the Corporation's Serial Notes, due 1952-1955, now outstanding in the principal amount of $2,500,000, and after the favorable vote of two-thirds of the outstanding shares entitled to vote at its annual meeting to be held on April 7, 1952, the Corporation proposes to amend its Certificate of Incorporation, as amended, in the following respects:

(1) To empower the Corporation, in the discretion of the Board of Directors, without the granting of any preemptive rights, to issue in any calendar year shares of Common Stock in an amount not exceeding 5 percent of the number of shares (exclusive of treasury shares) outstanding at the beginning of such calendar year (or, in lieu thereof, securities convertible into or carrying options or warrants to purchase not in excess of that number of shares), provided that such Common Stock or convertible securities are issued for cash in connection with a public offering thereof.

(2) To empower the Board of Directors, in any case in which the basis upon which preemptive rights are granted to subscribe for or purchase shares of the Common Stock of the Corporation is such that there would otherwise be issuable rights to subscribes for or purchase fractional interests in such shares, to cause the Corporation to take appro-

priate action to eliminate the granting of rights to subscribes for or purchase such fractional interests in conjunction with the making available by the Corporation of an adequate equivalent therefor. Without limitation of the discretion of the Board of Directors of the Corporation, such action may include:

(a) The granting of a right to subscribe for or purchase one whole share in lieu of a fractional interest in a share, with power in the Board of Directors to allot shares deliverable upon the exercise of such rights.

(b) The sale publicly, in such manner as the Board of Directors may determine, of a number of shares of Common Stock equal to the aggregate number of shares which would otherwise be subject to rights to subscribe for or purchase fractional interests, and the distribution of the net proceeds realized from such sale (after deduction of the expenses of sale and of an amount equal to the aggregate subscription price of the number of shares thus sold) among the holders of common stock, proportionately on the basis of the fractional interests for which, in the absence of the provisions referred to in this paragraph (2), such holders would be entitled to receive such rights.

After the effective date of this application-declaration and prior to the 1952 annual meeting of stockholders, the Corporation proposes to file an ancillary declaration pursuant to section 12 (e) of the act and Rule U-62 thereunder covering the solicitation of proxies for the proposed amendment. The holders of such proxies will refrain from voting on the proposed amendment if the holders of more than 12,500 shares, having objected to the amendment, shall demand payment for their shares in accordance with section 21 of the New York Stock Corporation Law. Barring such contingency, the Corporation proposes to purchase the shares (not over 12,500) of objecting stockholders for cash at a price deemed by the Corporation to be the value thereof pursuant to direct offer, or by appraisal if necessary, all as provided in said section 21; and to sell from time to time, on the New York Stock Exchange, at the then market price thereof, some or all of the shares so acquired: *Provided, however,* That the public offering price of the shares thus sold within any twelve months' period, determined in accordance with the rules of the Commission, will not exceed $300,000.

The Corporation anticipates that the holders of relatively few shares of its common stock will demand payment for their shares. It states that it will normally offer its common shares (or securities convertible into common stock) to its stockholders, and that only under circumstances where such offering might be prejudicial to the financial position of the Corporation will it issue such shares without the granting of preemptive rights. As respects fractional rights, the Corporation states that in the past many holders have failed to exercise same; that it is expensive to service such fractional rights; and that the proposed amendment would provide a practicable means of eliminating fractional rights, would minimize the expense connected therewith, and would minimize the losses of stockholders resulting from failure to exercise same.

It is stated that no other regulatory commission has jurisdiction over any of the proposed transactions. No special expenses of the Corporation are involved.

It is requested that the Commission's order be expedited and made effective forthwith upon issuance.

Notice is further given that any interested person may, not later than December 26, 1951 at 5:30 p. m., request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law, if any, raised by said application-declaration which he desires to controvert; or he 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 said date said application-declaration as amended may be granted and permitted to become effective as provided by Rule U-23 of the rules and regulations promulgated under said act, or the Commission may exempt such transactions as provided in Rule U-20 (a) and Rule U-100 thereof.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 51-15022; Filed, Dec. 19, 1951; 8:47 a. m.]

# ECONOMIC STABILIZATION AGENCY

## Office of the Administrator

[Determination 1, Amdt. 18]

APPROVAL OF EXTENT OF RELAXATION OF CREDIT CONTROLS IN CRITICAL DEFENSE HOUSING AREAS

Section 3, *Areas affected,* of Determination No. 1 approving the extent of the relaxation of real estate construction credit controls in critical defense housing areas published in 16 F. R. 9584, September 20, 1951, is hereby amended by adding the following areas thereto, in view of the amended joint certification taken by the Acting Secretary of Defense and the Director of Defense Mobilization dated November 27, 1951 (see Docket No. 234), December 7, 1951 (see Docket No. 329), and December 12, 1951 (see Docket Nos. 157, 272, 88, and 116), and in view of the defense housing programs of credit restrictions approved for said areas by the Housing and Home Finance Agency (CR 2, 16 F. R. 3303, CR 3, 16 F. R. 3835):

*Area and date*

65. Pensacola, Fla., December 7, 1951.
66. Parris Island, S. C., December 7, 1951.
67. Pleasanton-Livermore-Hayward, Calif., December 3, 1951.
68. Hondo, Tex., December 3, 1951.
69. Kingsville, Tex., October 19, 1951.
70. Othello, Wash., August 9, 1951.

ROGER L. PUTNAM, *Administrator.*

DECEMBER 18, 1951.

[F. R. Doc. 51-15116; Filed, Dec. 19, 1951; 11:45 a. m.]

## Office of Price Stabilization

[Ceiling Price Regulation 7, Section 43, Special Order 254, Amdt. 1]

F. C. HUYCK & SONS (KENWOOD MILLS)

CEILING PRICES AT RETAIL

*Statement of considerations.* Special Order 254, issued to F. C. Huyck & Sons under section 43 of Ceiling Price Regulation 7, established ceiling prices for sales at retail for woven woolen bed blankets having the brand names "Kenwood Famous," "Kenwood Reverie," "Kenwood Sundown," "Kenwood Remembrance," and "Kenwood Petite."

This amendment to Special Order 254 establishes a ceiling price for sales at retail of a larger bed blanket recently added to the Kenwood line and having the brand name "Kenwood Famous." The Director has determined that the retail ceiling price requested for this blanket is no higher than the level of ceiling prices under Ceiling Price Regulation 7.

In addition, this amendment lists the manufacturer's ceiling prices and the retail ceiling prices for the articles which were established by the special order but which were not listed in the special order.

*Amendatory provisions.* 1. Delete paragraph 1 from the special order and substitute therefor the following:

The following ceiling prices are established for sales after the effective date of this special order (except that the effective date for the ceiling price marked with an asterisk shall be as designated below (for any seller at retail of woven, woolen bed blankets manufactured by F. C. Huyck & Sons, Rensselaer, New York, having the brand names "Kenwood Famous," "Kenwood Reverie," "Kenwood Sundown," "Kenwood Remembrance," and "Kenwood Petite," and described in the manufacturer's application dated June 12, 1951, as supplemented and amended in the manufacturer's application dated August 23, 1951. The ceiling price marked with an asterisk was added to the special order by amendment 1 and shall become effective on receipt of a copy of the special order by the retailer, but in no event later than January 14, 1951.

For certain articles different retail ceiling prices are established for eastern and western zones. The western zone includes the states of Arizona, California, New Mexico, Colorado, Idaho, Montana, Nevada, Oregon, Utah, Washington, Wyoming and the city of El Paso. The eastern zone includes the remainder of the United States.

The manufacturer's price listed below shall be subject to terms of 2 percent 10 days, end of month, net 30 days.

| Manufacturer's selling price (per unit) | Ceiling prices at retail for Eastern Zone (per unit) | Ceiling prices at retail for Western Zone (per unit) |
|---|---|---|
| $6.60 | $10.95 | $10.95 |
| 7.80 | 12.95 | 12.95 |
| 13.50 | 22.50 | 22.95 |
| 14.40 | 23.95 | 23.95 |
| 16.20 | 27.50 | 27.50 |
| 18.00 | 29.95 | 29.95 |
| 24.85 | *42.50 | *42.50 |

2. Delete paragraph 4 of the special order and substitute therefor the following:

4. Within 15 days after the effective date of this special order the manufacturer shall send a copy of this special order to each purchaser for resale to whom, within two months immediately prior to the effective date, the manufacturer had delivered any article covered in paragraph 1 of this special order. Copies shall also be sent to all other purchasers on or before the date of the first delivery of any such article subsequent to the effective date of this special order, and shall be accompanied by copies of each amendment thereto issued prior to the date of the delivery.

Within 15 days after the effective date of any subsequent amendment to this special order, the manufacturer shall send a copy of the amendment to each purchaser to whom, within two months immediately prior to the effective date of such amendment, the manufacturer had delivered any article the sale of which is affected in any manner by the amendment.

*Effective date.* This amendment shall become effective December 14, 1951.

MICHAEL V. DISALLE,
*Director of Price Stabilization.*

DECEMBER 13, 1951.

[F. R. Doc. 51-14946; Filed, Dec. 13, 1951; 4:48 p. m.]

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[Ceiling Price Regulation 7, Section 43, Special Order 281, Amdt. 1]

ALLIGATOR CO.

CEILING PRICES AT RETAIL

*Statement of considerations.* This amendment to Special Order 281 establishes new retail ceiling prices for certain of the applicant's branded articles. These new retail ceiling prices are listed in paragraph 1 of the special order and marked with an asterisk. The ceiling prices established prior to this amendment and still in effect are listed without an asterisk.

The Director has determined, on the basis of information available to him, that the retail ceiling prices requested are in line with those already granted and are no higher than the level of ceiling prices under Ceiling Price Regulation 7.

*Amendatory provisions.* Special Order 281 under Ceiling Price Regulation 7, section 43, is amended in the following respects:

1. Delete paragraph 1 of the special order and substitute therefor the following:

1. The following ceiling prices are established for sales by any seller at retail of waterproof and water repellent apparel manufactured or distributed by The Alligator Company having the brand name(s) "Alligator" and described in the manufacturer's application dated June 29, 1951, and supplemented and amended by the manufacturer's application(s) dated September 26, 1951.

The ceiling prices listed below which are marked with an asterisk shall become effective on receipt of a copy of this order by the retailer, but in no event later than 30 days after the effective date of this order. Ceiling prices not marked with an asterisk are effective upon the effective date of this order. Sales may, of course, be made below the retail ceiling prices.

The selling prices to retailers listed below are subject to terms of 2 percent 10th EOM or net 60 days, f. o. b. St. Louis, Mo.

| Selling price to retailer (per unit): | *Ceiling price at retail (per unit)* |
|---|---|
| $1.20 | *$2.00 |
| $1.35 | *2.25 |
| $1.50 | *2.50 |
| $1.65 | *2.75 |
| $1.80 | *3.00 |
| $1.95 | *3.25 |
| $2.10 | *3.50 |
| $2.25 | *3.75 |
| $2.40 | *4.00 |
| $2.55 | *4.25 |
| $2.70 | *4.50 |
| $2.85 | 4.75 |
| $3.00 | *5.00 |
| $3.15 | *5.25 |
| $3.30 | *5.50 |
| $3.45 | *5.75 |
| $3.60 | *6.00 |
| $3.75 | *6.25 |
| $3.90 | *6.50 |
| $4.05 | *6.75 |
| $4.20 | *7.00 |
| $4.35 | *7.25 |
| $4.50 | *7.50 |
| $4.65 | *7.75 |
| $4.80 | *8.00 |
| $4.95 | *8.25 |
| $5.10 | 8.50 |
| $5.25 | *8.75 |
| $5.40 | *9.00 |
| $5.55 | *9.25 |
| $5.70 | 9.50 |
| $5.85 | *9.75 |
| $6.00 | *10.00 |
| $6.15 | *10.25 |
| $6.30 | 10.50 |
| $6.45 | *10.75 |
| $6.60 | *11.00 |
| $6.75 | *11.25 |
| $6.90 | *11.50 |
| $7.05 | *11.75 |
| $7.20 | *12.00 |
| $7.35 | *12.25 |
| $7.50 | 12.50 |
| $7.65 | 12.75 |
| $7.80 | *13.00 |
| $7.95 | *13.25 |
| $8.10 | *13.50 |
| $8.25 | *13.75 |
| $8.40 | *14.00 |
| $8.55 | *14.25 |
| $8.70 | 14.50 |
| $8.85 | *14.75 |
| $9.00 | *15.00 |
| $9.15 | *15.25 |
| $9.30 | 15.50 |
| $9.45 | 15.75 |
| $9.60 | *16.00 |
| $9.75 | *16.25 |
| $9.90 | *16.50 |
| $10.05 | 16.75 |
| $10.20 | *17.00 |
| $10.35 | *17.25 |
| $10.50 | *17.50 |
| $10.65 | *17.75 |
| $10.80 | *18.00 |
| $10.95 | *18.25 |
| $11.10 | *18.50 |
| $11.25 | 18.75 |
| $11.40 | *19.00 |
| $11.55 | *19.25 |
| $11.70 | 19.50 |
| $11.85 | *19.75 |
| $12.00 | *$20.00 |
| $12.15 | *20.25 |
| $12.30 | *20.50 |
| $12.45 | 20.75 |
| $12.60 | *21.00 |
| $12.75 | *21.25 |
| $12.90 | *21.50 |
| $13.05 | *21.75 |
| $13.20 | *22.00 |
| $13.35 | *22.25 |
| $13.50 | *22.50 |
| $13.65 | 22.75 |
| $13.80 | *23.00 |
| $13.95 | *23.25 |
| $14.10 | *23.50 |
| $14.25 | 23.75 |
| $14.40 | *24.00 |
| $14.55 | *24.25 |
| $14.70 | *24.50 |
| $14.85 | *24.75 |
| $15.00 | *25.00 |
| $15.15 | *25.25 |
| $15.30 | *25.50 |
| $15.45 | *25.75 |
| $15.60 | *26.00 |
| $15.75 | *26.25 |
| $15.90 | *26.50 |
| $16.05 | 26.75 |
| $16.20 | *27.00 |
| $16.35 | *27.25 |
| $16.50 | *27.50 |
| $16.65 | *27.75 |
| $16.80 | *28.00 |
| $16.95 | *28.25 |
| $17.10 | *28.50 |
| $17.25 | *28.75 |
| $17.40 | *29.00 |
| $17.55 | *29.25 |
| $17.70 | *29.50 |
| $17.85 | 29.75 |
| $18.00 | *30.00 |
| $18.15 | *30.25 |
| $18.30 | *30.50 |
| $18.45 | 30.75 |
| $18.60 | *31.00 |
| $18.75 | *31.25 |
| $18.90 | *31.50 |
| $19.05 | *31.75 |
| $19.20 | *32.00 |
| $19.35 | *32.25 |
| $19.50 | *32.50 |
| $19.65 | *32.75 |
| $19.80 | *33.00 |
| $19.95 | *32.25 |
| $20.10 | *33.50 |
| $20.25 | *33.75 |
| $20.40 | *34.00 |
| $20.55 | *34.25 |
| $20.70 | *34.50 |
| $20.85 | *34.75 |
| $21.00 | *35.00 |
| $21.15 | *35.25 |
| $21.30 | *35.50 |
| $21.45 | *35.75 |
| $21.60 | *36.00 |
| $21.75 | *36.25 |
| $21.90 | *36.50 |
| $22.05 | 36.75 |
| $22.20 | *37.00 |
| $22.35 | *37.25 |
| $22.50 | *37.50 |
| $22.65 | *37.75 |
| $22.80 | *38.00 |
| $22.95 | *38.25 |
| $23.10 | *38.50 |
| $23.25 | *38.75 |
| $23.40 | *39.00 |
| $23.55 | *39.25 |
| $23.70 | *39.50 |
| $23.85 | 39.75 |
| $24.00 | *40.00 |
| $24.15 | *40.25 |
| $24.30 | *40.50 |
| $24.45 | 40.75 |
| $24.60 | *41.00 |
| $24.75 | *41.25 |
| $24.90 | *41.50 |
| $25.05 | *41.75 |

| Selling price to retailer (per unit): | Ceiling price at retail (per unit) |
|---|---|
| $25.20 | *$42.00 |
| $25.35 | *42.25 |
| $25.50 | *42.50 |
| $25.65 | *42.75 |
| $25.80 | *43.00 |
| $25.95 | *43.25 |
| $26.10 | *43.50 |
| $26.25 | *43.75 |
| $26.40 | *44.00 |
| $26.55 | *44.25 |
| $26.70 | *44.50 |
| $26.85 | *44.75 |
| $27.00 | *45.00 |
| $27.15 | *45.25 |
| $27.30 | *45.50 |
| $27.45 | *45.75 |
| $27.60 | *46.00 |
| $27.75 | *46.25 |
| $27.90 | *46.50 |
| $28.05 | 46.75 |
| $28.20 | *47.00 |
| $28.35 | *47.25 |
| $28.50 | *47.50 |
| $28.65 | 47.75 |
| $28.80 | *48.00 |
| $28.95 | *48.25 |
| $29.10 | *48.50 |
| $29.25 | *48.75 |
| $29.40 | *49.00 |
| $29.55 | *49.25 |
| $29.70 | *49.50 |
| $29.85 | *49.75 |
| $30.00 | *50.00 |
| $30.15 | *50.25 |
| $30.30 | *50.50 |
| $30.45 | *50.75 |
| $30.60 | *51.00 |
| $30.75 | *51.25 |
| $30.90 | *51.50 |
| $31.05 | *51.75 |
| $31.20 | *52.00 |
| $31.35 | *52.25 |
| $31.50 | *52.50 |
| $31.65 | *52.75 |
| $31.80 | *53.00 |
| $31.95 | *53.25 |
| $32.10 | *53.50 |
| $32.25 | *53.75 |
| $32.40 | *54.00 |
| $32.55 | *54.25 |
| $32.70 | *54.50 |
| $32.85 | 54.75 |
| $33.00 | *55.00 |
| $33.15 | *55.25 |
| $33.30 | *55.50 |
| $33.45 | *55.75 |
| $33.60 | *56.00 |
| $33.75 | *56.25 |
| $33.90 | *56.50 |
| $34.05 | *56.75 |
| $34.20 | *57.00 |
| $34.35 | *57.25 |
| $34.50 | *57.50 |
| $34.65 | *57.75 |
| $34.80 | *58.00 |
| $34.95 | *58.25 |
| $35.10 | *58.50 |
| $35.25 | *58.75 |
| $35.40 | *59.00 |
| $35.55 | *59.25 |
| $35.70 | 59.50 |
| $35.85 | *59.75 |
| $36.00 | *60.00 |
| $36.15 | *60.25 |
| $36.30 | *60.50 |
| $36.45 | *60.75 |
| $36.60 | *61.00 |
| $36.75 | *61.25 |
| $36.90 | *61.50 |
| $37.05 | *61.75 |
| $37.20 | *62.00 |
| $37.35 | *62.25 |
| $37.50 | *62.50 |
| $37.65 | *62.75 |
| $37.80 | *63.00 |
| $37.95 | *63.25 |
| $38.10 | *63.50 |
| $38.25 | *63.75 |
| $38.40 | *$64.00 |
| $38.55 | *64.25 |
| $38.70 | *64.50 |
| $38.85 | *64.75 |
| $39.00 | 65.00 |
| $39.15 | *65.25 |
| $39.30 | *65.50 |
| $39.45 | *65.75 |
| $39.60 | *66.00 |
| $39.75 | *66.25 |
| $39.90 | *66.50 |
| $40.05 | *66.75 |
| $40.20 | *67.00 |
| $40.35 | *67.25 |
| $40.50 | *67.50 |
| $40.65 | *67.75 |
| $40.80 | *68.00 |
| $40.95 | *68.25 |
| $41.10 | *68.50 |
| $41.25 | *68.75 |
| $41.40 | *69.00 |
| $41.55 | *69.25 |
| $41.70 | *69.50 |
| $41.85 | *69.75 |
| $42.00 | *70.00 |
| $42.15 | *70.25 |
| $42.30 | *70.50 |
| $42.45 | *70.75 |
| $42.60 | *71.00 |
| $42.75 | *71.25 |
| $42.90 | *71.50 |
| $43.05 | *71.75 |
| $43.20 | *72.00 |
| $43.35 | *72.25 |
| $43.50 | *72.50 |
| $43.65 | *72.75 |
| $43.80 | *73.00 |
| $43.95 | *73.25 |
| $44.10 | *73.50 |
| $44.25 | *73.75 |
| $44.40 | *74.00 |
| $44.55 | *74.25 |
| $44.70 | *74.50 |
| $44.85 | *74.75 |
| $45.00 | *75.00 |

2. Delete paragraph 4 of the special order and substitute therefor the following:

4. Within 15 days after the effective date of this special order the supplier shall send a copy of this special order to each purchaser for resale to whom, within two months immediately prior to the effective date, the supplier had delivered any article covered in paragraph 1 of this special order. Copies shall also be sent to all other purchasers on or before the date of the first delivery of any such article subsequent to the effective date of this special order, and shall be accompanied by copies of each amendment thereto issued prior to the date of the delivery.

Within 15 days after the effective date of any subsequent amendment to this special order, the supplier shall send a copy of the amendment to each purchaser to whom, within two months immediately prior to the effective date of such amendment, the supplier had delivered any article the sale of which is affected in any manner by the amendment.

*Effective date.* This amendment shall become effective December 13, 1951.

MICHAEL V. DISALLE,
*Director of Price Stabilization.*

DECEMBER 13, 1951.

[F. R. Doc. 51-14948; Filed, Dec. 13, 1951; 4:49 p. m.]

[Ceiling Price Regulation 7, Section 43, Special Order 758]

## LUCKY PLASTIC CO., INC.

### CEILING PRICES AT RETAIL

*Statement of considerations.* In accordance with section 43 of Ceiling Price Regulation 7, the applicant named in the accompanying special order, Lucky Plastic Company, Inc., has applied to the Office of Price Stabilization for maximum resale prices for retail sales of certain of its articles. Applicant has submitted the information required under this section and has produced evidence which in the judgment of the Director indicates that the applicant has complied with other stated requirements.

The Director has determined, on the basis of information available to him, including the data submitted by the applicant, that the retail ceiling prices requested and which are established by this special order are no higher than the level of ceiling prices under Ceiling Price Regulation 7.

The special order contains provisions requiring each article to be marked by the applicant with the retail ceiling price established by the accompanying special order. The applicant is required to send purchasers of the articles a copy of this special order and, in specified cases, of subsequent amendments of this special order.

The special order also requires applicant to file with the Distribution Price Branch regular reports setting forth the number of units of each article covered by this special order which applicant has delivered during that period. This requirement conforms with the provisions of section 43, Ceiling Price Regulation 7.

*Special provisions.* For the reasons set forth in the statement of considerations and pursuant to section 43 of Ceiling Price Regulation 7, this Special Order is hereby issued.

1. The following ceiling prices are established for sales after the effective date of this special order by any seller at retail of ladies' transparent rainboots manufactured by Lucky Plastic Company, Inc., 815 East 14th Place, Los Angeles, California, having the brand name "Rain Dears" and described in the manufacturer's application dated April 13, 1951. The manufacturer's selling prices listed below are subject to terms of 2/10 E. O. M. This special order supersedes any other order previously issued to the manufacturer under section 43 of Ceiling Price Regulation 7. Sales may, of course, be made at less than the ceiling price.

LADIES' TRANSPARENT RAINBOOTS

| Manufacturers selling price (per dozen): | Ceiling price at retail (per unit) |
|---|---|
| $14.40 | $2.00 |

2. The retail ceiling price of an article stated in paragraph 1 of this special order shall apply to any other article of the same type which is otherwise priceable under Ceiling Price Regulation 7 by retailers subject to that regulation, having the same selling price to the retailer, the same brand or company name

and first sold by the manufacturer after the effective date of this special order.

3. On and after February 12, 1952, Lucky Plastic Company, Inc., must mark each article listed in paragraphs 1 and 2 of this special order with the retail ceiling price under this special order, or attach to the article a label, tag, or ticket stating the retail ceiling price. This mark or statement must be in the following form:

OPS—Sec. 43—CPR 7
Price $--------

On and after March 12, 1952, no retailer may offer or sell the article unless it is marked or tagged in the form stated above.

Upon issuance of any amendment to this special order, which either adds an article to those already listed in paragraphs 1 and 2 of this special order or changes the retail ceiling price of a listed article, Lucky Plastic Company, Inc. must comply, as to each such article, with the preticketing requirements of this paragraph within 30 days after the effective date of the amendment. After 60 days from the effective date, no retailer may offer or sell the article unless it is ticketed in accordance with the requirements of this paragraph. Prior to the expiration of the 60-day period, unless the article is so ticketed, the retailer shall comply with the marking, tagging, and posting provisions of the regulation which would apply in the absence of this special order.

4. Within 15 days after the effective date of this special order, the manufacturer shall send a copy of this special order to each purchaser for resale to whom, within two months immediately prior to the effective date, the manufacturer had delivered any article covered in paragraphs 1 and 2 of this special order. Copies shall be sent to all other purchasers on or before the date of the first delivery of any such article subsequent to the effective date of the special order, and shall be accompanied by copies of each amendment thereto (if any) issued prior to the date of the delivery. Within 15 days after the effective date of any subsequent amendment to the special order, the manufacturer shall send a copy of the amendment to each purchaser to whom, within two months immediately prior to the effective date of such amendment, the seller had delivered any article the sale of which is affected in any manner by the amendment.

5. Within 45 days of the expiration of the first 6 months' period following the effective date of this special order and within 45 days of the expiration of each successive 6 months' period, the manufacturer shall file with the Distribution Price Branch, Office of Price Stabilization, Washington 25, D. C., a report setting forth the number of units of each article covered by this special order which he has delivered in that 6 months' period.

6. The provisions of this special order establish the ceiling price for sales at retail of the articles covered by it regardless of whether the seller is otherwise subject to Ceiling Price Regulation 7 or any other regulation.

7. This special order or any provision thereof may be revoked, suspended, or amended by the Director of Price Stabilization at any time.

8. The provisions of this special order are applicable to the United States and the District of Columbia.

*Effective date.* This special order shall become effective December 15, 1951.

MICHAEL V. DISALLE,
*Director of Price Stabilization.*

DECEMBER 14, 1951.

[F. R. Doc. 51-15007; Filed, Dec. 14, 1951; 4:02 p. m.]

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[Delegation of Authority 44]

REGIONAL DIRECTORS

DELEGATION OF AUTHORITY TO ESTABLISH OR ADJUST CEILING PRICES, ETC., UNDER CPR 93

By virtue of the authority vested in me as Director of Price Stabilization pursuant to the Defense Production Act of 1950 (64 Stat. 812) as amended, and Executive Order 10161 (15 F. R. 6105) and Economic Stabilization Agency General Order No. 2 (16 F. R. 738), this Delegation of Authority No. 44 is hereby issued.

1. Authority is hereby delegated to the Regional Director of each of the several Regional Offices of the Office of Price Stabilization to authorize, established, adjust, revise, or disapprove ceiling prices, ceiling fees, ceiling markups and rates or request further information in connection therewith, or otherwise act to administer individual reporting or adjustment provisions of CPR 93, in accordance with the specific provisions thereof.

2. The authority conferred by this delegation may be redelegated by any Regional Director to the District Director of any District Office within the Region.

This delegation of authority shall take effect on December 20, 1951.

MICHAEL V. DISALLE,
*Director of Price Stabilization.*

DECEMBER 19, 1951.

[F. R. Doc. 51-15127; Filed, Dec. 19, 1951; 12:11 p. m.]

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[Delegation of Authority 45]

REGIONAL DIRECTORS

DELEGATION OF AUTHORITY TO ACT UNDER SR 61 OF THE GCPR

By virtue of the authority vested in me as Director of the Office of Price Stabilization, pursuant to the Defense Production Act of 1950 (64 Stat. 798, 812), as amended, (65 Stat. 131) Executive Order 10161 (15 F. R. 6105), and Economic Stabilization Agency General Order No. 2 (16 F. R. 738), this delegation of authority is hereby issued.

1. Authority to act under the provision of SR 61 of the GCPR. Authority is hereby delegated to the Directors of the Regional Offices of the Office of Price Stabilization to grant, modify, or disapprove applications for adjusted ceiling prices under the provisions of SR 61 of the GCPR, or to request further or additional information, pending a final determination, or to disapprove or revise downward any adjusted ceiling price granted under this supplementary regulation. All actions in respect to this supplementary regulation, taken by field offices previous to this authority, are hereby confirmed and validated.

2. The authority hereby delegated may be redelegated to the Directors of the District Offices of the Office of Price Stabilization.

This delegation shall take effect on December 20, 1951.

MICHAEL V. DISALLE,
*Director of Price Stabilization.*

DECEMBER 19, 1951.

[F. R. Doc. 51-15128; Filed, Dec. 19, 1951; 12:11 p. m.]

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## INTERSTATE COMMERCE COMMISSION

[4th Sec. Application 26641]

PETROLEUM PRODUCTS FROM POINTS IN SOUTHWESTERN TERRITORY, KANSAS, AND MISSOURI TO LONE STAR, VA.

APPLICATION FOR RELIEF

DECEMBER 17, 1951.

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: F. C. Kratzmeir, Agent, for carriers parties to his tariff I. C. C. No. 3802.

Commodities involved: Petroleum products, carloads.

From: Points in southwestern territory, also Kansas and Missouri.

To: Lone Star, Va.

Grounds for relief: Competition with rail carriers, circuitous routes, and to maintain grouping.

Schedules filed containing proposed rates: F. C. Kratzmeir's tariff I. C. C. No. 3802, Supp. 104.

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. 51-15030; Filed, Dec. 19, 1951; 8:48 a. m.]